



## **OMA Government Affairs Committee**

**June 5, 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**

**J.P. Nauseef**  
President & Chief Investment Officer, JobsOhio

**Dana Saucier, Jr.**  
Vice President & Head of Economic Development, JobsOhio

#### **Discussion Agenda**

- State Budget
- Business Taxes in the Budget
- Motor Fuel Tax
- Electricity Power Plant Bailouts
- Price Controls on Drug Products
- Lake Erie Bill of Rights
- PTSD Coverage under Workers' Comp
- OMA Workforce Opportunities

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

Thursday, August 22  
Wednesday, November 13

**Our thanks to today's meeting sponsor:**



## Executive Team



**J.P. Nauseef**

*President and Chief Investment Officer*

[nauseef@jobsohio.com](mailto:nauseef@jobsohio.com)

614-568-6143

J.P. Nauseef is the president and chief investment officer of JobsOhio, where he leads a dedicated team responsible for business attraction, retention and expansion efforts across the state.

J.P. has significant executive leadership experience in the private, public and nonprofit sectors. Before joining JobsOhio in March 2019, he was the chairman and co-founder of Krush Media, a digital media company spun out of Krush Technologies, another tech company he led and helped found. J.P. has served as president and CEO of the Dayton Development Coalition (DDC), the chairman and co-founder of the Military Heroes Foundation, and a co-founder of Hometown Heroes.

J.P. graduated from the University of Dayton with a bachelor's degree in management information systems and then entered the Air Force as an officer, where he served as a technology development program manager. J.P. later earned a master's degree in systems management from the University of Southern California. J.P. is married and has four sons.



**Dana A. Saucier, Jr.**

*Vice President & Head of Economic Development*

[saucier@jobsohio.com](mailto:saucier@jobsohio.com)

614-362-3731

Dana Saucier Jr. maintains a deep understanding of industry opportunities and proactively works with energy, chemical and food industry leaders to propel them to success by leveraging his experience and industry knowledge.

Prior to joining JobsOhio, Dana co-founded Accent Energy which was acquired by Enron. His past experience also includes co-founding Acceleris Group and leading DTE Energy Trading's retail energy group, DTE Energy Supply. Dana holds a bachelor's degree in business administration and marketing from the University of Southern Maine.

Dana enjoys the outdoors and has been a pilot for over 25 years.

## Public Policy “Hot Topics” June 5, 2019

### Overview

Second quarter is a busy time around state government. Budget legislation is the top priority, but a far-reaching and controversial bailout package for at-risk nuclear and coal power plants is also taking a lot of bandwidth. Both issues significantly impact manufacturers and the OMA is playing the role of an active advocate.

### Legislative Branch Composition & Control

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

### 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.

### Transportation Budget

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

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

### Main Operating Budget

As expected, the main Operating Budget, HB 166 has become a Christmas tree for hundreds of law changes. The House approved the budget with widespread bipartisanship. The Senate will complete work on the budget by middle of June, allowing time for a brief conference committee phase before presenting the budget to the Governor.

Perhaps most controversial is an income tax increase on business “owners” who have enjoyed zero state tax liability on their first \$250,000 of income. The intended justification: too many professionals are getting the tax holiday but not doing enough in their business to stimulate the economy. The tax savings is being used in the bill to reduce lower income tax brackets.

Also included in the House passed version of the budget were two tax amendments beneficial to manufacturers.

One amendment would exempt all manufacturers from sales and use tax on any supplies or janitorial services purchased to clean machinery in a manufacturing facility. This has long been an OMA Tax Committee priority. This provision would bring certainty to the current exemption law.

Another provision in the budget bill would create parity among all food manufacturers by allowing a sales-and-use tax exemption for equipment and supplies used to clean equipment that produces or processes food for human consumption. Currently the exemption is only for dairy food manufacturing.

The OMA is also working with Senators for the inclusion of Senate Bill 153, which expands manufacturer eligibility for the Job Retention Tax Credit (see below).

The OMA has advocated for numerous provisions within the budget important to manufacturers. See included state budget issues table.

### **Workers' Comp Claims Expansion to Mental Injury**

The Workers' Comp budget remains pending in the House. The bill was recently amended in committee to include coverage of PTSD for emergency first-responders. The extension sets a dangerous precedent for extending mental coverage into a system that has required a physical injury to receive treatment. The OMA opposes the extension of PTSD.

### **State Budget & Tax Policy**

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). Senate Bill 153 would expand manufacturers eligibility of the JRTC by focusing the credit's on new capital investment as opposed to employment numbers or total wages.

### **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 leading customer opponent to the various prior attempts and has been busy over the past six weeks in analyzing and communicating concerns with House Bill 6, priority legislation to fund bailouts / handouts to at risk power plants.

The bill was approved by the House on May 29 and is now pending in the Senate. Nuclear power plant owners have asked lawmakers to complete the bill by August 1 to facilitate the deadline for refueling. Under the bill, manufacturers will be exposed to new costs and new forms of costs. See Energy Section.

### **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 was introduced to complement the Governor's H2Ohio program and deals Ohio water quality. SB 3 deals with reform of drug sentencing laws. House Bill 2 impacts workforce development. The bill sets aside money for industry sector partnerships and industry recognized credentials. The OMA is supportive and is working with the House on improvements.

### **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 has 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 team engaged in regional efforts to develop a modern manufacturing workforce. The OMA's third annual summit will be held on October 29 and will build on the workforce successes over the past several years. Make sure your company is plugged in. See included sponsorship under Human Resources.

### **Environment**

The DeWine administration is focused heavily on water quality across Ohio. The Governor introduced the H2Ohio program which is designed to attack water quality through three agencies, EPA, AG, and ODNR. Each agency has a different focus to come at the problem. Funding for the program was included in the introduced state budget. The House removed the funding and introduced House Bill 7 which creates a new funding mechanism for H2Ohio. H2Ohio does not take the heavy handed regulatory approach we had seen previously.

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



The OMA is working in the Senate to get an affirmative defense against certain lawsuits if a manufacturer is in total compliance of their air contaminant permits.

### **Unemployment Compensation**

The legislature remains on the sideline of true unemployment compensation reform. After some early comments on putting reform into the state budget, the issue has once again fallen to the wayside. There seems to be some support for reform in some smaller circles of the House but not enough to gather the steam necessary to tackle such a controversial issue.

### **Tort Reform**

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

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

### **Right to Work**

No action anticipated.

### **Workers' Comp & Industrial Commission**

The BWC continues to give state fund employers massive rebates. Last month the Bureau announced another \$1.5 billion back for employers. Employers can expect to see their checks started later this year.

## Leadership

### NAM Official: USMCA Passage is Critical for Manufacturers in Every State

May 31, 2019



The **National Association of Manufacturers** has repeated its call for prompt congressional approval of the United States-Mexico-Canada Agreement (USMCA), which would modernize and replace the 25-year-old North American Free Trade Agreement. The Trump administration has delayed submitting the treaty to Congress due to House Democrats' concerns about the deal's labor provisions. Formally submitting the treaty to Congress would trigger a 60-day deadline for USMCA's approval, as dictated by the Trade Promotion Authority law.

Last year, Ohio manufacturers sold **\$27 billion** of manufactured goods to Canada and Mexico. One in three manufacturers in the Buckeye State sells products to Canada and Mexico. Last month, the **OMA wrote** all members of Ohio's federal delegation in support of the USMCA. If you would like to weigh in with your congressional representatives, click [here](#). 5/28/2019

### Deadline to Register for Ohio Food Manufacturers' Event May 31, 2019

The deadline is nearing to register for the OMA's Food Manufacturers' Policy Council, set for Tuesday, June 4, in Columbus. This is the most important public policy event of the year for Ohio's food, beverage, and food packaging manufacturers. **Click here** for the day's agenda. For more information or to register, call (800) 662-4463, or **register online**. 5/30/2019

### Report: Celina has Ohio's Fastest Growing Economy

May 24, 2019



With a population of just over 10,000, Celina is home to Ohio's fastest-growing economy. That's according to Ohio State University economist Mark Partridge, who told **The Daily Standard** that "since 2010, Celina is growing 20 times faster than the U.S. non-metro (rural) average in terms of jobs." Celina Mayor Jeff Hazel said "this is due to the more than 600 businesses located within a mile of the city." Celina is located in Mercer County, where **more than a quarter of jobs** are in manufacturing. According to Partridge, job growth in **Ohio's rural areas** since 2010 has been strong, nearly comparable to the growth in the state's major cities. 5/21/2019

### Senator Brown Announces Manufacturing Camps May 24, 2019

U.S. Sen. Sherrod Brown (D-Ohio) has announced that his office is continuing a summer tradition of organizing manufacturing camps for Ohio students in fourth through eighth grades. The camps are aimed at exposing students to local manufacturing companies and potential career opportunities.

The senator's office is partnering with the OMA and local businesses and community leaders to host 27 summer camps in 21 counties. A complete list can be **found here**. 5/23/2019

### It's Not the Super Bowl, but it Will be a Big Party May 24, 2019

Ohio, the birthplace of professional football, will host the 2021 NFL draft. The NFL **announced** this week that Cleveland, a city

that knows how to tie partying to football, will be that year's host city. The Cleveland Browns will celebrate their 75th anniversary in 2021. 5/22/2022

**CEO Survey: Ohio a Top 10 State for Business**  
**May 17, 2019**



Last week, **Chief Executive** magazine published its latest "Best and Worst States for Business" ranking. The comparison, which is based on surveys of CEOs from across the nation, ranked Ohio the ninth best state for business, a one spot improvement from 2018.

According to the magazine, "The **Buckeye State** continues to see strong growth in several sectors, including finance, manufacturing and logistics."

Texas remained in the survey's top spot, followed by Florida, Tennessee, North Carolina, and Indiana. Coming in last at No. 50 was California, preceded by New York, Illinois, New Jersey, and Connecticut. See the complete rankings [here](#). 5/13/2019

**Infrastructure Week Winds Down**  
**May 17, 2019**

**Infrastructure Week** is coming to a close as businesses and organizations across the country have dedicated the past several days to focus on America's infrastructure challenges. Infrastructure Week is especially relevant in Ohio, which is home to five interstates, 13 intermodal rail terminals, 11 ports, and four major airports.

According to the **American Society of Civil Engineers (ASCE)**, of Ohio's 122,987 miles of public roads, 18% are in poor condition and 6% of Ohio's bridges are rated structurally deficient. The Cleveland Section of the ASCE has given

Northeast Ohio an **overall grade point average of "D+"** for the region's infrastructure

You can show your support for making critical infrastructure a top priority in Ohio and across the U.S. by signing The National Association of Manufacturers' **petition to federal lawmakers**. 5/16/2019

**JobsOhio Chief to Visit with Manufacturers, June 5**  
**May 17, 2019**



Members are invited to register for the June 5 OMA Government Affairs Committee meeting. Guest speaker will be J.P. Nauseef, the new president and chief investment officer of **JobsOhio**, the state's economic development organization.

Mr. Nauseef and Dana Saucier, vice president and head of economic development, will provide OMA members with an update on JobsOhio activity and answer questions. **Register now**. 5/16/2019

**Sen. Brown to Keynote Global Leadership Event in Cleveland, May 31**  
**May 17, 2019**

OMA members are invited to participate in a **dynamic lunch discussion** with U.S. Senator Sherrod Brown on America's role in the world and the positive impact of global affairs programs in Ohio. The event will be held Friday, May 31, from 12 p.m. to 1:30 p.m. at the Cleveland Marriott Downtown at Key Tower. Other speakers will include Devry Boughner Vorwerk, corporate vice president of global corporate affairs for Cargill, as well as former Gov. Bob Taft.

Hosted by the **U.S. Global Leadership Coalition**, the event is free to attend and lunch will be provided, but you must **register in advance**. If you have any questions, please e-mail **Robert Watson**. *5/15/2019*

### **Columnist: Ohio is America's 'Comeback State'** **May 17, 2019**

In his nationally syndicated column published this week at **Real Clear Politics**, economic pundit and recent nominee to the Federal Reserve Board Stephen Moore called Ohio the "comeback state." The former Wall Street Journal editorial board member lauded the economic progress made by Cleveland, Columbus, and Cincinnati. Moore writes, "Ohio is no longer the Rust Belt. It's an arsenal of growth. I wish I could say that about my home state of Illinois." *5/15/2019*

### **House Budget Changes Includes Drug Price Controls** **May 17, 2019**

Among the multitude of changes to the state's main operating budget under House Bill 166 was a provision to tie drug prices to an unproven foreign-based pricing index.

Medicaid spending is always a controversial topic in budget legislation, but any time the heavy hand of government is inserted into the marketplace, customers tend to lose in the long term as innovation is stifled. For these reasons, the Pharmaceutical Research & Manufacturers of America (PhRMA) submitted **testimony** in the Senate this week.

The OMA is concerned that price controls would not stop with medication, but would apply to other products purchased by government. *5/16/2019*

### **Senate Moves Priority Regulation Bill** **May 10, 2019**

This week, the Ohio Senate voted along party lines to approve **Senate Bill 1**, legislation that would require state agencies to trim regulations by 30%. The bill is a priority for Senate President Larry Obhof (R-Medina). The House has introduced companion legislation, **House**

**Bill 115**, which has already had two hearings. SB 1 now moves to the other chamber for debate. *5/9/2019*

### **Ex-Im Bank to be Fully Functional Again — for Now** **May 10, 2019**



The U.S. Senate this week confirmed Kimberly Reed as president of the Export-Import Bank of the United States (Ex-Im), and two other Trump administration appointees to the board. Now the bank can once again approve loans greater than \$10 million, helping U.S. companies compete overseas. The OMA has been strongly supportive of Ex-Im and the need to have the proper personnel in place to allow the bank to carry out its mission.

According to **Ex-Im data**, the bank serves 200 exporters in Ohio with a combined \$1 billion in exports. Nearly 28% of Ohio's manufacturing employment stems from exports, according to the National Association of Manufacturers (NAM). *5/9/2019*

### **Husted Unveils New Ohio Opportunity Zone Tools** **May 10, 2019**

Lt. Governor Jon Husted recently unveiled a new **Ohio Opportunity Zone website** with tools for businesses and investors. The site notes that the 2017 federal tax law included the Opportunity Zone program, giving "states the chance to examine census tracts and nominate low-income areas with potential for long-term investment to be targeted for a tax-incentive program. ... After being designated by the U.S. Department of Treasury, Ohio's 320 Opportunity Zones began generating attention from investors interested in taking advantage of their favorable tax benefits."

There are opportunity zones in 73 of Ohio's 88 counties. *5/6/2019*

**Sugar Cookie About to Become Ohio's Official Cookie?**  
**May 10, 2019**



Two Cincinnati-area legislators have introduced a bill to make the sugar cookie the state cookie. No kidding. State Reps. **Brigid Kelly** (D-Cincinnati) and **Jessica Miranda** (D-Forest Park) have offered **House Bill 235** at the request of a third-grade language arts class from All Saints School in Cincinnati. Currently, at least two states — Massachusetts and New Mexico — have an official state cookie, according to reports. *5/8/2019*

**House Unveils its Version of Biennial Budget**  
**May 3, 2019**

Two weeks behind schedule, the Ohio House of Representatives this week put their stamp on the proposed state budget by unveiling a substitute version of **House Bill 166**. The “sub-bill” is a rewrite of Gov. Mike DeWine’s budget proposal, which was unveiled in mid-March. (**Click here** for a list differences between the governor’s budget plan and the House version.)

OMA members should note that budget bills traditionally become vehicles for hundreds of unrelated changes to state law.

Next week, the House will make another round of changes in an omnibus amendment before voting to pass the amended sub-bill. The Senate is already holding informal budget hearings and will have their turn to make revisions by early June. The Ohio Constitution requires lawmakers adopt a balanced budget by July 1.

A complete review of the budget will be discussed at the **June 5 meeting** of the OMA Government Affairs Committee. *5/2/2019*

**LIFT and CAR Announce Project to Optimize Joining Methods for Auto Industry**  
**May 3, 2019**

Lightweight Innovations For Tomorrow (LIFT) — a national manufacturing innovation institute operated by the American Lightweight Materials Manufacturing Innovation Institute (ALMMII) — has **announced a new project** with the Center for Automotive Research (CAR) to test and evaluate mixed-material joining technologies.

As the automotive industry continues to search for new and innovative ways to save on weight, cost and production time, automakers and suppliers are looking to a wider range of materials, including different types of metals and polymer composites. Joining dissimilar materials is one of the major barriers in implementing the right material for the right application strategy.

The results of this study, scheduled to be completed in October, will be published in the public domain and shared at various industry events. *4/29/2019*

**Columbus Blue Jackets Continue to Make Ohio Proud**  
**May 3, 2019**



As of the deadline for this edition of the Leadership Briefing, Ohio’s hockey team, the Columbus Blue Jackets, leads 2 to 1 in the second round of the Stanley Cup playoffs against the Boston Bruins.

The Blue Jackets’ 2018-19 campaign is the organization’s most successful since its founding in 2000. The team owes its existence to one of Ohio’s most notable manufacturers, John McConnell — founder of Worthington Industries. Prior to the establishment of the Blue Jackets,



the last NHL team in Ohio was the Cleveland Barons, which played from 1976 to 1978.

As you read this, we hope the Jackets will have smacked down the Bruins, and are up 3 to 1 in the best-of-seven series. Go Jackets!

### **OMA Urges Congressional Delegation to Support NAFTA Replacement April 26, 2019**

This week, the OMA urged Ohio's federal representatives to support approval of the United States-Mexico-Canada Agreement (USMCA). The USMCA would replace the North American Free Trade Agreement, the 1994 deal that removed most tariffs and other trade barriers between the three countries.

In a **letter** sent to all 18 members of Ohio's congressional delegation, OMA President Eric Burkland noted that in 2017, Ohio manufacturers sold \$27 billion of manufactured goods to Canada and Mexico, and that more than 3,800 Ohio manufacturers export to Canada and Mexico.

Burkland wrote that passing the agreement will "strengthen and modernize America's innovation engine by including best-in-class intellectual property rules," while leveling the playing field between the United States, Mexico and Canada.

The jobs of nearly 103,000 Ohio manufacturing workers depend on exports to Canada and Mexico, and that without the USMCA, Ohio's manufactured goods exports to Canada and Mexico could face as much as \$3.1 billion in extra taxes (compared to zero tariffs today). *4/24/2019*

### **Magazine: Ohio No. 1 for Tech-Driven Manufacturing April 26, 2019**

**Global Trade** magazine has ranked Ohio the No. 1 state for tech-driven manufacturing. In an April 20 article, the magazine wrote: "If you search any top 10 list for manufacturing (tech-driven or otherwise), there are a few states that come up repeatedly" — and Ohio is among them. According to the periodical, Ohio "has a long history of manufacturing and a skilled workforce to put its money where its mouth is,"

with a "heavily pro-manufacturing business climate that has earned Ohio significant investment in the technology-driven manufacturing sector." *04/24/2019*

### **Tell Congress to Pass North American Trade Deal April 19, 2019**

Did you know that 102,700 manufacturing jobs in Ohio depend on trade with Mexico and Canada? Last year, Ohio manufacturers sold \$27 billion of manufactured goods to Canada and Mexico. One in three manufacturers in the Buckeye State sells products to Canada and Mexico.

Clearly, Ohio manufacturers are counting on passage of the new United States-Mexico-Canada (USMCA) agreement. You can **click here** to contact your member of Congress to urge him/her to pass the USMCA to help protect the future of Ohio manufacturing. *4/16/2019*

### **OMA Member Re-Appointed to Small Business Council April 19, 2019**

This week, Lt. Governor Jon Husted announced that Michael Canty of Cuyahoga County — owner, president and CEO of OMA member Alloy Bellows and Precision Welding — is returning as an appointed member of Ohio's **Common Sense Initiative** (CSI) Small Business Advisory Council (SBAC). The SBAC advises CSI on drafted or existing rules that have a negative impact on the state's small businesses. *4/17/2019*

### **DeWine Appoints New JobsOhio Chair April 19, 2019**

Gov. Mike DeWine this week appointed Robert Smith as the new chairman of JobsOhio, the state's private economic development organization. Smith is the market leader of the Cleveland office of Cerity Partners, a wealth management firm. He has **extensive civic engagement experience**, including serving as chairman of Team NEO, one of JobsOhio's affiliates. Smith is the second DeWine appointment to the nine-member JobsOhio board. The first was Rick Platt, president and CEO of the Heath-Newark-Licking County Port Authority. Rick is also an OMA member. *4/17/2019*

## **Work on Budget Bill Continues April 12, 2019**

Members of the House Finance Committee continued hearings this week on state budget bills that must be completed by June 30. Amendments are being submitted by members of the House with the first round of revisions expected May 1. Top political issues include the school funding formula and Medicaid spending.

However, numerous policy changes are also in the mix. See the **OMA's updated state budget issues watch list**.

Manufacturers with an interest in particular provisions are invited to coordinate with OMA staff members **Ryan Augsburg** and **Rob Brundrett**. OMA public policy staff will also be reviewing budget items at **upcoming OMA committee meetings**. 4/11/2019

## **Reineke to Run for Senate Seat April 12, 2019**

Rep. **Bill Reineke** (R-Findlay) announced that he will seek the Republican nomination for Ohio's 26<sup>th</sup> Senate District in 2020. The seat is currently held by Sen. **Dave Burke** (R-Marysville), who is term-limited.

Reineke received the endorsement of the OMA-PAC in past races as a pro-manufacturing legislator. 4/10/2019

## **Manufacturing Institute Honors Women in Manufacturing April 12, 2019**



The Manufacturing Institute has announced the **2019 STEP Ahead Award Honorees and Emerging Leaders**. These women have accomplished success within their companies and have proven to be leaders in the industry as a whole.

These 130 women were honored this week at the 2019 STEP Ahead Awards at the National

Building Museum. Congratulations to the honorees! 4/11/2019

## **Trump Executive Orders Seek to Expedite Energy Infrastructure Projects April 12, 2019**

The National Association of Manufacturers (NAM) **reported** that President Trump this week signed two major executive orders aimed at cutting red tape and speeding up the permitting process for energy infrastructure projects.

One of the orders seeks to clarify permitting for cross-border energy infrastructure and is intended to prevent future projects like the Keystone XL Pipeline from getting caught up in years of litigation, reviews and delays.

The other order takes aim at oft-overlooked laws and regulations — including so-called “401 certifications” — that have been used by opposition groups to delay the permitting process for energy infrastructure projects. 4/11/2019

## **Follow OMA on Social Media April 12, 2019**

After almost 109 years of operation, OMA now has a presence on **Facebook**, **LinkedIn** as well as **Twitter**! As we get up and running, our social sites will feature OMA news, events, updates and information about Ohio's manufacturing sector.

Be sure to follow us so you can interact. What would OMA founder, **Col. John Gordon Battelle**, think! 4/10/2019

## **Gas and Diesel Taxes to Go Up April 5, 2019**

Governor DeWine signed into law the biennial transportation budget, **House Bill 62**, which contains an increase of 10.5-cents per gallon in the gasoline tax and an increase of 19-cents per gallon in the diesel fuel tax. The increases will take effect on July 1.

The new law includes a five-year phase-in to set the compressed natural gas tax rate at the same level as the diesel rate. Electric and hybrid vehicle registration fees will be set at level of \$100 and \$200, respectively.

The OMA, together with the Ohio Business Roundtable and the Ohio Chamber of Commerce, **opposed the bifurcation** of the gasoline and diesel tax rates, which until now have been the same. 4/4/2019

### **Heavy-Haul Permit Restriction Lifted April 5, 2019**

Manufacturers had a victory in the transportation budget bill, HB 62, with the removal of a limit on heavy-haul permits. Current law limited the permits to an arbitrary 150 miles. The new law eliminates this restriction. 4/4/2019

### **OMA Monitoring Budget Bill for Manufacturer Impacts April 5, 2019**

Members of the House Finance Committee have been hearing from state agencies and interested parties over recent weeks as they evaluate the voluminous state budget bill, House Bill 166.

The legislation funds state government for the two-year-period that begins on July 1, 2019. Here are exhibits of General Revenue Fund (GRF) **sources** and **uses**. The bill also includes hundreds of non-funding related permanent law changes.

The House will make a couple rounds of amendments before sending its budget to the Senate by early May.

OMA staff have identified some **initial law changes of interest to manufacturers**. We'll update the OMA watch list as the budget process advances, and key issues will be covered here in *Leadership Briefing* and in OMA policy committee meetings. 4/4/2019

### **Karl Joins OMA Staff April 5, 2019**



This week, Jamie Karl joined the OMA staff as Managing Director, Communication Services.

Jamie was previously Vice President, Public Affairs and Policy, at the Nebraska Chamber of Commerce. He formerly served as Nebraska's Assistant Director of Agriculture and also worked as a senior legislative aide to Rep. Lee Terry and Sen. Chuck Hagel in the U.S. House and Senate.

Jamie earned his bachelor's degree in journalism at the University of Nebraska and is an Army veteran.

Jamie is looking forward to learning a lot about being a Buckeye. You can **email him here**. 4/1/2019

### **The State Budget, House Bill 166, is Introduced March 29, 2019**

The DeWine-Husted biennial budget was introduced into the House of Representatives as **House Bill 166**. This is the 'main operating' budget for the state, and joins the workers' compensation and transportation budgets already under consideration by the General Assembly.

The executive budget provides state and federal General Revenue Fund appropriations totaling \$33.68 billion for FY 2020 and \$35.30 billion for FY 2021, increases of 3.6% and 4.8%, respectively.

Across all funds, main operating budget appropriations total \$69.56 billion in FY 2020, an increase of 4.1%, and \$71.29 billion in FY 2021, an increase of 2.5%.



Where do the General Revenue Funds come from? About \$10 billion a year from sales and use taxes, \$9 billion from personal income taxes, \$4.5 billion from other tax and non-tax receipts, and \$10 from federal grants.

More to come in future *Leadership Briefings*. 3/27/2019

### **Vision 2030: The Factory of the Future March 29, 2019**

NAM's Manufacturing Leadership Council just released "**Vision 2030: The Factory of the Future**," an examination of mega-trends that are rapidly changing the face of manufacturing.

"Today's image of manufacturing as a dark, dirty, and unattractive place to work will give way to a bright and exciting new reality. This reality is in the early stages of formation today as trends such as connectivity and networking, information and process digitization, advanced analytics and computing, and new models of production like 3D printing take hold and play out," the study summarizes.

"As manufacturing becomes increasingly connected and information-intensive, every functional aspect of the enterprise is likely to be affected, from design, to manufacturing through supply chains, and extending to customer service and support. Along the way, the skills people will need for manufacturing jobs may require significant change. Many manufacturers will have to undertake significant cultural, organizational, and management changes if they are going to take advantage of the opportunities offered by the digital revolution." 3/28/2019

### **SBA's Emerging Leaders Program has Openings in Cincinnati & Columbus March 29, 2019**

Emerging Leaders is an intensive, executive-level training initiative designed to accelerate the growth of small businesses with potential for job creation. During the course of seven months, participants are given the opportunity to work with experienced mentors, attend specialized workshops and develop connections with their peers, city leaders and the financial community.

The program is free. For additional information, **go here**. Or contact **Shannon Feucht**, Economic Development Specialist,

Columbus, or **Nicole Pickard**, Economic Development Specialist, Cincinnati. 3/26/2019

### **DeLuca of Scotts Miracle-Gro Elected to OMA Board March 22, 2019**



When it met this week, OMA's board of directors elected Aimee M. DeLuca, Vice President, Taxes, The Scott's Miracle-Gro Company, Marysville, as director and treasurer.

Aimee originally joined The Scotts Miracle-Gro Company (NYSE:SMG) in 1997 after six years in public accounting with EY. Aimee also held tax leadership positions with AT&T Wireless Services, Inc. (Seattle, WA) and Hillenbrand Industries (Batesville, IN) from 2000 through 2004.

Returning to the Columbus area, she rejoined SMG in 2004 and currently leads their corporate tax function with key responsibilities in the areas of global income tax and domestic transaction tax planning and compliance, strategic planning and M&A, tax accounting and financial reporting, tax audit management, and negotiation of tax credits and incentives. Aimee is also an officer and board member of several SMG affiliates, both foreign and domestic.

Aimee is a graduate of Bowling Green State University with a BSBA, Accounting, and received a Pace Setter Award in conjunction with earning her MBA from The Ohio State University Fisher College of Business in 2008.

OMA's board members are volunteers and can serve an unlimited number of three-year terms. 3/19/2019

## **State Budget Rollout Underway March 22, 2019**

Governor DeWine **announced priorities** for his two-year state budget at a kickoff press conference last week. The details of the state's main operating budget have yet to be formally introduced as a bill, but testimony began this week before the House Finance Committee.

**Kimberly Murnieks**, Director, Ohio Office of Budget and Management, **outlined forecast revenue and spending for the biennium.**

The state budget has far-reaching fiscal impacts on all individuals and businesses. As it is debated, the budget bill – expected to be introduced today – becomes a “legislative Christmas tree” including hundreds of potentially significant policy changes.

OMA staff and counsel will be monitoring and reporting on the myriad of policies addressed in the bill. Stay tuned and plan to participate in upcoming **OMA policy committees** where details will be reviewed and discussed. *3/21/2019*

## **Senate Committee Lowers Gas Tax Increase to \$0.06 per Gallon March 22, 2019**

Late Thursday afternoon members of the Senate Transportation, Commerce & Workforce Committee voted to lower the proposed gas tax increase to 6 cents, down from the 10.7 cents on gasoline and 20 cents on diesel passed by the House.

Both of these proposals by the General Assembly are well short of the 18 cent increase that Governor DeWine had made a case for when he introduced the Transportation Budget.

The bill is expected to pass the Senate and will go to a Conference Committee where members of the House and Senate will settle the differences between the two chambers next week. *3/21/2019*

## **OMA Board Hears from ODOT Director re. Gas Tax Proposal March 22, 2019**



At their quarterly meeting this week, members of the OMA board of directors visited with ODOT Director Dr. Jack Marchbanks. Front and center was the Statehouse debate on law changes to adjust Ohio's motor fuel tax.

Dr. Marchbanks explained why the state needs an 18 cent hike on the motor fuel state tax in order to fund transportation projects and maintenance. The ODOT director illustrated that even with the increase, Ohio's motor fuel tax would still be competitive compared to surrounding states.

The state tax per gallon of fuel stands at 28 cents and has not been changed since 2003. The director noted how more fuel-efficient vehicles have contributed to declining revenues for over a decade.

The OMA is **on record** as supporting the governor's originally proposed 18 cent increase. *3/21/2019*

## **Senate Retains Favorable Truck Provision March 22, 2019**

Of the many law changes tucked into the pending state transportation budget, **House Bill 62**, the House included an amendment that would improve how the state's popular “regional heavy haul permit” would function. Since 2013, the permit has allowed heavier loads under certain restrictions. The regional heavy haul permit has been well received by manufacturers that transport heavier materials.

Railroad lobbyists **took aim** at the trucking efficiency improvement during the Senate debate.

The Senate Commerce, Labor & Workforce Committee removed the beneficial provision from the bill. However, yesterday evening, the full Senate restored the permit provision during debate on the Senate floor.

As a member of a business coalition, the **OMA had asked** Committee Chairman Senator **Rob McColley** (R-Napoleon) to support the House version.

The OMA's **policy priorities** call for support of state and federal legislation, rules and regulations that safely provide greater flexibility and efficiency in truck movements. The OMA is also supportive of technology and workforce solutions that address the shortage of truck drivers. *3/21/2019*

### **President Trump's Budget Could Cost Ohio Employers March 22, 2019**

President Trump's **recently released budget** effectively mandates that employers in states that have low balances in their unemployment compensation trust funds would be required to pay a higher federal unemployment tax than states with healthy trust fund balances.

If enacted, the projected total for the increase in taxes over the next ten years is \$9.2 billion. This would require higher taxes on employers in ten states, including Ohio, even though an employer's individual unemployment insurance account is adequate to cover charges associated with benefits.

Here is the U.S. Department of Labor **unemployment insurance program outlook**. *3/21/2019*

### **OMA to Senate Committee: Gas Tax Hike Okay, But Don't Tax Diesel Higher March 15, 2019**



OMA member Ross McGregor, Executive Vice President, Pentaflex, Inc., Springfield, **delivered testimony** to the Senate Transportation, Commerce and Workforce Committee this week defending Governor DeWine's proposed increase to the motor fuel tax.

The tax hike, targeted to fund infrastructure improvements, is included in the state transportation budget, House Bill 62, which has cleared the House and is now pending in the Senate.

The OMA witness took issue with revisions to the proposal that would tax diesel fuel at a rate 25% higher than gasoline. "Like most states, Ohio has one simple motor fuel tax rate that applies equally to all vehicles that consume motor fuel. The bill pending before you confounds the established simple tax and will result in diesel fuel being taxed at a rate of 25% greater than gasoline. Why?" testified McGregor.

McGregor made the point to senators that it is a common practice in shipping contracts for the carrier to pass along the total fuel costs to the shipper: "So, in effect, when you raise taxes on diesel fuel, you are increasing costs on economic drivers of our state's prosperity." *3/14/2019*

### **DeWine Budget Out Today March 15, 2019**

Governor Mike DeWine's first biennial budget will be unveiled today with the release of the budget "blue book."

We'll have a rundown of the elements of the budget that impact Ohio manufacturing in next week's *Leadership Briefing* and ongoing as the

budget debates continue through June 30, the date by which the state budget must be signed into law. 3/14/2019

### **Governor's Plan Combats Lead Poisoning March 15, 2019**

Gov. Mike DeWine made a commitment to Ohio's children in his State of the State Address. This week he outlined a plan to combat lead poisoning.

The governor's **media release** said that lead exposure is a serious preventable, environmental public health threat to children, who are exposed to deteriorating lead paint (dust) in houses and apartments built prior to 1978. Exposure to lead causes issues with genitive development, behavior, IQ, hearing and speech.

The plan recommends targeting \$10 million over the next two years to implement a multi-pronged approach including testing, early intervention services and abatement measures. 3/14/2019

### **DeWine Uses State of State to Urge Gas Tax Increase for Infrastructure Investments March 8, 2019**



Appearing before a joint session of the Ohio House and Senate on Tuesday, Governor Mike DeWine used the occasion of his first State of the State Address to press lawmakers to enact a responsible increase to the motor fuel tax in order to fund infrastructure improvements.

The governor sounded traditional themes: children's initiatives, opioid abuse prevention and recovery, workforce preparedness, and water quality.

On the subject of water, the governor announced his budget bill will include the creation of a new state fund, "H2-Ohio Fund" to

invest in targeted solutions to ensure safe and clean water all across the State of Ohio.

Regarding energy, DeWine said, "Mr. Speaker, I share your interest in making sure that the air we breathe is as clean as it can be. I look forward to working with you and all the members of the General Assembly on an all-the-above energy strategy for our state that not only will ensure that Ohio's economy remains competitive, but that also generates clean electricity that lights our homes and powers our businesses."

You can watch the **recorded address** [here](#). 3/7/2019

### **Gas Tax: Governor Not Satisfied with House Amendments March 8, 2019**

The Ohio House this week completed work on the state transportation budget. The transportation budget allocates monies from the federal government and state gas tax collection toward specific transportation construction projects.

The current gas tax is not producing adequate revenue to maintain, repair and improve Ohio's roads and bridges. Never a popular thing to do, DeWine urged lawmakers to responsibly update the tax rate. It was most recently increased in 2005.

Currently, 28 cents on every gallon of motor fuel is collected by the state. In his budget proposal, the governor increased the amount by 18 cents or 64%.

In the end, the House passed the transportation budget, **HB62** (Oelslager), 71-27 with bi-partisan support. The House amended the bill to bifurcate the tax so a higher rate applies to diesel gasoline. The House plan will gradually phase-in a 10.7 cent increase on gasoline over two years. Diesel will be taxed by an additional 20 cents per gallon or 70% increase with a three-year phase-in. The bill also imposes a new annual fee on hybrid vehicles (\$100 per year) and electric vehicles (\$200 per year). Finally, the bill appropriates \$100 million for public transit.

The governor **released a statement** in reaction to the House amendments, saying: "The House-passed bill is far from ideal, but I appreciate the



strong bipartisan acknowledgement that our state and local jurisdictions have a major revenue shortage to deal with vital transportation needs.”

Next the bill moves to the Senate. Leading senators have taken a dim view of the proposal.

The OMA supports a responsible solution to the funding shortage. Read this **case statement**. Member input is invited; contact OMA’s **Ryan Augsburg** or **Rob Brundrett**. 3/7/2019

**OMA Government Affairs Committee Assesses State of the State, More March 8, 2019**



Members of the OMA’s Government Affairs Committee gathered this week in Columbus to assess the state’s political climate and discuss top legislative and regulatory issues affecting manufacturers.

The agenda focused on motor fuel tax hikes, electricity-generation bailouts, the Lake Erie Bill of Rights and workforce development. The agenda also included a preview of anticipated state budget priorities.

The next scheduled meeting of OMA’s Government Affairs Committee is June 5 in Columbus. **Save the date** and plan to join the discussion. 3/7/2019

*OMA members Arthur Pang (l.), Government Affairs Representative, and Jeff Oravitz (r.), Vice President, both of PPG, attended Gov. DeWine’s State of State Address as guests of the governor. Prior to the governor’s address, they met with Ohio Senate Majority Floor Leader Matt Huffman (R-Lima).*

**How Are Steel & Aluminum Tariffs Impacting Ohio? March 8, 2019**

A new report by the John Glenn College of Public Affairs at The Ohio State University, **The Economic Impact of the Trade Skirmish of 2018 on the Nation and Ohio**, examines impacts with an emphasis on Ohio. The researchers found that the trade war has not had a great impact on the economy to date, with the 2017-2018 Tax Cuts & Jobs Act providing enough stimulus to overcome harm from the tariffs and retaliatory tariffs.

However, the study notes that Ohio is the state that is most affected by the retaliatory tariffs put in place by Canada. And a poll of Ohio manufacturers that was completed in January shows that more of Ohio’s manufacturers were harmed by the trade skirmish than benefited from it.

The report offers cautions about the continuation or expansion of the trade actions as there are signs that metal-users are beginning to make adjustments in their supply chains including where they source metal-intense products.

**Access the report here.** 3/7/2019

**JobsOhio Releases 2018 Annual Report/2019 Strategic Plan March 8, 2019**

JobsOhio has released its **2018 Annual Report and 2019 Strategic Plan**.

In it, JobsOhio announced 266 projects last year. With these projects, companies committed to create 27,071 new jobs. That is apparently a 19% growth over the previous year, and \$1.3 billion in new payroll, a 23% increase from the previous year.

Additionally, these companies committed to retain 69,905 existing jobs and make \$9.6 billion in new capital investments, which is also a new high for JobsOhio. 3/1/2019

**#2 Again! March 8, 2019**

For the seventh year in a row, Ohio has finished second in **Site Selection Magazine’s 2018 Governor’s Cup**, a competition that measures

the economic development power of states by qualifying new site selections. Each of those years, Ohio was bested only by Texas. Ohio reported 454 qualifying projects to Texas's 608.

States are also ranked by qualifying projects per capita. In this race, Ohio ranked third, after Nebraska and Kentucky.

To be included, projects must meet one of three criteria: a minimum investment of \$1 million, creation of 20 or more new jobs or 20,000 square feet or more of new space. *3/5/2019*

**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*

**VP Pence Addressed NAM Board this Week**  
**March 8, 2019**

Vice President Mike Pence appeared at the National Association of Manufacturers (NAM) board meeting in Arizona this week. OMA president Eric Burkland is a member of the NAM board.

The vice president touched on taxes, immigration, energy infrastructure and the political debates ahead.

You can watch the 35-minute speech **here**. *3/6/2019*

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*

**Miscellaneous Legislation of Interest to Manufacturers'**  
**Prepared by: The Ohio Manufacturers' Association**  
**Report created on June 3, 2019**

- HB30**      **EUTHANIZED ANIMAL REMAINS-FOOD** (LANESE L) To prohibit pet food from containing remains from any dog or cat or from any other animal that was euthanized by the use of an injected drug.  
**Current Status:** 2/12/2019 - Referred to Committee House Agriculture and Rural Development  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-30>
- HB46**      **STATE GOVT EXPENDITURE DATABASE** (GREENSPAN D) To require the Treasurer of State to establish the Ohio State Government Expenditure Database.  
**Current Status:** 5/15/2019 - **REPORTED OUT**, House State and Local Government, (Fifth Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-46>
- HB48**      **LOCAL GOVT ROAD IMPROVEMENT FUND** (GREENSPAN D) To provide for a new Local Government Road Improvement Fund for local governments to fund road improvements.  
**Current Status:** 2/12/2019 - Referred to Committee House Finance  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-48>
- HB62**      **TRANSPORTATION BUDGET** (OELSLAGER S) To increase the rate of and modify the distribution of revenue from motor fuel excise taxes, to make appropriations for programs related to transportation and public safety for the biennium beginning July 1, 2019, and ending June 30, 2021, and to provide authorization and conditions for the operation of those programs.  
**Current Status:** 4/3/2019 - **SIGNED BY GOVERNOR**; eff. 90 days, Taxes eff. 7/1/19  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-62>
- HB72**      **CAPITAL IMPROVEMENTS FUND** (ROGERS J, CERA J) To create the Supplemental State Capital Improvements Pilot Program funded by a temporary transfer from the Budget Stabilization Fund and to make an appropriation.  
**Current Status:** 2/20/2019 - Referred to Committee House Finance  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-72>
- HB76**      **BALLOT LANGUAGE UNIFORMITY** (MERRIN D) To enact the "Ballot Uniformity and Transparency Act" to modify the form of election notices and ballot language for property tax levies.  
**Current Status:** 4/9/2019 - **REPORTED OUT AS AMENDED**, House Ways and Means, (Fourth Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-76>
- HB115**      **REGULATOR RESTRICTION REDUCTION** (RIEDEL C, ROEMER B) To require certain agencies to reduce the number of regulator restrictions and to amend the versions of

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

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

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

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

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

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

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

**Current Status:** 6/5/2019 - House State and Local Government, (Third Hearing)

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

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

**Current Status:** 5/30/2019 - **PASSED BY HOUSE**; Vote 90-0

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

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

**Current Status:** 3/27/2019 - Introduced

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

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

**Current Status:** 6/5/2019 - House Federalism, (Sixth Hearing)

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

**HB181**      **PROMOTE OHIO-GROWN ALCOHOL INGREDIENTS (HAMBLEY S)** To authorize the Department of Agriculture to promote the use of Ohio-produced agricultural goods grown for inclusion in beer, cider, or spirituous liquor through promotional programs.



**Current Status:** 4/4/2019 - Referred to Committee House Agriculture and Rural Development

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-181>

**HB185**      **JOBSONHIO-PUBLIC RECORDS-MEETINGS** (INGRAM C) To establish that records kept by JobsOhio are public records subject to inspection and copying under Ohio Public Records Law and to require all meetings of the JobsOhio Board of Directors to be open to the public, except when in an executive session.

**Current Status:** 5/15/2019 - House Economic and Workforce Development, (First Hearing)

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-185>

**HB202**      **ELECTRIC VEHICLE INFRASTRUCTURE** (SMITH K, WEINSTEIN C) To establish the Electric Vehicle Infrastructure Study Committee.

**Current Status:** 4/30/2019 - Referred to Committee House Transportation and Public Safety

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-202>

**HB216**      **CHAIN ESTABLISHMENT REGULATION** (SKINDELL M, KELLY B) To regulate employment practices of formula retail and food services establishment employers and contractors and to require the purchaser of a formula retail or food services establishment to retain certain employees.

**Current Status:** 5/22/2019 - House Commerce and Labor, (First Hearing)

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-216>

**HB220**      **GOVERNMENT BLOCKCHAIN USE** (CARFAGNA R) To allow a governmental entity to utilize distributed ledger technology, including blockchain technology.

**Current Status:** 6/5/2019 - House Commerce and Labor, (Second Hearing)

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-220>

**HB237**      **SHIPPED LIQUOR** (MANNING D, UPCHURCH T) To allow spirituous liquor and mixed beverages to be shipped to consumers via an S liquor permit holder.

**Current Status:** 5/14/2019 - Referred to Committee House Commerce and Labor

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-237>

**HB238**      **WHISTLEBLOWER PROTECTIONS** (CERA J, SCHERER G) To revise Ohio's whistleblower protection laws.

**Current Status:** 5/28/2019 - House Civil Justice, (Second Hearing)

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-238>

**HB242**      **CONTAINER USE RESTRICTIONS** (LANG G, JONES D) To authorize the use of an auxiliary container for any purpose, to prohibit the imposition of a tax or fee on those containers, and to apply existing anti-littering law to those containers.

**Current Status:** 6/5/2019 - House State and Local Government, (Second Hearing)

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-242>

- HB251**      **CONTRACT ACTION-PERIOD OF LIMITATION** (LANG G, HILLYER B) To shorten the period of limitations for actions upon a contract.  
**Current Status:** 6/4/2019 - House Civil Justice, (First Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-251>
- 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:** 5/14/2019 - Referred to Committee House State and Local Government  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-1>
- SB3**        **DRUG SENTENCING REFORM** (EKLUND J, O'BRIEN S) To modify the controlled substance possession and trafficking prohibitions and penalties and the drug and alcohol abuse civil commitment mechanism.  
**Current Status:** 5/29/2019 - Senate Judiciary, (Fifth Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-3>
- SB33**      **CRITICAL INFRASTRUCTURE FACILITIES OFFENSES** (HOAGLAND F) To modify certain criminal offenses with respect to critical infrastructure facilities and to impose fines and civil liability for damage to a critical infrastructure facility.  
**Current Status:** 5/29/2019 - House Public Utilities, (First Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-33>
- SB46**      **PUNITIVE OR EXEMPLARY DAMAGES LIMITATION EXEMPTIONS** (EKLUND J) To expand the exemption from punitive or exemplary damages limitations in tort law that is related to certain felony convictions.  
**Current Status:** 3/19/2019 - Senate Government Oversight and Reform, (Second Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-46>
- SB52**      **CIVILIAN CYBER SECURITY RESERVE FORCES** (GAVARONE T) To create the civilian cyber security reserve forces, to make the Secretary of State a member of the Homeland Security Advisory Council, to require the Secretary of State to appoint a chief information security officer, to require the boards of elections to audit election results, and to make an appropriation.  
**Current Status:** 5/28/2019 - **REPORTED OUT**, House Transportation and Public Safety, (Fourth Hearing)  
**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:** 6/4/2019 - House Agriculture and Rural Development, (Fifth Hearing)

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

**SB119**      **DAYLIGHT SAVINGS TIME** (ROEGNER K, PETERSON B) To exempt Ohio from daylight savings time.

**Current Status:** 4/3/2019 - **SUBSTITUTE BILL ACCEPTED**, Senate General Government and Agency Review , (First Hearing)

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-119>

**SB124**      **MARITIME ASSISTANCE** (WILLIAMS S) To create the Ohio Maritime Assistance Program and to make an appropriation.

**Current Status:** 5/21/2019 - Senate Finance, (Second Hearing)

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-124>

**SB140**      **EXEMPT KNIVES-CONCEALED WEAPONS** (UECKER J) To exempt knives not used as weapons from the prohibition against carrying concealed weapons and to eliminate the prohibition against manufacturing, possessing for sale, selling, or furnishing certain weapons other than firearms or dangerous ordnance.

**Current Status:** 5/15/2019 - Referred to Committee Senate Government Oversight and Reform

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-140>

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

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

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



# Hannah NEWS SERVICE

*"Ohio's Unmatched Leader of Statehouse News, Information & Research Since 1986"*

## **133rd General Assembly Sets Schedule for First Half of 2019**

Senate President Larry Obhof (R-Medina) and the House Speaker's Office announced their schedules for the first half of 2019. Unless otherwise noted, the House will meet at 11 a.m. on Tuesdays; 1:30 p.m. on Wednesdays; and 1 p.m. on 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.

### **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)

### **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)





# 133rd General Assembly Legislative Directory 2019-2020



## Hannah News Service

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

Phone | 614.228.3113  
Fax | 614.228.5897

[www.hannahnews.com](http://www.hannahnews.com)

Updated 2/14/19

### Joint Legislative Committees

**Controlling Board**  
614.728.8778  
(R) Chair: M. Huffman  
Republicans: S. Hottinger, Peterson;  
Democrats: Sen. Sykes; Rep. Cera

**Joint Committee on Agency Rule Review (JCARR)**  
614.466.4086  
Executive Director: Sen. Uecker (R)-Chair  
Republicans: Reps. Hillier, Stein; Sens. Brennan, Kuntze  
Democrats: Rep. Terhar, Wilson  
Craig, Williams

**Joint Education Oversight**  
614.466.9624  
Lauren Monvay-Jones - Executive Director  
Rep. Cupp (R)-Chair  
Republicans: Reps. Callender, Jones; Sens. Brennan, Lehner, Terhar  
Democrats: Reps. Robinson, Sobacki; Sen. Sykes

**Joint Legislative Ethics Committee (JLEC)**  
614.466.3590  
Sen. Householder (R)-Chair  
Republicans: Reps. Butler, Cupp; Sens. M. Dorman, Uecker  
Democrats: Reps. Beggs, K. Smith, Sykes; Sen. O'Brien, Thomas, Yuko

**Right-Midicaid Oversight Committee (JMOC)**  
614.644.2016  
Lauren DeCamp - Interim Executive Director  
Rep. Rohrer (R)-Chair  
Republicans: Reps. Anani, Schreier; Sens. Burke, Coley, S. Huffman  
Democrats: Reps. Kubso, West; Sen. Thomas

**Legislative Service Commission (LSC)**  
614.466.3815  
Rep. Householder, Oslagler, Wilkin  
Democrats: Rep. Cera  
\*Remaining Senators, Chair and Vice Chair to be determined.\*

### U.S. Senate

**Senate Office Building | Washington, D.C | 20515**

**Sen. Sherrod** 202.224.2315  
503 Hart SOB  
(R) District: 614.469.2083  
200 N. High St., room 614  
Columbus, OH 43215

**Sen. Rob** 202.224.3353  
448 Russell SOB  
(R) District: 614.469.6774  
37 W. Broad St., room 300  
Columbus, OH 43215

### U.S. House

**House Office Building | Washington, D.C | 20515**

**Balderson, Troy** 202.225.5335  
1221 Longworth HOB  
(R) District 12: 614.523.2555  
250 E. Wilson Blvd, rd., ste 100  
Warrenton, OH 43085

**Beatty, Joyce** 202.225.4324  
2017 Rayburn HOB  
(D) District 3: 614.220.0003  
471 E. Broad St., ste 1100  
Columbus, OH 43215

**Chabot, Steve** 202.225.2216  
2408 Rayburn HOB  
(R) District 1: room 3003  
Cincinnati, OH 45202

**Davidson, Warren** 202.225.6205  
11071 Rayburn HOB  
(R) District 8: 937.339.1524  
20 Dotcom Dr.  
Troy, OH 45373

**Fudge, Marcia** 202.225.7032  
2344 Rayburn HOB  
(D) District 11: room 350  
4834 Richmond Rd., ste 150  
Warrensville Heights, OH 44128

**Gibbs, Bob** 202.225.6265  
2446 Rayburn HOB  
(R) District 7: 419.207.0650  
110 Cottage St.  
Ashland, OH 44805

**Gonzalez, Anthony** 202.225.3876  
1300 Longworth HOB  
(R) District 10: ste 607  
4150 Beiden Village St., ste 607  
Canton, OH 44718

**Johnson, Bill** 202.225.5705  
2336 Rayburn HOB  
(R) District 6: 740.376.0868  
11550 W. Main Ave., ste 200  
Marietta, OH 45750

**Joyce, David** 202.225.5731  
2186 Rayburn HOB  
(R) District 4: 330.357.4139  
10075 Ravenna Rd.  
Twinsburg, OH 44087

**Kaptur, Marcy** 202.225.4146  
(D) District 9: 419.259.7500  
Toledo, OH 43604

**Latta, Bob** 202.225.6405  
2467 Rayburn HOB  
(R) District 5: 419.354.8700  
1045 N. Main St., ste 6  
Bowling Green, OH 43402

**Ryan, Tim** 202.225.5261  
1136 Longworth HOB  
(R) District 14: 330.740.0193  
241 W. Federal St.  
Youngstown, OH 44503

**Stivers, Steve** 202.225.2015  
2234 Rayburn HOB  
(R) District 15: 614.771.4968  
3790 Municipal Way  
Hilliard, OH 43026

**Turner, Mike** 202.225.6465  
1200 Longworth HOB  
(R) District 10: ste 305  
120 W. 3rd St., ste 202  
Dayton, OH 45402

**Wenstrup, Brad** 202.225.3164  
2419 Rayburn HOB  
(R) District 2: 513.474.7777  
10000 W. Main Ave., ste 200  
Cincinnati, OH 45255

### Senate Committees

**Agriculture and Natural Resources** 614.466.6508  
Hoagland (R)-Chair; Hill (R)-Vice-Chair  
(R) Sen. Uecker, Uecker  
McColeley, Peterson, Uecker  
(D) \*O'Brien, Fedor, Maharath

**Education** 614.466.4538  
Coley, Terhar (R)-Vice-Chair  
(R) Brennan, Coley, Gavarone,  
M. Huffman, S. Huffman, Manning  
(D) \*Fedor, Maharath, Sykes

**Energy and Public Utilities** 614.466.4371  
Wilson (R)-Chair; McColeley (R)-Vice-Chair  
(R) Brennan, Burke, Dolan, Eklund,  
Hoagland, M. Huffman, Peterson, Rull  
(D) \*Williams, Craig, O'Brien

**Finance** 614.466.8056  
Dolan (R)-Chair; Burke (R)-Vice-Chair  
(R) Eklund, Hottinger, Kuntze, Lehner,  
McColeley, Schuring, Terhar, Wilson  
(D) \*Sykes, Antonio, O'Brien

**Primary/Secondary Education Subcommittee** 614.466.3068  
Terhar (R)-Chair  
Lehner (R)-Vice-Chair  
(R) Brennan, M. Huffman, Manning  
(D) \*Fedor, Sykes

**General Government and Agency Review Subcommittee** 614.466.0626  
Schuring (R)-Chair;  
Rull (R)-Vice-Chair  
(R) Eklund, Hill, Hoagland, Uecker  
(D) \*Yuko, Craig, O'Brien

**Higher Education Subcommittee** 614.466.5981  
Kuntze (R)-Chair  
Gavarone (R)-Vice-Chair  
(R) McColeley, Peterson, Wilson  
(D) \*Williams, Maharath

**Health and Medicaid Subcommittee** 614.466.3780  
S. Huffman (R)-Chair;  
(R) Burke, Coley, Hottinger, Roegner  
(D) \*Thomas, Antonio

**Ways and Means** 614.466.8068  
Terhar (R)-Chair; Roegner (R)-Vice-Chair  
(R) Eklund, Hackett, Hill, Manning,  
Manning, Roegner, Rull  
(D) \*Williams, Antonio, Sykes

**Government Oversight and Reform** 614.466.8072  
Coley (R)-Chair; M. Huffman (R)-Vice-Chair  
(R) Gavarone, Hoagland, McColeley,  
Peterson, Roegner, Uecker  
(D) \*Craig, Fedor, Thomas

**Health, Human Services and Burke (R)-Chair; S. Huffman (R)-Vice-Chair** 614.466.8049  
(R) Gavarone, Hackett, Hottinger,  
Kuntze, Lehner, Roegner, Schuring,  
(D) Antonio, Maharath, Thomas

**Insurance and Financial Institutions** 614.466.3780  
Hackett (R)-Chair; Hottinger (R)-Vice-Chair  
(R) Brenner, Burke, Dolan, S. Huffman,  
Kuntze, Peterson, Terhar, Wilson  
(D) \*Craig, Fedor, Williams

**Judiciary** 614.644.7118  
Coley (R)-Chair; Manning (R)-Vice-Chair  
Lehner, McColeley  
(R) Coley, Gavarone, M. Huffman,  
(D) \*Thomas, Fedor, O'Brien

**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

**Rules and Reference** 614.466.7505  
O'Brien (R)-Chair; Peterson (R)-Vice-Chair  
(R) Burke, Coley, Dolan, Eklund,  
Hottinger, M. Huffman, Kuntze, Wilson  
(D) \*Yuko, O'Brien, Thomas, Williams

**Transportation, Commerce and Workforce** 614.466.8050  
McColeley (R)-Chair  
(R) Hoagland, Hottinger, Kuntze,  
Manning, Roegner, Rull  
(D) \*Antonio, Maharath, Sykes

### Ohio Supreme Court

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

**Chief Justice - Maureen O'Connor**  
Sharon L. Kennedy

**R. Patrick DeWine**  
Michael P. Donnelly

**Judith L. French**  
Melody J. Stewart

**Patrick F. Fischer**

### Ohio Senate

Senate Building | Capitol Square | Columbus OH 43215

#### Republicans (24) - Democrats (9)

**Larry Obhof** 614.466.7505  
614.466.8156  
614.466.7584  
614.466.5838  
614.466.2510  
614.466.4583  
614.466.5980  
614.466.7182  
614.466.4857  
614.466.4371  
614.466.4900

**Maharath, Tina** 614.466.8064  
614.466.8049  
614.466.4310  
614.466.4310

**Manring, Nathan** 614.644.7613  
(R-13) Rm 03  
(R-17) Terrill Dr., North Ridgeville 44039

**McColeley, Robert** 614.466.8150  
(R-01) Rm 040  
419.592.9289  
15 Lemans Dr, Napoleon 43545

**Obhof, Larry** 614.466.7505  
(R-22) Rm 201  
(R-27) Crown Pointe Dr, Medina 44256

**O'Brien, Sean** 614.466.7182  
(R-05) Rm 049  
614.466.8056  
2080 Howland Wilson Rd, NE, Cortland 44410

**Peterson, Bob** 614.466.8156  
(R-17) Rm 138  
45169  
5564 Grassly Branch Rd., Sabina

**Roegner, Kristina** 614.466.4823  
(R-29) Rm 04  
330.656.1935  
(E-29) E. Hines Hill Rd., Hudson

**Rull, Michael** 614.466.8285  
(R-31) Rm 06  
402 Lisbon Rd., Salem 44460

**Schuring, Kirk** 614.466.9536  
(R-29) Rm 221  
330.478.2900  
1817 Devonshire Dr. NW, Canton

**Sykes, Vernon** 614.466.7041  
(R-28) Rm 051  
133 Furnace Run Dr, Akron 44307

**Terhar, Louis** 614.466.8068  
(R-08) Rm 142  
595 Boomer Rd., Cincinnati 45247

**Thomas, Cecil** 614.466.5980  
(D-09) Rm 228  
513.604.6265  
452 Clinton Springs Ave., Cincinnati 45219

**Uecker, Joe** 614.466.8082  
(R-04) Rm 06  
268 Indian View Dr, Loveland 45140

**Williams, Sandra** 614.466.4857  
(R-05) Rm 137  
12518 Fairhill Rd., Cleveland 44120

**Wilson, Steve** 614.466.9737  
4905 Water Stone Ln., Maineville 45039

**Yuko, Kenny** 614.466.4583  
(R-06) Rm 303  
440.289.5242  
479 Pierson Dr., Richmond Hts. 44143

## Elected State Officials

**GOVERNOR** (R) 614.466.3555  
 Ken Taft, 100 High St., Columbus, OH 43215

**COMMISSIONER** (R) 614.466.2160  
 Vern Riffe, 77 S. High St., 30th Floor, Columbus, OH 43215

**SECRETARY OF STATE** 614.466.2655  
 Frank LaRose (R), 180 E. Broad St., 16th Floor, Columbus, OH 43215

**AUDITOR OF STATE** 614.466.4514  
 Robert Sprague (R), 88 E. Broad St., 10th Floor, Columbus, OH 43215

## Ohio House of Representatives

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

### Republicans (61) - Democrats (38)

**Speaker:** Larry Householder  
**Assistant Majority Floor Leader:** Anthony DeVitis  
**Assistant Minority Whip:** Jonathan McGee  
**Minority Leader:** Emily Sykes  
**Minority Whip:** Kent Smith  
**Assistant Minority Whip:** Paula Hicks-Hudson  
**House Clerk:** Brad Young

**Caruthers, Sara** 614.466.6504  
 (R-51) 11th Floor, 601 Glenway Dr., Hamilton 45013

**Ceri, Jack** 614.466.3735  
 (R-89) 11th Floor, 63899 Violet Lane, Bellare 43060

**Arndt, Steve** 614.466.6011  
 (R-29) 13th Floor, 419-276-9137, 374 Clinton Reef Rd., Port Clinton 43452

**Baldridge, Brian** 614.466.2124  
 (R-47) State Route 136, Winchester 45687

**Becker, John** 614.466.8134  
 (R-21) 12th Floor, 925 Locust Lane, Cincinnati 45245

**Blessing III, Louis** 614.466.9091  
 (R-29) 13th Floor, 513.477.8103, 3378 Dolmar Dr., Cincinnati 45239

**Boggs, Kristin** 614.466.1896  
 (R-21) 10th Floor, 854 Hamlet St., Columbus 43215

**Boyd, Janine** 614.466.5079  
 (R-29) 13th Floor, 1366 Cleveland Heights Blvd., Cleveland Heights 44121

**Brent, Juanita** 614.466.1408  
 (D-12) 10th Floor, 1845 Glendale Ave., Cleveland 44126

**Brinkman, Tom** 614.644.6886  
 (R-21) 13th Floor, 5215 Hardisty Ave., Cincinnati 45208

**Brown, Richard** 614.644.6002  
 (D-20) 10th Floor, 7559 Bruns Ct., Canal Winchester 43110

**Butler, Jim** 614.644.6008  
 (R-1) 13th Floor, 1401 Breckwood Dr., Dayton 45415

**Callender, Jamie** 614.644.6074  
 (R-29) 13th Floor, 5920 Ashwood Pl., Concord 44060

**Carroll, Rick** 614.466.1431  
 (R-66) 13th Floor, 6155 Sweeney Dr., Westerville 43082

**Greene, Dave** 614.466.0951  
 (R-66) 13th Floor, 31058 Durham Court, Westlake 44145

**Hambley, Steve** 614.466.8140  
 (R-89) 11th Floor, 2176.570.5958, 2820 Gratton Rd., Brunswick 44212

**Hicks-Hudson, Paula** 614.466.1401  
 (D-24) 11th Floor, 2159 Strattington Dr., Dublin 43016

**Hillier, Brett** 614.466.8035  
 (R-52) 13th Floor, 1427 Roanoke Ave., Untrichville 44663

**Holmes, Adam** 614.644.6014  
 (R-97) 13th Floor, 5480 Creamery Rd., Nashport 43830

**Holmes, Glenn** 614.466.3488  
 (D-63) 10th Floor, 1433 Pennsylvania Ave., McDonald 44437

**Hoops, Don** 614.466.1464  
 (R-52) 11th Floor, 1459 N. Walnut Creek Pike, Ashville 43103

**Hoops, Jim** 614.466.3760  
 (R-91) 11th Floor, 195 Old Creek Dr., Napoleon 43545

**Householder, Larry** 614.466.2500  
 (R-52) 11th Floor, 36721 Wp. Rd. 19 NW, Glenford 43739

**Howe, Stephanie** 614.466.1414  
 (D-11) 10th Floor, 216.407.0876, 1220 Spring Rd., Cleveland 44109

**Ingram, Catherine** 614.466.1645  
 (R-29) 10th Floor, 432-19, Winchester 45219

**Jones, Don** 614.644.8728  
 (R-97) 11th Floor, 5475 Jones Rd., Freeport 43973

**Jordan, Kris** 614.644.6711  
 (R-74) 11th Floor, 614.203.5365, 7740 Mansville Rd., Ostrander 43061

**Clites, Randi** 614.466.2004  
 (D-75) 10th Floor, Ravenna 44266

**Crawley, Erica** 614.466.8010  
 (D-26) Xth Floor, 380 Park Plaza Dr., Columbus 43215

**Gross, John** 614.466.3819  
 (R-51) 11th Floor, 16511 Maureen Dr., Kenton 43326

**Crossman, Jeffrey** 614.466.3485  
 (D-15) 10th Floor, 8429 South Park Dr., Parma 44134

**Cupp, Bob** 614.466.9624  
 (R-94) 13th Floor, 3003 W. Hume Rd., Lima 45801

**Dean, Bill** 614.466.1470  
 (R-74) 12th Floor, 649 N. Monroe Dr., Xenia 45385

**Denson, Sedrick** 614.466.1308  
 (R-54) 10th Floor, 1633 Rose Jr., Cincinnati 45237

**DeVitis, Anthony** 614.466.1790  
 (R-74) 12th Floor, 3946 Golden Wood Way, Uniontown 44685

**Edwards, Jay** 614.466.2158  
 (R-52) 10th Floor, P.O. Box 82, Nelsonville 45764

**Galonsky, Tavia** 614.644.6037  
 (R-51) 10th Floor, 13717 Alondale Ave., Akron 44306

**Ginter, Jim** 614.466.8022  
 (R-29) 11th Floor, 846 Homewood Ave., Salem 44460

**Gross, Doug** 614.644.6034  
 (R-66) 13th Floor, 937-515.0181, 708 S. High St., Mt. Orab 45154

**Rogers, John** 614.466.7251  
 (R-52) 11th Floor, 9428 Pheasant Dr., Mentor-On-The-Lake 44060

**Romanchuk, Mark** 614.466.5802  
 (R-07) 11th Floor, 13789 Tepahak St. SE, Minerva 44657

**Russo, Allison** 614.466.8012  
 (D-39) 10th Floor, 42321 Lewisbury Rd., Columbus 43221

**Ryan, Scott** 614.466.1482  
 (R-14) 11th Floor, 3216 Sharon Valley Rd. NE, Newark 43055

**Schaffer, Tim** 614.466.8100  
 (R-73) 11th Floor, 740.654.0007, 17173 Stone Run Court, Lancaster 43130

**Schere, Gary** 614.466.9238  
 (R-30) 11th Floor, P.O. Box 123, Circleville 43113

**Smith, Bill** 614.466.8258  
 (R-30) 14th Floor, 2097 Beech Grove Dr., Cincinnati 45233

**Sheehy, Michael** 614.466.1418  
 (D-46) 10th Floor, 419.698.3095, 1129 Schmidlin Rd., Oregon 43016

**Skindell, Michael** 614.466.1366  
 (D-30) 11th Floor, 216.521.9919, 312 E. Beverly Rd., Wooster 44691

**Smith, Kent** 614.466.5441  
 (R-05) 10th Floor, 216.509.7600, 24450 Devoe Ave., Euclid 44123

**Smith, Ryan** 614.466.1366  
 (R-93) 14th Floor, 3025 Jackson Pike, Bidwell 45614

**Smith, J. Todd** 614.466.2960  
 (R-49) 13th Floor, 45327 Diamond Mill Rd., Germantown 45327

**Sobecki, Lisa** 614.644.6017  
 (R-49) 11th Floor, 2714 N. 17th St., Toledo 43611

**Economic and Workforce**  
 (R) Chair: Powell (R) Vice-Chair: Hillier (R) Secretary: Russo  
 614.466.6027  
 Zelwanger (R) Chair: Hillier (R) Vice-Chair: Hillier (R) Secretary: Russo

**Finance**  
 (R) Chair: Hillier (R) Vice-Chair: Hillier (R) Secretary: Russo  
 614.466.6027  
 Zelwanger (R) Chair: Hillier (R) Vice-Chair: Hillier (R) Secretary: Russo

**Health**  
 (R) Chair: Hillier (R) Vice-Chair: Hillier (R) Secretary: Russo  
 614.466.6027  
 Zelwanger (R) Chair: Hillier (R) Vice-Chair: Hillier (R) Secretary: Russo

**Higher Education**  
 (R) Chair: Hillier (R) Vice-Chair: Hillier (R) Secretary: Russo  
 614.466.6027  
 Zelwanger (R) Chair: Hillier (R) Vice-Chair: Hillier (R) Secretary: Russo

**Insurance**  
 (R) Chair: Hillier (R) Vice-Chair: Hillier (R) Secretary: Russo  
 614.466.6027  
 Zelwanger (R) Chair: Hillier (R) Vice-Chair: Hillier (R) Secretary: Russo

**Public Utilities**  
 (R) Chair: Hillier (R) Vice-Chair: Hillier (R) Secretary: Russo  
 614.466.6027  
 Zelwanger (R) Chair: Hillier (R) Vice-Chair: Hillier (R) Secretary: Russo

**Transportation and Public Safety**  
 (R) Chair: Hillier (R) Vice-Chair: Hillier (R) Secretary: Russo  
 614.466.6027  
 Zelwanger (R) Chair: Hillier (R) Vice-Chair: Hillier (R) Secretary: Russo

**Stain, Dick** 614.466.9628  
 (R-52) 11th Floor, 2854 Sr 61, Norwalk 44857

**Stoltz, Reginald** 614.466.9078  
 (R-20) 11th Floor, 13789 Tepahak St. SE, Minerva 44657

**Strahorn, Fred** 614.466.1307  
 (D-39) 10th Floor, 42321 Lewisbury Rd., Columbus 43221

**Sweeney, Ride** 614.466.3350  
 (R-14) 11th Floor, 3216 Sharon Valley Rd. NE, Newark 43055

**Sykes, Enilla** 614.466.3100  
 (D-39) 14th Floor, 109 N. Howard St., Akron 44308

**Uppchur, Terrence** 614.466.7954  
 (D-13) 11th Floor, 1426 Clearaire Rd., Cleveland 44110

**Vitale, Nino** 614.466.1507  
 (R-85) 12th Floor, 937.834.1961, 4940 Benson Rd., Urbana 43078

**Weinstein, Casey** 614.466.1177  
 (R-14) 10th Floor, 8 N. Westhaven Dr., Hudson 44236

**West, Thomas** 614.466.8030  
 (D-46) 10th Floor, 419.698.3095, 1129 Schmidlin Rd., Oregon 43016

**Wiggan, Scott** 614.466.1474  
 (R-30) 11th Floor, 312 E. Beverly Rd., Wooster 44691

**Wilkin, Shane** 614.466.3506  
 (R-91) 13th Floor, 4151 E. Danville Rd., Hillsboro 45133

**Zeitwanger, Paul** 614.644.6027  
 (R-54) 12th Floor, 513.850.3476, 4834 W. White Blossom Blvd., Mason 45040

**Zetser, J. Michael** 614.466.8104  
 (R-93)

**Federalism**  
 (R) Chair: Hillier (R) Vice-Chair: Hillier (R) Secretary: Russo  
 614.466.6027  
 Zelwanger (R) Chair: Hillier (R) Vice-Chair: Hillier (R) Secretary: Russo

**Finance**  
 (R) Chair: Hillier (R) Vice-Chair: Hillier (R) Secretary: Russo  
 614.466.6027  
 Zelwanger (R) Chair: Hillier (R) Vice-Chair: Hillier (R) Secretary: Russo

**Higher Education**  
 (R) Chair: Hillier (R) Vice-Chair: Hillier (R) Secretary: Russo  
 614.466.6027  
 Zelwanger (R) Chair: Hillier (R) Vice-Chair: Hillier (R) Secretary: Russo

**Insurance**  
 (R) Chair: Hillier (R) Vice-Chair: Hillier (R) Secretary: Russo  
 614.466.6027  
 Zelwanger (R) Chair: Hillier (R) Vice-Chair: Hillier (R) Secretary: Russo

**Public Utilities**  
 (R) Chair: Hillier (R) Vice-Chair: Hillier (R) Secretary: Russo  
 614.466.6027  
 Zelwanger (R) Chair: Hillier (R) Vice-Chair: Hillier (R) Secretary: Russo

**Transportation and Public Safety**  
 (R) Chair: Hillier (R) Vice-Chair: Hillier (R) Secretary: Russo  
 614.466.6027  
 Zelwanger (R) Chair: Hillier (R) Vice-Chair: Hillier (R) Secretary: Russo

## House Committees

**Aging and Long Term Care**  
 (R) Chair: Hillier (R) Vice-Chair: Hillier (R) Secretary: Russo  
 614.466.6027  
 Zelwanger (R) Chair: Hillier (R) Vice-Chair: Hillier (R) Secretary: Russo

**Agriculture and Rural Development**  
 (R) Chair: Hillier (R) Vice-Chair: Hillier (R) Secretary: Russo  
 614.466.6027  
 Zelwanger (R) Chair: Hillier (R) Vice-Chair: Hillier (R) Secretary: Russo

**Armed Services and Veterans Affairs**  
 (R) Chair: Hillier (R) Vice-Chair: Hillier (R) Secretary: Russo  
 614.466.6027  
 Zelwanger (R) Chair: Hillier (R) Vice-Chair: Hillier (R) Secretary: Russo

**Civil Justice**  
 (R) Chair: Hillier (R) Vice-Chair: Hillier (R) Secretary: Russo  
 614.466.6027  
 Zelwanger (R) Chair: Hillier (R) Vice-Chair: Hillier (R) Secretary: Russo

**Commerce and Labor**  
 (R) Chair: Hillier (R) Vice-Chair: Hillier (R) Secretary: Russo  
 614.466.6027  
 Zelwanger (R) Chair: Hillier (R) Vice-Chair: Hillier (R) Secretary: Russo

**Criminal Sentencing**  
 (R) Chair: Hillier (R) Vice-Chair: Hillier (R) Secretary: Russo  
 614.466.6027  
 Zelwanger (R) Chair: Hillier (R) Vice-Chair: Hillier (R) Secretary: Russo

**Economic and Workforce**  
 (R) Chair: Hillier (R) Vice-Chair: Hillier (R) Secretary: Russo  
 614.466.6027  
 Zelwanger (R) Chair: Hillier (R) Vice-Chair: Hillier (R) Secretary: Russo

**Finance**  
 (R) Chair: Hillier (R) Vice-Chair: Hillier (R) Secretary: Russo  
 614.466.6027  
 Zelwanger (R) Chair: Hillier (R) Vice-Chair: Hillier (R) Secretary: Russo

**Health and Human Services**  
 (R) Chair: Hillier (R) Vice-Chair: Hillier (R) Secretary: Russo  
 614.466.6027  
 Zelwanger (R) Chair: Hillier (R) Vice-Chair: Hillier (R) Secretary: Russo

**Higher Education**  
 (R) Chair: Hillier (R) Vice-Chair: Hillier (R) Secretary: Russo  
 614.466.6027  
 Zelwanger (R) Chair: Hillier (R) Vice-Chair: Hillier (R) Secretary: Russo

**Insurance**  
 (R) Chair: Hillier (R) Vice-Chair: Hillier (R) Secretary: Russo  
 614.466.6027  
 Zelwanger (R) Chair: Hillier (R) Vice-Chair: Hillier (R) Secretary: Russo

**Public Utilities**  
 (R) Chair: Hillier (R) Vice-Chair: Hillier (R) Secretary: Russo  
 614.466.6027  
 Zelwanger (R) Chair: Hillier (R) Vice-Chair: Hillier (R) Secretary: Russo

**Transportation and Public Safety**  
 (R) Chair: Hillier (R) Vice-Chair: Hillier (R) Secretary: Russo  
 614.466.6027  
 Zelwanger (R) Chair: Hillier (R) Vice-Chair: Hillier (R) Secretary: Russo

**Stain, Dick** 614.466.9628  
 (R-52) 11th Floor, 2854 Sr 61, Norwalk 44857

**Stoltz, Reginald** 614.466.9078  
 (R-20) 11th Floor, 13789 Tepahak St. SE, Minerva 44657

**Strahorn, Fred** 614.466.1307  
 (D-39) 10th Floor, 42321 Lewisbury Rd., Columbus 43221

**Sweeney, Ride** 614.466.3350  
 (R-14) 11th Floor, 3216 Sharon Valley Rd. NE, Newark 43055

**Sykes, Enilla** 614.466.3100  
 (D-39) 14th Floor, 109 N. Howard St., Akron 44308

**Uppchur, Terrence** 614.466.7954  
 (D-13) 11th Floor, 1426 Clearaire Rd., Cleveland 44110

**Vitale, Nino** 614.466.1507  
 (R-85) 12th Floor, 937.834.1961, 4940 Benson Rd., Urbana 43078

**Weinstein, Casey** 614.466.1177  
 (R-14) 10th Floor, 8 N. Westhaven Dr., Hudson 44236

**West, Thomas** 614.466.8030  
 (D-46) 10th Floor, 419.698.3095, 1129 Schmidlin Rd., Oregon 43016

**Wiggan, Scott** 614.466.1474  
 (R-30) 11th Floor, 312 E. Beverly Rd., Wooster 44691

**Wilkin, Shane** 614.466.3506  
 (R-91) 13th Floor, 4151 E. Danville Rd., Hillsboro 45133

**Zeitwanger, Paul** 614.644.6027  
 (R-54) 12th Floor, 513.850.3476, 4834 W. White Blossom Blvd., Mason 45040

**Zetser, J. Michael** 614.466.8104  
 (R-93)

**Office of the Governor  
Mike DeWine**



**Staff Contact List  
*EXTERNAL***

Address: 77 S. High Street – 30<sup>th</sup> Floor  
Columbus, Ohio 43215

Fax: (614) 466-9354

Main Line: (614) 466-3555  
Governor's Hotline: (614) 644-4357

<p>Ackman, Sarah Deputy Legal Counsel Email: <a href="mailto:Sarah.Ackman@governor.ohio.gov">Sarah.Ackman@governor.ohio.gov</a> Office: 614-466-7072</p>	<p><b>Allen, Giles</b> Legislative Liaison Email: <a href="mailto:Giles.Allen@governor.ohio.gov">Giles.Allen@governor.ohio.gov</a> Office: 614-466-2828</p>	<p>Austria, Eric Constituent Aide Email: <a href="mailto:Eric.Austria@governor.ohio.gov">Eric.Austria@governor.ohio.gov</a> Office: 614-644-0829</p>
<p>Bales, Brad Senior Director, Legislative Affairs Email: <a href="mailto:Brad.Bales@governor.ohio.gov">Brad.Bales@governor.ohio.gov</a> Office: 614-995-1850</p>	<p>Batchelor, Joe Personal Aide, Lt. Governor Email: <a href="mailto:Joe.Batchelor@governor.ohio.gov">Joe.Batchelor@governor.ohio.gov</a> Office:</p>	<p>Blasdel, Monica NE Ohio Regional Liaison, Lt. Governor Email: <a href="mailto:Monida.Blasdel@governor.ohio.gov">Monida.Blasdel@governor.ohio.gov</a> Office: 614-357-2873</p>
<p>Brasington, Sandra Western Ohio Regional Liaison Email: <a href="mailto:Sandra.Brasington@governor.ohio.gov">Sandra.Brasington@governor.ohio.gov</a> Office: 937-285-6185</p>	<p>Burgess, Ryan Director, Cabinet Affairs, Boards and Commissions Email: <a href="mailto:Ryan.Burgess@governor.ohio.gov">Ryan.Burgess@governor.ohio.gov</a> Office: 614-644-0831</p>	<p>Burton, Dustin Constituent Aide Email: <a href="mailto:Dustin.Burton@governor.ohio.gov">Dustin.Burton@governor.ohio.gov</a> Office: 614-995-1451</p>
<p>Callas, Sandra Assistant, Boards and Commissions Email: <a href="mailto:Sandra.Callas@governor.ohio.gov">Sandra.Callas@governor.ohio.gov</a> Office: 614-644-0860</p>	<p>Cardone, Emma Legislative Liaison Email: <a href="mailto:Emma.Cardone@governor.ohio.gov">Emma.Cardone@governor.ohio.gov</a> Office: 614-644-8307</p>	<p>Cleary, Finnegan Operations Manager Email: <a href="mailto:Finnegan.Cleary@governor.ohio.gov">Finnegan.Cleary@governor.ohio.gov</a> Office: 614-644-0941</p>
<p>Conkey, Janet Human Resources Manager Email: <a href="mailto:Janet.Conkey@governor.ohio.gov">Janet.Conkey@governor.ohio.gov</a> Office: 614-995-4411</p>	<p>Cooke, Lu NW Ohio Regional Liaison, Lt. Governor Email: <a href="mailto:Luane.Cooke@governor.ohio.gov">Luane.Cooke@governor.ohio.gov</a> Office: 614-551-6903</p>	<p>Cornyn, LeeAnne Director, Children's Initiatives Email: <a href="mailto:Leeann.Cornyn@governor.ohio.gov">Leeann.Cornyn@governor.ohio.gov</a> Office: 614-466-1780</p>
<p>Crooks, Aaron Deputy Director, Legislative Affairs Email: <a href="mailto:Aaron.Crooks@governor.ohio.gov">Aaron.Crooks@governor.ohio.gov</a> Office: 614-644-6141</p>	<p>Danish, John Chief Deputy Legal Counsel Email: <a href="mailto:John.Danish@governor.ohio.gov">John.Danish@governor.ohio.gov</a> Office: 614-644-0836</p>	<p>Dawson, Laurel Chief of Staff Email: <a href="mailto:Laurel.Dawson@governor.ohio.gov">Laurel.Dawson@governor.ohio.gov</a> Office: 614-499-5180</p>



<p>Donahue, Matt Chief Legal Email: <a href="mailto:Matthew.Donahue@governor.ohio.gov">Matthew.Donahue@governor.ohio.gov</a> Office: 614-644-0825</p>	<p>Dunahay, Haylee Operations Manager, Special Assistant to Lt. Governor Email: <a href="mailto:Haylee.Dunahay@governor.ohio.gov">Haylee.Dunahay@governor.ohio.gov</a> Office: 614-644-0935</p>	<p>Ebersole, Brooke Press Secretary, Lt. Governor Email: <a href="mailto:Brooke.Ebersole@governor.ohio.gov">Brooke.Ebersole@governor.ohio.gov</a> Office: 614-995-1815</p>
<p>Eck, Joshua Director, Communications, Lt. Governor Email: <a href="mailto:Joshua.Eck@governor.ohio.gov">Joshua.Eck@governor.ohio.gov</a> Office: 614-644-9570</p>	<p>Elkins, Molly Legal Assistant/ Extraditions Coordinator Email: <a href="mailto:Molly.Elkins@governor.ohio.gov">Molly.Elkins@governor.ohio.gov</a> Office: 614-644-0872</p>	<p>Gillcrist, Michelle Northern Ohio Regional Liaison Email: <a href="mailto:Michelle.Gillcrist@governor.ohio.gov">Michelle.Gillcrist@governor.ohio.gov</a> Office: 216-787-5995</p>
<p>Glass, David Central Ohio Regional Liaison, Lt. Governor Email: <a href="mailto:David.Glass@governor.ohio.gov">David.Glass@governor.ohio.gov</a> Office: 614-644-0872</p>	<p>Gloyd, Jason Southwest Regional Liaison Email: <a href="mailto:Jason.Gloyd@governor.ohio.gov">Jason.Gloyd@governor.ohio.gov</a> Office: 513-852-1540</p>	<p>Groseclose, Emily Director of Scheduling, Lt. Governor Email: <a href="mailto:Emily.Groseclose@governor.ohio.gov">Emily.Groseclose@governor.ohio.gov</a> Office: 614-644-7193</p>
<p>Hall, Michael Director of Policy Email: <a href="mailto:Michael.Hall@governor.ohio.gov">Michael.Hall@governor.ohio.gov</a> Office: 614-629-8201</p>	<p>Harrison, Bridget Assistant Policy Director, Health and Human Services Email: <a href="mailto:Bridget.Harrison@governor.ohio.gov">Bridget.Harrison@governor.ohio.gov</a> Office: 614-644-0871</p>	<p>Hill, Jason Director, Constituent Affairs Email: <a href="mailto:Jason.Hill@governor.ohio.gov">Jason.Hill@governor.ohio.gov</a> Office: 614-644-0932</p>
<p>Hinten, Eric Office Administrator Email: <a href="mailto:Eric.Hinten@governor.ohio.gov">Eric.Hinten@governor.ohio.gov</a> Office: 614-644-0582</p>	<p>Horsley, Kenneth Mail Clerk Email: <a href="mailto:Kenneth.Horsley@governor.ohio.gov">Kenneth.Horsley@governor.ohio.gov</a> Office: 614-644-0874</p>	<p>Hray, Karin Director, Business Advocacy Email: <a href="mailto:Karin.Hray@governor.ohio.gov">Karin.Hray@governor.ohio.gov</a> Office: 614-644-0852</p>
<p>Kirk, Julie Director, Coalitions and Outreach, Lt. Governor Email: <a href="mailto:Julie.Kirk@governor.ohio.gov">Julie.Kirk@governor.ohio.gov</a> Office: 614-466-0990</p>	<p>Lanzendorfer, Tim Deputy Director, Boards and Commissions Email: <a href="mailto:Tim.Lanzendorfer@governor.ohio.gov">Tim.Lanzendorfer@governor.ohio.gov</a> Office: 614-728-5964</p>	<p>Luttmann, Christa Northwest Regional Liaison Email: <a href="mailto:Christa.Luttmann@governor.ohio.gov">Christa.Luttmann@governor.ohio.gov</a> Office: 419-245-2445</p>
<p>McCarthy, Dan Director, Legislative Affairs Email: <a href="mailto:Dan.Mccarthy@governor.ohio.gov">Dan.Mccarthy@governor.ohio.gov</a> Office: 614-644-0924</p>	<p>McCullough, Sean Assistant Chief Counsel Email: <a href="mailto:Sean.Mccullough@governor.ohio.gov">Sean.Mccullough@governor.ohio.gov</a> Office: 614-728-4192</p>	<p>Mueller, Eve Deputy Director, Communications Email: <a href="mailto:Eve.Mueller@governor.ohio.gov">Eve.Mueller@governor.ohio.gov</a> Office: 614-728-5432</p>



<p>Murry, Michael Deputy Chief of Staff Email: <a href="mailto:Michael.Murry@governor.ohio.gov">Michael.Murry@governor.ohio.gov</a> Office: 614-728-8274</p>	<p>O'Donnell, Ann Chief Advisor to the Governor Email: <a href="mailto:Ann.Odonnell@governor.ohio.gov">Ann.Odonnell@governor.ohio.gov</a> Office: 614-728-7276</p>	<p>Porter, Eric Administration Email: <a href="mailto:Eric.Porter@governor.ohio.gov">Eric.Porter@governor.ohio.gov</a> Office: 614-728-7539</p>
<p>Puff, Tammy Military and Veterans Liaison Email: <a href="mailto:Tammy.Puff@governor.ohio.gov">Tammy.Puff@governor.ohio.gov</a> Office: 614420-6945</p>	<p>Reitz, Arthur Security Liaison Email: <a href="mailto:Arthur.Reitz@governor.ohio.gov">Arthur.Reitz@governor.ohio.gov</a> Office: 614-752-8245</p>	<p>Reynolds, Ethan Constituent Aide Email: <a href="mailto:Ethan.Reynolds@governor.ohio.gov">Ethan.Reynolds@governor.ohio.gov</a> Office: 614-644-0925</p>
<p>Reynolds, Michele Director, Faith Based and Community Initiatives Email: <a href="mailto:Michele.Reynolds@governor.ohio.gov">Michele.Reynolds@governor.ohio.gov</a> Office: 614-387-2959</p>	<p>Rhodes, Abigail Personal Aide, Governor Email: <a href="mailto:Abigail.Rhodes@governor.ohio.gov">Abigail.Rhodes@governor.ohio.gov</a> Office: 614-644-0981</p>	<p>Riley, Kathleen Central Ohio Regional Liaison Email: <a href="mailto:Kathleen.Young@governor.ohio.gov">Kathleen.Young@governor.ohio.gov</a> Office: 614-728-0457</p>
<p>Rolf, Tommy Personal Aide to the Governor Email: <a href="mailto:Thomas.Rolf@governor.ohio.gov">Thomas.Rolf@governor.ohio.gov</a> Office: 614-728-8694</p>	<p>Stepp, Bryn SE Regional Liaison, Lt. Governor Email: <a href="mailto:Bryn.Stepp@governor.ohio.gov">Bryn.Stepp@governor.ohio.gov</a> Office: 614-560-4827</p>	<p>Stought, Carrie Receptionist/Executive Secretary Email: <a href="mailto:Carrie.Stought@governor.ohio.gov">Carrie.Stought@governor.ohio.gov</a> Office: 614-466-3555-</p>
<p>Sulecki, Catherine Executive Assistant, Directors Email: <a href="mailto:Catherine.Sulecki@governor.ohio.gov">Catherine.Sulecki@governor.ohio.gov</a> Office: 614-644-9388</p>	<p>Temple, Brenton Director, Intergovernmental Affairs Email: <a href="mailto:Brenton.Temple@governor.ohio.gov">Brenton.Temple@governor.ohio.gov</a> Office: 614-644-0789</p>	<p>Thrasher, Jen Director, Boards and Commissions Email: <a href="mailto:Jen.Thrasher@governor.ohio.gov">Jen.Thrasher@governor.ohio.gov</a> Office: 614-644-0971</p>
<p>Tierney, Dan Press Secretary Email: <a href="mailto:Dan.Tierney@governor.ohio.gov">Dan.Tierney@governor.ohio.gov</a> Office: 614-466-6242</p>	<p>Todd II, Ronald Minority Affairs Liaison Email: <a href="mailto:Ronald.Todd@governor.ohio.gov">Ronald.Todd@governor.ohio.gov</a> Office: 614-644-0988</p>	<p>Tovey, Joshua SW Ohio Regional Liaison, Lt. Governor Email: <a href="mailto:Joshua.Tovey@governor.ohio.gov">Joshua.Tovey@governor.ohio.gov</a> Office: 614-506-9789</p>
<p>Ward, Bonnie Southeast Regional Liaison Email: <a href="mailto:Bonnie.Ward@governor.ohio.gov">Bonnie.Ward@governor.ohio.gov</a> Office: 740-373-5150</p>	<p>Wilson, Andy Senior Advisor, Criminal Justice Policy Email: <a href="mailto:Andy.Wilson@governor.ohio.gov">Andy.Wilson@governor.ohio.gov</a> Office: 614-644-0385</p>	<p>Winn, Jill Scheduler, Governor DeWine Email: <a href="mailto:Jill.Wnn@governor.ohio.gov">Jill.Wnn@governor.ohio.gov</a> Office: 614-728-5163</p>

Zaffini, Avi Chief of Staff, Lt. Governor Email: <a href="mailto:Avi.Zaffini@governor.ohio.gov">Avi.Zaffini@governor.ohio.gov</a> Phone: 614-644-0969		
--	--	--



**Interested Party Testimony**  
**Ross McGregor on behalf of The Ohio Manufacturers' Association**  
**Before the Senate Transportation, Commerce and Workforce Committee**  
**The Honorable Robert McColley, Chair**  
**March 13, 2019**

Chairman McColley, members of the Senate Transportation, Commerce and Workforce Committee, I am pleased to present interested party testimony for the transportation budget, House Bill 62, on behalf of The Ohio Manufacturers' Association (OMA).

My name is Ross McGregor and I own a manufacturing business in Springfield. My business, Pentaflex, produces heavy, stamped-metal components that go into cars, trucks, off-road vehicles, agriculture equipment, medical equipment and energy applications. Our family-owned company is part of Ohio's important manufacturing sector that contributes 17% to the state's GDP, which is greater than the economic contribution of any other industry segment.

As some of you are aware, I was a member of the Ohio House of Representatives for nearly ten years, having served as chair of the Finance Subcommittee on Transportation. I bring all of these perspectives forward as I appear before you today as a longtime member of the OMA.

The OMA recognizes the important work this body does in adopting balanced budget legislation. The budget is as much a tax plan as it is a spending plan. The OMA believes good tax policy generates the revenues necessary to support the essential functions of government. While there are many important facets to House Bill 62, my testimony is focused on the gas tax components.

Modern infrastructure is critical for today's advanced manufacturing economy. To remain competitive and maximize the economic benefits of Ohio's manufacturing strength, the state must invest in updating and expanding Ohio's multi-modal transportation infrastructure, including roads, bridges, rails and ports. Continued investment in these resources is critical to providing Ohio manufacturers with flexible, efficient, cost-effective shipping options.

Ohio's transportation infrastructure fund is declining at a time when traffic is increasing, construction and maintenance costs are escalating, and fuel efficiency is climbing. Coupled with a fixed, per-gallon fuel tax that has not been adjusted since 2003, we support Governor DeWine's proposal to adjust the motor fuel tax rate and we encourage your support to restore the Administration's recommendation that is based

on both ODOT data and the recommendations of the Advisory Committee on Transportation Infrastructure.

It should not come as a surprise that Ohio is running a structural deficit. Eight years ago in sponsoring the transportation budget that privatized the turnpike and used those funds as a bridge for ODOT spending, I said in my floor speech that the use of one-time turnpike dollars was not a solution. Today, you have an opportunity to address that need more permanently.

For the first time in Ohio history, the House bifurcated the gas tax rate on different motor fuels. The OMA would respectfully suggest you revisit this concept in the name of two principles of good tax policy: equity and simplicity.

Like most states, Ohio has one simple motor fuel tax rate that applies equally to all vehicles that consume motor fuel. The bill pending before you confounds the established simple tax and will result in diesel fuel being taxed at a rate of 25% greater than gasoline. Why?

It's easy to say: "*Tax only the trucks that are tearing up the highways; they should pay more,*" but that kind of thinking can produce a dampening effect on key segments of our economy. Moreover, trucks *do* pay more based on the *amount* of fuel they consume.

It's important to note that trucking operations don't absorb the cost of the gas tax – they pass it on to their customers. It's a common practice in shipping contracts for the carrier to pass along the total fuel costs to the shipper (that is, for example, a manufacturer). So, in effect, when you raise taxes on diesel fuel, you are increasing costs on economic drivers of our state's prosperity.

Please don't misunderstand -- manufacturers recognize the importance of maintaining roads and bridges and are supportive of a fuel tax increase that goes directly to the maintenance, repair and construction of roads and bridges. However, a policy that treats types of consumers disparately is problematic. The case has not been made to bifurcate fuel rates, and it directly and negatively impacts the competitiveness of multiple Ohio businesses and industries.

With regard to the amount of increase, the Administration reasonably concluded that an 18 cent across-the-board increase was necessary to generate the bare minimum \$1.2 billion in additional revenue needed to preserve Ohio's transportation infrastructure. The Advisory Committee generally accepted that proposal, as well. Moreover, the total 46 cents per gallon tax is comparable to the tax levels in Indiana and Michigan, comparable states with which Ohio competes. Unless there are better financial analyses, we support restoring the rate to the executive proposal.

Related to roadway vehicles that are not powered by motor-fuel, we support a reasonable user fee as these vehicles are utilizing state roads and bridges and should be contributing to their maintenance and improvement. We've reviewed some data and

a fee of \$150 per electric vehicle appears reasonable under the Governor's 18 cent proposed increase.

Most gas-electric hybrid vehicles are gasoline fueled. As such, these super-efficient vehicles are already paying gas tax, albeit less than more inefficient motor vehicles. But, why tax efficient vehicles twice? The attributes of energy efficiency are laudable. We oppose the imposition of a fee on non-plug-in hybrids.

Mr. Chairman, that concludes my testimony. I appreciate the opportunity to visit with you. I would be pleased to answer any questions you may have of me.

Thank you.



**Joint statement from Ohio Manufacturers' Association President Eric Burkland, Ohio Chamber of Commerce President & CEO Andrew E. Doehrel, and Ohio Business Roundtable President & CEO Pat Tiberi, on the ongoing transportation budget negotiations:**

“As the administration and legislature continue to negotiate, we urge them not to ignore the potential harm to Ohio’s economy and to our businesses that could result if the diesel tax is increased by 20 cents, as has been discussed. The current gap between the proposed gasoline and diesel fuel rates should be narrowed to as close to parity as is possible, while still ensuring adequate and reliable funding for Ohio’s transportation system, as the governor first proposed.”



The Honorable Rob McColley  
 1 Capitol Square  
 Columbus Ohio 43215

Chairman McColley:

On behalf of numerous organizations representing business interests throughout Ohio, we write you today in support of language in the state's transportation budget (HB 62) removing the 150-mile restriction tied to the state's regional heavy haul permit in ORC 4513.34. This arbitrary 150-mile restriction is an unnecessary burden on the business community.

The removal of the 150-mile restriction is the final step of a cooperative process with the Ohio Department of Transportation (ODOT). These permits represent less than 5% of all the permits sold by the state and the industry has already agreed to, and are currently paying, a higher permit fee in the amount of \$3.5 million per year compared to the \$450,000 projected in lost revenue by the elimination of the 150-mile restriction.

All of these routes are approved by the ODOT and this permit in NO WAY allows overweight trucks to travel freely throughout the state. Unfortunately, when created, the regional heavy haul permit was limited to an arbitrary 150-mile limitation, forcing trucks traveling beyond that distance, but within the state of Ohio, to obtain multiple permits. This is time consuming for businesses and is an administrative burden for ODOT.

We are asking that the Senate restore language removing the 150-mile limitation to Am. Sub. HB 62. Please note, this is not an attempt to increase weight limits or traffic on local roads. The amendment is designed to merely remove the 150-mile limitation and thus eliminate unnecessary, redundant bureaucratic regulations that impede the flow of commerce in the state.

On behalf of the business interests listed below, we would like to thank you for considering this amendment. We urge your favorable consideration.

Respectfully,

Ohio Trucking Association  
 Ohio Beverage Association  
 Ohio Ready Mixed Concrete Association  
 MillerCoors LLC  
 Ohio Manufacturers' Association  
 Ohio Aggregates & Industrial Minerals Association  
 Anheuser-Busch Companies

Cc: President Larry Obhof  
 President Pro Tem. Bob Peterson  
 Minority Leader Kenny Yuko  
 Members of the Senate Transportation, Commerce & Workforce Committee

**Written Testimony Regarding Sub. House Bill 166**  
**Pharmaceutical Research & Manufacturers of America (PhRMA)**  
**Health & Medicaid Subcommittee**  
**The Ohio Senate**  
**May 16, 2019**

Chairman Hackett, Ranking Member Thomas and members of the subcommittee, the Pharmaceutical Research & Manufacturers of America (PhRMA) would like to offer written comments regarding a few of the health care provisions that are currently before the Senate as part of Substitute House Bill 166. PhRMA represents America’s biopharmaceutical companies that remain dedicated to conducting crucial research to find cures and treatments to improve the lives of all Ohioans and everyone around the world. Our industry is also very proud to say that we directly and indirectly employ many Ohioans and contribute to the positive economic footprint of Ohio’s economy.

PhRMA would like to focus in on two very important issues contained in the House-passed version of Sub. HB 166, namely the mandated implementation of an unproven foreign-based pricing scheme in Ohio’s Medicaid program (use of the so-called international pricing index) and the lack of confidentiality of important information under the proposed pharmacy benefit manager procurement process contained in the bill.

PhRMA believes that implementation of the proposed unproven international pricing index (IPI) in Ohio’s Medicaid program is not needed. By current federal law, Ohio and other states are already guaranteed the “best price” for drugs under the federal Medicaid Drug Rebate Program. In addition, Ohio law already exists to allow Ohio’s Medicaid program to seek and negotiate for “supplemental rebates” that can add additional financial benefits to Medicaid. Overall, Ohio currently receives more than a 50% discount on prescription drugs for the Medicaid programs due to the rebates pharmaceutical manufacturers pay to the state. As you can see, pharmaceutical manufacturers are already significantly supporting to Ohio’s Medicaid program.

The IPI concept is currently being debated at the federal level for the Medicare Part B program and is currently limited to 27 drugs that are administered in a physician’s office with an anticipated decrease in spending of 30%.<sup>1</sup> ***The IPI is not being considered for application to Medicaid programs at the federal level likely because the rebates Medicaid programs receive through the Medicaid Drug Rebate Program result in greater savings.***

As we are sure you are already hearing from other patient and research organizations, mandated implementation of such price-control concepts like the IPI in Ohio’s Medicaid program can lead to a reduction in access to life-saving medications to patients as well as overtly seeking to stifle much-need research and innovation. We believe that randomly adopting an unproven, foreign-based price control mechanism for Ohio’s Medicaid that has not thoroughly been vetted is not

---

<sup>1</sup> <https://www.govinfo.gov/content/pkg/FR-2018-10-30/pdf/2018-23688.pdf> p. 54556



the best avenue to pursue. We strongly request that the Senate remove this IPI language and allow Ohio's Medicaid program continued access to the current pricing and rebate benefits it experiences in the current environment.

The other issue PhRMA would like to comment on regarding Sub. HB 166 involves the submission and transmission of information as required by the mandated procurement process for a pharmacy benefit manager (PBM) for Ohio's Medicaid program. To be clear, PhRMA has no position on the issue of if the state should use the procurement process detailed in proposed ORC 125.93 to select one PBM to serve the Medicaid program.

However, the language in that proposed section of the bill would require any PBM seeking to secure this sole designation for Medicaid to submit a litany of information to the Department of Administrative Services (DAS) during a procurement process. In turn, additional language in that section of the bill would require the selected PBM to transmit specific financial information to the Medicaid Director and require the Medicaid Director to issue findings in a report to the General Assembly. **PhRMA is not opposed to the submission of this crucial financial information to DAS or the Medicaid Director, as we believe those entities and officials should have access to this information to make crucial decisions important to Medicaid.**

However, in those three sections of the bill concerning the submission and transmission of financial information from manufacturers and labelers, we are requesting that crucial amendment language be added to the bill that simply provides business information a much-needed confidentiality designation not be subjected to public disclosure. Again, biopharmaceutical manufacturers have no objections with having this information provided to DAS as part of the PBM procurement process nor are we opposed to having this critical business information concerning Medicaid transmitted to the Medicaid Director in order to make sound decisions on prescribed drugs for the program. This requested confidentiality language would simply provide all parties with the needed business climate to potentially produce the best outcomes for Ohio Medicaid and taxpayer dollars.

On behalf of PhRMA and our members, we thank you for the opportunity to share our views on Sub. HB 166 with the subcommittee.

**House Bill 166, State Budget Watch List (as of 6/3/2019)**

<b>AGGREGATE REVENUE</b>	House Bill 166 provides state and federal GRF funding of \$33.59 billion in FY 2020 and \$35.21 billion in FY 2021. These total to increase of 3.4% and 4.8%, respectively (As Passed by House).
	Across all funds, main operating budget appropriations total \$69.82 billion in FY2020, an increase of 4.4%, and \$71.7 billion in FY 2021, an increase of 2.7% (As Passed by House).
<b>AGGREGATE SPENDING</b>	House Bill 166, the State Operating Budget Bill appropriates General Revenue Funding (GRF) for state operations for fiscal years 2020 and 2021. Ohio's fiscal year runs from July 1 through June 30 the following year.
<b>ENTITLEMENT SPENDING</b> -- MEDICAID (largest part of state spending)	Medicaid and K-12 Education account for 46.5% and 28.6%, respectively, of the total biennial spend (As Passed by House).
<b>ENERGY</b>	SEET Amendment (R.C. 4928.143): exempts FirstEnergy utility from retaining "significantly excessive" profits rather than requiring they refund or credit customers for the over profit. OMA testified in the House and Senate. Anti-customer. There are provisions related to closure of nuclear power plants -- see Miscellaneous AMENDMENT CONCEPT: Clarify onsite electric generation owned by third party for customer use behind the meter is not subject to power plant tax. NOT INCLUDED by Executive or House. Also watch for amendment to HB 6 AMENDMENT CONCEPT: Refine the size of an onsite wind farm to exempt from power siting board approval NOT INCLUDED by Executive or House. Also watch for amendment to HB 6
<b>ENVIRONMENT</b>	The budget creates the H2Ohio Fund. Surplus dollars from FYs, 2019, 2020, and 2021 will be directed into the fund. The budget also appropriates \$85.2 million in FY 2020 and authorizes the Controlling Board to establish additional appropriations in FY 2021. This money will be split amongst Ohio EPA, ODNR, and Ohio Department of Agriculture. The money will be used for water quality purposes, including awarding grants, issuing loans, funding cooperative research, and encouraging cooperation with government and private entities. The bill eliminates the Mahoning-Trumbull Air Pollution Control Authority, City of Youngstown as a qualifying local air pollution control authority.

Extension of E-Check (R.C. 3704.14) Authorizes the extension of the motor vehicle inspection and maintenance program (E-Check) in Ohio counties where this program is federally mandated by extending the contract to conduct the program beginning on June 30, 2019, for a period of up to 24 months through June 30, 2021.

The House removed the portion of the bill that eliminates the requirement that the EPA Director establish Best Available Technology methods in rules and instead requires the BAT method for an air contaminant source be established in the permit to install issued for the source.

The bill expands the scope of activities that are subject to regulations by applying the asbestos abatement law to activities involving more than three linear or square feet of asbestos-containing material. The bill also authorizes Ohio EPA to take enforcement actions against a contractor licensee or certificate holder if they are violating or threatening to violate specified federal regulations.

**Sec 755.10: Diesel Emissions Reuctions Grant Program**

The Senate is considering a possible amendment to provide an affirmative defense in certain civil cases for facilities in total compliance with their air contaminant permits

The House included an amendment that provides that nature or an ecosystem does not have standing to participate or bring civil actions. This was included in direct response to the Lake Erie Bill of Rights

Eliminates the Director's authority to approve on a case by case basis alternatives to the existing worker protection requirements for a project conducted by a public entity.

**HUMAN RESOURCES**

The bill requires health benefit plans to provide telemedicine services on the same basis and to the same extent as in-person services. It also prohibits a health benefit plan from excluding telemedicine services from coverage solely because they are telemedicine services.

The budget provides \$15 million per year for a new financial assistance program to support students in short-term certificate programs. The bill also provides \$2.5 million per year to support regional industry sector partnerships. Removed by the House and instead partially included in HB 2

Creates a program that would allow 16 and 17 year old students to actively work in a manufacturer in accordance with all safety and child labor laws. OMA strongly supports. AMENDMENTS SUBMITTED TO CLEAN UP

**SAFETY AND WORKERS' COMPENSATION**

House Bill 80. House amended to include PTSD coverage for public employee first responders. OMA strongly opposed as linchpin to allow the system to be expanded to cover mental injuries.

House Bill 80. House amendment redefines definition of "employee" jeopardizing the costs to insure injuries. OMA strongly opposes.

House Bill 80. House amendment imposes new settlement practices that may not be cost effective. OMA opposes.

	<p>Business Income Tax Deduction (ORC 5747): House amended the bill to repeal certain income tax credits for business owners. Reduces the maximum deduction for business income from \$250,000 to \$100,000, or from \$125,000 to \$50,000 for spouses filing separately. Eliminates an existing 3% flat rate on business income above those amounts. Effective for the 2019 taxable year. OMA opposes this tax increase.</p>
	<p>Allows nonrefundable income tax credits for up to \$10,000 in cost incurred to abate lead in an Ohio residence constructed prior to 1978. House retained provision but doubled aggregate credit cap now at \$10 million for the biennium or \$5 million per year.</p>
	<p>Sales and Use Tax: House amendment curtailed dozens of existing exemptions from sales and use tax (5739.01, 122.175, 5739.02, 5739.025, 5739.03, 5739.05, Section 757.140 R.C.). Effective October 2019. Monitor</p>
	<p>Sales tax: Exemption for food manufacturing equipment R.C. 5739.011, Section 757.140 House amendment expands an existing sales tax exemption for equipment and supplies used to clean equipment used to produce or process dairy products, to include equipment and supplies used to clean equipment that is used to produce or process any sort of food for human consumption. OMA strongly supports.</p>
	<p>Sales tax: House amendment exempts manufacturing cleaning supplies and services (R.C. 5739.011, Section 757.130) Exempts from sales and use tax any supplies or janitorial services. OMA strongly supports.</p>
	<p>Authorizes a nonrefundable tax credit equal to 10% of a taxpayer's investment in an Ohio Opportunity Zone fund.</p>
	<p>AMENDMENT CONCEPT Sec 757.30 Business Incentive Tax Credit -- House introduced stand alone SB 153 (Dolan). OMA Strongly supports.</p>
	<p>AMENDMENT CONCEPT: exclude temporary employment services from sales tax NOT INCLUDED by Executive or House</p>
	<p>AMENDMENT CONCEPT: exemption from sales tax for environmental compliance required equipment NOT INCLUDED by Executive of House.</p>
<b>MISCELLANEOUS</b>	
Innovate Ohio:	
Tax Department:	Innovate Ohio is funded at \$12.5 million per year to lead state technology projects and to use data to improve state agency operations and efficiencies.
Health Depart:	Credit for property owner for lead abatement
Health Depart:	Expand lead poisoning advisory board and update industry representation
OBM	Alters "orders to vacate" for occupants of lead habitations
Health Depart:	Sec 333.50 Lead Abatement and Related Activities -- Authorize transfer of GRF allocated to Medicaid to agencies funding lead abatement programs
Dept. Admin Svcs:	Alters scope and revenue collection of Utility Radiological Safety Board such that revenue may still be collected if a nuclear power plant is shut down.
Transportation:	Authorize state efficiency reviews by DAS and OBM in tandem
Transportation:	Motor Fuel rate increased \$.10 for gasoline, increased \$.19 for diesel, bifurcating motor fuel tax rates for the first time in Ohio. The move generates over \$800 million and will provide significant relief to ODOT funding shortfall. COMPLETE
Tax / Energy	Established annual fee for electric vehicles and plug in hybrids so those vehicles are contributing to road and bridge infrastructure

Sec 387.2 Additional appropriations: Extend TPP reimbursement to school districts with nuclear power plants, make who to 2017 funding level in 2020 and 2021.



COLUMBUS | CLEVELAND  
CINCINNATI | DAYTON  
MARIETTA

BRICKER and ECKLER LLP  
100 South Third Street  
Columbus, OH 43215-4291  
MAIN: 614.227.2300  
FAX: 614.227.2390

www.bricker.com  
info@bricker.com

## MEMORANDUM

TO: Ohio Manufacturers' Association  
Government Affairs Committee

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

DATE: June 3, 2019

RE: June 2019 OMA Government Affairs Committee  
Report

---

### I. June 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 133<sup>rd</sup> 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 132<sup>nd</sup> 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.

OMA Government Affairs Committee – Counsel Report

June 3, 2019

Page 2 of 7

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

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 is assigned to the Senate Judiciary Committee where it had its third hearing on May 22, 2019. 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.

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

#### 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

OMA Government Affairs Committee – Counsel Report

June 3, 2019

Page 3 of 7

know whether or if at all civil justice efforts will be curtailed or enhanced given the new leadership in the General Assembly, Governor's Office, and other statewide executive offices.

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

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

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.

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

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

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



OMA Government Affairs Committee – Counsel Report

June 3, 2019

Page 4 of 7

V. Litigation and Amicus Activity Update.

A. Monitored Cases.

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

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

The day after the special election, Drewes Farm filed an action in federal district court in Toledo challenging the LEBOR as unconstitutional. *See Drewes Farm Partnership v. City of Toledo*, (N.D. Ohio, W.D.), Case No. 3:19-cv-00434-JZ. The case is assigned to Judge Zouhary. Drewes Farm sought a preliminary injunction and a declaratory judgment. The parties agreed to stay enforcement of the LEBOR and the Court put the case on a fast track. The State of Ohio was permitted to intervene as a plaintiff. Toledoans for Safe Water, Inc. was not permitted to intervene as a defendant. Toledoans for Safe Water, Inc. filed an interlocutory appeal, which is pending in the Sixth Circuit. Motions to stay the district court proceedings while the appeal is pending were denied. Under the district’s court’s schedule, defendant’s answer must be filed by June 24, 2019. Briefing on motions for judgment on the pleadings is to be completed on July 18, 2019.

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

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

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

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

OMA Government Affairs Committee – Counsel Report

June 3, 2019

Page 5 of 7

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-briefed 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 in late March to address the pending motion to dismiss, the pending motion to intervene, and to discuss a scheduling order. Pending motions were scheduled to be heard on April 23, 2019. No decisions or orders have been issued after April 23, 2019.

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

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

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

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

OMA Government Affairs Committee – Counsel Report  
June 3, 2019  
Page 6 of 7

The case has been scheduled for a multi-week trial, beginning on August 10, 2019.

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

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

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

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

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

On May 20, 2019, the court denied the defendants' motions to dismiss. Trial is scheduled to commence on July 21, 2020.

B. Amicus Cases.

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

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

OMA Government Affairs Committee – Counsel Report

June 3, 2019

Page 7 of 7

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 was held on March 5, 2019.

#### VI. Ohio Supreme Court.

The Ohio Supreme Court adopted changes to the Ohio Code of Judicial Conduct Rule 4.4 (E), (H)(1), and added a new section (N). The Changes expanded the fundraising period for judicial candidates to one hundred eighty days before the primary and general elections. The original fundraising period was one hundred twenty days from the primary and special elections. Additionally, new subsection (N) establishes that the new rule takes effect on June 1, 2019 and first applies to judicial candidates that will appear on the ballot in 2020 and in succeeding years.

**To: OMA Energy Committee**  
**From: Ryan Augsburger / Rob Brundrett**  
**Re: Energy Policy Report**  
**Date: June 5, 2019**

---

### **Overview**

Far-reaching electricity regulation legislation has been a top priority around the Statehouse over the past quarter. Last week, the House narrowly approved the nuclear energy bailout, House Bill 6, sending the measure to the Ohio Senate.

Other policy developments have emerged to protect utilities and generators at the expense of customers. Energy policy will be a top issue area for the entire 2019-2020 legislative session.

### **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 nuclear power plants among a portfolio of generation that has been considered uneconomic. Hence, they sought government bailout in various forms over the past five years.

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 (hedge funds), 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.

In less than two months, the bailout bill, House Bill 6 has been introduced and undergone more than seventeen rewrites. The most noteworthy amendment includes a bailout for two old, uneconomic coal power plants (including one power plant in Indiana). Significant analyses have been produced for OMA members and are included in the meeting materials. The bill is sponsored by Representatives Jamie Callender (R-Concord) and Shane Wilkin (R-Lynchburg) and has strong support by House Speaker Larry Householder (R-Perry County). The bill was considered by three separate legislative panels where extensive opposition testimony has been presented. Proponents have also provided supportive testimony including intervenor groups who have implied their members individually "support" the bill.

Following introduction, OMA members have participated in three conference calls to review the bill, adopt policy positions and gain status updates. The OMA Energy Committee met in-person last week on May 30.

A dark money group called GenerationNow has reportedly spent over \$4 million airing radio and television commercials to support the bill. Direct mail has also been employed in targeted legislative districts. The paid advertising boasts that the bill will result in cleaner energy, lower customer cost and preservation of jobs and resulting tax revenue. The paid advertising confused lawmakers and served to provide political cover to support bailout legislation.

In the end, after intense arm twisting (see articles), the bill was approved 53-43. Seventeen Republicans bucked their caucus leadership in voting no, necessitating Democrat votes, a familiar formula for House Speaker Larry Householder.

The OMA twice presented opponent testimony in-person and issued a *key vote alert* urging all House members to oppose the bill. Thanks to Luke Harms of Whirlpool, Anthony Smith of Cooper Tire & Rubber and Terri Sexton of Navistar for delivering the OMA testimony. Concerned members can take action by contacting state lawmakers to communicate your concerns with the bill. Thanks are in order to Representatives who voted against the measure (see attached vote tally).

### **OVEC Bailout**

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

### **Energy Standards Repealed**

After six years of back and forth policy battles, a repeal of energy efficiency (EE) standards and renewable energy standards (RPS) is included in House Bill 6. Note, see HB 6 analyses included to learn how some costs of these programs can continue under the bill and some new forms of both EE and RPS will likely re-emerge under the authorizing language of HB 6.

### **Wind Farm Siting Restrictions**

An effort to relax siting requirements for large scale generation projects has not emerged. Instead a late amendment to HB 6 introduces even more restrictions on siting of wind farms.

### **Utility Seeks to Shift Risk from Shareholders to Customers**

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

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

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

House Bill 6 now contains language to change the law to authorize this sort of activity. The costs to customers can be significant. See HB 6 analyses by John Seryak and Kim Bojko.

### **Budget Amendment Gives Utility "Significantly Excessive" Profits**

Earlier in May, the Ohio House amended the voluminous state budget bill, HB 166, to alter Ohio's current law that prohibits utilities to retain "significantly excessive" profits, rather than issuing refunds to more than a million customers, including manufacturers. The OMA provided testimony urging the removal of the anti-customer provision.

### **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 and power plant owners by customers who realize no benefit.

The OMA has been a proponent of markets, supporting the original deregulation legislation and opposing utility profit subsidy schemes that distort the market and result in new above-market charges on manufacturers’ electric bills. Several noteworthy studies have demonstrated how the market delivers lower prices, choice and innovation without compromising reliability (ask staff for the studies). Competitive markets are under attack in Ohio.

### **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 bares 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. Look for an update from our special guest today.

### **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 supports a legislative correction that has been considered as an amendment to the state budget (HB 166) and bailout legislation (HB 6).

**OMA Appeals Utility Subsidies**

Kim Bojko, Chief Counsel for the OMA Energy Group (OMAEG) 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. We are awaiting a decision by the Court.

## Energy

### House Passes Energy Bailout May 31, 2019



On Wednesday, the Ohio House of Representatives **voted** 53-43 to approve **House Bill 6**, legislation that would create substantial, ratepayer-financed subsidies to Ohio's nuclear power plants. The measure now goes to the Ohio Senate, which is expected to commence hearings next week, underscoring the bill's high priority status. The OMA continues to oppose HB 6.

Preceding this week's vote by the full House, additional amendments were made by the House Rules Committee, an unusual step. The OMA issued a **key vote alert** to lawmakers, urging opposition to the bill. In the end, Speaker **Larry Householder** (R-Glenford) won passage. Seventeen Republicans **voted** against the bill, while 10 Democrats voted for the bailout package.

According to a **profitability analysis** conducted by the OMA, it is estimated that HB 6 will result in an annual profit of \$176 million to the hedge fund owners of the nuclear facilities — and more than \$1 billion over the life of the bill. The analysis raises the question as to why the State of Ohio would want to overpay by such a large sum to keep the plants open. The OMA's estimates were based on PJM market monitor data and are conservative — especially if the plants are profitable, as another study suggests (see separate story). 5/30/2019

### OMA Energy Committee Meets Following House Approval of HB 6 May 31, 2019



The **OMA Energy Committee** held its quarterly meeting Thursday, May 30 — less than 24 hours following the House's approval of HB 6, legislation to heavily subsidize Ohio's nuclear power plants.

Chaired by Brad Belden, president of The Belden Brick Co., the committee heard expert analysis of the nuclear bailout bill, as well as other energy issues currently before policymakers — including a provision in the House-passed version of the state budget (**HB 166**) that would alter Ohio's current prohibition of excessive profits by utilities. The new language, which is opposed by the OMA, would allow FirstEnergy operating companies to keep "significantly excessive profits" rather than issuing refunds to more than a million customers.

Guest speakers at Thursday's meeting included:

- Michael Bryson, senior vice president – operations at PJM Interconnection;
- Richard Ricks with NiSource, Columbia Gas of Ohio; and
- Susanne Buckley with Scioto Energy.

The Energy Committee's **next meeting** is set for August 29. 5/30/2019

*OMA's Energy Committee heard the latest analysis of the nuclear bailout bill during its May 30 meeting.*

### Ohio Nuclear Plants Already Profitable Without Subsidies? May 31, 2019

The two nuclear power plants set to receive state subsidies worth an estimated **\$165 million per year** under House Bill 6 already could be quite profitable. That is according to a **new report** sponsored by the American Petroleum Institute and authored by **Paul Sotkiewicz**, the former chief economist for PJM Interconnection LLC, the largest U.S. power grid operator.

Sotkiewicz's analysis shows that the costs of running FirstEnergy Solutions' Davis Besse and Perry plants are nearly 25% below the industry average for single-reactor sites — and that they are averaging \$28 million and \$44 million a year, respectively, in net profits. The ratepayer-funded subsidies provided by the House-approved HB 6 would only add to that profit. *5/30/2019*

### **House Committee Passes Revised Energy Bailout Bill May 24, 2019**

On an **8-5 vote**, members of the House Energy & Natural Resources Committee on Thursday, May 23, passed the nuclear power bailout bill. The approved language was the 17th version of the measure, which the OMA continues to oppose. Supporters of **Substitute House Bill 6** have dropped the pretense of carbon reduction and changed their rallying cry to energy security. The new version of Sub HB 6 would still bail out Ohio's two nuclear power plants, but it also would expand ratepayer-funded subsidies to two 1950s-era coal plants owned by the Ohio Valley Electric Corporation (OVEC). One of the OVEC plants is in Indiana.

A full House vote is expected next week. An updated **customer impact analysis** and **legal analysis** are in the works.

The OMA Energy Committee will meet on Thursday, May 30, providing yet another opportunity for members to get an update. *5/23/2019*

### **Senators Receive OMA Testimony on 'Significant Earnings' Provision for Utilities May 24, 2019**

Earlier this month, we **reported** on a provision slipped into the House-passed state budget bill (**House Bill 166**) to alter Ohio's current law that prohibits excessive profits by utilities.

The new language would allow FirstEnergy operating companies to keep "significantly excessive profits" rather than issuing refunds to more than a million customers, including manufacturers.

This week, the Ohio Senate Finance Committee held **hearings** on the budget legislation. In written testimony to the committee, the OMA said the amendment to the SEET would do nothing to protect ratepayers.

"The amendment allows FirstEnergy to realize rapacious profits from Ohio customers," the OMA wrote. "For these reasons, we urge the Senate to strip the unjustified and inequitable amendment from Amended Substitute House Bill 166." See the OMA's **full testimony here**. *5/23/2019*

### **Report: Nearly \$3 Million Already Spent in HB 6 Ad War May 24, 2019**



In the debate over House Bill 6 — legislation that would provide hundreds of millions of ratepayer dollars to Ohio's nuclear power plants — millions have already been spent. That is due to an ongoing advertising blitz meant to sway public opinion.

According to *Dayton Daily News* reporter Laura A. Bischoff, "Generation Now, a dark money group, has spent more than \$2.76 million on TV and radio ads in favor of the bill." The group reportedly has **close ties** to the Ohio House Speaker, Bischoff has reported. Of the 18 nuclear power plants in the region, Ohio's two aging nuclear plants and the Three Mile Island facility in Pennsylvania are the only three that are unprofitable, according to

a **report** from PJM Interconnection, an electricity transmission company. *5/23/2019*

### **House Revises Energy Bill – Again May 17, 2019**

Republicans on the House Energy & Natural Resources Committee this week adopted the latest substitute version of the nuclear bailout legislation, **Sub. House Bill 6**. This marks the 14th version of the bill since its introduction a month ago. The OMA has been opposed to the legislation due to the new costs and risks it would impose upon manufacturers and other customers. Here is the OMA's **customer cost impact analysis**.

Also this week at the Statehouse, FirstEnergy's budget amendment — which would allow the monopoly distribution company to retain “**significantly excessive**” profits on the backs of captive customers — was considered in the Senate. **Other legislation** surfaced this week in the House that would allow utilities to capture even greater above-market costs from customers under the Electric Security Plan process.

The OMA Energy Committee meeting on May 30 will shed more light on the latest policy developments that could affect manufacturers. You can **register here** to join the discussion. *5/16/2019*

### **FERC Rule Change Could Trigger New Electricity Costs May 17, 2019**

Regional grid operator **PJM's** electricity capacity auction has been delayed from this month to August. The reason? The Federal Energy Regulatory Commission (FERC) has ruled PJM's capacity auction rules to be “not just or reasonable” due to the proliferation of state subsidies for uneconomic power generators. While PJM attempts to preserve competitive wholesale electricity markets, the FERC order ensures PJM's capacity construct “will not interfere with the states' ability to choose the path of re-regulation, whether via a conscious policy decision or a simple failure to take steps to prevent re-regulation as described on an unplanned basis.”

Manufacturers should take note of this development. The \$300 million subsidy proposed by Substitute HB 6 — pending in the

Ohio House — would trigger FERC's recommended rule changes at PJM. In doing so, this would create an additional \$80 million in increased capacity costs for Ohio's two nuclear plants, both owned by FirstEnergy Solutions. Moreover, Sub HB 6 could also subsidize uneconomical coal plants and power-purchase agreements for unknown quantities of renewable energy. Each would result in what FERC describes as “unplanned re-regulation.” Unplanned re-regulation is serious — competitive electricity markets save Ohio's ratepayers \$3 billion annually.

See **this memo** by OMA consultant RunnerStone to learn more and see cost impacts to different sized manufacturers. *5/16/2019*

### **Opponents Pile on Against Nuclear Bailout Legislation May 10, 2019**

Seventy-four opponents crammed into a tiny hearing room in the basement of the Statehouse this week to make the case against Substitute House Bill 6. Only two proponents appeared, and one was the bankrupt company that owns the uneconomical nuclear power plants, FirstEnergy Solutions.

The OMA was among the groups that filed testimony in opposition to the most current version of HB 6, which will cede more control to government bureaucrats in electricity pricing. The **OMA testimony** — delivered by Terri Sexton, Environmental & Energy Manager for Navistar — describes the numerous problems with the bill and provides precise examples of the bill's impact on Navistar's Springfield truck assembly plant. The OMA testimony characterizes the sub bill as “a mandated, customer-financed bailout of uneconomical power plants in the form of ‘clean air credits’ and direct subsidies.”

The bill has so many issues that it has united groups on the political right, like **Americans for Prosperity**, and groups on the left, like the **Environment Defense Fund**. *5/9/2019*

### **Public Campaigns Begin For, Against Energy Bailout Bill May 10, 2019**



Opponents and proponents of House Bill 6 — the nuclear power bailout bill — are now doing battle on the public airwaves. The OMA opposes the bill, which is pending in the Ohio House.

This week, Americans for Prosperity started running a statewide radio ad on news/talk radio stations in opposition to the bailout bill. The group has said the measure would tax consumers through their monthly energy bills “in order to prop up politically favored companies.” The Ohio Consumer Power Alliance has also launched a radio ad campaign against the bill.

At the same time, Generation Now — a secretive political money group — is running a paid media campaign featuring both **radio** and TV spots, with more than \$600,000 dedicated to broadcasting their pro-HB 6 message. **This story** by the *Dayton Daily News* examines the organization and its funding.

Also this week, Ohio State University economist Dr. Edward “Ned” Hill expressed strong opposition to HB 6 in **his editorial** published by *Crain’s Cleveland Business*. In his editorial, Dr. Hill wrote: “The bill will result in higher electricity generating and capacity charges for all Ohioans, deter investment in electricity generation not controlled by Ohio’s investor-owned utilities, lower the reliability of the state’s electric system and hurt economic development prospects.” 5/8/2019

### **Substitute House Bill 6: Still a Duck May 10, 2019**

Last week, Ohio House lawmakers unveiled a new version of the controversial nuclear bailout package. OMA experts have reviewed Sub HB 6 line-by-line and found it is not what its supporters claim. In general, the substitute version makes a series of changes aimed at

protecting the profits of utilities at the expense of customers.

To help clear the confusion, read the “**Ten Myths Surrounding Sub House Bill 6.**” Interested OMA members will soon have another chance to get an in-depth HB 6 update and have their questions answered. Look for an email invite early next week to participate in a conference call. 5/9/2019

### **In His Own Words: The Real Costs of HB 6 May 10, 2019**

Mike Pandoli, owner of Berea Manufacturing — a welding shop outside Cleveland — read about the nuclear bailout legislation (HB 6) being considered in Columbus. He wrote a letter to the Speaker of the House to convey his concerns regarding the new customer charge applying to each meter in his plant. **Click here** to see what happened next. 5/6/2019

### **Pennsylvania Nuke Bill Short Circuits May 10, 2019**

Just as in Ohio, lawmakers in Pennsylvania have been asked to pass legislation to bailout uneconomic nuclear power plants in the Keystone State. The Associated Press is **reporting** that a financial rescue is now off the table and unlikely to advance in the foreseeable future. Here is a fun, **brief video** that explains the issue. 5/9/2019

### **Question: When is ‘Excessive’ Profit Not Enough? May 10, 2019**

Answer: When you are FirstEnergy.

Undeterred by the massive bailout request pending in sub House Bill 6, lobbyists from the Akron-based utility were able to get a provision tucked into the state budget bill, House Bill 166.

Monopoly electric utility companies are heavily regulated by the Public Utilities Commission of Ohio (PUCO) in order to protect customers from price gouging. Under Ohio law, electric utility companies are entitled to enjoy just and reasonable profits. The law authorizes PUCO regulators to limit monopoly profits. The provision now contained in HB166 would allow FirstEnergy operating companies to keep



“significantly excessive profits” rather than refund them to consumers.

The OMA **provided testimony** against the anti-consumer amendment and urged lawmakers to strip the proposed change. *5/8/2019*

### Anti-Market Nuclear Bailout Bill Advances May 3, 2019

Unswayed by more than 100 individuals and organizations that have presented concerns with House Bill 6, the **House Energy Generation Subcommittee** this week voted to accept a substitute bill, advancing the controversial measure to the full **Energy and Natural Resources Committee** for a possible vote next week.

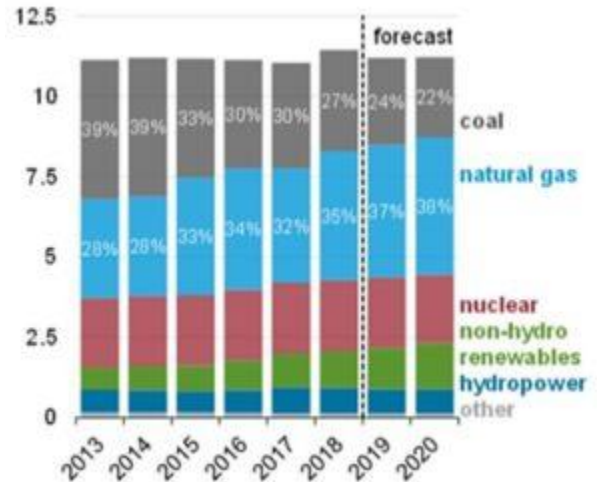
Last week, the OMA **expressed opposition** to HB 6. This week, members of the OMA Energy Committee and Government Affairs Committee participated in a special update and briefing on the bill.

Manufacturers wishing to **contact their state representatives** on HB 6 can use this **sample letter**. Please be sure to copy **the OMA**. *5/2/2019*

### House Budget Includes Another FirstEnergy Handout May 3, 2019

OMA staff is still reviewing the House revisions to the massive biennial budget bill, House Bill 166. One glaring energy policy change in the House proposal would deny customer refunds for Ohio Edison’s significantly excessive profits, further eroding customer protections. This provision would be in addition to the hundreds of millions of dollars that FirstEnergy would obtain from customers under House Bill 6.

### EIA: Renewables Growing Rapidly as Electricity Generation Fuel Source May 3, 2019



Renewable sources for electricity generation are growing rapidly, according to a report by the U.S. Energy Information Administration.

The **EIA forecasts** that renewables — which include wind, solar, and hydroelectric — will produce 18% of all U.S. electricity this year, and almost 20% in 2020. The EIA also predicts that wind generation will surpass hydroelectric generation to become the leading source of renewable generation in both years. Overall, natural gas is expected to continue its dominance as a fuel source for electricity production, accounting for 37% of all U.S. electricity generation this year and 38% in 2020.

**In Ohio** — the nation’s **eighth largest** net electricity producer — coal remains the largest fuel source at 47%, followed by natural gas at 35%, according to the EIA. Industrial sites account for **roughly one-third** of all Ohio’s electricity consumption. *5/1/2019*

### OMA Opposes Energy Subsidy Bill April 26, 2019



On Wednesday at the Ohio Statehouse, Whirlpool Corp.'s Senior Manager of Government Relations Luke Harms testified on behalf of the OMA at a hearing on House Bill 6 — legislation that would impose new charges on electric customers in order to subsidize uneconomic generation facilities. (Harms' testimony begins at 36:19 of **this video**.)

The OMA opposes HB 6 and was one of 100 organizations or individuals testifying this week against the proposal. If passed and signed into law, the aggregate cost of HB 6 to Ohio customers is estimated to exceed \$300 million per year, indefinitely.

In his **testimony** before the House Energy Generation Subcommittee, Harms told lawmakers HB 6 would create "multiple new costs and new forms of costs for manufacturers." He also noted that the bill seemingly would penalize companies like his that are using renewable, on-site electrical generation.

Also appearing at Wednesday's hearing on behalf of the OMA were OMA Energy Counsel Kim Bojko, partner at Carpenter Lipps & Leland LLP, and Anthony Smith, Global Energy Coordinator at Cooper Tire & Rubber Company.

Later in the day, Ohio State University economist Dr. Edward "Ned" Hill expressed strong opposition to the bill, calling it "crony capitalism." In his testimony (beginning at 2:22:45 of **this video**), Hill told lawmakers that HB 6's "subsidies without end" would be "fundamentally detrimental to the state's economic development," potentially deterring future private investment in Ohio's generation market. 4/25/2019

### **Find Out How Energy Bill Affects You April 26, 2019**

This week, 100 individuals and organizations offered testimony in clear opposition to House Bill 6, the recently introduced nuclear power bailout legislation. OMA members are invited to learn more about the new costs that would be imposed by the legislation at a 3 p.m. briefing on Tuesday, April 30. Members can register to join via conference call — or attend in-person — by **e-mailing the OMA** or calling (800) 662-4463.

During the HB 6 briefing, we will review **this manufacturing impact analysis** by OMA energy engineering firm RunnerStone, as well as **this legal analysis** by OMA Energy Counsel Kim Bojko of Carpenter Lipps & Leland. Members will also get an update on the status of the bill.

In spite of the widespread concern expressed this week, House Republicans seem intent on advancing this bad legislation, possibly as soon as next week. Concerned manufacturers should express opposition to their **state representatives** now. 4/25/2019

### **Ohio Shale Investment Reaches \$74B Since 2011 April 26, 2019**



A **new report** by Cleveland State University's Energy Policy Center reveals that investment in the shale energy sector in eastern Ohio has reached \$74 billion since tracking began in 2011. Findings of the study were reported by **JobsOhio**.

Indirect investments, such as development of new manufacturing in the area as a result of lower energy costs, were not included in the study.

Other recent studies have estimated that the Utica and Marcellus shale regions in Ohio, West Virginia and Pennsylvania will soon supply as much as 45% of U.S. natural gas production. 04/23/2019

### **Proponents Make Case for Nuclear Power Subsidies April 19, 2019**

Advocates of saving Ohio's two nuclear power plants **appeared this week** before a Statehouse panel to support House Bill 6. If passed and



signed into law, the bill would impose new customer charges that would be used to subsidize uneconomic nuclear power plants. Introduced last Friday by Reps. Jamie Callender (R, Lake County) and Shane Wilkin (R, Highland County), HB 6 is being fast-tracked and has already received two hearings this week.

**Testifying as a proponent**, power plant owner FirstEnergy Solutions was joined by local government officials from affected communities that want to save jobs at the nuclear plants and preserve sources of local tax revenue. The bankrupt FirstEnergy subsidiary justified the proposed subsidies by stating that the bill would bring environmental benefits.

The House Energy and Natural Resources Subcommittee on Energy Generation will meet again next week — on both Tuesday, April 23, and Wednesday, April 24 — when opponents are expected to present their testimony. *4/18/2019*

### **Supreme Court Declines To Hear Cases on Subsidies for Nuclear Energy April 19, 2019**

On Monday, the U.S. Supreme Court declined to take up a pair of cases challenging state nuclear subsidies in cases brought by advocates for natural gas-fired power plants.

The Electric Power Supply Association (EPSA) contested state subsidies for nuclear plants in New York and Illinois. The case has ramifications for Ohio, which is considering a new form of nuclear power subsidies (see separate article on House Bill 6). The Electricity Consumers Resource Council (**ELCON**) issued a statement highlighting the threat posed by state-approved nuclear bailouts to industrial customers.

Still pending before the Federal Energy Regulatory Commission (FERC) is a proposal from regional grid operator PJM Interconnection to address nuclear subsidies in market pricing. Alternative proposals are pending at PJM and could have significant cost impacts for customers on the wholesale market. The issue will be discussed at the May 30, 2019, OMA Energy Committee meeting. *4/15/2019*

### **Much Anticipated Energy Bill Coming Today? April 12, 2019**

Legislation may be introduced today in the Ohio House that could have far-reaching effects on electricity generation markets. This **recent media report** found that a draft version of the bill would, among other provisions, create a new statewide customer charge that would be used to bailout the two nuclear power plants owned by FirstEnergy Solutions.

Hearings on the bill are expected to begin next week in the **House Energy & Natural Resources Committee**. Rumors about the bill have been swirling for weeks and the bill is considered to be a top priority of the Speaker.

The OMA's energy policy team is monitoring developments and will provide members with bill analyses and status.

Members of the OMA Energy and Government Affairs Committees will be invited to a special conference call next week to learn more about the bill. Watch your email or send an **email to the OMA** if you are interested. *4/11/2019*

### **PJM: Markets Improve Costs, Investment and Reliability April 12, 2019**

The regional transmission operator PJM **told a House committee** this week that the competitive electricity markets are lowering costs, stimulating investment, and providing system reliability in Ohio.

Stu Bresler, Senior Vice President of Operations and Markets for PJM, testified: "Ohioans, over the last five years, have seen more than \$1 billion dollars in savings through our competitive markets.

"Since 2017, over ~3,200MWs of new generating capacity has come online in Ohio. An additional 7,800 MWs of new generating capacity is currently in some stage of development," he stated.

"Although 3,000 MW of older generating units have been deactivated or retired since 2016, that generation has been replaced with more reliable and lower cost generating units. This is another indication that PJM's competitive markets are working effectively," said Bresler. *4/10/2019*

**Report: Pipelines Bring Economic Boost to Region**  
**April 12, 2019**

Oil and gas development in the Appalachian Basin has brought billions of dollars' worth of pipeline construction to parts of Ohio, Pennsylvania and West Virginia. According to an analysis by marketing agency Energy In Depth, pipeline construction projects have fed \$32.6 billion of investments and generated more than 124,000 jobs.

This comes as companies have built more than 3,500 miles of pipelines in the region. According to the report, of the 25 pipeline projects approved by the Federal Energy Regulatory Commission, seven run through Ohio.

The Buckeye State has 2,167 wells producing in the Utica Shale formation, while another 875 wells have received permits and are being drilled. For more on the data released by Energy In Depth, [click here](#). 4/10/2019

**FirstEnergy & FirstEnergy Solutions Abusing Bankruptcy Law?**  
**April 5, 2019**

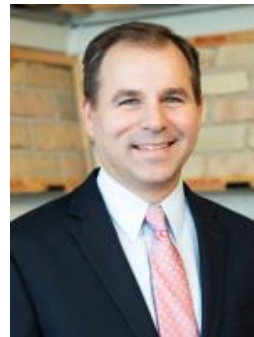
News reports this week detail recent action by federal authorities alleging that FirstEnergy and FirstEnergy Solutions have used the U.S. bankruptcy process to "scheme to" absolve former parent corporation FirstEnergy of future environmental responsibilities for power plants. The government officials allege the companies have engaged in "abuse of the bankruptcy system." The bankruptcy proceedings began just over one year ago.

The Office of the Ohio Consumers' Counsel (OCC) argued that in the bankruptcy plan before the court "FirstEnergy would be shielded from any claims or causes of action related in any way to the Debtors' businesses and property, including from any liability for the costly decommissioning of its power plants." And, "Were funds for decommissioning to be inadequate, ..., consumers or taxpayers might be (unfairly) called upon to fund FirstEnergy and FES's power plant decommissioning liabilities to federal and state governments."

Late yesterday Judge Koschik of the bankruptcy court issued a ruling finding that FES's proposed

release of FirstEnergy from its decommissioning and environmental obligations to the government made the underlying plan unconfirmable. "Basically the judge sent FES back to the drawing board on how to exit bankruptcy, which will trigger renegotiation of the complex settlement agreement," said OMA's energy counsel Kim Bojko of Carpenter Lipps & Leland. 4/4/2019

**Manufacturing Leader Makes Case Against Customer-Paid AEP Generation Development**  
**March 29, 2019**



In an **opinion** published by the *Canton Repository*, Brad Belden, President, The Belden Brick Co., made the case that the PUCO should reject AEP Ohio's filing to develop new renewable generation on its ratepayers' dime. Belden wrote: "The Ohio Power Co. (AEP Ohio) currently has an application pending before the Public Utilities Commission of Ohio (PUCO) that would require all AEP Ohio customers to subsidize the development of at least 900 megawatts (MW) of renewable energy. ...

"... because these subsidies would be non-bypassable, all customers in AEP Ohio's service territory, even those who already purchase power (including green power) competitively from another supplier, would have to pay the AEP Ohio renewable energy rider on the distribution portion of their electric bills. ...

"The fact is, Ohio's generation market is robust. Ohio and the surrounding region have plenty of electric generation resources to meet the electric needs of customers. ..." 3/25/2019

**DeWine Appoints Deters to PUCO**  
**March 29, 2019**

Gov. Mike DeWine appointed Dennis P. Deters, JD, of Hamilton Co. to the Public Utilities

Commission of Ohio (PUCO) for a term beginning March 25, 2019, and ending April 10, 2021.

Deters, a Republican, is a former judge on the Ohio District Court of Appeals. He is also a former township trustee in Greater Cincinnati and a Hamilton County commissioner.

Deters was one of four finalists for the seat selected by the PUCO Nominating Council this month. Others included former lawmakers Gene Krebs and William Shuck, and former PUCO staffer Bryce McKenney.

The political makeup of the PUCO will be two Republicans, one Democrat and two independents.

The PUCO's role is to regulate the state's investor-owned utilities. 3/26/2019

### **Judge Rejects FES Bankruptcy Motion March 22, 2019**

A U.S. bankruptcy judge this week denied FirstEnergy Solutions' (FES) request to issue expedited approval of a settlement agreement. According to **this article** by John Funk of the *Cleveland Plain Dealer*, the sticking point centers on a provision that absolves former parent company FirstEnergy Corp. of expensive remediation and decommissioning costs of both nuclear and coal power plants.

Numerous federal and state agencies cautioned the judge of the impropriety of letting FirstEnergy off the hook for known liabilities. Customers have been paying for clean-up costs for several decades but the ownership wants to escape its liability under the proposed agreement. If approved, such a move would likely transfer the clean-up costs to Ohio utility customers or Ohio taxpayers.

Also in the hearing, counsel for FES told the court that the nuclear plants may not be closed as scheduled: "... with help from our state legislators ... maybe there is even hope for these units past the announced deactivation [dates]," said Brad Kahn on behalf of FES.

Hold on to your wallets and purses as FES now tries again to lever state lawmakers to give them a bailout to benefit their owners and FirstEnergy. 3/21/2019

### **PJM Watchdog: Ohio Nuke Plants Can't Compete March 22, 2019**

The independent market monitor for PJM Interconnection released its 2018 **State of the Market Report** last week. The study catalogs unprofitable coal and nuclear power plants that operate within the PJM grid and marketplace. The report identifies three nuclear plants that are receiving market signals to retire. The list includes two Ohio nuclear power plants: Perry and Davis-Besse.

According to a **summary** by Utility Dive, the market monitor, Dr. Joseph Bowring, said the only plants that are not projected to meet their avoided cost each year are one-unit nuclear power plants like those in Ohio. Translation: these plants are truly uneconomic. 3/21/2019

### **Ohio Valley Natural Gas Production Estimates Swell March 22, 2019**

A report **finds that** the Ohio Valley region will supply half of U.S. natural gas by 2040. Cost advantages for the production of natural gas liquids in the Midwest are expected to outperform the Gulf Coast as soon as 2020. The **report by IHS Markit Study** released this week at the World Petrochemical Conference in San Antonio, Texas, says the Ohio Valley region "will play a key role in satisfying America's increasing reliance on natural gas, as well as keeping energy costs moderate. Favorable production economics place the Marcellus and Utica shale plays amongst the most cost competitive in the nation."

The IHS Markit study, commissioned by Shale Crescent USA and JobsOhio, quantifies for the first time the anticipated development and production growth emerging from one of the world's most prolific sources of natural gas and natural gas liquids. 3/21/2019

### **Manufacturers: 'Goldplating' is Increasing Electricity Costs March 15, 2019**

At their meeting this week, members of the OMA Energy Committee **heard a presentation** by Anthony Smith and Tim Ling. Smith is Global Energy Coordinator at Cooper Tire and Rubber Company. Ling is Corporate Environmental Director at Plaskolite, LLC. The duo are heavily

involved in energy policy and serve as board members of the **OMA Energy Group**. They detailed the growth of electric distribution and transmission charges at a time when generation charges have been decreasing. They also described how much subsidy is now included in customers' bills. And, they described how utilities are aggressively charging more for transmission under the guise of grid modernization.

Their conclusions about 'goldplating' are validated in this recent *USA Today* **article** that describes utility overspending. 3/14/2019

### **Government Objects to FirstEnergy Deal March 15, 2019**

In a report on complex bankruptcy court proceedings, business reporter John Funk of the *Cleveland Plain Dealer* **describes** how FirstEnergy Solutions' (FES) restructuring plan has hit a roadblock with federal agencies. FES is the bankrupt affiliate of Akron-based FirstEnergy Corp. (FE). Total FES debt is about \$3.6 billion according to the story. The company filed for bankruptcy protection one year ago and has fashioned a settlement with creditors. A growing army of federal and state agencies now says the settlement agreement violates the law.

"The U.S. Securities and Exchange Commission, the Nuclear Regulatory Commission, the Federal Energy Regulatory Commission, the U.S. Environmental Protection Agency and the federal bankruptcy court's U.S. Trustee all have filed lengthy and strongly worded objections to a restructuring plan the company rolled out Tuesday. They also found the FES restructuring plan short on detail and silent on how much it would cost to clean up the environment if the coal and nuclear plants are closed," according to the story.

"Federal attorneys for the NRC and U.S. EPA, working with lawyers for Ohio and Pennsylvania, argue that FirstEnergy itself has significant independent liability to the government under environmental laws. They contend that terms of the restructuring agreement that let FE off the hook are illegal." 3/14/2019

### **Ohio Shale Oil & Gas Production Up and Up March 15, 2019**

This week the Ohio Department of Natural Resources (ODNR) released its **fourth quarter 2018 natural gas and oil production report**. During the fourth quarter of 2018, Ohio's horizontal shale wells produced 5,810,484 barrels of oil and 663,534,323 Mcf (663 billion cubic feet) of natural gas.

Natural gas production from the fourth quarter of 2018 showed a 31.89 percent increase over the fourth quarter of 2017, while oil production increased 38.56 percent for the same period. Wow!

Here's a **good visual** from Richard Simmers, Chief, ODNR Division of Oil and Gas Resources Management, showing the growth story of oil and gas production in Ohio's Utica shale play. 3/14/2019

### **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*

## Energy Legislation

Prepared by: The Ohio Manufacturers' Association  
Report created on June 3, 2019

- HB6**      **CLEAN AIR PROGRAM** (CALLENDER J) To create the Ohio Clean Air Program, to facilitate and encourage electricity production and use from clean air resources, to facilitate investment to reduce the emissions from other generating technologies that can be readily dispatched to satisfy demand in real time, and proactively engage the buying power of consumers in this state for the purpose of improving air quality in this state.  
*Current Status:* 5/29/2019 - **PASSED BY HOUSE**; Vote 53-43  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-6>
- HB20**      **SOLAR PANEL LIMITATIONS** (BLESSING III L) To prohibit condominium, homeowners, and neighborhood associations from imposing unreasonable limitations on the installation of solar collector systems on the roof or exterior walls of improvements.  
*Current Status:* 2/12/2019 - Referred to Committee House State and Local Government  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-20>
- HB55**      **OIL AND GAS WELL ROYALTY STATEMENTS** (CERA J) To require the owner of an oil or gas well to provide a royalty statement to the royalty interest holder when the owner makes payment to the holder.  
*Current Status:* 2/26/2019 - House Energy and Natural Resources, (First Hearing)  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-55>
- HB94**      **LAKE ERIE DRILLING** (SKINDELL M) To ban the taking or removal of oil or natural gas from and under the bed of Lake Erie.  
*Current Status:* 3/5/2019 - Referred to Committee House Energy and Natural Resources  
*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:* 3/5/2019 - Referred to Committee House Energy and Natural Resources  
*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:* 3/5/2019 - Referred to Committee House Energy and Natural Resources  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-104>



- HB223**      **WIND SETBACKS** (STRAHORN F, SKINDELL M) To alter the minimum setback requirement for wind farms of five or more megawatts.  
*Current Status:* 5/8/2019 - Referred to Committee House Public Utilities  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-223>
- HB245**      **PROPERTY TAX EXEMPTION TIMELINES** (SMITH J) To remove the current deadlines by which an owner or lessee of a qualified energy project must apply for a property tax exemption.  
*Current Status:* 5/21/2019 - Referred to Committee House Energy and Natural Resources  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-245>
- HB246**      **PUCO/OCC REFORM** (VITALE N) To reform and modernize the Public Utilities Commission and the Consumers' Counsel.  
*Current Status:* 5/21/2019 - Referred to Committee House Public Utilities  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-246>
- HB247**      **RETAIL ELECTRIC SERVICE LAW** (STEIN D) Regarding the competitive retail electric service law.  
*Current Status:* 5/21/2019 - Referred to Committee House Public Utilities  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-247>
- HB260**      **CLEAN ENERGY JOBS** (DENSON S, WEINSTEIN C) To maintain operations of certified clean air resources, establish the Ohio generation and jobs incentive program and the energy performance and waste reduction program, and make changes regarding wind turbine siting.  
*Current Status:* 5/28/2019 - Referred to Committee House Energy and Natural Resources  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-260>
- SB86**      **UTILITY SERVICE RESELLERS** (MAHARATH T) To regulate certain resellers of utility service.  
*Current Status:* 3/12/2019 - Referred to Committee Senate Energy and Public Utilities  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-86>

**Sub. H. B. No. 6-Representatives Callender, Wilkin.**

The question recurring, "Shall the bill pass?"

The yeas and nays were taken and resulted – yeas 53, nays 43, as follows:

Those who voted in the affirmative were: Representatives

Antani	Arndt	Baldrige	Becker
Blessing	Brinkman	Brown	Butler
Callender	Carruthers	Cera	Cross
Cupp	DeVitis	Edwards	Galonski
Ghanbari	Green	Grendell	Hambley
Hillyer	Holmes, A.	Hoops	Ingram
Jones	Jordan	Kick	Lang
LaRe	Lipps	Manning, D.	Merrin
Miller, J.	Oelslager	Patterson	Patton
Perales	Plummer	Reineke	Roemer
Rogers	Scherer	Seitz	Smith, T.
Sobecki	Stein	Upchurch	Vitale
West	Wiggam	Wilkin	Zeltwanger
			Householder-53

Those who voted in the negative were: Representatives

Boggs	Boyd	Brent	Carfagna
Clites	Crawley	Crossman	Dean
Denson	Ginter	Greenspan	Hicks-Hudson
Hood	Howse	Keller	Kelly
Koehler	Lanese	Leland	Lepore-Hagan
Lightbody	Liston	Manchester	Manning, G.
McClain	Miller, A.	Miranda	O'Brien
Powell	Riedel	Robinson	Romanchuk
Russo	Ryan	Sheehy	Skindell
Smith, K.	Smith, R.	Stoltzfus	Strahorn
Sweeney	Sykes		Weinstein-43

The bill passed.

Representative Callender moved to amend the title as follows:

Add the names: "Cross, DeVitis, Ghanbari, Hillyer, Jones, Reineke, Seitz, Stein, Vitale."

The motion was agreed to and the title so amended.

The title as amended was agreed to.

## Ohio advances coal, nuclear subsidies after pressure from Trump campaign official

By [GAVIN BADE](#)

05/29/2019 07:03 PM EDT

[Share on Facebook](#) [Share on Twitter](#)

The Ohio House approved a bill Wednesday to gut clean energy standards and subsidize at-risk nuclear and coal plants after a last-minute push from a Trump reelection official to secure its passage.

Bob Paduchik, a senior adviser to the Trump reelection campaign, made calls Tuesday night to at least five members of the Ohio House of Representatives, pressuring them to vote 'yes' on the bill, five people familiar with the outreach told POLITICO. Sources said Paduchik emphasized preserving jobs at the Perry and Davis-Besse nuclear plants, both located in northeastern Ohio on the shores of Lake Erie. Backers of the bill say the plants support a total of 4,000 jobs once contractors and suppliers are added to the mix.

**"The message is that if we have these plants shut down we can't get Trump reelected," said one senior legislative source with knowledge of the conversations. "We're going into an election year, we can't lose the jobs."**

Paduchik did not return requests for comment, but confirmed to a local reporter that he called lawmakers to support the bill, saying he did so as a personal matter.

"People ask me for my advice and opinion on things on politics, but they also ask me for my advice and opinion



A nuclear power plant in Oak Harbor, Ohio. | Ron Schwane/AP Photo

on electricity and power issues,"

Paduchik [toldCleveland.com](#). "Honestly, I think diversity in electricity generation is a strength in this nation, and I'm concerned that we lose that in Ohio if we shut down these two plants."

The bill, which would create a \$300 million subsidy program for two nuclear plants and two coal plants in the state, passed 53-43 Wednesday afternoon. It now heads to the state Senate.

Owner FirstEnergy Solutions has threatened to shut the plants down if they are not subsidized, and [Cleveland.com](#) reports Republican Gov. Mike DeWine, and labor union leaders made similar arguments in other 11th hour calls to lawmakers.

Legislators contacted by Paduchik include Republican Reps. Don Manning, Darrell Kick, Laura Lanese, Reggie Stoltzfus and Dave Greenspan, sources told POLITICO. The sources requested anonymity because they have other business before the legislature.

Paduchik led President Trump's successful 2016 campaign in Ohio, after which he became co-chair of the Republican National Committee. In December, the Trump 2020 campaign announced he would return to oversee the president's reelection bid in the crucial Midwestern swing state.

The White House referred questions on Paduchick's involvement to the Trump campaign, which did not immediately respond to a request for comment.

**In addition to Paduchik, three sources said some legislators received calls from two members of the Ohio delegation to the U.S. House — Republican Reps. Steve Stivers and Bob Gibbs.** Their offices did not return requests for comment.

FirstEnergy Solutions, which split from utility FirstEnergy in a bankruptcy proceeding last year, said it did not engage Paduchik or the House members on its behalf. FirstEnergy's political action committee has supported Trump, DeWine and Ohio Republicans in the past, and CEO Chuck Jones [met with the president and Secretary of Energy Rick Perry](#) on energy policy before the utility and subsidiary split.

"FirstEnergy Solutions is not working with the Administration in any way, either directly or through

proxies. There has been no engagement," a spokesperson said in an email. The company also said it did not work with "the Trump campaign or the Ohio Congressional Delegation on HB 6."

Along with subsidizing the nuclear plants, HB 6 would also increase existing payments to two large coal plants owned by the Ohio Valley Electric Corporation, a conglomeration of Midwestern utilities. To pay for the new subsidies, the bill would eliminate the state's energy efficiency standard and its 12.5 percent-by-2027 renewable energy standard, which are financed on customer utility bills.

Approval in the House means the bill will now move to the Senate. Insiders [told POLITICO earlier this week](#) that chamber could take longer to debate the bill, which could create a conundrum for FirstEnergy Solutions, which must decide next month whether to refuel the Perry plant or move ahead with shutdown procedures.

Analysts at ClearView Energy, however, predicted that final passage is likely before the last scheduled day of the legislative session, June 26.

"While we see fewer outspoken supporters in the GOP-controlled State Senate, we think sufficient support among Republicans and Governor Mike DeWine's (R) advocacy for H.B. 6 could animate approval in the upper chamber," analyst Tim Fox wrote in a note to clients Wednesday.



# KEY VOTE ALERT

May 28, 2019

## To: Members of the Ohio House Of Representatives

The Ohio Manufacturers' Association has deemed the vote of Sub HB 6 to be an OMA Key Vote and will record this vote on the 133<sup>rd</sup> General Assembly *How They Voted* scorecard. The OMA urges you to **Vote No on Sub HB 6**, the nuclear power plant bailout.

The OMA has undertaken extensive analyses (linked below) of all versions of the bill and twice presented opposition testimony to Sub HB 6. The latest version of the bill (-17) is less consumer-friendly than prior versions of the bill due to the addition of subsidies for the utility owners of the Ohio Valley Electric Corporation (OVEC), which includes a facility in Indiana.

More than 100 organizations, businesses and individuals testified against Sub. HB 6 because the bill is bad for business, costly for customers, and detrimental to clean energy. Extensive, persuasive opposition testimony was presented in committee.

Sub HB 6 will impose new charges on electricity consumers in order to subsidize old, uneconomic power generation facilities.

### Specific concerns:

- There would be multiple new costs, and new forms of costs, for manufacturers and other Ohio consumers resulting in more than \$500 million in new energy expenses per year, just from the nuclear plant charges and the new OVEC charges alone. There are other cost drivers in the bill.
- The customer-financed bailout of failing power plants would distort power markets, which have been delivering cost-savings and innovation. This would make Ohio less competitive, and less attractive as a place for business location.
- The bill does nothing to promote clean air. In fact, the bill will dismantle the mechanisms which have been reducing emissions.
- Despite what supporters of the bill contend, Sub HB 6 does not create savings by eliminating efficiency and renewable program riders.
- The two nuclear power plants stand to reap an estimated \$176 million, or more, in profit per year from Ohio ratepayers (this does not include the operating cost reductions for the plants from the debt shedding that will occur in the FES bankruptcy case). Over the six-year term of the bill, this would result in more than \$1 billion being taken from Ohio ratepayers and given to out-of-state hedge funds.

(Continued)

The bill contains nothing to protect customers. Instead the bill would protect investors who own the generation assets. In fact, it would provide a staggering profit to owners of the nuclear plants.

The ratepayer-funded bailout and handouts proposed by Sub HB 6 would move Ohio in the wrong direction, unwinding two decades of gains from increased competition and innovation due to deregulation of Ohio's electricity markets.

For these reasons, **I urge you to oppose Sub HB 6.**

#### MORE INFORMATION

- [Eleven Myths Surrounding Sub HB 6](#)
- [OVEC Costs by Utility](#)
- [Nuclear Power Plant Profit Analysis under Sub HB 6](#)
- [OMA's Legal Analysis of Sub HB 6](#)
- [OMA's Manufacturer Cost Impact Analysis of Sub HB 6](#)

Thank you for considering these perspectives and voting "no" to protect Ohioans.

Sincerely,

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

**Ryan Augsburger**

Vice President & Managing Director of Public Policy

**The Ohio Manufacturers' Association**

raugsburger@ohiomfg.com

Mobile: (614) 348-1227

# ELEVEN MYTHS SURROUNDING SUB HOUSE BILL 6 (-17 VERSION)

(This document was updated May 28, 2019.)

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

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

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

- Sub HB 6 provides a Clean Air Credit to nuclear facilities (\$9.00 per MWh of generation) (Sec. 3706.481) that may be increased annually for inflation. FirstEnergy already received subsidies for its generation plants during the transition to a competitive market in the amount of \$6.9 billion. Sub HB 6 creates additional subsidies for two Ohio nuclear facilities that do not operate efficiently. In contrast, all but one other nuclear facility operate at a profit. (See table below.) Poor management should not be rewarded in the form of a corporate bailout.

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

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

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

- The latest version of Sub HB 6 also provides subsidies to Ohio utilities for their direct or indirect ownership in old, zero-emission coal-generating plants, Ohio Valley Electric Corporation (OVEC), which includes one plant in Indiana.



---

## MYTH 2: SUB HB 6 WILL REDUCE COSTS.

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

- Sub HB 6 does not eliminate energy efficiency (EE) costs; **it continues the EE rider indefinitely**. The bill continues the existing EE programs through December 31, 2020, and **allows costs associated with those programs to be collected from customers** through December 31, 2021 (Sec. 4928.66).
- Sub HB 6 **adds new EE costs** for discontinuing the existing programs (Sec. 4928.66(G)).
- While Sub HB 6 terminates the EE mandates on December 31, 2020 (Sec. 4928.66(A)), it allows utilities to run EE programs approved by the PUCO and to receive **recovery of costs and incentives** for those programs beginning January 1, 2021 (Sec. 4928.661).
- Sub HB 6 **creates a new rider** (decoupling mechanism) that will **continue to collect certain EE costs and may add new costs** (Sec. 4928.471). The new rider will continue until the utility's next base distribution rate case. The utility can collect the revenues it received for the 12 months ending December 31, 2018, associated with implementing EE programs, which includes lost distribution revenues. The rider appears to apply to commercial customers that opted out of paying the EE costs pursuant to R.C. 4928.6611, thereby **increasing some opt-out customers' bills**.
- The Power Purchase Agreement (PPA) Program to be implemented by the PUCO **may add additional costs to customers' bills** through rulemakings, reasonable arrangement delta revenue, tariff provisions, or other ratemaking provisions (Sec. 4928.47). Although the most recent version attempts to narrow this provision to mercantile customers, there are still a lot of unknowns, and that could turn out to be a blank check.
- Sub HB 6 will **increase wholesale capacity prices** by eliminating EE mandates that help suppress capacity prices. Also, Sub HB 6 erodes competition in electricity markets by subsidizing certain generating facilities at the expense of others, thereby **increasing costs to customers**.

---

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

### **FACT: THAT'S JUST NOT GOING TO HAPPEN.**

- The latest version of the bill clearly defines a Clean Air Resource as a nuclear facility that is interconnected to PJM and is 50 MW or greater and only provides for funding to Clean Air Resources (Sec. 3706.482; 3706.49). Therefore, manufacturers will not receive any monies from the Clean Air Fund, neither through the Clean Air Credit nor from a pledge to facilitate capital formation and investment.

---

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

### **FACT: THERE'S NO GUARANTEE THAT A MANUFACTURER WILL BE EXEMPTED.**

- There is no guarantee that a manufacturer will be exempted from paying the Clean Air Fees (Sec. 4928.47). The PUCO "may exempt" a customer who establishes a PPA to supply a portion of its load if it agrees to forgo benefits associated with the Clean Air Fund (Sec. 4928.47(B)(3)). But the language is vague, and it is left up to the PUCO to determine which customers the PUCO will exempt and under what circumstances.

---

#### MYTH 5: COST TO MANUFACTURERS IS MINIMAL.

#### **FACT: MANUFACTURERS' COSTS COULD INCREASE SUBSTANTIALLY.**

- The monthly charge to customers to fund the Clean Air Fund continues to be collected on a per-account basis (Sec. 3706.47). Typically, utilities assign an account to each meter belonging to a customer; industrial customers frequently have more than one meter. Thus, a large industrial customer with three accounts could be charged \$90,000 per year (not \$30,000 per year).
- We have learned of a small business with only eight employees that is currently classified by its utility as an industrial customer and it has four meters. That customer's bill could increase by \$1,000 per month or \$12,000 per year under Sub HB 6. The customer charge provision requires the customer to be classified by its utility, "consistent with the utility's reporting under its approved rate schedules," which are not standardized across all utilities. However, all utilities report an industrial customer count to the U.S. Energy Information Administration, which defines all manufacturers as industrial customers.
- The monthly charge is in addition to all of the other costs to manufacturers explained in Myth #2.

---

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

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

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

---

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

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

- Sub HB 6 does not prohibit a facility from receiving multiple government subsidies. It does not specifically prohibit resources from receiving one or more state, federal, or municipal subsidies, or local tax abatements, and only requires the PUCO to submit a report if FERC establishes a federal program. Moreover, Sub HB 6 allows a Clean Air Resource to receive a Clean Air Credit, receive monies through a PUCO-approved PPA, receive "accumulated" funds for capital formation and investment, while also allowing for increased capacity payments from PJM that could be triggered by Sub HB 6 (Sec. 3706.482; 3706.49; 4928.47). So in fact, generators could get many different government subsidies.

---

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

**FACT: MANUFACTURERS COULD GET STUCK PAYING FOR MULTIPLE MANDATES.**

- Sub HB 6 does not eliminate EE costs and replace with a lower Clean Air Fee. Rather, Sub HB 6 continues to collect costs associated with existing EE programs through December 31, 2021, allows the utilities to collect costs and incentives associated with new PUCO-approved EE programs beginning January 1, 2021, and will assess new charges to customers, including customers that opted out of EE programs (see Myth #2). Additionally, Sub HB 6 does not just affect the EE and Renewable Portfolio Standards (RPS) mandates. Sub HB 6 modifies the ratemaking statutes enacted to effectuate deregulation and allows utilities to add new above-market charges to customers’ bills through their Electric Security Plans (ESPs). Sub HB 6 creates a mechanism for distribution utilities to re-enter the generation market, creating bad energy policies. Sub HB 6 is a step backwards for Ohio.

---

**MYTH 9: SUB HB 6 REDUCES EMISSIONS IN OHIO.**

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

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

---

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

**FACT: THE NEW OVEC SUBSIDY WILL COST OHIO FAMILIES AND BUSINESSES AN ADDITIONAL \$368 MILLION THROUGH 2030.**

- Total costs to Ohio ratepayers for OVEC under approved ESPs are \$70,037,468 per year.
- The new OVEC subsidy will be an additional nonbypassable, above-market charge on customers’ electric bills after the current OVEC nonbypassable charge expires.
- AEP Ohio will recover roughly \$37.6 million per year from customers under the approved ESP through May 31, 2024. Sub HB 6 would allow the company to recover an additional \$206.8 million between June 2024 and 2030.
- Duke Energy Ohio will recover roughly \$23.6 million per year from customers under the approved ESP through May 31, 2025. Sub HB 6 would allow the company to recover an additional \$106.2 million between June 2025 and 2030.
- The Dayton Power and Light Company will recover roughly \$8.9 million per year from customers under the approved ESP through November 1, 2023. Sub HB 6 would allow the company to recover an additional \$54.9 million between November 2023 and 2030.

---

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

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

- The bill does NOT require that the National Security Generation Resources (OVEC) be in the state of Ohio to receive subsidies under Sub HB 6 (Sec. 4928.01(A)(41); 4928.147; 4928.148). One OVEC unit partially owned by the Ohio distribution utilities that will receive customer-funded subsidies from Ohioans under Sub HB 6 is in Indiana.

## OVEC Costs by Utility

### AEP Ohio

*PPA Rider last approved in 18-1652-EL-SSO, et al., approved through May 31, 2024*

Previous Four Quarterly Reports:

- March 1, 2019 Filing for April-June 2019 (18-1759-EL-RDR): \$10,823,948
- November 30, 2018 Filing for January-March 2019 (18-1759-EL-RDR): \$7,673,959
- August 31, 2018 Filing for October-December 2018 (18-1004-EL-RDR): \$10,273,961
- June 1, 2018 Filing for July-September 2018 (14-1693-EL-RDR): \$8,786,202

**Total OVEC Charges for July 2018-June 2019: \$37,558,070**

**Effect of HB 6:** AEP Ohio will recover roughly \$37.6 million per year from customers under the approved ESP through May 31, 2024. HB 6 would allow the Company to recover an additional \$206.8 million between June 2024 and 2030.

### Duke Energy Ohio

*Rider PSR last approved in 17-1263-EL-SSO, et al., approved through May 31, 2025*

February 28, 2019 filing in 19-447-EL-RDR contains projections through December 31, 2019

**Total Projected Revenue Requirement for 2019: \$23,555,244**

**Effect of HB 6:** Duke Energy Ohio will recover roughly \$23.6 million per year from customers under the approved ESP through May 31, 2025. HB 6 would allow the Company to recover an additional \$106.2 million between June 2025 and 2030.

### Dayton Power & Light Company

*Reconciliation Rider last approved in 16-395-EL-SSO, et al., approved through November 1, 2023*

September 14, 2018 filing in 18-1379-EL-RDR contains projected annual OVEC costs

**Total Projected OVEC Costs for November 2018-October 2019: \$8,924,154**

**Effect of HB 6:** The Dayton Power and Light Company will recover roughly \$8.9 million per year from customers under the approved ESP through November 1, 2023. HB 6 would allow the Company to recover an additional \$54.9 million between Nov. 2023 and 2030.

### The Bottom Line

Total Costs to Ohio Ratepayers for OVEC Under Approved ESPs: \$70,037,468 per year

Total Additional Costs Added Under HB6 Through 2030: \$367.9 million

## What Will It Cost to Have the Nuclear Plants Break Even?

- Wholesale electricity costs have declined and are low.
- FirstEnergy Solutions' Ohio nuclear plants are not currently paid enough for the electricity they produce to cover their operating costs.



1

## Nuclear Plant Revenue Shortfall is Documented

- PJM has an Independent Market Monitor that documents nuclear plant revenue shortfalls and surpluses
- Davis Besse loses about \$48 million/year
- Perry loses about \$50 million/year
- FirstEnergy Solutions loses about \$98 million/year on its Ohio nuclear power plants

Table 7-42 Nuclear unit forward annual surplus (shortfall) (\$ in millions)<sup>56</sup>

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



2

## Subsidizing Nuclear Plants will Deprive them of Capacity Market Revenue

- FERC will be issuing new rules for PJM regarding subsidized power plants
- The subsidized power plants will not be eligible to receive in-market revenue from PJM's capacity auctions under these new rules
- The nuclear power plants would lose an additional \$82 million/year from lost capacity revenue, due to Sub. H.B. 6
  - 2,150 MW (combined nuclear capacity) x \$105 /MW-day (3-year average capacity price) x 365 days = \$82 million/year
- Under these new rules, the state of Ohio would need to make-up for this additional lost revenue



3

## Sub. H.B. 6 Creates New Revenue for Ohio's Nuclear Plants



4



## Nuclear Plants Will Be Paid \$9 for each MWh of Electricity They Produce



5

## The Nuclear Plants Will Receive \$165 Million Per Year from the Clean Air Program

- Davis Besse generated 7,380,271 MWh in 2018, a typical year. It would be paid:
  - $7,380,271 \text{ MWh/year} \times \$9 / \text{MWh} = \$66.4 \text{ million/year}$
- Perry generated 10,934,736 MWh in 2018, a typical year. It would be paid:
  - $10,934,736 \text{ MWh/year} \times \$9 / \text{MWh} = \$98.4 \text{ million/year}$
- The combined Clean Air Program payments to Ohio's nuclear plants is close to \$165 million/year
- Nuclear plant annual generation data is available from the US Energy Information Administration (see <https://www.eia.gov/electricity/data/eia923/>)



6

## Ohio Will Be Required to Create Capacity Payments in Place of PJM

- FirstEnergy Solutions suggested to FERC that the state should pay them \$200 /MW-day for capacity – on top of clean air payments. That creates an additional \$157 million/year
  - $2,150 \text{ MW (combined nuclear capacity)} \times \$200 \text{ /MW-day (FES suggestion)} \times 365 \text{ days} = \$157 \text{ million/year}$



7

## There's More. The Nuclear Plants are Forecast to Receive Additional Revenue from PJM For Energy

- The nuclear plants will continue getting payments from PJM for energy.
  - The rules for the energy market are also changing – and will create greater revenue for nuclear plants.
- PJM's market monitor shows this will result in \$33 million in extra revenue for the nuclear plants
  - [https://www.monitoringanalytics.com/reports/Reports/2019/IMM\\_ORDC\\_Simulation\\_Results\\_Version\\_2\\_20190510.pdf](https://www.monitoringanalytics.com/reports/Reports/2019/IMM_ORDC_Simulation_Results_Version_2_20190510.pdf)
  - $\$15,344 \text{ /MW-Year} \times 2,150 \text{ MW (Ohio nuclear)} = \$33 \text{ million/year}$
- Another rule change will create an additional \$1 billion/year for fast-start pricing, this will create even more revenue for the nuclear plants
- As the nuclear plants earn more for energy, neither their Clean Air Program credits or Ohio capacity payments are reduced



8

## Nuclear Plants Profit \$176 million/year

- The nuclear plants will be paid \$165 million/year by the Clean Air Program
- FES is recommending \$157 million/year from the state for capacity payments
- The nuclear plants will receive an additional \$34 million from energy market price changes
- The nuclear plants are losing \$98 million/year currently
- The nuclear plants will lose \$82 in PJM capacity payments
  
- The nuclear plants will profit \$176 million/year
  - \$165 million/year Clean Air Program payments + \$157 million/year Ohio capacity revenue + \$34 million/year energy market changes - \$98 million/year shortfall - \$82 lost PJM capacity revenue = \$176 million/year extra profit



9

## That Seems Like a Lot of Profit?



10

## Sub. H.B. 6 Creates Other Costs

- OVEC will receive subsidies for a coal plant in Ohio, and another in Indiana
- Ohio ratepayers will pay for these subsidies, even the Indiana coal plant
- These two coal plants will fall under the same new PJM rules as the nuclear plants, and will also receive extra payments
- Distribution utilities will be allowed to build renewable energy projects, and put the risk on ratepayers through a rider



CARPENTER LIPPS & LELAND LLP

ATTORNEYS AT LAW

280 PLAZA, SUITE 1300  
280 NORTH HIGH STREET  
COLUMBUS, OHIO 43215

---

---

**Ohio “Clean Air” Program Legislation**

(Sub House Bill 6-Version -17 (Introduced 5/22/19))

Updated 5/23/19

**Summary**

The Substitute House Bill 6 (“bill”) creates an Ohio Clean Air Program, Clean Air Credits, and a Clean Air Program Fund administered by the Ohio Air Quality Development Authority (OAQDA), which provides a bailout to nuclear power plants in the form of Clean Air Credits and continues subsidies to old coal plants, the Ohio Valley Electric Corporation (OVEC) plants. The bill is no longer about “Clean Air” as it is simply a bailout to FirstEnergy’s nuclear plants and the OVEC coal plants. The Clean Air Program will be on a statewide basis and will cost customers of investor-owned public utilities an estimated amount of over \$140.5 million in 2020 and \$197.6 million per year through 2026.<sup>1</sup> The OVEC Subsidy will be an additional nonbypassable, above-market charge on customers’ electric bills after the current OVEC nonbypassable charge expires. The bill also creates Power Purchase Agreement (PPA) Programs administered by the Public Utilities Commission of Ohio (PUCO), which could create additional costs for customers.

The bill eliminates the energy efficiency (EE) standards beginning in 2021 and eliminates the renewable portfolio standards (RPS) for distribution utilities. However, customers will still be required to pay for: (1) EE programs through 2021; (2) any new EE programs approved by the PUCO beginning in 2021; and (3) for existing RPS contractual obligations. Additionally, customers will be required to pay costs associated with modifying or eliminating the EE programs, including costs to discontinue the programs (i.e., wind down costs). The bill also requires customers to pay costs associated with revenue that the utilities were receiving from implementing the EE programs as of December 31, 2018, which would include revenues associated with lost distribution sales. Customers will be required to pay the annualized December 31, 2018 revenues associated with implementing EE each year until the utility files a base rate case. All of these costs will be in addition to the \$140.5 million in 2020 and \$197.6 million every year thereafter through 2026 for the Clean Air Program, in addition to any above-market charges associated with the continuation of the OVEC subsidy, and in addition to any funding required to implement the PPA Programs. Therefore, the bill will increase customers’ costs, not reduce customers’ costs.

The bill continues to be drafted broadly and contains ambiguous terms that are not defined, giving much discretion to the state agencies for interpretation, implementation, and

---

<sup>1</sup> Ohio Legislative Service Commission’s Fiscal Analysis at 4 (May 22, 2019).

administration of the programs, as well as the administration of the associated funding, without due process.

### **OAQDA**

- A. Modifies the makeup of the OAQDA by adding four non-voting ex officio legislative members and two voting members of the general public who will not be compensated (was a seven-member agency) (Sec. 3706.02) (In 184, 201, 208).
- B. Although it increased the number of members on OAQDA to thirteen (9 voting and 4 non-voting members), the bill did not modify the number of members required to constitute a forum (In 239). A quorum constitutes four members.
- C. Modifies the directives of the OAQDA (Sec. 3706.03) (In 270).
  - a. Allows OAQDA to contribute toward maintaining operations of certified Clean Air Resources through continued operation of the resources that are expected to provide the greatest quantity of carbon dioxide free electric energy generation (In 287).

**Analysis:** This section of the bill modifies the makeup and authority of OAQDA to encourage maintaining operations of existing Clean Air Resources and encourage the development of new Clean Air Resources. This section is ambiguous as it is unclear how OAQDA will be able to “maintain operations . . . through continued operation.” Even if OAQDA certifies a resource and provides funding, OAQDA would not be able to ensure or encourage that resource to clear the capacity market and maintain operations or continue to operate. The bill assumes that the resource would clear the market and would be continuously operating. But, a generating unit’s operational characteristics depend on many factors, including economics, demand, congestion, dispatch, etc. Additionally, the bill requires OAQDA to choose maintaining operations (presumably through funding) for units that are expected to produce (not those that actually produce) the greatest quantity of carbon dioxide free generation. Again, the quantity of generation that is carbon free will depend on the operational characteristics of the resource and whether that resource actually runs, is dispatched, and generates electricity. The language gives preference to large generating units without any regard to the efficiency or reliability of those units.

Although the bill increased the number of members on OAQDA by adding two voting members of the public, the bill did not correspondingly modify the number of members required to constitute a forum. Thus, given that a quorum constitutes four members, OAQDA could conduct business with only four voting members present.

### **Clean Air Program**

- A. Bill creates the Ohio Clean Air Program administered by OAQDA (Sec. 3706.42) (In 367).

- B. An electric generating facility that qualifies as a Clean Air Resource (ln 332) may apply to the OAQDA for certification as a Clean Air Resource to be eligible to participate in the Ohio Clean Air Program and receive funding (ln 369).
- C. Applications must be submitted by February 1st each program year (ln 375).
- D. Applications shall include (ln 378):
  - a. Unverified documentation showing (ln 380-393):
    - i. In-service date and estimated remaining useful life of the generation resource (ln 380),
    - ii. For existing resources, MWhs generated annually and annual capacity factor for each of the previous five calendar years (ln 382),
    - iii. Forecast of MWhs generated annually and projected capacity factor over remaining useful life of resource (ln 387),
    - iv. Forecast of *emissions* that would occur in this state during the remaining useful life of the resource if the resource discontinued operations prior to the end of the resource's useful life (ln 390),<sup>2</sup> and
  - b. Verified documentation showing (ln 394):
    - i. That participating in the Clean Air Program will permit the resource to reduce future emissions per unit of electrical energy generated in this state (ln 396),
    - ii. that without certification, the *positive contributions to the air quality of this state that the Clean Air resource has made*<sup>3</sup> or is capable of making in the future may be diminished or eliminated (ln 400),
    - iii. that the resource meets the definition of Clean Air Resource (ln 404),
    - iv. that the person seeking certification owns or controls the resource (ln 406),
    - v. the resource's nameplate capacity (ln 408), and

---

<sup>2</sup> It is unclear what this phrase is intended to mean and how it would be measured and documented. First, the term "emissions" is not defined in the new sections of the law. Thus, the definition that would apply is 3706.01(F), which includes CO<sub>2</sub>, SO<sub>x</sub>, NO<sub>x</sub>, mercury, and/or particulate matter. Second, how would an entity forecast all emissions that would occur in this state during the remaining useful life of the resource if the resource discontinued operations? Any such analysis would be speculative and would depend on which generating resources clear the market in this resource's place and what other types of resources are generating in the market at any given time.

<sup>3</sup> See *supra* n.2.



- vi. any other data or information that OAQDA requests and deems necessary for certification or to demonstrate that certification would be in the public interest (ln 409).
- E. Applications and non-confidential materials must be posted on OAQDA’s website (ln 413).
- F. Establishes a comment period (ln 416).
  - a. Interested persons may file comments within 20 days after application is posted.
  - b. Applicant may respond to comments within 10 days.
- G. Certification by OAQDA (Sec. 3706.44) (ln 421).
  - a. Must render a decision by March 31st of each year (ln 421).
  - b. Shall certify all resources that meet the definitions (ln 424).
  - c. A Clean Air Resource shall remain certified as long as continues to meet the definition (ln 427).
  - d. If OAQDA does not act, all applications deemed granted and resources will be deemed certified (ln 431).
  - e. May decertify a resource at any time if certification not in public interest, but first the authority is required to allow the resource to provide additional information in support of remaining certified and hold a public hearing and allow for public comment (ln 436-443).

**Analysis:** This section of the bill creates an Ohio Clean Air Program. This section is broad, vague, and ambiguous as many terms are not defined. For example, the bill refers to “emissions” throughout, but “emissions” is not defined in this section of the law. Thus, the definition that would apply is 3706.01(F), which includes all air contaminants such as CO<sub>2</sub>, SO<sub>x</sub>, NO<sub>x</sub>, mercury, and/or particulate matter. But, this section appears to be referring to carbon dioxide emissions only (as referenced in the definitions of the qualifying resources).

The bill requires applications for Clean Air Resources to forecast “emissions” that would occur during the remaining useful life of the Clean Air Resource if the resource discontinues operations. The provision is speculative and unclear. In addition to the lack of clarity as to what “emissions” the bill is referencing, it is written as if to require an entity to estimate all emissions that would occur in the state if that particular resource discontinued operations. But the types of generating resources that would be operating in place of that resource and their emissions for the remaining useful life of the resource would be impossible to determine, especially for years into the future. If the provision is referencing a forecast of the particular emissions of that plant if the plant ceases to operate and the impact on the state, again, that would be very difficult to forecast as new, cleaner technology could take the plant’s place in the market. It would also depend on PJM’s economic dispatch model, as well as demand, congestion, and many other factors.

Additionally, the bill assumes that the resource would clear the market and/or be operating. If the resource is not operating, it will not be reducing future emissions, regardless of whether it is certified. Any emissions forecast in the state would depend on which resources clear the market and/or operate, and what other behind the meter resources are operating in the state. Furthermore, emissions do not recognize state borders.

The bill also does not prescribe how to quantify “emissions” or “emissions reductions.” It appears that the bill lacks standardization as the applicant is charged with selecting its own methodology as to how to make the requisite quantification, and submits it in the application. It is not clear as to whether OAQDA has the authority to find the method faulty and disqualify the resource.

The bill requires OAQDA to hold hearings and take public comments for decertification of a resource. OAQDA, however, has not been granted statutory authority to conduct hearings and adjudicate proceedings and does not have hearing officers (Sec. 3706.02-.03).

The bill is vague and ambiguous, presumably providing a lot of discretion to OAQDA. OAQDA has sole authority to determine what constitutes public interest with regard to decertification of a resource. Clean Air Resources will remain certified for an indefinite period as long as continues to meet the definition. Basically, the bill allows the facilities to continue to be certified and participate in the Program every year in perpetuity without an application process and without stakeholder input.

### **Qualifying Clean Air Resource**

- A. Bill creates Clean Air Resources (ln 332).
- B. Clean Air Resources are defined as generation facilities in the state fueled by nuclear power that satisfies ALL of the following criteria (ln 332):
  - 1. Facility is not wholly or partially owned by a municipal, cooperative, group, or consortium (ln 335),
  - 2. Facility is not used to supply customers of a wholly owned municipal, cooperative, group, or consortium (ln 338),
  - 3. Facility has made a *significant historical contribution to the air quality of the state by minimizing emissions*<sup>4</sup> that result from electricity generated in this state OR the facility will make a *significant contribution toward minimizing emissions*<sup>5</sup> that result from electric generation in this state (ln 342-347),

---

<sup>4</sup> It is unclear what this phrase is intended to mean. It is never defined or quantified and a baseline has not been established. These terms are also subjective. Nonetheless this provision now appears to be moot under the amended bill as the definition of a Clean Air Resource was revised to only apply to nuclear facilities.

<sup>5</sup> It is unclear what this phrase is intended to mean. It appears to require the resource to minimize emissions that result from generation in the entire state. Does that mean that the resource would take

4. If the facility is interconnected with the transmission grid operated by PJM (ln 348), and
  5. The facility is a major utility facility in Ohio (defined as 50 MW or larger (ln 351)).
- C. Bill explicitly excludes the following generation facilities from qualifying as a Clean Air Resource (ln 335-352):
1. Non-nuclear facility.
  2. Behind the meter, customer-sited generation.
  3. Generation owned or partially owned by cooperative.
  4. Generation owned or partially owned by municipalities.
  5. Generation owned or partially owned by AMP or group of municipalities.
  6. Generation supplied to municipalities, cooperatives, or AMP.
  7. Generation facilities under 50 MW.

**Analysis:** This section of the bill is broad and ambiguous as many terms are not defined and are subjective. For example, what qualifies as “a significant contribution” and what does “minimize” mean? According to what established baseline will these subjective terms be judged? How will the methodology be established and by whom? Many of the ambiguous terms are now rendered moot under the amended bill as the definition of a Clean Air Resource was revised to only apply to nuclear facilities.

This version of the bill does require that the generation facilities certified as Clean Air Resources be located in Ohio.

**Program Year**

- A. Program Year begins June 1st and goes through May 31st (ln 353).

**Clean Air Credit**

- A. Creates a Clean Air Credit, which represents the clean air attributes of one MWh of energy produced from a Clean Air Resource (Sec. 3706.481(F)) (ln 364).
- B. Clean Air Credit equals \$9.00 (Sec. 3706.482) (ln 520).
- C. Each certified Clean Air Resource shall earn a Clean Air Credit for each MWh of electricity that it generates on a monthly basis (Sec. 3706.481-.482) (ln 505, 508).

---

away emissions from other generating plants? Nonetheless this provision now appears to be moot under the amended bill as the definition of a Clean Air Resource was revised to only apply to nuclear facilities.

- D. If the Fund is insufficient to pay for all of the credits earned in one month, the unpaid credits shall be paid first in the next monthly payment period (ln 516).

**Analysis:** The bill requires OAQDA to provide each certified Clean Air Resource with a Clean Air Credit for every MWh generated on a monthly basis. The provision is not discretionary. Resources that satisfy the definition of Clean Air Resource are guaranteed to receive the Clean Air Credit. Importantly, there is no requirement to show need for the funding; every certified Clean Air Resource receives it. Assuming the Fund has sufficient funds, Clean Air Credits will be remitted to the Clean Air Resource on a monthly basis. If one month the Fund is short, unpaid credits will be paid the following month first.

**Clean Air Program Fund**

- A. Creates a Clean Air Program Fund in custody of the state treasurer (Sec. 3706.46) (ln 444).
- B. Requires interest that is generated by the Fund to be retained in Fund and utilized to fund the Clean Air Program (ln 449).
- C. Beginning January 1, 2020, all Ohio customers of electric distribution utilities shall pay a per-account monthly Clean Air Fee, which shall be billed and collected by each electric distribution utility and remitted to the state treasurer (Sec. 3706.47) (ln 455), except upon exemption by the PUCO if the mercantile customer participates in the PPA Program and agrees to forgo benefits from compliance with the Clean Air Program.
- D. Establishes a sunset date for the charges of December 31, 2026 (ln 455-56).
- E. Establishes per-account monthly customer charges for the Clean Air Program based on the customer’s utility’s classification (ln 457):
  - a. Residential:
    - i. For 2020 = \$.50
    - ii. For 2021-2026 = \$1.00
  - b. Commercial:
    - i. For 2020 = \$10.00
    - ii. For 2021-2026 = \$15.00
    - iii. For those customers classified as commercial customers below 45 million kWhs of electricity at a single location in the preceding year, this version of the bill requires the PUCO to establish by October 1, 2019 the structure and design of the charge such that the average charge across all customers subject to this charge is \$10 in 2020 and \$15 in 2021-2026 (ln 469). The

PUCO shall do this in a manner that avoids abrupt or excessive total electric bill impacts for typical customers (In 492).

- c. Industrial = \$250.00
    - i. For those customers classified as industrial customers below 45 million kWhs of electricity at a single location in the preceding year, this version of the bill requires the PUCO to establish by October 1, 2019 the structure and design of the charge such that the average charge across all customers subject to this charge is \$250 (In 480). The PUCO shall do this in a manner that avoids abrupt or excessive total electric bill impacts for typical customers (In 492).
  - d. Commercial or industrial customers that consumed in excess of 45 million kWhs of electricity at a single location in the preceding year = \$2,500 (In 488).
- F. A customer's classification shall be consistent with the utility's reporting under its approved rate schedule (In 496).
- G. Treasurer shall distribute monies in accordance with OAQDA's direction (Sec. 3706.482) (In 508).
- a. Within 14 days of the close of each month, OAQDA directs the Treasurer to remit money as long as there is sufficient money in the Fund to each owner of a Clean Air Resource in the amount equivalent to the number of credits earned by the resource during the previous month multiplied by the credit price (In 508, 547).
  - b. If the Fund is insufficient to pay for all of the credits earned in one month, the Treasurer shall pay the unpaid credits first in the next monthly payment period (In 516).
  - c. OAQDA may pledge a portion of monies that may be accumulated in the Fund in the future to a Clean Air Resource to assist in the capital formation and investment for the benefit of any certified resource if the resource agrees to be bound by the conditions OAQDA attaches to the pledge (Sec. 3706.49) (In 539).
  - d. Each owner of a certified Clean Air Resource shall report to OAQDA the number of MWhs the resource generated in the previous month within 7 days after the close of each month (Sec. 3706.48) (In 500).
- H. Requires OAQDA to adopt rules to provide a state system of registering Clean Air Credits. The PJM GATS (generation attribute tracking system) may be used (Sec. 3706.483) (In 522).

**Analysis:** This section of the bill creates the Clean Air Fund and funding mechanism. It assesses a charge to all Ohio customers of the electric distribution utilities on a per-account basis ("Clean Air Fee"), unless the customer participates in the PPA Program and is exempted. Customers of municipalities and cooperatives are not assessed the Clean Air Fee. This version of the bill

requires the PUCO to establish a structure and design for the charge such that the average charge across all customers subject to the charge equals the fees set forth in the bill. The new version also requires the PUCO to establish this charge in a manner that avoids abrupt or excessive total electric bill impacts for typical customers. It is unclear what these new provisions mean and whether there would be some cost shifting among customers. If a customer with multiple meters does not have to pay the Fee on a per-account basis, presumably other customers would have to make up the difference so that the average per-account would still equal the established Fee. Although some claim that the new version fixes the per-account issue, it still appears that customers with multiple accounts (e.g., gas stations, grocery stores, retail stores) may have to pay for each store or location or pay more than the set Fee on a customer basis. Additionally, the Fee is based upon the customer's utility classification as reported by the utility under its approved rate schedules. But, all utilities do not use the simple customer classifications set forth in the bill.

The bill provides OAQDA with discretion as to how and at what level the Fund may be pledged or distributed in the future, after monies are accumulated, to qualifying Clean Air Resources to facilitate development related to capital formation and investment. There is no standardized method for how to allocate those funds or when. In focusing on funding the facilitation of air quality development related capital formation and investment by or in a certified resource, it is not clear whether a facility that is not operating or that never becomes operational is able to receive funding from the Clean Air Fund. Importantly, there is no requirement to show need for the funding.

#### **OAQDA Audit and Rules**

- A. Requires OAQDA to conduct an annual audit of the Program in 2021-2027 (Sec. 3706.50) (ln 553).
- B. Requires OAQDA to adopt rules to begin implementing the Program within 90 days of effective date of bill (ln 556).
- C. Requires rules be adopted to include provisions regarding the annual audit and for tracking the number of Clean Air Credits earned by each certified Clean Air Resource during each month of the Program Year based upon the resource owner's reporting requirement of MWhs generated in Section 3706.48 (ln 556).
- D. Shall adopt rules to further implement the program within 275 days of effective date of bill (ln 567).

#### **Reasonable Arrangement Provision**

- A. To promote job growth and retention in the state, when ruling on a reasonable arrangement application, this version of the bill requires the PUCO to attempt to minimize electric rates to the maximum amount possible on trade-exposed industrial manufacturers (Sec. 4905.311) (ln 571).

**Analysis:** Although this new provision is very broad and subjective, it appears to require the PUCO to provide trade-exposed industrial manufacturers with a large rate reduction through

reasonable arrangements without mandatory capital investment or employment levels. It would elevate certain industrial customers over others and would require large subsidies to be paid by other customers.

## **FERC**

- A. If FERC authorizes a program by which the state may take action to satisfy any portion of the capacity resource obligation for consumers in the state, PUCO shall review the program and submit a report of its findings to General Assembly (Sec. 4928.46) (In 1344).
- B. Report must include recommendations regarding (In 1352):
  - a. necessary legislation in order for the state to beneficially participate in the FERC program (In 1354), and
  - b. how to maintain participation by end-use customers in this state in PJM's demand response programs, including how the state may consider structuring procurement for demand response that would allow demand response to satisfy a portion of the state's capacity resource obligation (In 1356).
- C. Report must incorporate the policy of facilitating the state's effectiveness in the global economy by minimizing any adverse impact on trade-exposed industrial manufacturers (In 1362).

**Analysis:** This section appears to be cognizant of federal programs that may come into existence that will also provide subsidies to facilities that have zero carbon emissions and/or that would treat subsidized resources differently in the PJM capacity auctions. However, the bill does not prohibit or limit facilities from obtaining subsidies from the Ohio Clean Air Program and a federal program and it does not require any action to be taken with regard to capacity resources. It simply requires the PUCO to file a report about it. This version of the bill also requires the PUCO to report on demand response programs and how demand response may satisfy a portion of the state's capacity resource obligation, implying that demand response may be considered a subsidized capacity resource that may be treated differently in the capacity auctions currently under review at FERC and/or which could be used to satisfy the state's capacity resource obligations. Additionally, the bill seems to encourage the creation of a state demand response program.

## **PUCO Power Purchase Agreement (PPA) Program**

- A. Defines Clean Air Resource to mean any of the following ("Clean Air Resource2") (Sec. 4928.47) (In 1366):<sup>6</sup>

---

<sup>6</sup> The definition of Clean Air Resource in this section is broader than that defined in Section 3706.40 because it allows for renewable resources that are not eligible to be certified as Clean Air Resources for purposes of participating in the Clean Air Program and receiving Clean Air Credits from the Clean Air Fund.



- a. A Clean Air Resource as defined in Section 3706.40 to be certified and eligible to participate in the Clean Air Program (ln 1368).
  - b. Customer-sited renewable (ln 1370).
  - c. Renewable resource that is a self-generator (ln 1371).
- B. Requires the PUCO to facilitate and encourage the establishment of PPAs of 3 years or more through its authority under the reasonable arrangement statute (R.C. 4905.31) or its general supervision, ratemaking, cost assignment, allocation, tariff approval, and rulemaking authority (ln 1372).
- C. Mercantile consumers must commit to satisfy a portion of their electricity requirements from the output of a “Clean Air Resource2,” which could include a Clean Air Resource that qualifies to also participate in the Clean Air Program and receive Clean Air Credits from that Fund or from other clean air resources, such as customer-sited resources or a resource that is a self-generator (“Clean Air Resource2”) (ln 1378).
- D. PUCO’s administration must be the same for all resources regardless of whether the resource is certified by OAQDA (ln 1381).
- E. If a mercantile customer enters into a renewable PPA, the PUCO may exempt the customer from the Clean Air Fund fees if the customer agrees to forgo benefits from compliance with the Clean Air Program requirements (ln 1389).
- E. PUCO shall adopt rules to begin implementing the PPA Program within 90 days of effective date of bill (ln 1393).
- F. PUCO shall adopt rules to further implement the PPA Program within 275 days of effective date of bill (ln 1396).

**Analysis:** This section of the bill creates the PUCO PPA Program in Chapter 4928, which is the competitive retail electric service and electric security plan (ESP) chapter. Therefore, the bill modifies the Chapter that deregulated the electric industry (i.e., it modifies SB 3 and SB 221).

The bill expands the definition of Clean Air Resources, as defined in Chapter 3706 regarding OAQDA, to include additional resources that would qualify to participate as part of the PPA Program. The resources that qualify to participate in the PPA Program are broader than those that are eligible to be certified to participate in the Clean Air Program and receive Clean Air Credits from the Clean Air Fund. This will also allow a Clean Air Resource to participate in both programs, receiving funding from customers twice.

The PPA Program requires the PUCO to facilitate and encourage the establishment of PPAs of three years in length or more where mercantile consumers commit to satisfying a portion of their load requirements from the output of the resource. Other than duration, the provision does not specify the type, terms, or ownership of the facilities providing the PPAs. It appears from this language that the PUCO is only directed to facilitate and encourage renewable projects that have PPAs in place to purchase the renewable attributes and/or energy through the PUCO’s

ratemaking (rate case or ESP), cost assignment, allocation, rate schedule approval, rulemaking authority, and its authority under the reasonable arrangement statute. Mercantile customer-sited renewable projects would not necessarily go through these PUCO processes and do not necessarily have PPAs. If the customer invests in the resource on its own and does not have a PPA in place, it appears that the customer-sited resource will not qualify for the PPA Program.

If a mercantile customer enters into a PPA for their renewables, the customer may be exempt from paying the Clean Air Fee if the customer agrees to forgo the associated benefits. The bill, however, does not state under what circumstances or what requirements need to be met before the PUCO can grant the exemption. For example, does a mercantile customer with a customer-sited facility have to apply for and obtain PUCO approval for a reasonable arrangement to receive the exemption? The provision also appears to only allow an exemption if there is a PPA, meaning that customer-sited facilities owned by a customer without a PPA will not qualify to be exempt from the Clean Air Fee. The language further raises questions as to how a customer could forgo benefits associated with the Clean Air Fund.

The provision is not clear as to the type of renewable projects that would qualify and whether participation in the PPA Program needs to be on a customer-by-customer basis through the reasonable arrangement process or whether a utility can construct a project on a broader basis and include multiple mercantile customers. Although this version of the bill seems to be more limited and only apply to mercantile customers, given the bill reference to the PUCO's general supervisory, ratemaking, cost assignment, allocation, and tariff approval authority, and the fact that the new provision is included in Chapter 4928, it appears that broader projects owned or developed by a distribution utility may still be possible and that a utility may include such proposals in their ESP applications and receive cost recovery from some or all customers for such proposals.

The provision is also unclear as to whether a utility can develop a project and/or enter into a PPA and charge all customers for that renewable project and then seek mercantile customers who will commit to satisfy a portion of their load through the resource OR whether the utility has to first sign up mercantile customers to commit to satisfying a portion of their load from the resource and then develop the resource and/or enter into a PPA. For example, could a utility obtain PUCO approval for a renewable project before signing mercantile customers up to take service from the project OR does the utility have to first sign mercantile customers up to take service from the project and then develop the project?

Despite the vagueness, this provision appears to allow a distribution utility to enter into a PPA with a large renewable supplier, develop the renewable facility, and pass the costs onto captive customers. This new provision in Chapter 4928 could be deemed to create a "need" for the renewable facility, which would allow a utility to receive cost recovery from captive customers to develop the renewable project. If the bill encourages and allows all utilities to develop an unlimited number of renewable projects and receive cost recovery for all of the projects from its captive customers, the bill would be very expensive for customers.

If a utility develops a renewable project through a PPA, mercantile customers that participate may request to be exempted from paying the Clean Air Fee. If mercantile customers are

exempted from paying those costs, other customers will have to pay more. Additionally, if projects are approved through the reasonable arrangement statute, delta revenue or the cost of providing a discount (i.e., the exemption from Clean Air Fee and other costs) will be borne by other customers.

If several utilities propose to develop renewable projects and the PUCO grants exemption to a large number of mercantile customers from paying the Clean Air Fund, it will reduce the amount of funds going into the Clean Air Fund, which could cause the Fund to be underfunded and unable to pay the Clean Air Credits to the Clean Air Resources or to provide any future funding for capital formation and investment. If this happens, the legislature would have to increase the amount collected from customers for the Clean Air Fee in order to have sufficient monies in the Clear Air Fund to continue to provide the Clean Air Credits to Clean Air Resources.

The provision fails to set forth details of the PPA Program and provides the PUCO with great discretion when drafting the rules that are required to be promulgated.

### **PUCO Power Purchase Agreement (PPA) Program #2**

- A. Regardless of any limitations in R.C. Chapter 4928 (the electric security statute), the bill authorizes a utility to seek approval from the PUCO to offer a customer the opportunity to purchase renewable energy services on a nondiscriminatory basis by doing either of the following (Sec. 4928.647) (In 1453):
  - a. Utility may establish rate schedules to offer the purchase of RECs to customers for any purpose (In 1459).
    - i. The PUCO cannot approve the application if the schedule creates an undue burden or unreasonable preference or disadvantage to nonparticipating customers (In 1466).
    - ii. The utility must commit to comply with any conditions the PUCO imposes to ensure that the utility and any participating customers are solely responsible for the risks costs, and benefits of any schedule (In 1469).
  - b. Utility or customer(s) may apply for a nondiscriminatory schedule or reasonable arrangement involving the production and supply of renewable energy, including long-term renewable energy purchase agreement through which a utility may construct, lease, finance, or operate renewable energy resources dedicatee to that customer(s) (In 1474).
    - i. The PUCO cannot approve the application if the schedule creates an undue burden or unreasonable preference or disadvantage to nonparticipating customers (In 1482).
    - ii. The utility must commit to comply with any conditions the PUCO imposes to ensure that the utility and any participating customers are

solely responsible for the risks costs, and benefits of any schedule (ln 1487).

### **Decoupling Mechanism**

- A. Not earlier than 30 days after the effective date of the bill, utilities may apply to implement a decoupling mechanism for the 2019 calendar year and each calendar year thereafter (Sec. 4928.471) (ln 1400).
- B. Decouples the base distribution rates for residential and commercial customers to the base distribution revenue and revenue resulting from implementation of the EE statute and recovered pursuant to an approved electric security plan as of the 12-month period ending December 31, 2018 (ln 1400).
- C. An application filed under this provision is considered an application not for an increase in rates (ln 1413).
- D. The PUCO is required to approve the application within 60 days, but seems to require the application to be just and reasonable and not result in double recovery (ln 1415, 1418, 1443).
- E. The PUCO is required to verify that the rate schedules are designed to recover the utilities 2018 annual revenue and that the decoupling rate design is aligned with the rate design of the utility's existing base distribution rates (ln 1419).
- F. Specifies that the decoupling mechanism shall recover the base distribution revenue AND revenue resulting from implementation of the EE statute as of the 12-month period ending December 31, 2018 (ln 1404, 1424).
- G. The decoupling mechanism shall be adjusted annually to collect any over- or under-recoveries from the prior year (ln 1430).
- H. The decoupling mechanism shall not affect any other rates, riders, schedules, classifications, or services previously approved by the PUCO (ln 1435).
- I. The decoupling mechanism shall remain in effect until approval of the utility's next distribution rate case (ln 1438).
- J. Excludes any utility from receiving a decoupling mechanism if the utility recently had a base distribution rate case and new rates became effective between December 31, 2018 and the effective date of the bill (ln 1447).

**Analysis:** The bill allows utilities to apply for a decoupling mechanism, which is required to be approved within 60 days of the filing. Pursuant to lines 1415-1418, the PUCO has no authority to not approve the application even if it appears to be unjust and unreasonable; however, in lines 1418-1419, the language appears to require the PUCO to make a determination that the application is just and reasonable, at least with respect to the rate schedules. Upon approval, customers are required to pay costs associated with revenue that the utilities were receiving from

implementing the EE programs as of December 31, 2018, which would include revenues associated with lost distribution sales. The new version of the bill explicitly excludes revenue associated with program costs and shared savings. Customers will be required to pay the annualized December 31, 2018 revenues associated with implementing EE each year until the PUCO approves the utility's next base rate case. Given that utilities have a choice as to when to file a base rate case (unless ordered or agreed to in a settlement), customers could continue to be charged revenue associated with the EE programs in effect as of December 31, 2018 for several years after the EE programs are eliminated.

The bill states that the decoupling mechanism will apply to residential and commercial customers, but it does not state that it will apply to industrial customers (there is no further explanation or clarification as to whom it applies or how customers will be classified). The new costs charged to customers through the decoupling mechanism will be in addition to the Clean Air Fee, costs associated with EE programs (as explained below), and any costs associated with implementing the PPA Program. The rider also appears to apply to commercial customers that opted out of paying the EE costs pursuant to R.C. 4928.6611, thereby increasing some opt-out customers' bills.

### **Renewable Portfolio Standards (RPS)**

- A. Removes RPS requirement from the utilities' standard service offer (ln 2416, 2495, 2664, 2894, 2906, 2966).
- B. Authorizes utilities to collect prudently incurred net costs associated with contractual obligations for meeting RPS requirements from all customers through distribution rates as a distribution expense if the Clean Air Fund is insufficient to offset these costs (Sec. 4928.641) (ln 3091).
- C. Requires PUCO to establish an accounting mechanism (regulatory assets and liabilities) with carrying charges to implement this provision with 90 days of the effective date of the bill (ln 3157).

**Analysis:** R.C. 4928.64 requires distribution utilities and competitive electric suppliers to provide a portion of their electric supply (either through the SSO or generation supplied competitively) from qualifying renewable energy resources. Oddly, the latest version of the bill does not repeal R.C. 4928.64. Instead, it removes RPS requirements from the utilities standard service offer. The effect is that the RPS mandates remain for suppliers. This will put suppliers and customers that shop at a competitive disadvantage. The bill also adds another new cost to customers' distribution rates by allowing the utility to recover the net costs, with interest, associated with existing RPS obligations through distribution rates. The bill is also contradictory as it references the possibility of the utilities collecting the money from the Clean Air Fund, but it does not explain how this would occur.

## **Energy Efficiency (EE) Standards and Programs**

- A. Eliminates the annual EE savings requirements after 2021 (ln 1522).
- B. Limits forfeitures for noncompliance to an amount equal to \$10,000 per violation per day (ln 1652).
- C. Continues the existing EE programs through December 31, 2020 (ln 1679).
- D. Allows costs associated with 2020 programs to be collected from customers through December 31, 2021 through the EE rider (ln 1699).
- E. Adds new EE costs for contractual obligations and discontinuing the existing programs (ln 1700).
- F. Allows utilities to run EE programs approved by the PUCO and to receive recovery of costs and incentives for those programs beginning January 1, 2021 (Sec. 4928.661) (ln 1705-1724).
- G. PUCO is required to approve or modify and approve an EE program application if it finds that the program will be cost-effective, in the public interest, and consistent with the state policy in R.C. 4928.02 (ln1718).
- H. Expands the EE opt-out provision to include all mercantile customers (ln 1728).

**Analysis:** Although the bill terminates the EE mandates on December 31, 2020, it continues the EE rider as costs are allowed to be collected from customers for existing programs through December 31, 2021. Although the bill terminates the EE mandates on December 31, 2020, the bill also allows utilities to run EE programs approved by the PUCO and to receive recovery of costs and incentives for those programs beginning January 1, 2021. Therefore, in the year 2021, customers could be paying for existing EE programs, wind down costs, and new PUCO-approved EE programs, which would be in addition to the EE costs (lost distribution revenue) that the customers will pay through the revenue decoupling mechanism. The bill, however, expands the opt-out provision, affording all mercantile customers the ability to opt-out of the EE rider costs.

Additionally, the bill will increase wholesale capacity prices by eliminating EE mandates that help to suppress capacity prices. The bill further erodes competition in electricity markets by subsidizing certain generating facilities at the expense of others, thereby increasing costs to customers.

## **National Security Generation Resources**

- A. Adds definitions for national security generation resource and prudently incurred costs related to national security resource (Sec. 4928.01(41) and (42)) (ln 1193, 1200). The definitions include OVEC facilities and defines prudent costs. Includes costs related to bankruptcy of past or future co-owner if not otherwise recovering through a rate mechanism (ln 1211).

- B. Defines national security generation resource net impact as retail recovery of prudently incurred costs related to the resource, less any revenues realized from the resource's contracts in the wholesale markets (In 1213).
- C. Modifies policy of the state to include the provision of clarity in cost recovery related to the Ohio-based utilities in conjunction with the national security resource and support utility divestiture of those resources ((Sec. 4928.01) (In 1288).
- D. Upon expiration of the OVEC rider approved by PUCO, the utilities may recover the resource's net impact that remains unrecovered at the time of rider expiration (Sec. 4928.147) (In 1298).
- E. The utility must sell all output of OVEC into the wholesale market and not use it to supply the SSO (In 1306).
- F. The PUCO will establish a nonbypassable rate mechanism to recover OVEC costs under the bill (In 1312).
- G. The PUCO will do an audit every three years to determine prudence and reasonableness of the utility's actions (In 1316).
- H. The PUCO will determine the proper rate design, but establishes a cost cap of \$2.50 per customer per month for residential customers, and \$2,500 per customer per month for all other customers (In1322).
- I. Any costs not recovered due to the monthly caps will be deferred for later recovery (In 1330).
- J. Establishes December 31, 2030, subject to final reconciliation, as the sunset date for the new OVEC charge (In 1336), but the PUCO is required to conduct an inquiry in 2029 to determine whether the rider should continue and report to the general assembly (In 1340).

**Analysis:** The new version of the bill allows the Ohio distribution utilities to continue the OVEC charge after the expiration in the current PUCO rate proceedings. The bill language contains provisions that imply that the affiliated Ohio distribution utilities of FirstEnergy Solutions may also be able to obtain cost recovery associated with the OVEC plants even though the Ohio FirstEnergy utilities do not own the generating assets.

### **Miscellaneous Provisions**

- K. Adds a Home Energy Assistance Program provision, which requires the Director of the Development Services Agency, beginning in FY 2021 and each year thereafter, to submit a waiver request for the state to expend 25% of federal low-income HEAP funds from the home energy assistance block grants for weatherization services allowed under federal law (Sec. 4928.75) (In 1754).
- L. Subjects wind farms less than 20 MW to local regulations. (Sec. 5727.75) (In 1777).



- M. Revises the requirements for obtaining a property tax exemption for qualified energy projects by applying the requirements to projects with a nameplate capacity of 20 MW or more (Sec. 5727.75) (ln 1777).
- N. Revises the definition of net metering system to clarify that an industrial customer-generator with a net metering system that has a capacity of less than 20 MW and uses wind as energy is a facility that was sized so as to not exceed one hundred percent of the customer-generator's annual requirements for electric at the time of interconnection, thereby qualifying the facility as a net metering system. (Sec. 4928.01 (A)(31))(d) (ln 985).
- O. If a large wind farm (50 MW or greater) receives certification from the OPSB, a referendum petition may be filed by electors within an unincorporated township within 89 days, requiring the matter to be voted on by the electors to approve or reject the wind farm's certificate (Sec. 519.214) (ln. 88).
- P. Revises Sec. 4906.10 and creates new Sec. 4906.101 to condition the OPSB's certificate of a large wind farm on the right of a referendum if the wind farm is to be located in an unincorporated area of a township. (ln 641).
- Q. Redefines significant wind farm to economically significant wind farm, which is 5 to 49 MW, and adds definition for large wind farm (50 MW) (ln 665, 676).
- R. Excludes from definition of economically significant wind farm a wind farm that is primarily dedicated to providing electric to a single customer at a single location and that is less than 20 MW (Sec. 4906.13 (ln 670)). The exclusion would eliminate setback requirements for these facilities as setback requirements only apply to large wind farms (ln 764).
- S. Removes the exclusion of waste energy recovery systems from the definitions of alternative energy resource and renewable energy resource (Sec. 4928.01(A)(34) and (37)). So Waste energy recover systems could be alternative energy or renewable energy (ln 1050,1110).
- T. Requires utilities to file a new tariff schedule for county fairs and agricultural societies that establishes either a fixed monthly service fee or a kWh energy charge (Sec. 4928.80) (ln 1765). The minimum monthly charge cannot exceed the fixed monthly service fee and the customer shall not be subject to any demand-based riders (ln 1771). The utility is eligible to recover any revenue loss associated with customer migration to the new tariff (ln1774).

---

## MEMORANDUM

Date: May 24, 2019

To: The Ohio Manufacturers' Association

From: John Seryak, PE and Jordan Nader (RunnerStone, LLC)

RE: Substitute House Bill 6 and the Clean Energy Program – Impact to Manufacturers

---

Substitute House Bill No. 6 (Sub. H.B. 6), version 17, was recently introduced into the Ohio General Assembly. Sub. H.B. 6 significantly reworks Ohio's electricity policy in a way that could substantially affect manufacturers. OMA energy counsel Kim Bojko has separately provided a legal analysis on what Sub. H.B. 6 does, and how it works.

In summary, after a phase-in period Sub. H.B. 6 creates a \$198 million annual fund for nuclear power plants, extends a "power purchase agreement" for legacy, uneconomical coal plants in Indiana and Ohio that currently cost Ohioans tens of millions of dollars, defunds Ohio's competitive renewable portfolio standard, creates a mechanism for utility-backed renewable energy projects with no limits, and jeopardizes Ohio's participation in competitive wholesale electricity markets.

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

### Cost

Sub. H.B. 6 very likely creates a net increase in customer costs, including the potential to increase manufacturers' electricity bills. First, and most obviously, Sub. H.B. 6 creates new customer charges for the Clean Air Program - \$12 per year for residential customers, \$180 /year for commercial customers, \$3,000 /year for

### Impact of Sub. H.B. 6, -17

- \$198 million/year in new subsidies for nuclear power
- Extends subsidies for legacy, uneconomic coal plants in Indiana and Ohio, which cost Ohio tens of millions of dollars each year
- Will remove significant portions of Ohio generation and consumer load from competitive wholesale capacity auctions
- Likely to increase capacity prices
- Effectively eliminates renewable energy standards
- Allows new utility power-purchase agreements and costs for renewable energy
- Allows creation of utility initiated power-purchase agreements for nuclear plants
- Utility power purchase agreements only apply to mercantile customers, including manufacturers
- Utility efficiency programs
  - Continue through 2020
  - Can be continued starting in 2021, at the utility's discretion
  - Subject to mercantile customer opt-out in 2020
- Creates reasonable arrangement mechanisms for trade-exposed industrial manufacturers



industrial customers, and \$30,000 /year for large consumers who use over 45 million kWh per year. Across Ohio’s four investor-owned utilities, this would create \$198 million/year in funds for the Clean Air Program.

Second, Sub. H.B. 6 extends an existing subsidy for the Ohio Valley Electric Corporation through 2030. OVEC owns two legacy, uneconomical power plants, Clifty Creek in Indiana and Kyger Creek in Ohio. The OVEC subsidy currently costs Ohioans tens of millions of dollars each year.

Third, Sub. H.B. 6 automatically exempts any customer who pays into the Clean Air Program from paying into the renewable portfolio standard. Because all customers are mandated to pay into the Clean Air Program, this auto-exemption effectively ends the renewable portfolio standard by completely defunding it. We estimate that the renewable standards cost about \$40 million in 2017<sup>1</sup>, and around \$60 million in 2019<sup>2</sup>.

Fourth, Sub. H.B. 6 directs the PUCO to authorize new power purchase agreements (PPA) for utility renewable energy, customer-sited renewable energy, and even nuclear power plants, for 3-year terms or longer. The private market currently provides 3-year or greater terms for PPAs to customers who are seeking such projects. Sub. H.B. 6 would create a whole new set of riders and potential costs for renewable energy, and would not exclude a distribution utility from establishing a PPA for nuclear power plants. Importantly, this language creates a mechanism for distribution utilities to participate in the generation market.

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

On energy efficiency, the requirement for a utility to run an efficiency program is effectively eliminated. Sub. H.B. 6 allows utility run efficiency programs to persist through 2020, and then a utility may choose to extend their programs into additional years. If a utility chooses to do so, Sub. H.B. 6 does allow for a “mercantile opt-out” of the efficiency programs. Any customer that consumes over 700,000 kWh/year will be allowed to opt-out of paying into the efficiency programs, but will then not be allowed to receive financial assistance from the programs. Non-mercantile customers would be required to continue paying into energy efficiency programs. In cases where a utility does not continue its efficiency program, the full cost of the programs will be reduced, but that utility’s customers will have no access to efficiency programs.

For context, Sub. H.B. 6 sets up a similar situation to the so-called efficiency program “freeze” in 2015-16. During these years, AEP Ohio, Duke, and DP&L continued their programs, while

---

<sup>1</sup> Renewable Portfolio Standard Report to the General Assembly by the Public Utilities Commission of Ohio For the 2017 Compliance Year.

<sup>2</sup> Pro-rated from 2017’s RPS benchmark to the 2019 RPS benchmark. Costs would increase to \$142 million by 2026 at 2017 prices, though could be held in check if renewable energy credit prices fall.



FirstEnergy suspended theirs. In testimony on the original H.B. 6, AEP Ohio, Duke, and DP&L have all expressed interest in operating energy-efficiency programs. While we cannot fully predict the effect of Sub. H.B. 6 on efficiency programs, a good likelihood is that three of Ohio’s four utilities will continue offering their programs. Because more customers will have the choice to opt-out of efficiency programs, we do expect some reduced participation in efficiency programs. Some cost shifting amongst customers is likely to occur since program budgets are not being modified in response to participation rates. Manufacturers should note that there is sharp disagreement over whether efficiency programs represent a cost, or a net benefit, to customers.

### Competition

Sub. H.B. 6 significantly erodes competition in electricity markets by subsidizing old nuclear and fossil fuel power plants, while eliminating renewable portfolio standards and their costs. It is important to note that the renewable portfolio standards were created to support new and emerging technologies and energy management practices with the *goal to create functioning, competitive markets* in what was until recently a monopolistic industry dominated by incumbent businesses, that had themselves received full cost recovery without competition. Moreover, renewable energy has been shown to reduce prices in the wholesale electricity markets.

Instead, Sub. H.B. 6 creates subsidies for older generating technologies that have already received cost-recovery from Ohio’s ratepayers several times, are unable to compete in the wholesale electricity markets, and are announced for retirement. Moreover, Sub. H.B. 6 provides distribution utilities a pathway back into the generation business, allowing distribution utilities to create power purchase agreements (PPAs) for Clean Air Resources – nuclear power and renewable energy - where mercantile customers “commit to satisfy a material portion of their electricity requirements from the output of a clean air resource.”<sup>3</sup>

Put another way, Sub. H.B. 6 creates subsidies to reverse the competitive electricity market formation that Ohio has supported for 20 years. This is serious - competitive electricity markets save Ohio’s manufacturers, businesses, and residents around \$3 billion per year<sup>4</sup>.

### Carbon

An intriguing aspect of Sub. H.B. 6 is its treatment of carbon dioxide emissions and other environmental emissions. When considering carbon emissions, it is important to note several trends:

- Many global manufacturers and their supply chains are adopting greenhouse gas reduction goals, energy reduction goals, or renewable energy supply goals. Thus, the carbon intensity of the regional electric grid is important to a growing number of manufacturers. The carbon intensity of the electric grid counts towards a manufacturer’s internal accounting of Scope 2

---

<sup>3</sup> Sub. H.B. 6 -14, Line 1046-1047

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

emissions and thus impacts a manufacturer's ability to meet their own corporate emissions reductions goals.

- The US has canceled implementation of the Clean Power Plan, and announced withdrawal from the global Paris Treaty. As a result, there is thus no current federal carbon emissions policy for electricity generation.
- States that have created their own carbon reduction policy for the electricity sector often join regional carbon markets to reduce costs, such as the Regional Greenhouse Gas Initiative comprised of mid-Atlantic and New England states.
- Competitive wholesale electricity markets produce efficiencies of several types, lowering not just cost but carbon emission as well, as producers reduce waste in order to stay competitive. Thus, maintaining competitive markets is an important aspect of reducing wastes and improving efficiencies, as supported by multiple academic studies<sup>5</sup>.
- Ohio's existing diverse electricity generation mix is keeping costs low, as well as reducing emissions by 38% from 2005 levels<sup>6</sup>. This lower carbon transformation has occurred in a competitive wholesale electricity market.

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

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

Sub. H.B. 6 does none of this, and in fact, subsidizes uneconomical coal plants. It could impair Ohio's already successful trend of reducing carbon-dioxide emissions in several ways. First, it erodes competitive electricity markets by introducing subsidies for specific technologies and plants. Even zero-carbon nuclear plants are shown to reduce more emissions when they are in competitive markets<sup>7</sup>. Second, Sub. H.B. 6 creates subsidies for the OVEC coal plants. Third, Sub. H.B. 6

---

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

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

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

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

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



## RunnerStone, LLC

3709 N. High Street, Suite 100, Columbus, OH 43214  
614.268.4263

eliminates support for renewable energy technologies and their significant associated emissions reductions.

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



---

## MEMORANDUM

Date: May 16, 2019  
To: The Ohio Manufacturers' Association  
From: Jordan Nader & John Seryak, PE (RunnerStone, LLC)  
RE: FirstEnergy Solutions Corp. Recommended Changes to Wholesale Electricity Markets to Address Power Plant Subsidies

---

On October 2, 2018, FirstEnergy Solutions (FES) filed initial comments in a Federal Energy Regulatory Commission (FERC) proceeding<sup>1</sup> seeking to determine how best to address out-of-market revenues allocated to generators by states. FES's comments are of particular interest to Ohio's manufacturers, as the recently introduced Substitute House Bill (Sub. H.B.) 6, version 14, in the General Assembly would create just this – out-of-market revenues for FES' nuclear plants and other power plants. Sub. H.B. 6, if enacted, would trigger FERC's forthcoming capacity market rules on subsidized generation for Ohio.

Generally, the question at FERC is how, if at all, PJM's market rules should accommodate state policy decisions relating to generation. If resources that receive out-of-market subsidies from state policy decisions are allowed to participate in the PJM's market without proper safeguards, it will result in the exercise of market power and inefficient market outcomes for Ohio's manufacturers. FERC<sup>2</sup> has suggested that they would like to solve this issue by modifying the current capacity construct to become a "bifurcated capacity construct (P 161)" where in subsidized resources will enter into a new "resource specific – fixed resource requirement (P 160)" (RS-FRR) and unsubsidized resources will compete in the traditional capacity auction but be subject to a more stringent minimum offer price rule (MOPR)<sup>3</sup>.

### **Impact of FES Recommendations to FERC Capacity Auction Order, as Triggered by H.B. 6**

- FERC's recommendation addresses "unplanned reregulation", one subsidy and mandate at a time."
- Creates increased capacity charges
  - \$80 million/year for nuclear plants, using FES example prices
  - Other power plant recipients of Clean Air Program could create additional increased capacity costs
- Would apply to all Ohio investor-owned utility ratepayers
- Would be additional costs to the \$300 million/year Clean Air Program
- Would not be capped – could cost very large manufacturers approximately \$320,000 /year additional
- FES claims: nuclear credits are "not intended to provide resources with sufficient revenue...to make continued operation economically viable"
- Would allow generators to opt-out of the wholesale capacity market and self-supply customers in a construct similar to a vertically-integrated monopoly utility.

---

<sup>1</sup> FERC Docket EL18-178

<sup>2</sup> FERC Order: <https://elibrary-backup.ferc.gov/idmws/common/OpenNat.asp?fileID=14961693>

<sup>3</sup> FES Initial Comments: <https://elibrary-backup.ferc.gov/idmws/common/OpenNat.asp?fileID=15057409>





FES indicated in their initial comments that they support an expanded MOPR (MOPR-Ex) as well as the RS-FRR (Pg 6). The RS-FRR path laid out by FES has potential pitfalls. An RS-FRR is similar to the current fixed resource requirement (FRR) alternative, however it is different in that the FRR allows utilities to opt out of the Reliability Pricing Model (RPM) and self-supply using contracted or owned generation within their territory. RS-FRR, in contrast, would allow specific resource types (ie, generators) to opt out of the RPM on the basis of states seeking to control the in-state generation mix. That is, the market opt-out decision would shift from customers to generators. FES recommends solutions to both the appropriate rate of compensation and how to pair load with this RS-FRR supply in their initial comments.

On the question of appropriate rate of compensation, FES recommends the amount of RS-FRR payment should be determined by the states and whatever factors are appropriate. This is in part due to the fact that the rate would be paid solely by the state’s retail ratepayers. However, if the state did not determine a rate, the RS-FRR generator could file to establish a rate at FERC or accept the default market rate. It is important to note that FES does not envision this payment to be a substitute for a subsidy payment the generator would be receiving for attributes of producing electricity. This is due to the subsidy payments being for environmental benefits, which FES sees as “not intended to provide resources with sufficient revenue, in the absence of a capacity payment, to make continued operation economically viable.”<sup>4</sup> This suggests FES may view the RS-FRR to be a payment in addition to the potential “Clean Air Credits” that Davis-Besse and Perry nuclear power plants would generate at \$9/MWh.

To address the pairing of load with this supply, FES recommends a few items. First, PJM should adjust the demand curves for each locational deliverability area (LDA) based on whether there is a RS-FRR resource in that area. Second, in order to charge load for the costs of the RS-FRR rate, FES recommends that in keeping with the state policy decisions that first created the RS-FRR rate, the costs should be expanded from the LDA to all ratepayers in the state. The costs would be charged as an average capacity rate to all load (aka, customers) in that state<sup>5</sup>. As an example of this proposal, the table below demonstrates the difference between capacity prices in Ohio for RPM auctions that have already been run based on the assumption that the placement of Ohio’s nuclear fleet of 2,150 MW on the RS-FRR rate would not have altered capacity price outcomes. Additionally, the table assumes that Ohio’s capacity obligation will remain flat for the next three years at 30,633 MW and that Ohio would settle on an RS-FRR rate of \$200/MW-day. This model is based upon the example that FES provided within their initial comments. The results suggest that Ohio would experience an increased annual cost of capacity of at least \$80 million.

Delivery Year	A Capacity Obligation (MW)	B Capacity Price (\$/MW-Day)	C Example RS-FRR Rate (\$/MW-Day)	D Ohio Nuclear Capacity (MW)	E Total Capacity Cost w/o RS-FRR	F Total Capacity Cost w/ RS-FRR*	G Increased Cost to Ohioians (\$)	
2019/2020 Ohio	30,633	\$100	\$200	2,150	\$1,118,111,749	\$1,196,586,749	\$78,475,000	
2020/2021 Ohio	30,633	\$77	\$200	2,150	\$855,690,921	\$952,584,004	\$96,893,083	
2021/2022	Ohio w/o FE	18,093	\$140	\$200	2,150	\$924,547,118	\$971,632,118	\$69,583,783
	FE only	12,540	\$171	\$200	2,150	\$784,213,304	\$806,712,086	

\*F = [(A - D) x B + (C x D)] x 365 Days

**Table 1: Increased Capacity Costs to Ohioans from Sub. H.B. 6 Triggering a PJM**

<sup>4</sup> Initial Comments of FirstEnergy Solutions Corp., Page 10

<sup>5</sup> This is currently interpreted to mean all wholesale load that takes service from the PJM system. This may mean that in the State of Ohio, all municipal and cooperative electric companies would have their capacity prices adjusted to this average capacity price as well, not just investor owned utility ratepayers.



**Capacity Auction Bifurcation, Based on FES Comment Price Estimates**

As stated previously, the RS-FRR payment is an additional capacity payment that would exist because a resource is receiving a subsidy as a result of a state policy and thus cannot participate in the RPM auction. The table following models the annual benefits to Davis-Besse and Perry nuclear power stations based on that assumption. The first column reflects the payments that each plant would receive under an RS-FRR rate of \$200/MW-day. The energy produced is based on EIA Form 923 for 2018<sup>6</sup>. The average LMP value is based on the 2018 State of the Market Report for PJM<sup>7</sup>. And the Clean Air Credit is based on Ohio House Bill 6 which is currently under consideration. The difference in benefit to these two plants would currently amount to nearly \$250 million annually if H.B. 6 and RS-FRR were to be approved by the Ohio Legislature and FERC respectively.

Annual Payment	Capacity Payment w/o RS-FRR (\$)	Energy Produced (MWh)	Average LMP 2018 (\$/MWh)	Energy Payment (\$)	Clean Air Credit (\$/MWh)	Clean Air Payment (\$)	Status Quo (\$)
Davis-Besse	\$32,631,000	7,380,271	\$38.24	\$282,221,563	\$0.00	\$0	\$314,852,563
Perry	\$45,844,000	10,934,736	\$38.24	\$418,144,305	\$0.00	\$0	\$463,988,305
<b>Total:</b>							<b>\$778,840,868</b>
Annual Payment	Capacity Payment w/ RS-FRR (\$)	Energy Produced (MWh)	Average LMP 2018 (\$/MWh)	Energy Payment (\$)	Clean Air Credit (\$/MWh)	Clean Air Payment (\$)	HB 6 & RS-FRR
Davis-Besse	\$65,262,000	7,380,271	\$38.24	\$282,221,563	\$9.25	\$68,267,507	\$415,751,070
Perry	\$91,688,000	10,934,736	\$38.24	\$418,144,305	\$9.25	\$101,146,308	\$610,978,613
<b>Total:</b>							<b>\$1,026,729,682</b>
<b>Increase:</b>							<b>\$247,888,815</b>

**Table 2: Increased Revenue to FES Nuclear Power Plants from HB 6 and RS-FRR Payment, Based on FES Comment Price Estimates**

The last table shows the average capacity cost increase to various sized Ohio manufacturers for the three next delivery years.

Manufacturer Size	Annual Energy Use (kWh)	Average Monthly Demand (kW)	Average 3 Year Capacity Price (\$/MW-Day)	Average 3 Year Capacity Price for FE (\$/MW-Day)	Average 3 Year Capacity Price w/ RS-FRR (\$/MW-Day)	Average 3 Year Capacity Price for FE w/ RS-FRR (\$/MW-Day)	Average Annual Cost Increase to Ohio Manufacturer (\$/Year)	Average Annual Cost Increase to FE Manufacturer (\$/Year)
Small (Secondary Service)	1,000,000	190	\$ 106	\$ 116	\$ 113	\$ 123	\$ 527	\$ 476
Medium (Secondary Service)	7,500,000	1,142	\$ 106	\$ 116	\$ 113	\$ 123	\$ 3,170	\$ 2,862
Large (Primary Service)	100,000,000	12,684	\$ 106	\$ 116	\$ 113	\$ 123	\$ 35,207	\$ 31,790
Very Large (Sub/Transmission Service)	1,000,000,000	126,839	\$ 106	\$ 116	\$ 113	\$ 123	\$ 352,070	\$ 317,896

**Table 3: Increased Cost of Capacity to Ohioans for Nuclear Plant Subsidies, Based on FES Comment Price Estimates**

There are several caveats to the above analysis. First, FES’ price estimates within their comments to FERC may be conservative. While we believe they are suitable enough to ballpark a cost impact to Ohio’s manufacturers, which is critical to understanding HB 6, the RS-FRR, and other regulatory and policy changes, the cost impacts we detail here should be considered as estimates. Second, we

<sup>6</sup> <https://www.eia.gov/electricity/data/eia923/>

<sup>7</sup> [http://www.monitoringanalytics.com/reports/PJM\\_State\\_of\\_the\\_Market/2018.shtml](http://www.monitoringanalytics.com/reports/PJM_State_of_the_Market/2018.shtml)



## RunnerStone, LLC

3709 N. High Street, Suite 100, Columbus, OH 43214  
614.268.4263

account in this analysis only for the two Ohio FES nuclear plants. HB 6 will create subsidy clean air credit payments for other generators, which could include uneconomical coal plants. Those plants would also be put into an RS-FRR, and would increase Ohioan's capacity costs even more. The same could be true for a distribution utility power purchase agreement for renewable energy facilities. It is feasible that our impact estimates in this memo could double or more. Third, if and when FERC approves an expanded MOPR with a bifurcated capacity auction and RS-FRR, Ohio's existing Renewable Portfolio Standards could become subject to this new rule.

Lastly, FES' comments respond to FERC's recommendation that PJM's capacity auction should implement an expanded MOPR and bifurcated auction. The scenario described in this memo is likely should Sub. H.B. 6 pass. This should not be confused with FERC approval of state policies to subsidize generation. In its order, FERC notably describes state actions as "unplanned reregulation," one subsidy and mandate at a time". And, FERC further states that their order will ensure that PJM's capacity construct "will not interfere with the states' ability to choose the path of reregulation, whether via a conscious policy decision or a simple failure to take steps to prevent reregulation as described on an unplanned basis".<sup>8</sup>

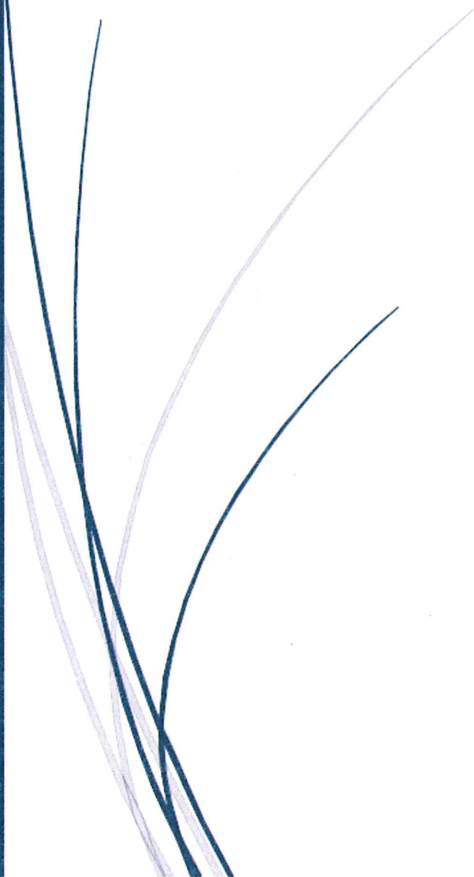
---

<sup>8</sup> FERC Order: <https://elibrary-backup.ferc.gov/idmws/common/OpenNat.asp?fileID=14961693>, Section 163



May 28, 2019

# The Market and Financial Position of Nuclear Resources in Ohio



Paul M. Sotkiewicz, Ph.D., President and Founder  
E-CUBED POLICY ASSOCIATES, LLC

# The Market and Financial Position of Nuclear Resources in Ohio

Prepared by Paul M. Sotkiewicz, Ph.D.  
President and Founder, E-Cubed Policy Associates, LLC

## EXECUTIVE SUMMARY: KEY FINDINGS AND CONCLUSIONS

### **Nuclear Facilities in Ohio Can Easily Cover their Going Forward/Avoidable Costs through 2028 and Should Not Rationally Retire.**

Publicly available fuel, capital, and going forward/avoidable cost data indicate Ohio nuclear unit costs, expressed on a \$/MWh basis, that range from a low of \$31.83/MWh for the Davis Besse 1 facility outside of Toledo to \$34.03/MWh for Perry 1 northeast of Cleveland.<sup>1</sup> As single unit reactor sites, the costs of Davis Besse 1 and Perry 1 are nearly 25 percent below the industry average for single unit costs, making these units among the best single unit performers in the U.S. nuclear fleet. The net annual unit operating profits looking into the future on average over the 2019 to 2028 period are \$28 million per year (\$3.85/MWh) for Davis Besse and \$44 million per year (\$4.40/MWh) for Perry. Absent any unknown need for major investments or repairs at these units, there is no reason for the Ohio nuclear units to retire as they are profitable on an operating basis including yearly capital expenditures.

---

<sup>1</sup> For going forward costs see, United States Environmental Protection Agency (“US EPA”), *Documentation for EPA’s Power Sector Modeling Platform v6 Using the Integrated Planning Model*, May 2018. Available online at [https://www.epa.gov/sites/production/files/2018-08/documents/epa\\_platform\\_v6\\_documentation\\_-\\_all\\_chapters\\_august\\_23\\_2018\\_updated\\_table\\_6-2.pdf](https://www.epa.gov/sites/production/files/2018-08/documents/epa_platform_v6_documentation_-_all_chapters_august_23_2018_updated_table_6-2.pdf). Chapter 4, Generation Resources, Table 4-47 Characteristics of Existing Nuclear Units, available as a spreadsheet at [https://www.epa.gov/sites/production/files/2018-05/table\\_4-47\\_characteristics\\_of\\_existing\\_nuclear\\_units\\_in\\_epa\\_platform\\_v6.xlsx](https://www.epa.gov/sites/production/files/2018-05/table_4-47_characteristics_of_existing_nuclear_units_in_epa_platform_v6.xlsx). (“IPM v6 Table 4-47”). For Fuel costs See also Sargent & Lundy, *IPM Model – Nuclear Power Plant Costs, Nuclear Power Plant Life Extension Cost Development Methodology-Final*, at 4-6 to 4-7. Available at [https://www.epa.gov/sites/production/files/2018-05/documents/attachment\\_4-1\\_nuclear\\_power\\_plant\\_life\\_extension\\_cost\\_development\\_methodology\\_1.pdf](https://www.epa.gov/sites/production/files/2018-05/documents/attachment_4-1_nuclear_power_plant_life_extension_cost_development_methodology_1.pdf). To derive the cost per MWh, the average capacity factor using output from EIA 923 data from 2015-2018 was used. EIA-923 data can be found at <https://www.eia.gov/electricity/data/eia923/>.



## **Recent Statements Confirm the Idea Nuclear Facilities in Ohio are Profitable and Will not Retire.**

Debt service is a sunk cost which means it must be paid regardless of whether or not generation resources retire or are in commercial operation. Consequently, debt service does not play into whether individual resources are profitable on a going forward basis. Any debt service needs to be maintained as sunk cost, unless the owner of the generation files for bankruptcy protection and the debt can be forgiven in whole or in part.<sup>2</sup> Moreover, as FirstEnergy Solutions emerges from bankruptcy proceedings, it will no longer have the debt service that it once had and has stated that the revised bankruptcy plan just announced April 21, “will significantly strengthen our financial position and allow FES to emerge as a fully integrated independent power producer.”<sup>3</sup> Such a statement further supports the idea that the Ohio nuclear units have no intention of retiring if FES is aiming to emerge as an independent power producer.<sup>4</sup>

## **Out-of-Market Financial Support to Profitable Ohio Nuclear Plants Only Raises Consumer Rates and Increases Owner Profits and Does Not Lead to Avoided Emissions.**

The Ohio nuclear units are operating profitably in covering their going forward and avoidable costs and future capital expenditures. Consequently, there is no rational economic reason for them to retire. Retiring would lead to losses if there are any sunk costs that have not yet been recovered through the market. And since these profitable nuclear units would not be rationally retiring in any case, there are no additional avoided emissions benefits. However, payments envisioned to be as much as \$300 million in the Ohio House Bill 6 would require rate increases of \$2.50/month for residential customers, \$20/month for commercial customers, and \$250/month

---

<sup>2</sup> This is especially true in this case for the Davis Besse and Perry nuclear units owned by FirstEnergy Services (FES) which has filed for bankruptcy protection on March 31, 2018.

<sup>3</sup> Jeffery Tomich, “Bankruptcy Won’t Shield FirstEnergy from Cleanup Claims”, *E&E News Energywire*, April 22, 2019. Available at <https://www.eenews.net/energywire/2019/04/22/stories/1060196019>.

<sup>4</sup> At the time of this report, FES has announced the retirements of all of its generation resources but for the West Lorain facility which is a gas/oil peaker. One plant alone does not constitute a fully integrated independent power producer which means announced retirements of resources may not actually happen. And given that Davis Besse and Perry are profitable, there is no reason to retire these resources.

for industrial customers.<sup>5</sup> These charges are equivalent to a \$2.18/MWh increase in energy prices in Ohio, given historic end-use energy sales.

**Out of Market Financial Support for Ohio Nuclear Facilities Would Wipe Out the Cost Savings from Participating in PJM’s Markets.**

According to PJM, its markets save consumers in the PJM footprint about \$2.3 billion annually. This translates to a savings of approximately \$2.85/MWh with a PJM administrative cost of \$0.32/MWh, for a cost benefit ratio of about 8.9-to-1 in 2018.<sup>6</sup> But the equivalent \$2.18/MWh charge to load would nearly eliminate these benefits to Ohio customers. These are additional costs that need not be incurred since the public data indicate that Ohio customers would not receive any corresponding benefit given these nuclear resources would not rationally retire.

**PJM’s Wholesale Energy and Capacity Markets are not “Broken”.**

PJM’s wholesale energy and capacity markets reflect underlying market conditions including potential slowing or flat load growth, the presence of low-cost Marcellus Shale gas, rapidly improving efficiency and cost profiles for combined cycle gas units, and innovation in bringing an active demand-side into the market. Energy and capacity prices reflect these underlying fundamentals. The PJM market remains highly successful with a healthy reserve margin above the target reserve margin, attracting new entry from new efficient and low-cost resources, improved reliability and relatively low prices that are reflective of underlying economic fundamentals.

---

<sup>5</sup> Ohio House Bill 6, Section 3706.42(B) available at <https://www.documentcloud.org/documents/5837536-hb6-00-In.html>

<sup>6</sup> PJM Interconnection, LLC, *The Value of Markets*, at 2. Available at <https://www.pjm.com/-/media/about-pjm/newsroom/fact-sheets/the-value-of-pjm-markets.ashx>. PJM states it saves \$2.3 billion per year due to its operations. With projected PJM total energy of 806,725 GWh as shown in the PJM 2018 Load Forecast Report Data, this comes out to \$2.85/MWh. PJM’s administrative cost can be found in the monthly Markets Report presented to the Members Committee. The most recent report can be found at <https://pjm.com/-/media/committees-groups/committees/mc/20181022-webinar/20181022-item-07a-markets-report.ashx?la=en>.



**Unit Specific Cost Data and Revenue Projection, not Industry Average Cost Data or Revenues, Show Davis Besse and Perry are Profitable and will Remain so Into the Future.**

The forward-looking prices in this market indicate that Ohio nuclear resources will remain profitable on an operating basis, more than covering their going forward costs. The results of this report differ from conclusions reached by the PJM Independent Market Monitor (IMM). This report uses unit specific costs, whose relative accuracy has been verified by examining FirstEnergy financial statements in Securities and Exchange Commission (SEC) filings. In contrast the PJM IMM used industry average costs for single unit nuclear facilities that are much higher than the publicly available unit specific costs for Davis Besse and Perry.

The bottom line is Ohio nuclear resources are profitable on an operating basis and have no incentives to retire for the foreseeable future therefore there is no need for additional out-of-market financial support.

# Crain's Cleveland Business OPINION

## Personal View: Bailing out FirstEnergy's failed nukes harms Ohio's economic future

- Published on May 5, 2019



### Ned Hill

Professor of Public Affairs and City & Regional Planning, John Glenn College of Public Affairs... [See more](#)  
**18 articles** Follow

<https://www.crainscleveland.com/opinion/personal-view-bailing-out-firstenergys-failed-nukes-harms-ohios-economic-future>

The bailout of Northeast Ohio's two nuclear power plants under House Bill 6 has the momentum of a bowling ball rolling down an alley after the world's most expensive wax job. The bill will result in higher electricity generating and capacity charges for all Ohioans, deter investment in electricity generation not controlled by Ohio's investor-owned utilities, lower the reliability of the state's electric system and hurt economic development prospects.

FirstEnergy is pushing Ohio House Bill 6 to bail out its multibillion-dollar obligations to close and clean up its failing nuclear and coal-fired power plants.

In addition to the bailout money, disguised as clean-air tax credits, H.B. 6 will result in higher electricity generating and capacity charges for all Ohioans, deter investment in electricity generation not controlled by Ohio's investor-owned utilities (IOUs), lower the reliability of the state's electric system (known as reserve capacity) and hurt economic development prospects.

There is so much wrong with the bill that legislative horse-trading on its minor provisions will not remove the harm. And there is so little known about FirstEnergy's legal obligations on plant closing and cleanup, how the hedge funds that invested in FirstEnergy last year will benefit, and the rewards promised to FirstEnergy's senior management for bringing home the pork that supporting or voting for H.B. 6 is irresponsible.

Ohio's Consumers Counsel and the Legislative Service Commission put the direct cost of the bill at \$300 million a year. RunnerStone, an independent energy-efficiency consulting firm, estimates the direct cost at \$310 million. But that is just the start. RunnerStone states that H.B. 6 will trigger additional new capacity charges amounting to \$80 million per year or more. Another \$88 million per year in profit currently received by the IOUs for energy-efficiency services will not be eliminated, as implied by the bill's supporters. Instead, it becomes a new unearned revenue stream.

H.B. 6 is a bailout without an end date. The charges will go on for as long as the nuclear plants operate. The real increase in electricity charges will be about a half-billion dollars a year (conservatively \$468 million, plus the increased cost in electricity generation charges), which will be adjusted to offset the impact of inflation.

The cost to electricity users is underestimated. H.B. 6 forces all of Ohio's electricity users to pay for the bailout, not just those in FirstEnergy's service territory. The bill orders residential customers to pay \$2.50 a month, commercial businesses \$20 a month, industrial customers that use fewer than 45 megawatts (MW) of electricity a year \$250 a month, and large industrial users \$2,500 a month. Most assume that "customer" means a residence or a business at a specific address, but in electricity-world, this is expensively incorrect.

A customer is an account, and each account is an electric meter. If your business has multiple meters, multiply the bailout tax by the number of meters. For an eight-person manufacturing business with four electric meters and a \$803 monthly bill, or an annual bill of \$9,636, the proposed law will increase the total monthly bill to \$1,785: (4 meters x \$250 from the clean-air rider) + (\$803 in existing charges) - (4 x \$4.39 from the eliminated energy-efficiency rider). The annual bill nearly doubles to \$21,420. The nearly \$12,000 increase is a 122% jump.

Companies in older buildings that have expanded over time are likely to have multiple meters. Those that metered specific locations or machines to track usage accurately will face much higher bills.

Can the accounting be shifted back to a business at a single address instead of an account? No. The \$300 million in annual "clean-air credits" was used to back into the promised monthly charges, spreading the cost over the number of meters. If customers were defined by address, rather than meter, then the pool of available credits would drop.

Can the promised payment schedule be kept? No. The bill adjusts the \$9.25-per-megawatt value of a clean-air credit for inflation. It does not change the amount that customers are forced to pay similarly. Over time, the gap between the payments made to the utility and the amount of money collected from users will grow.

The classification of a nonresidential customer is also fuzzy. The bill states the classification depends on the business's utility classification; however, utility classifications do not align with the bill's terminology. How are large nonindustrial electricity-using businesses, such as grocery stores and back-office facilities, classified?

If H.B. 6 passes, the cost of electricity generation will increase, the cost of reserve capacity will increase, and reliability will diminish. This becomes clear once you understand how H.B. 6 will re-regulate and re-monopolize electricity generating markets in Ohio.

- Nuclear-generating plants and utility-scale alternative-energy generation will be able to execute long-term, above-market-price power purchase agreements (PPA). They will be the first electrons used in the pool of power consumed. In a flat power market, these government-protected, first-in, high-priced electrons will cause lower-cost power to be kicked out of the pool. The result will be higher average generating charges than would be found in a competitive market. Keeping the most expensive power in the consumption bundle and the cheapest power out is not accidental. It is intentional.
- Federal regulators are trying to protect the multistate generating and capacity markets from predatory behavior from state-subsidized power production. A rule supported by FirstEnergy would allow utilities to opt out of the multistate capacity market and generate or contract for electricity themselves. The result: profit-maximizing utility choice substituted for cost-minimizing customer choice. And higher power bills.
- Ohio also will see an increase in special-interest petitions made to the PUCO by connected employers for "reasonable rates." Electricity rates will decline to some negotiated level for certain businesses through an economic development and retention process run by the PUCO. The negotiated rates will be held as confidential business secrets. The negotiated savings will become expenses passed on to unconnected businesses and residential customers to pay.
- H.B. 6 also will discourage investment in efficient natural gas-fired, combined-cycle power plants. The bill helps ensure that Ohio's abundant and clean sources of natural gas will be drilled, put into pipes and shipped out of state so the value that could have been added in Ohio will take place elsewhere. Using political power to affect the competitive organization of the power market increases investment risk for investors in new sources of power production. They are investing in lower-cost technologies to crowd out their expensive competitors. This is how capitalism works.

As the Tennessee Valley Authority lowers its electricity rates in our competitor states to the south, Ohio is going in the other direction. If enacted, H.B. 6 will trade the economic future of Ohio to bail out a badly run company that made large campaign donations. It's crony capitalism and lemon socialism.

*Hill is a professor of economic development at the John Glenn College of Public Affairs at Ohio State University.*

# Nuclear bailout bill shows how big money can be put to work in the Ohio Statehouse

By Andrew J. Tobias, cleveland.com | Posted May 23, 2019 at 03:13 PM | Updated May 24, 2019 at 06:09 AM



Ron Schwane, Associated Press

COLUMBUS, Ohio — From well-placed campaign contributions, to lobbyist-engineered testimony, to millions of dollars in mysteriously funded TV and radio ads, the effort to get the state legislature to pass a bill bailing out two nuclear plants owned by a former FirstEnergy subsidiary is a textbook example of how big money can be used to influence public policy in Ohio.

A costly political campaign by a business interest aiming to change Ohio law isn't necessarily unusual. See the 2011 effort that legalized casino gambling in Ohio, or the failed 2015 campaign that tried to legalize marijuana.

"This seems to be fairly typical of what's done around the country," said Mark Weaver, a longtime Republican political consultant in Columbus. "Perhaps there's more money being spent on this than most."

But because of a confluence of factors — a heated House leadership battle, the bankruptcy of the nuclear

plants' parent company, increased disclosure requirements from Facebook for political ads, and, yes, some mistakes made by lobbyists who didn't sufficiently cover their tracks, we are able to more clearly see how the footprints from the campaign to pass House Bill 6 trace back to the business that would receive more than \$150 million in subsidies that bill would create.

As another Republican political operative in Columbus put it: "If you gave me a blank check and asked how do we save a company, this is how roughly I would do it."

Here's a walk-through of all the ways FirstEnergy and its allies have worked to get HB 6 passed.

## 1. Help elect new legislative leadership



Cleveland.com file

FirstEnergy, headquartered in Akron, made a powerful friend when in 2018, they helped Rep. Larry Householder win a heated battle within the Republican Party to control the Ohio House of Representatives.

In October 2017, Householder was among the co-sponsors [of legislation to allow FirstEnergy to charge customers \\$2.50 each to rescue the nuclear plants](#),

which had become unprofitable over the years due to the emergence of cheaper natural gas. Without help, Davis-Besse in Ottawa County is scheduled to be closed in 2020. Perry would close in 2021.

But the bill was blocked by House leadership at the time. Then- speaker Cliff Rosenberger, opposed subsidizing the plants. As did his preferred successor, state Rep. Ryan Smith.

So, [as previously reported by cleveland.com](#), FirstEnergy during the 2018 election cycle gave more than \$154,000 to Householder and a slate of Republican House candidates who backed his campaign to lead the Ohio House of Representatives.

Around the same time, two “dark-money” political groups — meaning the source of their funding can’t be tracked — [spent more than \\$1.6 million on ads](#) either supporting Householder’s candidates or opposing those who backed Smith.

One of those pro-Householder groups, the Growth and Opportunity PAC, raised \$1 million from a single donor — a nonprofit called Generation Now. (Remember that name.) The group’s business address in Ohio is a house owned by Jeff Longstreth, a longtime Householder adviser.

Smith got support from his own deep-pocketed dark-money groups. But Householder’s candidates ended up [winning 11 of the 12 seats that were up for grabs](#).

The leadership struggle dragged out for months. But in January, Householder managed to get elected with Democratic support. And in April, a member of his new leadership team introduced HB 6.

## 2. Hire lobbyists

[As previously reported by cleveland.com](#), FirstEnergy Solutions has disclosed spending nearly \$2.7 million in 2018 on lobbyists and PR firms working to convince Ohio lawmakers to support bailing out their nuclear plants.

The payments normally would be secret. But they were detailed in FES bankruptcy filings that were compiled and analyzed by The Energy and Policy Institute, an advocacy group for renewable energy.

That included about \$1.2 million paid to Akin Gump Strauss Hauer & Feld LLP, a Washington D.C. lobbying and law firm.

In bankruptcy filings, Akin Gump said it had worked to help build support for bailout bills in Ohio and Pennsylvania, where FES owns a third nuclear plant.

“Akin Gump continued to focus on building support among affected stakeholders, interested parties, and public officials, including supporting the launch of the Ohio Clean Energy Jobs Alliance,” an Akin Gump attorney wrote in a January filing. “Akin Gump professionals provided state-level developments leading up to the mid-term elections, and finally, Akin

Gump worked with key officials at FES and retained local advisors in preparation of more actively engaging Ohio and Pennsylvania officials at the start of the new legislative sessions in 2019.”

FES also [paid about \\$541,000 to Dewey Square Group](#), a national public-affairs company and [\\$61,628 to Oxley Group LLC](#), a Columbus lobbying firm, the bankruptcy filings show. Dewey Square helped launch the Ohio Clean Energy Jobs Alliance, a group that popped up late last year, and Oxley Group lobbied Ohio elected officials to pass the bill.



Chuck Crow, The Plain Dealer

## 3. Make campaign contributions

Because it operates in a strictly regulated industry, FirstEnergy long has been one of the most politically active companies in Ohio.

State and federal elections records show FirstEnergy, its political action committees and its employees have given about \$1.17 million to help Ohio candidates and political parties since January 2017, according to a [cleveland.com](#) analysis. Of that, about \$806,800 went to Republicans and \$362,600 went to Democrats.

But the biggest individual contribution was \$250,000 given in October to A Stronger Ohio, a super PAC aligned with Democratic governor candidate Richard Cordray, who ended up narrowly losing his race to now-Gov. Mike DeWine, a Republican.

Other big recipients were the Ohio Republican Party (around \$160,000 split among various party funds) and the Ohio Democratic Party (\$38,000); Secretary of State Frank LaRose (\$64,300); State Rep. Anthony DeVitis, an Akron Republican (\$35,400) and Sen. Kristina Roegner, a Hudson Republican (\$25,400).

DeWine’s campaign got \$62,000, his official transition committee got \$20,000, and Chuck Jones, FirstEnergy’s CEO, in October donated an additional \$12,700 in free food and drinks to DeWine’s campaign.





Mark Duncan, Associated Press 2005 file photo

#### 4. Build a coalition of supporters

The Ohio Clean Energy Jobs Alliance [acknowledges on its website](#) that it is “powered by FirstEnergy Solutions.”

The coalition has more than 150 members. Generally, they fall into three categories.

One, politicians and other public officials from the areas near the plants — one of which is near Toledo, and the other of which is near Cleveland — which provide local communities with jobs and tax revenues.

Two, unions, generally those that represent workers who either work inside or on the plants.

And three, local businesses and suppliers to the plants.

FirstEnergy has lined up support by arguing that Davis Bessie and Perry employ Ohio workers, and that losing the plants, which produce about 14% of the state’s electricity, would force the state to acquire more energy from sources that pollute the atmosphere.

"I support any effort to provide our communities with clean air and a healthy environment," Summit County Executive Ilene Shapiro said in testimony the group shared with reporters. "These two plants are responsible for 90 percent of Ohio’s carbon-free electricity generation. We can choose to move forward with clean, reliable nuclear energy or remain in the past and become less competitive in an ever-changing economy."

#### 5. Line up friendly testimony

During ongoing HB 6 committee hearings, state lawmakers have heard from dozens of people for and against the legislation.

As it turns out, at least seven people testifying in favor of the legislation — including a Sandusky County commissioner and an employee of the Davis-Besse

nuclear plant — were reading from testimony prepared by the Dewey Square Group.

[The Energy and Policy Institute found](#) that metadata within the written testimony that was published to the committee website showed the documents were authored by Christopher Curry, a Dewey Square employee.

Carlo LoParo, a spokesman for the Ohio Clean Energy Jobs Alliance, said metadata shows Ali Mock, an employee of Columbus lobbying firm Government Edge, also authored some testimony from HB 6 opponents. The opposition generally includes the oil and gas industry, consumer groups, environmentalist groups and conservative advocacy organizations.

“This doesn’t necessarily mean she wrote the testimonies,” he said. “It could mean she reformatted, converted to PDF or uploaded the testimonies. All of that changes the metadata. That’s what happened to us last week.”

#### 6. Buy tons of ads

Since May 3, backers of House Bill 6 have flooded Ohio’s airwaves and social media profiles with ads, spending an amount that’s more reminiscent of an election campaign.

As of Thursday, the Ohio Clean Energy Jobs Alliance [has spent \\$ 254,903 on Facebook ads](#), according to the social media website’s political ad tracker tool.

These ads disclose that FirstEnergy Solutions paid for them. Social media political ads previously were not disclosed in real time, but Facebook has increased its transparency requirements for political ads after the criticism the site got for its role in spreading Russian propaganda during the 2016 U.S. election.

LoParo said his group discloses its connection to FirstEnergy Solutions not because of Facebook, but because of its desire to be transparent with members of its coalition.

“We want them to know who’s funding our organization and what we’re about,” he said.

But more than ten times as much has been spent on TV and radio ads by a pro-HB 6 group whose funding source isn’t disclosed.

Generation Now, the dark-money group that spent \$1 million on helping Householder get elected as House speaker, as of Thursday had bought or reserved \$4.6 million worth of pro-HB 6 radio and TV ads that have run across the state — according to FCC records compiled by an ad-tracking firm in Ohio. The ads were placed by The Strategy Group, a prominent Columbus political consulting firm that supported Householder’s leadership bid.

The group also has spent between \$12,000 and \$60,000 [promoting the ads on Facebook](#).

The ads encourage viewers to call their state representatives and encourage them to support the "Ohio Clean Air Program." One ad ominously warns of "Washington lobbyists, big money and dark deals" that are "working to stop the Ohio Clean Air program" so they can create an energy monopoly for Big Oil.

Groups opposing HB6, including those funded by the oil and natural gas industry, have their own ads, and have spent around \$540,000 on them.

## 7. Wait for the bill to pass?



Paul Vernon, Associated Press

### State of the State Ohio

Ohio Governor Mike DeWine, center, speaks between Ohio Senate president Larry Obhof, left, and Ohio House speaker Larry Householder during the Ohio State of the State address at the Ohio Statehouse in Columbus, Ohio, Tuesday, March 5, 2019.

There appears to be political support for HB 6 from key figures in state government — Gov. Mike DeWine has expressed support for nuclear energy as a part of the

state's energy portfolio, as has Sen. Larry Obhof, the president of the state senate.

But getting the bill through the House has been a tricky first step.

For most of its life, House Bill 6 would have swapped existing customers fees that pay for renewable energy projects for a new "clean energy" fee — most of which would go to the two nuclear plants, and the rest of which would pay for solar and wind projects.

But after weeks of amendments and negotiations with Democrats, Republicans on Wednesday dramatically changed courses.

[They overhauled the "clean energy" bill](#) by cutting out wind and solar projects and instead proposed using the new fees — beyond the \$150 million plus that still will go to the nuclear plants — to subsidize two coal plants owned by most of Ohio's majority utility companies, including FirstEnergy Solutions. In doing so, Householder likely lost Democratic votes in favor of courting Republican votes.

Nick Everhart, a Republican political ad consultant in Columbus, called the seven-figure million advertising campaign from Generation Now "unprecedented."

"Rarely if ever has a public affairs campaign aimed at a vote in the state legislature seen this level of TV spending in Ohio," he said. "The stakes are high for [FirstEnergy Solutions]. They need this taxpayer funded bailout to stay afloat, so no amount of money is probably too much for them to spend on this endeavor. Whether it will actually impact the vote remains to be seen."

"If it passes the House, it worked. If not, then it might be the biggest waste of spending we've seen on Capitol Square in a long long time. And that is really saying something."



**TO: OMA Government Affairs Committee**  
**FROM: Ryan Augsburger / Rob Brundrett**  
**RE: Environment Public Policy Report**  
**DATE: June 5, 2019**

---

### **Overview**

Long time Ohio EPA staffer Laurie Stevenson was appointed to lead the agency by new Governor Mike DeWine in January. Ohio EPA continues to coordinate with ODNR and Agriculture during operating budget discussions regarding Ohio water quality and Lake Erie and the new H2Ohio fund. The DeWine administration is taking a new and different approach to Lake Erie and the algal bloom issues than the previous administration. The environment budget contains several policy changes of note.

### **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.

The Senate sees this as a complement to the Governor's H2Ohio program and that H2Ohio funding will be used for the newly created Statewide Watershed Planning and Management Program.

#### **House Bill 7 – H2Ohio Trust Fund**

The bill creates the H2Ohio Trust Fund for the protection and preservation of Ohio's water quality. It would create the H2Ohio Advisory Council to disburse money from the Fund for water quality programs, and to create the H2Ohio Endowment Board to make recommendations to the Treasurer of State regarding the issuance of securities to pay for costs related to the purposes of the Fund.

The House removed most of the funding for H2Ohio from the state budget. This parallel piece of legislation was created to provide a new and more directed funding source for the programs. The bill is expected to be passed from the House in the next two weeks.

#### **Senate Bill 50 – Increase Solid Waste Disposal Fee**

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

#### **House Bill 94 – Lake Erie Drilling Ban**

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

#### **House Bill 166 – State Operating Budget**

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

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

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

Also included in the state operating budget are two provisions that may be of note to manufacturers. The agency is looking to change BAT requirements and asbestos policies.

The House put its finishing touches on the bill last month. Among the changes was the removal of the BAT requirements. However several new additions were included in the bill including an amendment addressing the Lake Erie Bill of Rights by explicitly denying an eco-system standing in courts; and an appropriation to the George Barley Water Prize, which is a contest to help solve water issues.

The OMA has been working with the Senate for language that would provide an affirmative defense for manufacturers who are sued under a nuisance tort claim as long as they are total compliance with their air contaminant permits.

#### House Bill 242 – Container Use Restriction

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

This so-called bag bill is aimed at providing uniformity across the state regarding packaging and other products that have been ground zero for local government bans. The OMA is providing proponent testimony this week.

#### Regulations

##### 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

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

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

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

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

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

#### OMA Submits Comments on WOTUS Revisions

Earlier this spring, the OMA weighed in with comments on the Trump Administration's efforts to rewrite the federal water pollution rule known as the Waters of the United States (WOTUS) — which defines the scope of federal regulatory jurisdiction under the Clean Water Act (CWA).

Because the courts have rejected the Trump Administration's effort to suspend operation of Obama-era revisions to WOTUS, the Environmental Protection Agency and U.S. Army Corps of Engineers have proposed a narrower rule that may survive judicial scrutiny. The Trump Administration's WOTUS definition is more restrained and observes traditional limits on the scope of federal power. The public comment period ended this week.

In its comments, the OMA wrote, "The proposed rule strikes an appropriate balance between protecting waters and wetlands, and providing clarity and predictability to stakeholders and regulators," and would curtail the regulatory "creep" of WOTUS as it affects manufacturing activity. Additionally, the OMA suggested possible improvements to the proposed rule changes, including in the areas of stormwater control features, waste treatment systems, traditional navigable waters, tributaries and ditches.

#### 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.

### 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 mi<sup>2</sup>.

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 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.

Am. Sub. H.B. 166  
As Passed by the House

\_\_\_\_\_ moved to amend as follows:

In line 52 of the title, after "3704.01," insert "3704.09," 1

In line 285, after "3704.01," insert "3704.09," 2

After line 35810, insert: 3

"Sec. 3704.09. Determinations (A) Except for purposes of the 4  
affirmative defense established in division (B) of this section: 5

(1) Determinations made by the director of environmental 6  
protection or other persons acting under sections 3704.03 and 7  
3704.04 of the Revised Code shall not be used as evidence in civil 8  
actions nor create any presumption of law or finding of fact ~~which~~ 9  
that shall inure to or be for the benefit of any person other than 10  
the state, and sections 3704.01 to 3704.07 of the Revised Code do 11  
not create, enlarge, or abrogate existing private rights; and 12

(2) Nothing in Chapter 3704. of the Revised Code shall be 13  
construed to abridge, limit, or otherwise impair the right of any 14  
person to damages or other relief on account of injury to persons 15  
or property and to maintain any action or other appropriate 16  
proceedings therefor. 17

(B) The holder of a permit issued under this chapter for an 18  
air contaminant source has an affirmative defense to a nuisance 19  
claim brought by a private party related to the installation or 20  
operation of the air contaminant source if both of the following 21  
apply during the time for which the claim alleges nuisance: 22

(1) The air contaminant source does not exceed any emission 23

limit established pursuant to rules adopted under this chapter. 24

(2) The director, or other person acting under the authority 25  
of sections 3704.03 and 3704.04 of the Revised Code, does not make 26  
a determination that a nuisance condition exists regarding the air 27  
contaminant source." 28

In line 76037, after "3704.01," insert "3704.09," 29

The motion was \_\_\_\_\_ agreed to.

SYNOPSIS

**Air contaminant source: affirmative defense** 30

**R.C. 3704.09** 31

Creates an affirmative defense in a private nuisance claim – 32  
for an entity issued an installation or operation permit for an 33  
air contaminant source – when both of the following apply during 34  
the time for which the claim alleges nuisance: 35

(1) The air contaminant source does not exceed any emission 36  
limit established in rule; 37

(2) The Director of Environmental Protection (or other 38  
appropriate person) does not determine that a nuisance condition 39  
exists regarding the air contaminant source. 40

---

## ENVIRONMENTAL PROTECTION AGENCY

### Extension of E-Check

- Authorizes the extension of the motor vehicle inspection and maintenance program (E-Check) through June 30, 2025, in counties for which a program is federally mandated.
- Retains all statutory requirements governing the program, including the following:
  - The new contract must ensure that the program achieves at least the same emissions reductions as achieved by the program under the contract that was extended;
  - The Director of Administrative Services must use a competitive selection process when entering into a new contract with a vendor;
  - E-Check must be a decentralized program and include a new car exemption for motor vehicles up to four years old.

### Local air pollution control authority

- Modifies the list of agencies that qualify as a local air pollution control authority under the law governing air pollution by eliminating the Mahoning-Trumbull Air Pollution Control Authority, City of Youngstown.

### Post-use polymers and recoverable feedstocks

- Excludes post-use polymers (plastics) and recoverable feedstocks from the laws governing solid waste disposal under certain circumstances.

### Asbestos abatement

- Makes changes to the law governing asbestos abatement, including:
  - Expanding the scope of activities that are subject to regulation by applying the law to activities involving more than three linear or square feet of asbestos-containing material, rather than more than 50 linear or square feet as in current law;
  - Authorizing the Ohio Environmental Protection Agency (OEPA) to take certain enforcement actions against a contractor licensee or certificate holder if either is violating or threatening to violate specified federal regulations adopted under the Federal Toxic Substances Control Act; and
  - Eliminating the Director's authority to approve, on a case-by-case basis, alternatives to the existing worker protection requirements for a project conducted by a public entity.

### Extension of various fees

- Extends all of the following for two years:
  - The sunset of the annual emissions fees for synthetic minor facilities;



- The levying of higher fees, and the decrease of those fees at the end of the two years, for applications for plan approvals for wastewater treatment works;
- The sunset of the annual discharge fees for holders of National Pollutant Discharge Elimination System (NPDES) permits under the Water Pollution Control Law;
- The sunset of license fees for public water system licenses;
- A higher cap on the total fee due for plan approval for a public water supply system and the decrease of that cap at the end of the two years;
- The levying of higher fees, and the decrease of those fees at the end of the two years, for state certification of laboratories and laboratory personnel for purposes of the Safe Drinking Water Law;
- The levying of higher fees, and the decrease of those fees at the end of the two years, for applications to take examinations for certification as operators of water supply systems or wastewater systems;
- The levying of higher fees, and the decrease of those fees at the end of the two years, for applications for permits, variances, and plan approvals under the Water Pollution Control and Safe Drinking Water Laws;
- The sunset of the fees levied on the transfer or disposal of solid wastes; and
- The sunset of the fees levied on the sale of tires.

### **George Barley Water Prize**

- Appropriates \$125,000 in FY 2020 to OEPA to support the final stage of the awards process for the Everglades Foundation's George Barley Water Prize.
- If the \$125,000 is not expended in its entirety in FY 2020, authorizes the Director of Environmental Protection to certify to the Director of Budget and Management an amount up to the unexpended, unencumbered balance of the \$125,000 to be reappropriated in FY 2021.
- Requires the Director of Environmental Protection, prior to disbursing any money to the Foundation, to enter into a memorandum of understanding with the Foundation that specifies certain requirements regarding Ohio's involvement in the George Barley Water Prize process.

### **Extension of E-Check**

(R.C. 3704.14)

The act authorizes the extension of the motor vehicle inspection and maintenance program (E-Check) in Ohio counties where this program is federally mandated by:

- Authorizing the Director of Environmental Protection to request the Director of Administrative Services to extend the existing contract (with the contractor that

conducts the program) beginning June 30, 2019, for a period of up to 24 months through June 30, 2021;

- Requiring the EPA Director, before the contract extension expires, to request the DAS Director to enter into a contract (with a vendor to operate a decentralized program) through June 30, 2023, with an option to renew the contract for a period of up to 24 months through June 30, 2025.

The bill retains the requirement that the new contract ensure that the program achieves at least the same emissions reductions achieved under the contract that was extended. It also retains the requirement that the DAS Director must use a competitive selection process when entering into a new contract with a vendor. Last, the bill retains all statutory requirements governing the program, including requirements that E-Check be a decentralized program and include a new car exemption for motor vehicles up to four years old.

## **Local air pollution control authority**

(R.C. 3704.01 and 3704.111)

The bill modifies the list of agencies that qualify as a local air pollution control authority under the law governing air pollution by eliminating the Mahoning-Trumbull Air Pollution Control Authority, City of Youngstown. Current law requires the OEPA Director to enter into delegation agreements with local air pollution control authorities listed in current law. As part of the agreement, the local air pollution control authority agrees to perform on behalf of Ohio Environmental Protection Agency (OEPA) air pollution control regulatory services within the political subdivision represented by the local air pollution control authority.

## **Post-use polymers and recoverable feedstocks**

(R.C. 3734.01)

The bill excludes post-use polymers and recoverable feedstocks from the laws governing solid waste disposal if all of the following apply:

- The post-use polymers or recoverable feedstocks are stored for fewer than 90 days;
- The post-use polymers or recoverable feedstocks remain retrievable and substantially unchanged physically and chemically;
- The storage of post-use polymers or recoverable feedstocks does not cause a nuisance;
- The storage of post-use polymers or recoverable feedstocks does not pose a threat from vectors (e.g., insects or vermin);
- The storage of post-use polymers or recoverable feedstocks does not adversely impact public health, safety, or the environment; and
- Prior to the end of the 90-day or less storage period, the post-use polymers or recoverable feedstocks are converted using gasification or pyrolysis.

The following table describes each scientific term as used in the bill.

Term	Scientific description
Post-use polymer	<p>A plastic polymer to which both of the following apply:</p> <ul style="list-style-type: none"> <li>▪ It is derived from any sources and is not being used for its original intended purpose; and</li> <li>▪ It is used or intended to be used to manufacture crude oil, fuels, other raw materials, intermediate products, or final products using pyrolysis or gasification.</li> </ul> <p>May contain incidental contaminants or impurities, such as paper labels or metal rings.</p>
Recoverable feedstock	<p>One or more of the following materials, derived from nonrecycled waste, that have been processed for use as a feedstock in a gasification facility:</p> <ul style="list-style-type: none"> <li>▪ Post-use polymers; or</li> <li>▪ Materials for which the U.S. Environmental Protection Agency has made a nonwaste determination or has otherwise determined are not solid waste.</li> </ul>
Pyrolysis	<p>A process through which post-use polymers are heated in the absence of oxygen until melted and thermally decomposed, and are then cooled, condensed, and converted into one of the following:</p> <ul style="list-style-type: none"> <li>▪ Crude oil, diesel, gasoline, home heating oil, or another fuel;</li> <li>▪ Feedstocks;</li> <li>▪ Diesel and gasoline blendstocks;</li> <li>▪ Chemicals, waxes, or lubricants;</li> <li>▪ Other raw materials, intermediate products, or final products.</li> </ul>
Gasification	<p>A process through which recoverable feedstocks are heated and converted into a fuel-gas mixture in an oxygen-deficient atmosphere, and the mixture is converted into fuel, including ethanol and transportation fuel, chemicals, or other chemical feedstocks.</p>

## Asbestos abatement

(R.C. 3710.01, 3710.04, 3710.05, 3710.051, 3710.06, 3710.07, 3710.08, and 3710.12)

The bill makes the following changes to the law governing asbestos abatement, which is administered by OEPA:

- Expands the scope of activities that are subject to regulation by applying the law to activities involving more than three linear or square feet of asbestos-containing material, rather than more than 50 linear or square feet as in current law. (For example, if an activity involves four linear feet, a person will now need to meet certain certification and training requirements that previously would not have applied.)
- Adds the maintenance of asbestos-containing materials as one of the activities subject to regulation;
- Adds the operations of asbestos-containing materials as one of the activities subject to regulation;
- Authorizes OEPA to take certain enforcement actions against a contractor licensee or certificate holder if either is violating or threatening to violate specified federal regulations adopted under the Federal Toxic Substances Control Act as amended by the Asbestos Hazard Emergency Response Act;
- Requires OEPA to deny a contractor license application if the applicant or any of the applicant's officers or employees has been found liable in a civil proceeding under any state or federal environmental law. (Currently, denial is limited to felony convictions.)
- Eliminates the Director's authority to approve, on a case-by-case basis, alternatives to the existing worker protection requirements for a project conducted by a public entity;
- Adds both of the following to the list of activities that require a person to be certified as an asbestos hazard evaluation specialist:
  - Inspections; and
  - Assessments of suspect asbestos-containing materials.
- Adds the oversight of an asbestos hazard abatement activity to the list of activities that require certification as an asbestos hazard abatement project designer;
- With regard to the certification of an asbestos hazard abatement air-monitoring technician (responsible for environmental monitoring or work area clearance air sampling), eliminates the exemption from certification that applies to industrial hygienists-in-training since the American Board of Industrial Hygiene no longer certifies those hygienists; and
- Requires a contractor to notify the Director at least ten working days, rather than at least ten days as under current law, before beginning an asbestos hazard abatement project (the change makes Ohio law consistent with federal law).

## Extension of various fees

(R.C. 3745.11, 3734.57, and 3745.901)

The bill extends the time period for charging various OEPA fees under the laws governing air pollution control, water pollution control, and safe drinking water. The following table sets forth each fee, its purposes, and the time period OEPA is authorized to charge the fee under current law and the bill:

Type of fee	Description	Sunset under current law	Sunset under the bill
Synthetic minor facility: emission fee	Each person who owns or operates a synthetic minor facility must pay an annual fee in accordance with a fee schedule that is based on the sum of the actual annual emissions from the facility of particulate matter, sulfur dioxide, nitrogen dioxide, organic compounds, and lead. A synthetic minor facility is a facility for which one or more permits to install or permits to operate have been issued for the air contaminant source at the facility that include terms and conditions that lower the facility's potential to emit air contaminants below the major source thresholds established in rules adopted under continuing law.	The fee is required to be paid through June 30, 2020.	The bill extends the fee through June 30, 2022.
Wastewater treatment works: plan approval application fee	A person applying for a plan approval for a wastewater treatment works is required to pay one of the following fees depending on the date: --A tier one fee of \$100 plus 0.65% of the estimated project cost, up to a maximum of \$15,000; or --A tier two fee of \$100 plus 0.2% of the estimated project cost, up to a maximum of \$5,000.	An applicant is required to pay the tier one fee through June 30, 2020, and the tier two fee on and after July 1, 2020.	The bill extends the tier one fee through June 30, 2022; the tier two fee begins on or after July 1, 2022.
Discharge fees for holders of NPDES permits	Each NPDES permit holder that is a public discharger or an industrial discharger with an average daily discharge flow of 5,000 or more gallons per day must pay an annual discharge fee based on the average daily discharge flow. There is a	The fees were due by January 30, 2018, and January 30, 2019.	The bill extends the fees and the fee schedules to January 30, 2020, and January 30, 2021.

Type of fee	Description	Sunset under current law	Sunset under the bill
Surcharge for major industrial dischargers	<p>separate fee schedule for public and industrial dischargers.</p> <p>A holder of an NPDES permit that is a major industrial discharger must pay an annual surcharge of \$7,500.</p>	The surcharge was required to be paid by January 30, 2018, and January 30, 2019.	The bill extends the fee to January 30, 2020, and January 30, 2021.
Discharge fee for specified exempt dischargers	One category of public discharger and eight categories of industrial dischargers that are NPDES permit holders are exempt from the annual discharge fees that are based on average daily discharge flow. Instead, they are required to pay an annual discharge fee of \$180.	The fee was due by January 30, 2018, and January 30, 2019.	The bill extends the fee to January 30, 2020, and January 30, 2021.
License fee for public water system license	A person is prohibited from operating or maintaining a public water system without an annual license from OEPA. Applications for initial licenses or license renewals must be accompanied by a fee, which is calculated using schedules for the three basic categories of public water systems.	The fee for an initial license or a license renewal applies through June 30, 2020, and is required to be paid annually in January.	The bill extends the initial license and license renewal fee through June 30, 2022.
Fee for plan approval to construct, install, or modify a public water system	Anyone who intends to construct, install, or modify a public water supply system must obtain approval of the plans from OEPA. The fee for the plan approval is \$150 plus 0.35% of the estimated project cost. However, current law sets a cap on the fee.	The cap on the fee is \$20,000 through June 30, 2020, and \$15,000 on and after July 1, 2020.	The bill extends the cap of \$20,000 through June 30, 2022; the cap of \$15,000 applies on and after July 1, 2022.
Fee on state certification of laboratories and laboratory personnel	<p>In accordance with two schedules, OEPA charges a fee for evaluating certain laboratories and laboratory personnel.</p> <p>An additional provision states that an individual laboratory cannot be assessed a fee more than once in a three-year period unless the person requests the addition of analytical methods or analysts, in which case the</p>	<p>The schedule with higher fees applies through June 30, 2020, and the schedule with lower fees applies on and after July 1, 2020.</p> <p>The \$1,800 additional fee applies through</p>	<p>The bill extends the higher fee schedule through June 30, 2022; the lower fee schedule applies on and after July 1, 2022.</p> <p>The bill extends the additional fee through June 30,</p>

Type of fee	Description	Sunset under current law	Sunset under the bill
Fee for examination for certification as an operator of a water supply system or wastewater system	<p>person must pay \$1,800 for each additional survey requested.</p> <p>A person applying to OEPA to take an examination for certification as an operator of a water supply system or a wastewater system (class A and classes I-IV) must pay a fee, at the time an application is submitted, in accordance with a statutory schedule.</p>	<p>June 30, 2020.</p> <p>A schedule with higher fees applies through November 30, 2020, and a schedule with lower fees applies on and after December 1, 2020.</p>	<p>2022.</p> <p>The bill extends the higher fee schedule through November 30, 2022; the lower fee schedule applies on and after December 1, 2022.</p>
Application fee for a permit (other than an NPDES permit), variance, or plan approval	<p>A person applying for a permit (other than an NPDES permit), a variance, or plan approval under the Safe Drinking Water Law or the Water Pollution Control Law must pay a nonrefundable fee.</p>	<p>If the application is submitted through June 30, 2020, the fee is \$100. If the application is submitted on or after July 1, 2020, the fee is \$15.</p>	<p>The bill extends the \$100 fee through June 30, 2022; the \$15 fee applies on and after July 1, 2022.</p>
Application fee for an NPDES permit	<p>A person applying for an NPDES permit must pay a nonrefundable application fee.</p>	<p>If the application is submitted through June 30, 2020, the fee is \$200. If the fee is submitted on or after July 1, 2020, the fee is \$15.</p>	<p>The bill extends the \$200 fee through June 30, 2022; the \$15 fee applies on and after July 1, 2022.</p>
Fees on the transfer or disposal of solid wastes	<p>A total of \$4.75 in state fees is levied on each ton of solid waste disposed of or transferred in Ohio.</p> <p>The fees are used for administering the hazardous waste (90¢), solid waste (75¢), and other OEPA programs (\$2.85), and for soil and water conservation districts (25¢).</p>	<p>The fees apply through June 30, 2020.</p>	<p>The bill extends the fees through June 30, 2022.</p>
Fees on the sale of tires	<p>A base fee of 50¢ per tire is levied on the sale of tires to assist in the cleanup of scrap tires.</p>	<p>Both fees are scheduled to sunset on June 30, 2020.</p>	<p>The bill extends the fees through June 30, 2022.</p>



Type of fee	Description	Sunset under current law	Sunset under the bill
	An additional fee of 50¢ per tire is levied to assist soil and water conservation districts.		

## George Barley Water Prize

(Sections 277.10, 277.20, and 737.30)

The bill appropriates \$125,000 in FY 2020 to OEPA to support the final stage of the awards process for the Everglades Foundation's George Barley Water Prize. If the \$125,000 is not expended in its entirety in FY 2020, the Director of Environmental Protection may certify to the Director of Budget and Management an amount up to the unexpended, unencumbered balance of the \$125,000 to be reappropriated in FY 2021. The George Barley Water Prize recognizes groundbreaking innovation in removing excess phosphorus from freshwater sources.<sup>53</sup>

Prior to disbursing any money to the Foundation, the Director of Environmental Protection must enter into a memorandum of understanding with it. The Director, a representative from any entity that the OEPA contracts with for purposes of the George Barley Water Prize, and a representative from the Foundation, must sign the memorandum, which must specify all of the following:

- That the money will be used to support the final stage of the awards process for the Everglades Foundation's George Barley Water Prize;
- That the state of Ohio or OEPA will be listed as a sponsor of the George Barley Water Prize;
- That OEPA, and any other entity that OEPA contracts with for purposes of the George Barley Water Prize, may assist in the development of testing parameters for data collection in the Grand Challenge testing stage of the competition;
- That OEPA, and any other entity that OEPA contracts with for purposes of the George Barley Water Prize, will have access to all data collected during the George Barley Water Prize's campaign as well as access to the data and technologies developed during the George Barley Water Prize process; and
- That OEPA, and any other entity that OEPA contracts with for purposes of the George Barley Water Prize, will enter into a nondisclosure agreement with the Everglades Foundation for data collected in the Grand Challenge testing stage of the competition.

<sup>53</sup> <https://www.barleyprize.org>.



## 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.<sup>1</sup> 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.<sup>2</sup>

The LEBOR is an amendment to the City of Toledo's Charter.<sup>3</sup> 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.<sup>4</sup>

---

<sup>1</sup> 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."

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

<sup>3</sup> 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>.

<sup>4</sup> 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.”<sup>5</sup> 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[.]”<sup>6</sup>

## 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”<sup>7</sup>; 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.<sup>8</sup>

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.

---

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

<sup>6</sup> *Id.* at ¶ 2.

<sup>7</sup> 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.”

<sup>8</sup> 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.<sup>9</sup>

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

---

<sup>9</sup> 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.<sup>10</sup> Courts have

---

<sup>10</sup> *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).



**BEFORE THE STATE AND LOCAL GOVERNMENT COMMITTEE  
OF THE OHIO HOUSE OF REPRESENTATIVES  
REPRESENTATIVE SCOTT WIGGAM, CHAIRMAN**

**TESTIMONY  
OF  
ROB BRUNDRETT  
DIRECTOR, PUBLIC POLICY SERVICES  
THE OHIO MANUFACTURERS' ASSOCIATION**

**JUNE 5, 2019**



Mr. Chairman and members of the House State and Local Government Committee, my name is Rob Brundrett and I am director of public policy services at the Ohio Manufacturers' Association (OMA). Thank you for the opportunity to provide proponent testimony on House Bill 242.

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

Manufacturing is the largest of the state's 20 primary industry sectors. Manufacturing contributed more than \$108 billion in GDP according to the most recent data. This amounts to nearly 18% of the state's economy. According to the most recent federal data, more than 700,000 Ohioans work in manufacturing.

Ohio is home to:

- 34 stationary paper manufacturers (more than any other state);
- 28 plastic bottle manufacturers (also more than any other state);
- 30 paper board container manufacturers (second most in U.S.);
- 28 plastics packaging film and sheet establishments (second most in U.S.); and
- 66 paper bag and coated-and-treated paper manufacturers (third most in U.S.).

These manufacturers alone produce more than \$5 billion in output for the Buckeye State. These same manufacturers employ more than 12,500 Ohioans with an average annual wage of nearly \$54,000. These are solid, family-sustaining jobs.

Moreover, these businesses supply packaging products to many of our state's other manufacturers in sectors such as food and beverage production, consumer products, and appliances. Additionally, manufacturing is an enormous consumer when it comes to utilizing recycled materials, fostering conservation and employing sustainable business practices.

Ohio manufacturers make a wide variety of world-class products. So when local jurisdictions in our state enact restrictions or outright bans on certain products or product content; or impose mandates to label certain products; or place a tax on certain products, it makes it very difficult for Ohio manufacturers to comply here at home, much less in the global economy.

This is why the OMA routinely advocates mitigating locally-imposed restrictions, mandates and taxes. In many cases these types of regulations are most appropriately adopted at the federal government level so as to not disadvantage businesses in one state over businesses in another state.

For these reasons, the OMA favors House Bill 242. We must ensure that taxes, fees and regulations on packaging are adopted uniformly and not via a cumbersome patchwork of local mandates that would make Ohio a less friendly climate for manufacturing.

We thank Representatives Lang and Jones for sponsoring this important legislation to protect and grow Ohio manufacturing. We urge your prompt passage of House Bill 242.

Thank you. I would be happy to answer any questions.

## Environment

### **New Bill Would Pre-Empt Local Plastic Bag Bans May 31, 2019**

On the heels of Cuyahoga County's action to prohibit the use of plastic shopping bags — as well as the Columbus suburb of Bexley outlawing plastic bags, straws, and cutlery — the Ohio House this week heard sponsor testimony on **House Bill 242**.

The OMA and other business groups have been supporters of this legislation in the past. *5/30/2019*

### **Analysis: New Green Deal Signifies New Phase in Climate Change Debate May 17, 2019**



In the latest issue of its “Climate Report,” global law firm Jones Day analyzes the Green New Deal proposed by some federal lawmakers. According to the firm, **the resolution** — which calls for “high-quality union jobs that pay prevailing wages” and “wage and benefit parity for workers affected by the transition” — signifies a “new phase in the national debate over climate change policy in America.” Specifically, the Green New Deal poses the question “whether Congress should curtail fossil fuel use ... through a broad array of social and economic reforms and public works projects.” Jones Day adds: “The potential impact of the ensuing debate will vary from company to company but, in almost all cases, warrants serious attention in business, political, and legal planning efforts.”

The full report can be seen **here**. *5/15/2019*

### **House Introduces New H2Ohio Funding Bill May 17, 2019**

The House this week introduced **House Bill 7** as part of a priority bill package with bipartisan support. HB 7 creates the H2Ohio Trust Fund to provide for the protection, preservation, and restoration of the water quality of Ohio's lakes and rivers. Gov. Mike DeWine included in his budget the creation of H2Ohio, and the program is one of his top priorities.

The House reduced the funding provisions suggested by the administration and instead is creating a bond package to ensure long-term, stable funding of the program. The bill had its first hearing this week in the House. You can see the testimony **here**. *5/16/2019*

### **Half a Million Sliders a Day! May 17, 2019**

This week, OMA's **Sustainability Peer Network** toured the White Castle frozen food manufacturing facility in Vandalia to observe waste reduction innovations and processes. Angel Arroyo-Rodriguez, Program Leader, Materials and Waste Management at Ohio EPA, joined the group and shared information about food waste disposal options.

The OMA thanks White Castle's Rob Camp, vice president of retail operations, as well as Shannon Tolliver, social responsibility and environmental sustainability manager, for hosting this event.

OMA's Sustainability Peer Network was created to help OMA members network, learn and share about sustainability goals, practices and projects. Manufacturing members can **sign up here** to receive invitations to future tours and events. *5/15/2019*



*OMA's Sustainability Peer Network toured White Castle's frozen food plant in Vandalia on Wednesday, May 15.*

### **Ohio EPA Director Testifies in Senate as House Makes Key Changes in Budget May 10, 2019**

Ohio EPA Director Laurie Stevenson on Wednesday provided **budget testimony** to the Ohio Senate. The same evening, the House Finance Committee put its finishing touches on the state budget bill (HB 166).

Among the House's budget changes affecting Ohio EPA were the removal of the **Best Available Technology** language; an **amendment** addressing the **Lake Erie Bill of Rights** by explicitly denying an eco-system standing in courts; and an appropriation to the **George Barley Water Prize**, which is a contest to help solve water issues. *5/8/2019*

### **OMA Comments on Water Quality Standards May 3, 2019**

This week, the OMA submitted **comments** on Ohio EPA's draft rules on **Human Health Water Quality OAC 3745-1**. These standards — designed to protect surface water from pollution — are being amended as part of the agency's Triennial Water Quality Standards Review. The changes being considered by Ohio EPA include implementing maximum contaminant levels (MCLs) statewide (as opposed to only the Ohio River Basin), as well as an updated water quality table.

Water quality standards are used in the implementation of Clean Water Act programs, including the National Pollutant Discharge Elimination System (NPDES) permits, Section 401 Water Quality Certifications, and Total Maximum Daily Load (TMDL) reports. Potentially impacted entities may include facilities that discharge or plan to discharge wastewater containing any of the specific chemicals listed in these rules.

Contact **Rob Brundrett** at the OMA if you have any questions or thoughts. *5/2/2019*

### **A Few Spots Left for White Castle Frozen Food Plant Tour April 26, 2019**

Register soon for this! On Wednesday, May 15, 2019, OMA's **Sustainability Peer Network** heads to Vandalia to tour White Castle's frozen food manufacturing plant, which is certified LEED Gold. White Castle's energy, water, waste and other sustainability initiatives will be showcased. Learn **more and register here**. Manufacturers only, please. *4/22/2019*

### **OMA Comments on ORSANCO's Proposed Revisions to Pollution Control Standards April 19, 2019**

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

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

For the full text of the letter, **click here**. *4/16/2019*

### **OMA Submits Comments on WOTUS Revisions April 19, 2019**

Earlier this week, the OMA weighed in with comments on the Trump Administration's efforts to rewrite the federal water pollution rule known as the Waters of the United States (WOTUS) — which defines the scope of federal regulatory jurisdiction under the Clean Water Act (CWA).

Because the courts have rejected the Trump Administration's effort to suspend operation of Obama-era revisions to WOTUS, the Environmental Protection Agency and U.S. Army Corps of Engineers have proposed a narrower rule that may survive judicial scrutiny. The Trump Administration's WOTUS definition is more restrained and observes traditional limits on the scope of federal power. The public comment period ended this week.

In its comments, the OMA wrote, “The proposed rule strikes an appropriate balance between protecting waters and wetlands, and providing clarity and predictability to stakeholders and regulators,” and would curtail the regulatory “creep” of WOTUS as it affects manufacturing activity. Additionally, the OMA suggested possible improvements to the proposed rule changes, including in the areas of stormwater control features, waste treatment systems, traditional navigable waters, tributaries and ditches.

For the full text of the OMA letter, [click here](#). 4/18/2019

**Ohio EPA Director Visits OMA Environment Committee**  
**April 12, 2019**



Ohio Environmental Protection Agency (EPA) Director **Laurie Stevenson** addressed the OMA Environment Committee this week, the first of three scheduled committee meetings for the year.

Appointed in January by Gov. Mike DeWine, Stevenson is a 30-year veteran of the agency. She most recently served as deputy director for the agency’s business relations, where she worked closely with the regulated community.

Stevenson told committee members that in addition to enforcing the state’s environmental standards, the agency “has an equal responsibility to helping businesses get from Point A to Point B” regardless of whether the business is large or small. She also briefed the committee on the administration’s budget priorities related to environmental issues, including surface water protections and “best available technology” permitting.

Stay on top of the environmental issues affecting Ohio’s manufacturers by visiting the [OMA website](#). 4/10/2019

**Ohio EPA Director Stevenson Lays Out Budget Priorities**

**April 5, 2019**

Ohio EPA Director **Laurie Stevenson** provided **testimony** on behalf of her agency’s budget proposal this week in the House of Representatives.

A budget proposal of note for manufacturers is removing the rule process requirement for EPA to impose Best Available Technology (BAT), and instead require the BAT method for an air contaminant source to be established in the permit to install issued for that source.

Director Stevenson will be at the OMA Environment Committee on Wednesday, April 10 to discuss this issue and much more. **Register today** and join your colleagues at the OMA next week. 4/4/2019

**Senate Hears Support for Solid Waste Fee Increase**  
**April 5, 2019**

This week the House Finance Committee heard from a supporter of **Senate Bill 50**, which would increase from 25-cents per ton to 50-cents per ton one of the state fees levied on the transfer or disposal of solid waste.

The proceeds of the increase would be used to provide more funding to the local Soil and Water Conservation Districts. Carmella Shale, director of the Geauga County Soil and Water Conservation District, **testified** that the increase is needed because of decreases in state funding over the past ten years.

The OMA and other business interests oppose any new fees on solid waste, especially in light of new funding provisions in **House Bill 166**, the state budget bill, for soil and water conservation districts. 4/4/2019

**DeWine Announces \$900M Water Quality Initiative**  
**March 15, 2019**

When in Toledo this week, Governor Mike DeWine **announced a new water quality initiative**, H2Ohio. The initiative will be included in his proposed state budget which is expected to be unveiled today.

DeWine said the new initiative could provide funding of as much as \$900 million over ten years to protect Ohio’s water quality.

Investments would be made in programs affecting state waters including Lake Erie and

other rivers, lakes, and waterways. Efforts could include pollution prevention, land-based management programs, water-based restoration programs, as well as science, research and measurement. 3/14/2019

### **Senate Debates Solid Waste Fee Increase** **March 15, 2019**

This week the Senate Finance Committee heard **sponsor testimony** on **Senate Bill 50**, which would increase from 25¢/ton to 50¢/ton one of the state fees levied on the transfer or disposal of solid waste. The proceeds of the increase would be used to provide more funding to the local Soil and Water Conservation Districts.

The bill sponsor, Senator **John Eklund** (R-Munson Township), also introduced this bill in the 132<sup>nd</sup> General Assembly. The OMA opposes the increase of the solid waste fee to protect the competitiveness of regulated entities. 3/14/2019

### **EPA Decides to Retain 2010 SO2 NAAQS** **March 8, 2019**

From OMA Connections Partner Dinsmore: “On February 26, 2019, EPA announced its decision to retain the current sulfur dioxide (SO<sub>2</sub>) National Ambient Air Quality Standard (NAAQS). The current primary SO<sub>2</sub> NAAQS of 75 parts per billion (ppb) averaged over one hour was established in 2010. ...

“Several industry groups asserted that the current SO<sub>2</sub> NAAQS was too tough and argued that EPA should weaken the standard. They recommended that EPA raise the NAAQS to 110 – 150 ppb, but environmental groups argued the standard was not protective enough of human health and should be lowered to 50 ppb. Ultimately, EPA rejected both arguments and determined the current standard “is requisite to protect public health, with an adequate margin of safety, from effects of SO<sub>2</sub> in ambient air.” It noted that this was consistent with the April 2018 recommendation of the Clean Air Scientific Advisory Committee, an independent advisory board. EPA also supported its decision by reiterating that SO<sub>2</sub> levels in the United States had dropped by more than 85 percent between 1990 and 2017 and more than 60 percent since 2010.

“As a result of this decision, revisions to state implementation plans will not be triggered, and

existing sources will not face potential imposition of requirements for installation of additional controls for SO<sub>2</sub>. However, the one-hour standard remains a potential barrier to permitting new projects with significant SO<sub>2</sub> emissions.”  
**Read the full post here.** 3/1/2019

### **Ohio EPA Helps Businesses Improve Sustainability** **March 8, 2019**

The **Ohio Materials Marketplace** is a free online platform of the Ohio EPA that allows businesses and organizations to connect and find reuse and recycling solutions for waste and by-product materials.

- Several new materials have been added to the marketplace including: scrap cardboard, expanded polystyrene foam, commingled recyclables, pallet racking, miscellaneous calcium compounds and more!
- 980 members are now in the marketplace.
- The marketplace has helped divert more than 1763 tons (3,526,830 pounds) from the landfill!

Ohio EPA will be hosting its Sustainability Conference in Columbus on April 17, 2019. More information about the conference and registration can be found **here**. 3/4/2019

### **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 27<sup>th</sup>, ***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



**Environment Legislation**  
**Prepared by: The Ohio Manufacturers' Association**  
**Report created on June 3, 2019**

- HB7**      **H2OHIO PROGRAM** (GHANBARI H, PATTERSON J) To create the H2Ohio Trust Fund for the protection and preservation of Ohio's water quality, to create the H2Ohio Advisory Council to disburse money from the Fund for water quality programs, and to create the H2Ohio Endowment Board to make recommendations to the Treasurer of State regarding the issuance of securities to pay for costs related to the purposes of the Fund.  
**Current Status:** 6/4/2019 - House Finance, (Fourth Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-7>
- HB94**      **LAKE ERIE DRILLING** (SKINDELL M) To ban the taking or removal of oil or natural gas from and under the bed of Lake Erie.  
**Current Status:** 3/5/2019 - Referred to Committee House Energy and Natural Resources  
**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:** 3/5/2019 - Referred to Committee House Energy and Natural Resources  
**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:** 5/29/2019 - **BILL AMENDED**, Senate Agriculture and Natural Resources, (Third Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-2>
- SB50**      **INCREASE SOLID WASTE DISPOSAL FEE** (EKLUND J) To increase state solid waste disposal fee that is deposited into the Soil and Water Conservation District Assistance Fund, and to make an appropriation.  
**Current Status:** 4/2/2019 - Senate Finance, (Second Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-50>

**To: OMA Government Affairs Committee**  
**From: Ryan Augsburger / Rob Brundrett**  
**Re: Human Resources Report**  
**Date: June 5, 2019**

---

### **Overview**

It does not appear that unemployment compensation reform will find much success during this first part of the General Assembly. A few House members remain interested but are not in leadership position.

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.

The Governor is supporting the OMA partnership network by appropriating \$5 million for sector partnerships over the biennium. The House has removed the language from the budget but included the funding in House Bill 2 a priority workforce bill.

### **General Assembly News and Legislation**

#### **House Bill 2 – Credential Assistance Program**

The budget bill included money for credential assistance and industry sector partnerships. The House removed the funding language from the budget bill and introduce a piece of legislation based on the budget recommendations. HB 2 is a priority workforce bill in the House. The OMA is supportive of the purpose of the legislation and is working with the bill sponsors to ensure that the money allocated will be used in programs that support the OMA industry sector partnership network. The bill is expected to pass the House this week.

#### **House Bill 4 – Industry Credentialing and Office of Workforce Transformation**

The bill would allow the Governor’s Office of Workforce Transformation to act as a liaison between industry and the Department of Education when developing and applying for new credentials. The OMA has not taken a position on the bill.

#### **Senate Bill 9 – Health Plan Claim Information**

The bill requires a health plan issuer, beginning in July 2020, to release specific information to a requesting group policyholder. This information includes, net claims data paid or incurred by month, monthly enrollment data, monthly prescription claims information, and, for paid claims over \$30,000, the amount paid toward each claim and claimant health condition. The bill has passed the Senate and is waiting under the black line in the House.

#### **Senate Bill 11 – Ohio Fairness Act**

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

### House Bill 21 – Unemployment Comp: Mass Layoffs

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

### House Bill 34 – State and Local Minimum Wage Increase

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

### House Bill 91 – Family Medical Leave

The bill would establish family and medical leave insurance benefits. The bill has had one hearing in the House.

### 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.



May 22, 2019

The Honorable Paul Zeltwanger  
Chairman  
House Economic and Workforce Development Committee  
Ohio House of Representatives  
77 S. High St., 12<sup>th</sup> floor  
Columbus, OH 43215

**RE: House Bill 2 – Written Proponent Testimony**

Dear Chairman Zeltwanger:

Industry Sector Partnerships are a proven workforce development strategy that put employers in the driver's seat and have demonstrated effectiveness in addressing skills gaps across the country. Manufacturers, like ours within a regional labor market are working together to influence alignment around common solutions with education and training, economic and workforce development, and community organizations.

It is with that background we collectively write in support of House Bill 2. House Bill 2 requires the Director of Development Services Agency to develop a grant program to support regional industry sector partnerships in consultation with the Governor's Office of Workforce Transformation. This support from the state can be the difference maker for any one of our organizations.

Our sector partnerships work with our regional partners to create career pathways in manufacturing to ensure that our students and potential makers receive the exposure, education, and training to have successful manufacturing careers and that our manufacturers have the talent pipelines to support their continued business success and growth.

House Bill 2 also provides for grant programs that will lead to employees and potential employees receiving industry recognized credentials. These important credentials are used by manufacturers to ensure that prospective employees have the right training to participate in today's high-tech manufacturing operations.

Our sector partnerships appreciate the time and effort Representatives Cross and Lepore-Hagan have invested in crafting this legislation. We also appreciate the work down by the DeWine administration especially the Lt. Governor and the Office of Workforce Transformation for recognizing the importance and the value of industry sector partnerships.

Sincerely,

Rob Brundrett  
The Ohio Manufacturers'  
Association

Alice Cable  
Alliance for Working Together  
Foundation

Jenny Stupica  
ConxusNEO

Angelia Erbaugh  
Dayton Region  
Manufacturers Association

Jeff Sprague  
Greater Lima Region, Inc.

Ryan Bixler  
Lorain County Manufacturing  
Sector Partnership

Shawn Hendrix  
Central Ohio Manufacturing  
Partnership

Jessica Borza  
Mahoning Valley  
Manufacturers Coalition

Frank Gibson, Jr.  
North Central Ohio Region  
Industry Manufacturers  
Workforce Alliance

Erv Howard  
North Central Workforce  
Alliance of Ohio

Kip Winzler  
Northwest Ohio  
Manufacturing Alliance

Debby Combs  
Partners for a Competitive  
Workforce

Tony Waterson  
West Central Ohio  
Manufacturing Partnership

Adam Snyder  
Workforce Connect  
Manufacturing Sector  
Partnership – Cuyahoga  
County

Scot McLemore  
OMA Manufacturing Sector  
Partnership Network  
Leadership

Sara Tracey  
Appalachian Ohio  
Manufacturers' Coalition

# 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!**



www.lsc.ohio.gov

# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

**H.B. 2**  
**133rd General Assembly**

## Bill Analysis

**Version:** As Introduced

**Primary Sponsors:** Reps. Cross and Lepore-Hagan

Christopher Edwards, Attorney

### SUMMARY

- Creates the TechCred Program to provide reimbursements to eligible employers for training costs for both incumbent and prospective employees to earn a microcredential, which generally is a certificate program or other industry-recognized credential that may be completed in one year or less.
- Creates the Individual Microcredential Assistance Program to allow an eligible individual to apply to the Director of Development Services for a grant to pay for training costs to earn a microcredential.
- Requires the Director to develop a grant program to support regional industry sector partnerships in consultation with the Governor's Office of Workforce Transformation.
- Makes an appropriation.

### DETAILED ANALYSIS

#### TechCred Program

The bill creates the TechCred Program to provide reimbursements to eligible employers for training costs for incumbent and prospective employees to earn a microcredential. A "microcredential" is a certificate program or other industry-recognized credential that:

1. An individual may complete in one year or less; and
2. The Chancellor of Higher Education includes on the inventory of certificate programs and industry-recognized credentials offered at state institutions of higher education and Ohio technical centers that align with in-demand jobs in Ohio.

The Development Services Agency must develop the TechCred Program in consultation with the Governor's Office of Workforce Transformation and the Department of Higher Education.<sup>1</sup>

### **Employer eligibility**

For an employer to be eligible to participate in the TechCred Program, the employer must meet all of the following requirements:

1. Be registered to do business in Ohio;
2. Be current on all tax obligations to the state;
3. Be in compliance with all environmental regulations applicable to the employer.<sup>2</sup>

### **Reimbursement applications**

An eligible employer seeking reimbursement for training costs for an incumbent or prospective employee under the TechCred Program must submit an application to the Director of Development Services. The application must include all of the following information for each employee:

1. The employee's name and position at the time of submitting the application or the position for which the employee will be qualified after earning the microcredential;
2. The training provider from which the employee received the training;
3. The cost incurred by the employer for the training;
4. Evidence that the employee earned a microcredential;
5. The following information, depending on whether the employee is an incumbent or prospective employee at the time of receiving the training:
  - a. For an incumbent employee, evidence that the employer increased the employee's annual wage by at least double the amount of the reimbursement the employer requested for that employee after the employee completed the microcredential;
  - b. For a prospective employee, evidence that the employer hired the employee for a position located in Ohio after the employee completed the microcredential.

An eligible employer may only apply for reimbursement for training costs for incumbent or prospective employees who are Ohio residents.<sup>3</sup>

### **Application approval**

The Director must approve reimbursement applications based on the priority guidelines established by the Director. The Director must calculate the amount of a reimbursement as the

---

<sup>1</sup> R.C. 122.178, by reference to R.C. 3333.94, not in the bill.

<sup>2</sup> R.C. 122.178(C).

<sup>3</sup> R.C. 122.178(C) and (D).

total amount of the costs for all employees receiving the training. For each microcredential an employee receives, the employer receives at least \$500 but not more than \$2,000.<sup>4</sup>

### **Director powers and duties**

The bill requires the Director to do all of the following regarding the operation of the TechCred Program:

1. Create a reimbursement application;
2. Establish guidelines for prioritizing approval for reimbursement applications, including the efficiency of a wage increase for an incumbent employee or expected wage for a prospective employee;
3. Establish additional requirements for an employer to be eligible for a reimbursement;
4. Create a website with the application for and information regarding the TechCred Program and the Individual Microcredential Assistance Program described below.

The bill allows the Director, in consultation with the Chancellor, to adopt rules as the Director considers necessary to administer the program, including designating eligible training providers for the purposes of the TechCred Program and the Individual Microcredential Assistance Program.<sup>5</sup>

### **Appropriation**

The bill appropriates \$14,700,000 in FY 2020 and FY 2021 for reimbursements under the TechCred Program. The following amounts are awardable in each fiscal year to businesses depending on the number employees employed by the business:

1. For businesses with 50 or fewer employees, not less than \$2,500,000;
2. For businesses with 200 or fewer employees, not less than \$2,500,000, in addition to the minimum amount awardable to businesses with 50 or fewer employees; and
3. For businesses with 200 or more employees, not less than \$2,250,000.<sup>6</sup>

### **Individual Microcredential Assistance Program**

The bill creates the Individual Microcredential Assistance Program (IMAP Program) to allow an eligible individual to apply to the Director for a grant to pay for training costs to earn a microcredential. The maximum grant amount awardable under the IMAP Program is \$5,000.<sup>7</sup>

---

<sup>4</sup> R.C. 122.178(D)(2).

<sup>5</sup> R.C. 122.178(E) and (F).

<sup>6</sup> Section 2(A).

<sup>7</sup> R.C. 122.179(B) and (D).

The Director may adopt rules as the Director considers necessary to implement the IMAP Program.<sup>8</sup>

### **Grant applications**

An individual applying for a grant under the IMAP Program must include all of the following information in the grant application:

1. The microcredential that the individual is receiving training to earn;
2. The training provider from which the individual is receiving training;
3. The cost of the training.

The bill requires the Director to make the grant application available on the OhioMeansJobs website and the websites maintained by the Development Services Agency, the Governor's Office of Workforce Transformation, and the Departments of Higher Education and Education.<sup>9</sup>

### **Grant disbursement and recoupment**

If the Director approves a grant application, the Director must disburse half of the grant amount to the training provider identified in the individual's grant application on behalf of the individual who applied before beginning training. To receive the remaining grant funds, the training provider must submit evidence that the individual has completed half of the required training and of the individual's enrollment in the remaining portion of the training. After receiving that evidence, the Director must disburse the remaining grant funds to the training provider. (In what appears to be a drafting error, the bill incorrectly uses "disperse" rather than "disburse.")

If an individual fails to complete the training and earn a microcredential from the training provider, the provider may seek to recover half of the grant amount awarded to an individual under the IMAP Program. The provider may recover only half of the grant amount from the individual regardless of the amount of training the individual completed.<sup>10</sup> However, because the grant amount is directly awarded to the provider and not the individual, the practical effect of the provision is unclear.

### **Appropriation**

The bill appropriates \$14,700,000 in FY 2020 and FY 2021 for grants awarded under the IMAP Program.<sup>11</sup>

---

<sup>8</sup> R.C. 122.179(F).

<sup>9</sup> R.C. 122.179(A) and (C) , by reference to R.C. 6301.01, not in the bill.

<sup>10</sup> R.C. 122.179(D) and (E).

<sup>11</sup> Section 2(B).

## Industry sector partnership grant program

The bill requires the Director to develop a grant program to support regional industry sector partnerships in consultation with the Governor's Office of Workforce Transformation. An "industry sector partnership" is a collaborative relationship between one or more employers and one or more school districts, state institutions of higher education, or Ohio technical centers.<sup>12</sup> The Director may adopt rules as the Director considers necessary to administer the program.<sup>13</sup>

### Grant applications and awards

Under the bill, the Director must establish a system for evaluating and scoring grant applications. The Director must award a grant to an industry sector partnership that submits a complete application for funding that does both of the following:

1. Describes the activities under "**Permissible grant uses,**" below, that the partnership will use the grant funds to support; and
2. Meets the scoring criteria established by the Director.<sup>14</sup>

### Permissible grant uses

An industry sector partnership may use a grant awarded under the program to do any of the following activities:

1. Hire employees to coordinate industry sector partnership activities;
2. Develop curricula or other educational resources to support the industry sector partnership;
3. Market the industry sector partnership and opportunities the partnership creates for workforce development activities;
4. Any other activity approved under rules adopted by the Director.<sup>15</sup>

### Appropriation

The bill appropriates \$2,500,000 in FY 2020 and FY 2021 for grants under the program.<sup>16</sup>

### Operating costs appropriation

The bill appropriates \$600,000 in FY 2020 and FY 2021 to cover the operating costs of the TechCred and IMAP Programs.<sup>17</sup>

---

<sup>12</sup> R.C. 122.1710(A) and (B), by reference to R.C. 3333.94 and 3345.011, not in the bill.

<sup>13</sup> R.C. 122.1710(D).

<sup>14</sup> R.C. 122.1710(C).

<sup>15</sup> R.C. 122.1710(B).

<sup>16</sup> Section 2.

<sup>17</sup> Section 2(C).

---

## HISTORY

Action	Date
Introduced	05-13-19

---



## Human Resources

### **U.S. House Passes Equality Act; Bill Moves to Senate** **May 24, 2019**

Late last week, the U.S. House of Representatives voted 236-173 to approve legislation that would make it illegal to discriminate against people on the basis of sexual orientation.

The Equality Act would amend the Civil Rights Act of 1964 and other statutes to prohibit discrimination on the basis of sexual orientation or gender identity in employment, public education, access to credit, jury service, federal funding, housing, and public accommodations. The bill now moves to the Senate for consideration.

The OMA joined a **large coalition** of business organizations including the National Association of Manufacturers and the U.S. Chamber of Commerce in supporting the bill. To see how Ohio's delegation voted, **click here**. 5/20/2019

### **Separate Drug-Free Programs Recommended for DOT and Non-DOT Mandated Employees** **May 17, 2019**

From OMA Connections Partner Working Partners®, we learn that operating a comprehensive drug-free workplace program can be challenging in a blended workforce with employees who are mandated by the Department of Transportation (DOT) and those who are not.

Employers frequently ask why they can't just have one policy/program that covers both CDL drivers subject to DOT and employees who aren't DOT-mandated. For practical and operational reasons, it is recommended that employers have separate policies that work in concert.

For more advice regarding how to cover your entire workforce with your drug-free policy and plan, **read on**. 5/10/2019

### **Court Orders Employer Reporting on Pay Data by Race, Gender by Sept. 30** **May 3, 2019**

OMA Connections Partner Calfee has provided **another update** on the Equal Employment Opportunity Commission's (EEOC) 2016 requirement that ordered covered employers to report compensation information by race, ethnicity, and gender in their Employer Information Report EEO-1 reports. The Trump administration suspended these provisions in 2017.

Late last week, a U.S. district judge for the District of Columbia ruled that — in addition to submitting **EEO-1 surveys** on employee demographic data by May 31 — covered employers (e.g., those with at least 100 employees, or federal contractors with at least 50 workers) must also report employee pay data by September 30. More than 60,000 employers would be affected if the judge's ruling stands.

This week, as a result of the **April 25 court order**, the EEOC **announced** that both calendar year 2018 and calendar year 2017 Component 2 EEO-1 pay data will be due September 30, 2019. The collection period for 2017 and 2018 data will open mid-July. This is a developing issue. The OMA will keep you apprised as more information becomes available. 5/2/2019

### **SSA Issuing No-Match Letters to Employers** **May 3, 2019**

From OMA Connections Partner Dinsmore: "The Social Security Administration (SSA) confirmed it resumed issuing **"No-Match Letters"** in March 2019. Officially called Employer Correction Requests, No-Match Letters inform an employer that the

information reported on an individual employer's W-2 form (or an employer's quarterly tax filing) does not match the SSA's records. The SSA has indicated the letters are issued to correct its database and to ensure employee earnings are accurately credited to their Social Security records."

Read **more about this** from Dinsmore. *4/29/2019*

### **OMA Joins Alliance to Help Battle Opioid Misuse May 3, 2019**

OMA has joined the Opioid Education Alliance to help spread opioid misuse education and prevention messages through the Denial, OH campaign. Denial, OH public service announcements are set in the fictional town of Denial, OH, where residents are "in denial" that their children could become addicted to opioids.

The **Denial, OH website** has resources to learn about the proper use and disposal of prescription opioids, and how to safely secure prescriptions. *4/29/2019*

### **U.S. Supreme Court to Hear Sexual Orientation Cases May 3, 2019**

From OMA Connections Partner Frantz Ward: "This week, the U.S. Supreme Court agreed to consider whether Title VII of the Civil Rights Act of 1964 prohibits workplace discrimination on the basis of gay and transgender status.

"The Court will consider this issue in the context of three cases: Two involve claims that employees were fired because of their sexual orientation. In the third case, the plaintiff claims she was fired because she was transgender and preparing to live openly as a woman. The Court will hear the cases during the nine-month term that begins this October."

More about this **from Frantz Ward here**. *4/29/2019*

### **RALI Promotes Drug Take-Back Day April 26, 2019**



The Rx Abuse Leadership Initiative (**RALI**) — an OMA-supported alliance of local, state and national organizations committed to finding solutions to Ohio's opioid crisis — is taking an active role in National Drug Take-Back day, set for tomorrow (Saturday), April 27. **Click here** to find a take-back location near you. *4/24/2019*

### **What's the Story on CBD Oil? Legal or Not? April 26, 2019**

We are hearing a lot these days about cannabidiol (CBD) oil, a substance derived from the hemp or cannabis plant and being sold as a form of medication. Is it legal in Ohio? Here's a **short video** from OMA Connections Partner Working Partners® with information of interest to businesses operating drug-free programs. Contact **Working Partners®** with drug-free program questions. *4/25/2019*

### **EEOC to Delay Reporting on Pay by Race, Gender April 19, 2019**

OMA Connections Partner **Frantz Ward** has provided an **update** on Employer Information Report EEO-1. Last month, a federal court ordered the immediate reinstatement of the Equal Employment Opportunity Commission's (EEOC) pay data collection provisions, which would require covered employers to report compensation information by race, ethnicity, and gender in

their EEO-1 report. The Trump Administration had suspended these Obama-era provisions in 2017. According to Frantz Ward's analysis, the EEOC is not equipped to begin pay data collection. As a result, the commission intends to delay the data collection until Sept. 30, 2019, at the earliest. It is possible the court's March ruling could be appealed.

The firm advises employers to submit the Component 1 EEO-1 report data as required by May 31, 2019. At the present time, it is not clear when Component 2 pay data will need to be submitted, but employers should be prepared to submit the data at a later date. We will continue to monitor this developing situation. 4/15/2019

### **Drug-Abuse Educational Trailer to Tour Ohio April 12, 2019**

The Rx Abuse Leadership Initiative of Ohio (RALI OH) will bring the RALI CARES educational trailer to a number of cities across Ohio, including Columbus, Marysville, Circleville, New Lexington, Zanesville, Ashland, Medina, Canton, Northfield, Toledo and Dayton.

Set up as a mock teenage bedroom, the trailer exhibit educates families about the possible warning signs of substance abuse. It is a part of RALI OH's ongoing efforts to combat the opioid epidemic. More [here](#). 4/10/2019

### **Ohio 46th in Health Value April 5, 2019**

The Health Policy Institute of Ohio's "**Health Value Dashboard**" is a tool to track Ohio's progress towards health value, a composite measure of Ohio's performance on population health outcomes and health care spending. The dashboard examines Ohio's rank and trend performance relative to other states and highlights gaps in outcomes between

groups for some of Ohio's most at-risk populations.

Ohio ranks 46<sup>th</sup> among the states and the District of Columbia in the index. Ohio has high rates of addiction and tobacco use, problems with access to care in major areas of the state, and insufficient spending on prevention, says the report. 4/3/2019

### **DOL's Proposed Rule Updates the Meaning of "Regular Rate" for the Modern Workplace April 5, 2019**

From OMA Connections Partner Frantz Ward: "(On March 28), the U.S. Department of Labor ("DOL") announced a proposed rule to update regular rate calculations under the Fair Labor Standards Act ("FLSA"). Under the FLSA, employers must pay overtime pay to employees who work more than 40 hours in a week. The overtime pay rate is one and a half times an employee's "regular rate" of pay. However, as many employers know, calculating an employee's regular rate is not as straightforward as it may seem."

Read [more from Frantz Ward](#) about what the DOL proposes. 3/29/2019

### **DOL Announces Proposed Joint Employer Rule April 5, 2019**

From OMA Connections Partner Dinsmore: "On April 1, 2019, the Department of Labor (DOL) announced it will publish a notice of proposed rulemaking to amend its existing regulations, ... , regarding whether a business qualifies as a joint employer under the Fair Labor Standards Act (FLSA). The FLSA requires covered employers to pay nonexempt employees at least the federal minimum wage for all hours worked and overtime for all hours worked more than 40 in one workweek. The proposed rule would clarify when additional businesses are jointly and severally liable with the employer for the employee's wages under the FLSA."

Read more about the **proposed rulemaking here**. 4/3/2019

### **FMLA Designation is Not Discretionary for Employer or Employee March 29, 2019**

From OMA Connections Partner Clark Schaefer Hackett: “The U.S. Department of Labor (DOL) issued a new **Opinion Letter** on March 14, 2019 clarifying that an employer cannot delay the designation of FMLA-qualifying leave as FMLA leave. The question initially posed to the DOL was whether an employer may permit employees to use or exhaust some or all available paid time off (vacation, sick or other leave) prior to designating leave as FMLA-qualifying, even when the leave is clearly FMLA-qualifying.”  
Read **more about this** from Clark Schaefer Hackett. 3/25/2019

### **Medical Marijuana Up & Running in Ohio – Sign up for Employer Webinars March 29, 2019**

From OMA Connections Partner, *Working Partners<sup>(R)</sup>*: “Last week the Ohio Marijuana Control Board granted three more medical marijuana dispensaries certificates of operation. This means Ohio now has 12 of the 56 dispensaries up and running. In light of things ramping up, we are once again holding our popular *Yes. No. Maybe? Medical Marijuana & Your Drug-Free Workplace Program* webinars. “Two dates are scheduled, April 11 and May 9.

“These webinars have been well received and attendees have reported having their eyes opened to everything they hadn’t considered regarding an employee’s use of medical marijuana and how their business could be impacted.”

**Learn more and register here**. 3/28/2019

### **Senate Holds Hearing on Bill to Add Sexual Orientation to Civil Rights Law**

**March 15, 2019**

This week the Senate held its first hearing on The Ohio Fairness Act, **Senate Bill 11**, which bill sponsor, Senator **Nickie Antonio** (D-Lakewood), described as updating the Ohio Civil Rights Law by adding sexual orientation and gender identity to existing protections in matters of housing, employment and in the public sphere.

The bill also upholds all existing religious exemptions under the Ohio Civil Rights Law.

Senator Antonio **testified**: “Ohio is one of 28 states that do not have clear non-discrimination protections for members of the LGBTQ community.”  
Similar legislation has been introduced over the last several General Assemblies. 3/14/2019

### **DOL Issues Notice of Proposed Rulemaking to Update Overtime Regulations March 15, 2019**

On March 7, 2019 the Department of Labor (DOL) **announced** a proposed rule that would make more than a million more American workers eligible for overtime. Under currently enforced law, employees with a salary below \$455 per week (\$23,660 annually) must be paid overtime if they work more than 40 hours per week. Workers making at least this salary level may be eligible for overtime based on their job duties. This salary level was set in 2004.

This proposal would boost the proposed standard salary level to \$679 per week (equivalent to \$35,308 per year). Above this salary level, eligibility for overtime varies based on job duties.

The proposal maintains overtime protections for police officers, fire fighters, paramedics, nurses, and laborers including: non-management production-line employees and non-management

employees in maintenance, construction and similar occupations such as carpenters, electricians, mechanics, plumbers, iron workers, craftsmen, operating engineers, longshoremen, and construction workers. The proposal does not call for automatic adjustments to the salary threshold.

Here is a post from **OMA Connections Partner Roetzel** that contains additional details on the proposal. *3/11/2019*

### **Employers May Have to Provide Pay Data on EEO-1s March 15, 2019**

From OMA Connections Partner **Frantz Ward**: “Private employers with more than 100 employees previously have been required to report workforce data across 10 job categories broken down by race, gender and ethnicity. The data is reported annually by October 1 to the U.S. Equal Employment Opportunity Commission (“EEOC”) on the EEO-1 form, which currently comprises one page for each facility of an employer. “In the summer of 2016, during the Obama administration, the EEOC expanded the EEO-1 effective March 31, 2018, to require employers to report the racial and gender

makeup of employees in each of the 10 job categories within 12 pay ranges. ...

“In 2017, during the Trump administration, the Office of Management and Budget (“OMB”) issued a stay on the pay data portions of the revised EEO-1, as business groups were concerned that the additional requirements would be too burdensome and costly.

” ... On March 4, 2019, Judge Tanya Chutkan ruled that the OMB’s action in staying implementation of the revised EEO-1 was an “arbitrary and capricious” decision that lacked any “reasoned explanation.” The Court then vacated the OMB’s stay and ordered the EEOC’s expanded EEO-1 to be in effect.

“Prior to the D.C. Court’s ruling, the EEO-1 filing deadline for the revised EEO-1 had been set at May 31, 2019. It is not clear whether employers will have to comply with the new requirements by the current deadline of May 31, but it is anticipated that the OMB will appeal the decision, and that the EEOC will soon issue guidance regarding the Court’s March 4 ruling.”

Stay tuned. *3/11/2019*

**Human Resources, Health Care & Employment Law Legislation**  
**Prepared by: The Ohio Manufacturers' Association**  
**Report created on June 3, 2019**

- HB21**      **MASS LAYOFFS-UNEMPLOYMENT COMP** (HOLMES G, MILLER A) Regarding notices, resources, and benefits under the Unemployment Compensation Law when a mass layoff occurs.  
    **Current Status:** 2/12/2019 - Referred to Committee House Commerce and Labor  
    **State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-21>
- HB34**      **STATE-LOCAL MINIMUM WAGE** (KELLY B) To increase the state minimum wage and to allow municipalities, townships, and counties to establish higher minimum wage requirements.  
    **Current Status:** 2/12/2019 - Referred to Committee House Commerce and Labor  
    **State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-34>
- HB38**      **COMMERCIAL CREDIT REPORTING** (HILLYER B) To require a commercial credit reporting agency to provide credit reports to businesses and to establish a procedure whereby a business may dispute statements on the report.  
    **Current Status:** 6/4/2019 - House Financial Institutions, (Fourth Hearing)  
    **State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-38>
- HB78**      **PREVAILING WAGE-PUBLIC IMPROVEMENTS** (RIEDEL C, MANCHESTER S) To allow political subdivisions, special districts, and state institutions of higher education to elect to apply the Prevailing Wage Law to public improvement projects.  
    **Current Status:** 2/20/2019 - Referred to Committee House Commerce and Labor  
    **State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-78>
- HB91**      **FAMILY-MEDICAL LEAVE** (BOGGS K, BOYD J) To establish family and medical leave insurance benefits.  
    **Current Status:** 3/26/2019 - House Insurance, (First Hearing)  
    **State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-91>
- HB221**      **WAGE DISCRIMINATION COMPLAINTS** (BOYD J, CRAWLEY E) To require the Ohio Civil Rights Commission to establish a system for individuals to make anonymous complaints regarding wage discrimination.  
    **Current Status:** 6/4/2019 - House Civil Justice, (Second Hearing)  
    **State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-221>

- SB9**      **HEALTH PLAN CLAIM INFORMATION (HUFFMAN M)** To require health plan issuers to release certain claim information to group plan policyholders.  
**Current Status:** 5/7/2019 - **REPORTED OUT AS AMENDED**, House Insurance, (Third Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-9>
- SB11**      **PROHIBIT DISCRIMINATION-SEXUAL ORIENTATION, GENDER IDENTITY (ANTONIO N)** To enact the Ohio Fairness Act to prohibit discrimination on the basis of sexual orientation or gender identity or expression, to add mediation as an informal method that the Ohio Civil Rights Commission may use, and to uphold existing religious exemptions under Ohio's Civil Rights Law.  
**Current Status:** 5/22/2019 - Senate Judiciary, (Third Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-11>
- SB91**      **FAMILY AND MEDICAL LEAVE (MAHARATH T)** To establish family and medical leave insurance benefits.  
**Current Status:** 3/12/2019 - Referred to Committee Senate Insurance and Financial Institutions  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-91>
- SB92**      **WAGE DISCRIMINATION (MAHARATH T)** To enact the "Fair and Acceptable Income Required (FAIR) Act" and to revise the enforcement of the prohibitions against discrimination in the payment of wages.  
**Current Status:** 3/20/2019 - Senate General Government and Agency Review , (First Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-92>
- SB94**      **PREGNANT WORKERS (MAHARATH T)** To enact the "Ohio Pregnant Workers Fairness Act" to generally require employers to make reasonable accommodations for employees who are pregnant or breastfeeding.  
**Current Status:** 3/12/2019 - Referred to Committee Senate Government Oversight and Reform  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-94>
- SB149**      **EMPLOYEE WAGE HISTORY (MAHARATH T)** To prohibit employers from seeking a prospective employee's wage or salary history.  
**Current Status:** 5/13/2019 - Introduced  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-149>



**TO: OMA Government Affairs Committee**  
**FROM: Ryan Augsburger / Rob Brundrett**  
**RE: Safety and Workers' Compensation Report**  
**DATE: June 5, 2019**

---

### **Overview**

Five months into the new Administration and the BWC has already passed a 20% private employer rate cut starting this summer and announced \$1.5 billion back to employers.

The BWC is still pending in House committee. Typically, the bill would have been passed to the Senate by now. The House Finance Committee is in the process of holding hearings on the BWC budget and accepted a substitute version of the bill last week that PTSD coverage. The bill is required to be signed by the Governor before July.

### **Legislation and Rules**

#### **House Bill 79 – Industrial Commission Budget**

The often non-controversial Industrial Commission budget was finally moved out of the House last week with an 89-1 vote. The bill typical is a straight appropriation with no policy attached. The House waited until completion of the operating budget prior to finishing with the Industrial Commission budget. A quick Senate exit is expected with no major surprises.

#### **House Bill 80 – Bureau of Workers' Compensation Budget**

Administrator McCloud provided her initial testimony on the BWC budget to the House Insurance Committee in February. The budget bill has a 7% increase in funding due to the extra pay period in 2019. The Insurance Committee passed the bill out of committee with no changes. The bill was rereferred to the Finance Committee for more debate since it contains appropriations.

Last week the Finance Committee provided a substitute version which was accepted. Included in that version was PTSD coverage for first responders. The business community has long opposed the so-called mental/mental provision because it challenges the longstanding precedent that physical injuries are required to receive workers' compensation. The OMA is prepared to offer opposition testimony regarding the bill this week.

It is expected that the House will move the bill this week. This gives the Senate only a few short weeks to debate the bill prior to its end of June signature deadline.

### **BWC Agency Notes**

#### **Yet Another Billion Back**

Last month the BWC announced another billion back at OMA member Dynalab. The money would be Ohio's fifth investment return to private and public employers of at least \$1 billion since 2013 and sixth overall during that time. If approved manufacturers can begin expecting their checks later this year.

#### **Jim Hughes to Chair Ohio's Industrial Commission**

Gov. Mike DeWine appointed Jim Hughes of Upper Arlington (Franklin Co.) to the Industrial Commission of Ohio, which adjudicates workers' compensation disputes.

Hughes' term begins July 1, 2019 and will end June 30, 2025. He will serve as chair of the commission when his term commences.

A Republican, Hughes was a member of the Ohio State Senate from 2008 to 2016, as well as a member of the Ohio House from 2000 to 2008. He has worked an assistant prosecutor for Franklin County.

#### BWC Rebranding?

Administrator McCloud sent a letter to stakeholders asking for Ohio BWC rebranding suggestions and opinions.

#### BWC Drops OxyContin from Formulary

Earlier this year 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.

#### BWC Board Approves Largest Private Employer Rate Decrease in 60 Years

Earlier this year the Ohio Bureau of Workers' Compensation (BWC) Board of Directors approved a 20% reduction in the average premium rate it charges private employers, which is the largest rate cut in nearly 60 years.

Fewer workplace injuries and falling estimates of future medical costs are driving the recommendation.

The rate reduction is effective July 1 and is projected to save private employers \$244 million over premiums for fiscal year 2019.

Premiums paid to BWC not only cover health care and wages for injured workers, they support BWC's Safety & Hygiene Division, which offers grants, training, consultations and other services to help employers improve workplace safety.

The 20% rate cut represents an average statewide change. The actual premium paid by individual private employers depends on a number of factors, including the expected future claims costs in their industry, their company's recent claims history and their participation in various BWC rebate programs.

#### BWC Board Releases MCO Study

The board of directors recently heard a presentation on a second phase of a study of managed care organization (MCO) performance in the Ohio system.

Unlike 20 years ago when Governor Voinovich called the Ohio workers' compensation system the "silent killer of jobs," the Ohio system today is a national leader on any number of metrics, including medical.

However, that success comes at a cost. The study indicates that MCOs are paid 27% of total medical costs; meanwhile, benchmarks in from other programs are 15% of total costs for administrative costs.

That suggests a possible overpayment of \$70 to \$80 million for MCO services. Those costs, of course, are born by employers.

The BWC has established work groups to study this matter in detail.

#### 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.

#### 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.



**BEFORE THE FINANCE COMMITTEE  
OF THE OHIO HOUSE OF REPRESENTATIVES  
REPRESENTATIVE SCOTT OELSLAGER, CHAIRMAN**

**TESTIMONY  
OF  
ROB BRUNDRETT  
DIRECTOR, PUBLIC POLICY SERVICES  
THE OHIO MANUFACTURERS' ASSOCIATION**

**JUNE 4, 2019**

Mr. Chairman and members of the Committee, my name is Rob Brundrett. I am the Director of Public Policy Services for The Ohio Manufacturers' Association (OMA). Thank you for the opportunity to provide testimony today on House Bill 80. The OMA was created in 1910 to advocate for Ohio's manufacturers; today, it has nearly 1,400 members. Its mission is to protect and grow Ohio manufacturing.

Manufacturing is the largest of the Ohio's primary 20 industry sectors and contributes more than \$108 billion annually in GDP, according to the most recent federal data. This comprises nearly 18% of the state's economic output. More than 700,000 Ohioans work in manufacturing. In 2017, Ohio manufacturing employees earned, on average, more than \$74,000 in compensation, according to newly released figures.

Throughout the years, the OMA has consistently advocated for an efficient and effective workers' compensation system that benefits workers, employers, and the economy of the state.

The Ohio workers' compensation system was designed to compensate injured workers' physical injuries/illnesses and any mental conditions that arise as a result of such physical injuries/illnesses. The OMA has a history of opposing proposals that would permit PTSD compensation in cases in which there is no associated physical injury or illness. The adoption of a mental-only diagnosis would mark a significant change to the Ohio workers' compensation system.

Additionally, we are concerned about the potential expansion of workers' compensation beyond this provision's narrow target of first responders. We recognize that peace officers, firefighters, and emergency medical workers experience traumatic events. However, they are not alone in their willingness to undertake dangerous and essential jobs for the good of us all. If we erode the physical injury requirement for peace officers, firefighters, and emergency medical workers, it may be difficult to justify not doing the same for other professionals who seek equal treatment.

Once a fundamental parameter of the workers' compensation system – like the physical injury requirement – is compromised, the potential inroads into the program are endless. The result will be increased workers' compensation costs for public and private employers alike. The implications of those cost increases will be felt across the board and will impact Ohio's business climate. The increased costs could also affect our public employers' abilities to provide essential public safety functions.

In addition, given that mental health benefits have parity with physical health benefits under health insurance plans, it is important to have a broader conversation about

where PTSD arising apart from a workplace physical injury/illness is most effectively and appropriately financed – private health insurance, a special workers’ compensation insurance PTSD fund outside of the current system, or a completely different model.

The bill also contains several changes restricting an employer’s right to negotiate settlement terms. Settlements have proven to be useful tools in the workers’ compensation system. Infringing on the rights of the employer to negotiate settlement terms will have the unintended effect of eliminating the entire process. The purpose of settlement is to fully resolve an issue for all parties. Limiting an employer’s ability to negotiate a settlement will only create more work, uncertainty and cost in the system.

Finally, the bill proposes creating an entirely new section of the Ohio Revised Code directing the superintendent of industrial compliance to establish the definition of employee and independent contractor for purposes of not only workers’ compensation, but also unemployment and tax purposes. While unemployment and tax are certainly outside the scope of a workers’ compensation bill, the proposed language unnecessarily creates an additional hearing process for employees to contest misclassifications before a tribunal that historically does not have the experience across these industries. If the superintendent finds a misclassification has occurred, its decision is not only binding on other administrative agencies, the superintendent “shall” assess a \$500 per day penalty on employers – even in the case of an honest mistake.

Thank you for the opportunity to testify. I am joined by OMA workers’ compensation counsel Sue Roudebush, we would be happy to answer any questions from the committee.



May 20, 2019

The Honorable Larry Householder  
Speaker  
Ohio House of Representatives  
77 S. High St., 14<sup>th</sup> floor  
Columbus, Ohio 43215

The Honorable Tom Brinkman  
Chairman, House Insurance Committee  
Ohio House of Representatives  
77 S. High St., 11<sup>th</sup> floor  
Columbus, Ohio 43215

Dear Speaker Householder and Chairman Brinkman:

Our organizations, on behalf of our members, are strongly opposed to amending House Bill 80, the BWC operating budget, with respect to PTSD compensation where the PTSD is not also accompanied by a physical injury or illness.

The Ohio workers' compensation system was designed to compensate injured workers' physical injuries/illnesses and any mental conditions that arise as a result of such physical injuries/illnesses. Our organizations have a history of opposing proposals that would permit PTSD compensation where there is no associated physical injury or illness. The adoption of a mental-only diagnosis would create such a significant change to the Ohio workers' compensation system that the concept deserves standalone legislative consideration.

Expanding PTSD coverage in the workers' compensation will lead to cost increases to Ohio's public and private employers and deserves a full impact analysis. In addition, given that mental health benefits have parity with physical health benefits under health insurance plans, it is important to have a broader conversation about where PTSD arising apart from a workplace physical injury/illness is most effectively and appropriately financed -- health insurance, workers' compensation insurance, or a completely different model.

Therefore, we would respectfully ask that the House of Representatives reject any amendments to the BWC budget bill related to workers' compensation coverage for PTSD at this time.

cc: Niraj Antani, Vice Chair, House Insurance Committee  
Scott Oelslager, Chairman, House Finance Committee

**FOR IMMEDIATE RELEASE:**

May 20, 2019

**MEDIA CONTACTS:**

Dan Tierney: 614-644-0957  
Jill Del Greco: 614-644-0957

## **Governor DeWine, BWC Propose \$1.5 Billion for Ohio Employers**

(COLUMBUS, Ohio)—Ohio Governor Mike DeWine and Ohio Bureau of Workers' Compensation (BWC) Administrator/CEO Stephanie McCloud today proposed giving \$1.5 billion to Ohio employers this year following strong returns on the agency's investments.

"This is great news for Ohio," said Governor DeWine. "This money will help Ohio employers expand their businesses, create jobs, and invest in capital improvements. Ohio's economy is strong, and this proposal reinforces our goal of creating more jobs in the state."

In addition to money for private businesses, the \$1.5 billion proposal [also includes money for public employers](#), including approximately \$114 million for local governments and around \$50 million for public schools.

The money would be Ohio's fifth investment return to private and public employers of at least \$1 billion since 2013 and sixth overall during that time.

"Our investment portfolio is strong, our injury claims are falling, and our safety and wellness initiatives are making a difference," said Administrator McCloud. "All of these actions mean big savings for employers, and we're delighted to share this success with them."

State law requires businesses to carry workers' compensation coverage to protect workers who suffer injuries or illnesses on the job. The employers' premiums are invested to grow the fund that supports injured worker claims. When investment returns are strong, the agency shares a portion of the investments with qualifying employers in the form of a dividend.

The \$1.5 billion dividend equals 88 percent of the premiums employers paid for the policy year that ended June 30, 2018 (calendar year 2017 for public employers). BWC insures roughly 242,000 public and private employers.

Governor DeWine and Administrator McCloud announced their proposal this morning at Dynalab Electronic Manufacturing Services in Reynoldsburg.

"I really appreciate this news today and what Governor DeWine and BWC are doing to help businesses succeed," said Dynalab, Inc. President Gary James. "To compete in the global market, we must be on the cutting edge at all times and that takes resources. The check we'll receive in late summer will definitely help."

McCloud will present the proposal to the BWC Board of Directors on Wednesday during board committee meetings. A vote would follow at the board's June 28 meeting. If approved, checks would be issued to employers in September.



## BWC: A Partner for Economic Growth in Ohio

Initiatives since 2011 mean \$10 billion more for Ohio employers

### A grand bargain

Referred to as the Grand Bargain, workers' compensation systems were created to ensure injured workers received care and businesses were protected from lawsuits. Workers' compensation in Ohio has proven to be a grand bargain for businesses and workers. Since 2011, BWC has saved employers \$10 billion in workers' comp costs and seen injury rates and claims drop dramatically.

### A force for economic growth

Ohio's employers need simplicity and savings. From a one-time-forgiveness program that erases penalties for simple mistakes to a new billing system that offers greater flexibility in making payments, BWC is making life simpler for employers. And, with overall rate decreases averaging 35 percent for private employers and 42 percent for public employers, along with \$5.7 billion in dividends, Ohio business are seeing tremendous savings.

### A champion of safety

Safe workplaces mean lower premiums and, more importantly, more Ohioans returning to home safely each night. BWC has invested millions of additional dollars to make workplaces safer, and injury claims dropped to 85,000 in 2018, down from 260,000 in 2000. Ohio's injury rates are currently below the national average and lower than all its surrounding states.

### By the numbers

Premium reductions, dividends, safety grants and credits to modernize BWC's billing system have resulted in Ohio employers saving \$10 billion.

Employer rate levels	Rate cuts
Private employers	Average rate 35% lower than in place on Dec. 31, 2010 Cumulative difference in premiums collected - \$2,341,000,000
Taxing districts	Average rate 42% lower than in place on Dec. 31, 2010 Cumulative difference in premiums collected - \$545,000,000
<b>Combined total</b>	<b>Cumulative difference in premiums collected</b> <b>\$2,886,000,000</b>

Dividends	Dividends
Fiscal year 2013	\$965,635,975
Fiscal year 2015	\$1,013,171,352
Fiscal year 2016 (counties)	\$15,172,667
Fiscal year 2017	\$1,014,363,197
Fiscal year 2018	\$1,261,295,979
Fiscal year 2019 (if approved)	\$1,500,000,000
<b>Dividends total</b>	<b>\$5,769,639,170</b>

Safety grants								
Year	2011	2012	2013	2014	2015	2016	2017	2018
Amount	\$3,718,122	\$2,929,124	\$3,993,469	\$14,841,235	\$14,956,903	\$14,999,977	\$12,650,128	\$9,127,504
<b>Total</b>								<b>\$77,216,462</b>

Transition to prospective billing premium credits	Credits
Private employers	\$1,064,000,000
Public taxing district employers	\$196,000,000
<b>Transition total</b>	<b>\$1,260,000,000</b>
<b>Total amount BWC has returned or saved Ohio employers (since 2011)</b>	<b>\$9,992,855,632</b>

## Safety & Workers' Compensation

### PTSD Benefits Included in New Version of BWC Budget May 31, 2019

The House Finance Committee this week accepted a new substitute version of the Ohio Bureau of Workers Compensation (BWC) budget, **House Bill 80**. The **latest version** of HB 80 is full of policy changes — a stark departure from the original legislation, which was a clean appropriations measure. The most troubling inclusion is workers compensation benefits for mental or emotional impairment caused by post-traumatic stress disorder (PTSD), even if there is no physical injury. While the PTSD coverage would be reserved for first responders, the provision would still create a fundamental shift from Ohio's current workers' compensation law, which requires a physical injury before allowing any mental health claims.

A similar PTSD measure in 2017 was estimated to cost up to an additional \$98.4 million annually in claims. For comparative purposes, public entities paying into the State Insurance Fund at that time paid a combined \$190 million in total annual premiums.

The OMA and other business groups have long opposed the expansion of workers' compensation benefits beyond physical injuries. The OMA has offered the General Assembly a variety of solutions to ensure that Ohio's first responders receive necessary care without expanding workers' compensation laws.

Other major **changes** in sub HB 80 include revisions to Temporary Total Disability, employee misclassification, settlement of claims, and voluntary abandonment. The committee is expected to move the bill early next week. *5/30/2019*

### \$1.5B in Workers' Comp Payments Proposed for Ohio Employers May 24, 2019



With workplace injuries declining and investment returns increasing, Gov. Mike DeWine and Ohio Bureau of Workers' Compensation (BWC) Administrator/CEO Stephanie McCloud have proposed rebating \$1.5 billion to Ohio employers this year.

If the rebate is approved by the BWC board of directors, checks will be issued to employers in September.

The \$1.5 billion amounts to about 88% of employer premiums. This would be Ohio's fifth investment return to employers of at least \$1 billion since 2013, and sixth overall during that time. The BWC has also approved a 20% cut in premiums, the largest reduction in 60 years. *5/20/2019*

### OSHA Reviews Lockout/Tagout Standard May 24, 2019

OSHA **announced last week** it is requesting information that could lead to a possible update to the Control of Hazardous Energy (Lockout/Tagout) standard. The agency is interested in comments on the use of control circuit-type devices to isolate energy, as well as the evolving technology for robotics. OSHA wants feedback regarding how employers have been using control circuit devices, as well as new risks of worker exposure to hazardous energy due to increased interaction with robots. The standard specifies that control circuit devices cannot be used as energy-isolating devices, but the agency recognizes recent technological advances may have improved the safety of control circuit-type devices.

Comments must be submitted on or before August 18, 2019. Comments and materials may be **submitted electronically** or by facsimile or mail. See the **Federal Register notice** for submission details. *5/18/2019*

**OSHA Visits: What to Expect? How to Manage?**  
**May 24, 2019**

On June 6 at 10 a.m., the OMA will offer a webinar to help employers prepare for an OSHA inspection. We'll cover OSHA's typical inspection priorities, steps to prepare for an inspection, your possible responses to potential citations, and more. Our subject matter expert is **Nate Burgei**, a Certified Industrial Hygienist (CIH) and Certified Safety Professional (CSP) with Safex, an OMA Connections Partner. **Register here.** 5/23/2019

**OMA Members Hear from OSHA Area Directors**  
**May 24, 2019**

The OMA Safety and Workers' Compensation Committee this week heard from Ohio's **four area directors** from OSHA. Howie Eberts (Cleveland), Ken Montgomery (Cincinnati), Larry Johnson (Columbus), and Kim Nelson (Toledo) provided members with an in-depth look at how best to handle relations with OSHA, as well as tips and ideas to ensure manufacturer safety.

The four officials welcomed the opportunity to meet with the OMA and its members, and were able to answer a multitude of questions regarding the agency. 5/23/2019



*OMA's Safety and Workers' Compensation Committee heard directly from OSHA area directors on May 23.*

**House Continues Debate on BWC Budget Bill**  
**May 24, 2019**

This week, the House Insurance Committee passed the Ohio Bureau of Workers' Compensation (BWC) budget bill, **House Bill**

**80**, out of committee without making changes to the original language. It was widely speculated the committee would accept a substitute version of the legislation. Instead, the bill was quickly passed and referred to the House Finance Committee, where Administrator Stephanie McCloud gave testimony on Thursday.

A sub bill is expected next week. Rumors are swirling around the Statehouse that the new version of HB 80 may contain provisions to provide PTSD coverage for first responders who do not suffer an accompanying physical injury. The OMA and other business organizations have long advocated against any such change, and this week **sent a letter** to the Speaker urging the House to keep any new PTSD provisions out of the bill. 5/23/2019

**Study: Ohio Workers' Compensation Costs Competitive**  
**May 17, 2019**



Ohio employers pay, on average, the 16th lowest workers' compensation premium rates in the nation. That's according to a **recent study** by the Oregon Department of Consumer and Business Services, which compared the workers' comp premium rates of all 50 states and the District of Columbia. Over the years, the OMA has worked hard to advocate for more competitive workers' comp costs. As of 2018, Ohio's index rate of \$1.40 per \$100 of payroll was 82% of the national median, according to the Oregon study. Meanwhile, New York had the most expensive index rate at \$3.08 per \$100 of payroll, while North Dakota was least expensive at \$0.82.

As a reminder, the OMA is Ohio's only workers' compensation third-party administrator that exclusively serves manufacturers. If your

company is not already using OMA Workers' Compensation Services, **check us out** and see how the OMA can simplify your workers' comp responsibilities. *5/15/2019*

**OSHA Offers Guidance for Employers With Young Workers**  
**May 17, 2019**

With summer almost here, OSHA has published its guidance for employers with young workers, especially teenagers who are new to the workforce. The agency states: "First-line supervisors have the greatest opportunity to protect young workers and influence their work habits. Stress safety!" See OSHA's employer guidance by **clicking here**. *5/15/2019*

**BWC Symposium Spotlights Medical Care of Injured Workers**  
**May 3, 2019**

Last week, the Ohio Bureau of Workers Compensation held its **2019 Medical & Health Symposium**, themed Comprehensive Care for Injured Workers. More than 800 health care practitioners, staff and legal professionals from around the state attended the two-day event in Columbus.

The goal for the symposium was to address health care issues facing Ohio's injured workers by bringing together medical and health specialists, along with legal professionals. John Annarino, Chief Medical and Health Officer, said experts nationwide are learning about the BWC's innovative approaches and programs in caring for Ohio's workers. *4/26/2019*

**May 31 Enrollment Deadline for BWC Premium-Discount Programs**  
**May 3, 2019**

Friday, May 31, is the next deadline to enroll in these Bureau of Workers' Compensation (BWC) **premium-discount bonus programs**:

- **Industry Specific Safety Program**
- **Drug-free Safety Program**
- **Transitional Work Program**

These programs focus on return-to-work for injured workers, efficient management of accounts, and cost-control efforts for employers. Program premium savings are distributed after the completion of the program participation year

as a bonus applied to the employer's policy, if all program requirements are satisfied.

To discuss your options, as well as the advantages and disadvantages of participation, contact the OMA's **Brian Jackson**. *4/29/2019*

**BWC Systems Outage this Weekend**  
**May 3, 2019**

The Bureau of Workers' Compensation (BWC) is upgrading its systems for better service. Due to systems maintenance, the BWC website, call center and other systems will be unavailable from Friday, May 3, at 5 p.m. until Monday, May 6, at 7 a.m. *5/2/2019*

**BWC Employer Webinars are May 14 & 30**  
**May 3, 2019**

The BWC's next employer webinars are scheduled for May 14 and 30. Topics include policy year 2019 renewal (Estimated Annual Premium updates and the annual true-up report), program options for employers, and the monthly safety tip. Follow these links to attend online: 1:30 p.m. **Tuesday, May 14**; or 11:30 a.m. **Thursday, May 30**. *5/2/2019*

**Fulfill BWC-Mandated Safety Training by June 30**  
**April 26, 2019**

Employers participating in a 2018/19 group experience rating or group retrospective rating plan — and that had a workers' compensation claim during the period of July 1, 2016 to September 30, 2017 — are **required to fulfill** BWC-mandated safety training by June 30, 2019.

OMA makes complying easy. Every month, the OMA offers a safety webinar that counts for one-hour of BWC-mandated safety training.

Here's our **2019 schedule** of OMA safety webinars. **Register here**. If you need help registering, call (800) 662-4463 or **email us**. If you have questions, contact OMA's **Brian Jackson**. *4/22/2019*

**Alert: More Ohio Employers Facing VSSR Fines**  
**April 19, 2019**

Dinsmore, an OMA Connections Partner, reports an uptick in workers' compensation claimant allegations that an employer has caused an accident due to violation of a specific safety requirement (VSSR). VSSRs are additional awards paid to injured workers, and they are billed directly to employers.

Dinsmore has published a **summary** on VSSRs. The summary includes information on how employers can prepare to defend against VSSR claims. *4/17/2019*

### **More Businesses Buzzing About Drones** **April 19, 2019**



The Ohio Bureau of Workers' Compensation (BWC) is assisting the business community's efforts to utilize drones to save time, resources and manpower, especially in the area of safety.

Josh Grappy, BWC's Unmanned Aircraft System (UAS) program coordinator, works with companies that want to explore starting a drone program. He says, "Drones are often advertised as being able to perform the dull, dirty and dangerous jobs," adding that there are many "innovative ways businesses can use drones to keep their workers safe."

Companies interested in starting a drone program can contact **Grappy** at 614-332-7343. *4/17/2019*

### **James Hughes to Chair Ohio's Industrial Commission** **April 19, 2019**

Gov. Mike DeWine this week appointed James M. Hughes of Upper Arlington (Franklin Co.) to the Industrial Commission of Ohio, which adjudicates workers' compensation disputes. Hughes' term begins July 1, 2019, and will end

June 30, 2025. He will serve as chair of the commission when his term commences.

A Republican, Hughes was a member of the Ohio State Senate from 2008 to 2016, as well as a member of the Ohio House from 2000 to 2008. He has worked an assistant prosecutor for Franklin County. *04/18/2019*

### **BWC Programs with March 29 Deadline** **March 22, 2019**

Attention private employers that participate in the Drug-Free Safety Program (DFSP), One Claim Program (OCP) and EM Cap Program: March 29 is the deadline for:

- **DFSP** participants to submit an annual report.
- **OCP** participants to complete education requirements.
- **EM Cap** participants to complete education requirements.

Contact OMA's **Brian Jackson** if you have questions. *3/17/2019*

### **BWC Employer Webinar is March 28** **March 22, 2019**

The BWC's March 28 employer webinar will cover important updates on your policy, the estimated annual premium letter, the Safety Council rebate program, the upcoming rate reduction, and changing your installment schedule or estimated exposure. Plus the monthly safety tip.

Register to **attend online** Thursday, March 28, at 11:30 a.m. or sign up to **attend in person** at one of BWC's service offices. *3/17/2019*

### **OSHA Seeks Information on Powered Industrial Trucks Standard** **March 22, 2019**

OSHA is **requesting information** as the agency considers rulemaking to update the powered industrial trucks standards for general, maritime, and construction industries. The standards became effective in 1971, and were based on



industry consensus standards from 1969. Since then, national consensus standards have been updated several times.

OSHA is requesting information on: the types, age, and usage of powered industrial trucks; maintenance and retrofitting; how to regulate older powered industrial trucks; types of accidents and injuries associated with operating these machines; costs and benefits of retrofitting the machines with safety features; and other components of a safety program. OSHA will use the information received in response to this request to determine what action, if any, it may take to reduce regulatory burdens and create jobs while improving worker safety.

Comments must be submitted on or before June 10, 2019.

Powered industrial trucks include forklifts, fork trucks, tractors, platform lift trucks, motorized hand trucks, and other specialized industrial trucks powered by an electrical motor or an internal combustion engine. 3/21/2019

### **In the BWC's DFSP? Your Annual Report is Due at the End of March**

**March 15, 2019**

Employers who participate in the Bureau of Workers' Compensation (BWC) **Drug-free Safety Program**(DFSP) are required to submit an annual report by the end of March each year. Don't panic. Here's a **helpful video** from OMA Connections Partner, *Working Partners*<sup>(R)</sup>, that will help you comply. If you're still stuck, contact *Working Partners*<sup>(R)</sup> for assistance. 3/14/2019

### **We had a Blast at OSC19!**

**March 8, 2019**



Well, in a safe way. Thank you to everyone who stopped by the OMA booth at the BWC's Ohio Safety Congress this week.

Manufacturers put a pin in our big 'safe manufacturers' map so we could learn where they were all from.

We enjoyed seeing so many of our friends in person.

Special shout-out to OMA member Pepperidge Farm for supplying the Goldfish cracker snacks. 3/6/2019

*OMA workers' compensation account managers Juliet Walker and Melissa Ross with OMA member B.J. Fisher, EHS Coordinator, Haviland Drainage Products, at Ohio Safety Congress #OSC19*

### **Kudos to OMA Member Francis Manufacturing for #1 Safety Innovation Award**

**March 8, 2019**

The Ohio Bureau of Workers' Compensation (BWC) this week presented **Safety Innovation Awards** to four Ohio employers for developing innovative safety solutions.

First place with a cash prize of \$6,000 was awarded to OMA member Francis Manufacturing Company, Russia.

A panel of independent judges evaluated and scored the innovations based on several criteria, including risk reduction, innovation, cost savings and potential for the innovation to be used by other employers.

Francis Manufacturing Company is a family owned aluminum sand foundry. The sand molding process required approximately 20 workers to shovel sand from floor level into molding machines. This could require workers to shovel more than 20,000 pounds of sand per nine-hour shift, increasing the risk of back and upper extremity injuries.

The company worked with Hapman, a material handling equipment company, to design a hopper-conveyor system. Workers now fill the hopper with a skid steer loader, eliminating the shoveling. The conveyor automatically dispenses sand into molds, further reducing upper extremity ergonomic risks.

Automating the molder's sand handling has resulted in reduced absenteeism and increased production. Workers have reported increased energy at the end of shifts and have fewer complaints of back and shoulder pain.

Watch a **video** about the Hapman Sand Conveyance System. 3/7/2019

**BWC Administrator/CEO McCloud Announces Re-Branding Initiative – Calls for Stakeholder Input**  
**March 8, 2019**

An email from Administrator McCloud:

Dear Stakeholder,

An organization's name is its identity. It bears the burden of conveying its substance and mission to its customers and stakeholders. That's why I am excited we are considering a name change that better reflects the mission and good work of the Ohio Bureau of Workers' Compensation.

We seek a name and brand that capture the spirit and dedication of our employees, as well as our commitment to be a world-class insurance carrier, a catalyst for a safe, healthy and prosperous Ohio.

A diverse internal working group began exploring a name change last summer (**detailed in this report**). Now we are seeking the feedback and ideas of BWC employees throughout the state and from you, our stakeholders. We recently sent the **attached letter** to BWC staff. I encourage you to read it and participate in this effort. If you have any feedback or creative ideas that may help us, please email **Bob Braun** at BWC by Friday, March 15.

Thank you for your support. We look forward to hearing from you.

Stephanie B. McCloud, Administrator/CEO  
3/5/2019

**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



**Workers' Compensation Legislation**  
**Prepared by: The Ohio Manufacturers' Association**  
**Report created on June 3, 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:** 5/30/2019 - **PASSED BY HOUSE**; Vote 89-1  
**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:** 6/5/2019 - House Finance, (Fifth Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-80>
- HB167**      **OCCUPATIONAL LUNG CONDITIONS** (CERA J) To modify workers' compensation benefit amounts for occupational pneumoconiosis claims and to create the Occupational Pneumoconiosis Board to determine medical findings for such claims.  
**Current Status:** 4/2/2019 - Referred to Committee House Commerce and Labor  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-167>

**TO: OMA Government Affairs Committee**  
**FROM: Ryan Augsburger / Rob Brundrett**  
**SUBJECT: Tax Public Policy Report**  
**DATE: June 5, 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. However the DeWine administration stayed away from major tax proposals in his recently introduced budget.

The Transportation Budget was a disappointment with a bifurcated tax. The OMA Tax Committee has worked with Chairman Dolan to introduce Senate Bill 153.

### **Tax Legislation**

#### **Senate Bill 8 – Ohio Opportunity Zone Tax Credits**

The bill would authorize tax credits for investments in an Ohio Opportunity Zone. Federal law allows states to designate economically distressed areas. Once the zone is certified by the Secretary of the Treasury, certain investments made to benefit the zone are eligible for preferential federal tax treatment that meets certain criteria as "opportunity zones." The bill would allow state tax incentives to compliment the federal tax treatment. The CAT is not an included tax credit. The bill shot through the Senate and was passed by the full body earlier this month. The House has held two hearings on the bill.

#### **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 four hearings in the House 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. The Senate voted out the bill after six hearings. No new money was included in the bill.

#### **House Bill 60 – Diaper Sales Tax Exemption**

The bill exempts from sales and use tax the sale of child and adult diapers. It has had three hearings in the House Ways and Means Committee.

#### **House Bill 62 – Transportation Budget**

The transportation budget bill makes appropriations for programs related to transportation and public safety for the biennium beginning July 1, 2019, and ending June 30, 2021.

The Governor, based on the recommendations from a diverse group of experts including OMA members, introduced a budget that would increase the motor vehicle fuel tax by 18 cents and would index the tax beginning in 2020.

The House gutted the Governor's proposal and instead passed a bifurcated tax rate. The House placed a 20 cent increase on diesel and a 10.7 cent increase on gasoline. The House included a new \$200 registration fee for electric vehicles and a \$100 fee for hybrid vehicles.

In better news the House removed the 150-mile radius restriction for travel under the special regional heavy hauling permit, thus allowing vehicles under the permit to travel further distances that exceed standard size and weight restrictions.

The Senate was adamant that the motor fuel tax should be lower. The Senate passed version included a 6 cent increase on the current motor vehicle fuel tax. Senators also lowered the registration fees by \$25 for electric and hybrid vehicles to \$175 and \$75 respectively.

This set up a showdown in conference committee on who would prevail and where the tax increase would be set. After much delay, including missing the statutory deadline, the House and Senate came to an agreement. The final bill version reinserted the bifurcated approach. Diesel fuel will be increased by 19 cents and gasoline by 10.5 cents. Electric vehicles will have a registration fee of \$200 and hybrids \$100.

The heavy haul permit survived, which will make overweight truck hauling less cumbersome in Ohio.

The OMA testified in support of the Governor's original proposals and a reasonable fee on electric vehicles. The OMA was adamantly opposed to any bifurcation of the fuel rates since truck companies simply pass on any fuel tax to business customers. OMA notified the conference committee of these problems along with working with other business groups to amplify the problems of a bifurcated rate.

#### House Bill 92 – County Sales Tax Voting

The bill would require voter approval of any increase in the rate of a county sales tax. The bill has had one hearing.

#### Senate Bill 95 – State and Local Tax Inducements

The bill will enhance state and local tax inducements for businesses making substantial fixed asset and employment investments and their suppliers. The bill provides a CAT credit the integrated supply chain to a qualifying project. The OMA submitted a letter with likeminded allies regarding protecting the integrity of the CAT. The Senate Ways and Means Committee reported the bill from committee.

#### Senate Bill 109 – Workforce Scholarship Program

SB 109 establishes the Workforce Scholarship Program. The bill would terminate the provisions of the Scholarship Program on December 31, 2023 and authorize tax credits for graduates of the Scholarship Program and their employers. The bill includes a CAT credit. It has had one hearing.

#### House Bill 134 – March Sales Tax Holiday

The bill provides a three-day sales tax "holiday" each March during which sales of qualifying Energy Star products are exempt from sales and use taxes.

#### Senate Bill 153 – Job Retention Tax Credit Manufacturer Eligibility

This bill was crafted by the OMA Tax Committee working with Chairman Dolan.

The purpose of Ohio's Job Retention Tax Credit ("JRTC"), as its name implies, is to foster job retention through increased capital investment in Ohio. However, over the years, too few Ohio job creators have taken advantage of the JRTC. The qualifying criteria with respect to applicants' minimum workforce size and capital investment threshold are too high and have been a barrier for most companies to apply for the credit.

In order to ensure we are supporting Ohio companies that are competing globally, this new legislation is designed to increase the number of manufacturers and eligible Foreign Trade Zone companies to apply for the JRTC, thereby creating an incentive for Ohio employers to make capital investments that preserve existing jobs.

The bill would:

- Allow companies headquartered in Foreign Trade Zones to be eligible to apply without meeting current payroll and employee count minimums
- Eliminate the minimum payroll size and number of employees required for manufacturers to apply for the JRTC
- Require a minimum capital investment for manufacturers of the lesser of \$50,000,000 or an amount equal to five percent of the tangible personal property at the project site
- Require manufacturers to maintain their FTE count during the term of the credit

While the bill does expand the number of companies and projects eligible to apply for a JRTC, it would not alter the existing cap on the amount of credits that may be awarded annually by the tax credit authority. In 2019, the JRTC is capped at \$130MM. Each year the cap increases by \$13MM until 2024. For 2024, and for each year thereafter, the maximum credits that may be awarded annually will be capped at \$195MM.

#### House Bill 162 – Motion Picture Tax Credit

The bill increases the overall cap on the motion picture tax credit from \$40 million per fiscal year to \$100 million per fiscal biennium. The OMA has successfully fought a lonely battle recently against increasing this tax credit. It appears once again the General Assembly will try hard to increase this credit.

The bill has not had a hearing. It would appear that the House does not have much interest in expanding the amount of the credit since the House passed version of the budget bill eliminates the credit in its entirety.

#### House Bill 166 – State Operating Budget

On March 15<sup>th</sup> Governor DeWine unveiled his first operating budget. Unlike most recent budgets, this version did not include major tax reforms. Instead the Governor focused on investing in the following:

- Ohio's Workforce and Innovation

- Ohio's Local Communities
- Recovery
- Ohio's Children and Families
- Ohio's Natural Wonders

The House passed version made several major changes to the tax code impacting manufacturers.

The House-passed budget bill would reduce the business income tax deduction for pass-through entities from the current \$250,000 to \$100,000, and remove the 3% flat tax rate for income over that threshold. The tax savings generated by the deduction have allowed Ohio manufacturers to reinvest in their operations by purchasing new equipment, expanding production lines, hiring new employees, and boosting wages. This change would increase taxes on most pass-through entities.

The House included several good amendments:

- Language in the budget bill would exempt all manufacturers from sales and use tax on any supplies or janitorial services purchased to clean machinery in a manufacturing facility. This has long been an OMA Tax Committee priority. This provision would bring certainty to the current exemption law.
- Another provision in the budget bill would create parity among all food manufacturers by allowing a sales-and-use tax exemption for equipment and supplies used to clean equipment that produces or processes food for human consumption. Currently the exemption is only for dairy food manufacturing.

Finally the OMA is pushing for the inclusion of SB 153 in the Senate version of the budget bill.

#### House Bill 175 – Tax Exemption on Goods Movement

The bill provides an exemption from sales and use tax for things used primarily to move completed manufactured products or general merchandise. The bill has been referred to the House Ways and Means Committee.

#### Manufacturing Sales and Use Tax Exemption – Regulation Update

In March the updated manufacturing sales and use tax rules went into effect. 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 their audits. Thank you to the members who participated in the working group.

#### 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



May 20, 2019

The Honorable Matt Dolan  
Chairman, Finance Committee  
Ohio Senate  
1 Capitol Square, 1<sup>st</sup> Floor  
Columbus, OH 43215

**RE House Bill 166 – Sales Tax Exemption for Food Equipment and Other Manufacturing Cleaning Supplies and Services**

Dear Chairman Dolan:

I write to express support for two tax provisions in the House-passed version of House Bill 166.

Ohio's sales tax was first enacted as a temporary measure in the depths of the Great Depression in the 1930s. At that time, it was conceived as a tax on final personal consumption of tangible goods. One year after initial enactment, the use tax was enacted; the two taxes were eventually made permanent, and the first exemption for machinery and equipment used to produce tangible personal property for sale by manufacturing was subsequently passed.

The rationale for exclusions is simple: Sales taxes are intended to be imposed upon the final consumption of goods and, now, also on certain services. Intermediate transactions preceding the final sale of the product, including the acquisition of machinery and equipment and the raw materials that are incorporated into the final product, are not intended to be taxed.

The current version of House Bill 166 includes two provisions that add much needed parity and clarity to the state's manufacturing sales and use tax exemption. The bill provides parity by exempting from sales tax the equipment and supplies used to clean equipment used to produce or process food for human consumption. Currently the law only allows the exemption if the food being produced or processed is a *dairy product*. Today, more than ever, it is important that food for human consumption is free from contamination and this provision provides parity for Ohio's booming food processing industry. In fact, Ohio is the largest frozen food processor in the country.

A second provision provides much needed clarity for the entire manufacturing sector. The House-passed version of House Bill 166 exempts from the sales and use tax any supplies or janitorial services purchased to clean machinery in a manufacturing facility. Manufacturers have found themselves being audited by - or in court against - the Ohio Department of Taxation over this issue as various administrations have had different interpretations of current law and policies. Without the required cleaning, repairs and maintenance, machinery breaks down and complicates the process of producing quality parts and products for sale to customers. Cleaning industrial assets is critical to the manufacturing process. As certainty is one of the most



important aspects of a prosperous business climate, codifying this sales exemption into law will eliminate the costly guessing game that has taken place.

These important revisions are extremely important for Ohio's manufacturers and their ability to compete to the highest level. Thank you for your work on this important bill. If you wish, please contact me at (614) 629-6814 or [rbrundrett@ohiomfg.com](mailto:rbrundrett@ohiomfg.com) to discuss further.

Sincerely,



Robert Brundrett  
Director, Public Policy Services

CC: Larry Obhof, Ohio Senate President  
Dave Burke, Vice Chairman, Finance Committee  
Ray DiRossi, Director, Budget and Finance



May 23, 2019

The Honorable Matt Dolan  
Chairman, Finance Committee  
Ohio Senate  
1 Capitol Square, 1<sup>st</sup> Floor  
Columbus, OH 43215

**RE House Bill 166 – OMA Written Interested Party Testimony: Taxation**

Dear Chairman Dolan:

I write to provide written testimony relative to four tax provisions, three of which are in the House-passed version of House Bill 166.

Ohio's sales tax was first enacted as a temporary measure in the depths of the Great Depression in the 1930s. At that time, it was conceived as a tax on final personal consumption of tangible goods. One year after initial enactment, the use tax was enacted; the two taxes were eventually made permanent and the first exemption for machinery and equipment used to produce tangible personal property for sale by manufacturing was subsequently passed.

The rationale for exclusions is simple: Sales taxes are intended to be imposed upon the final consumption of goods and, now, also on certain services. Intermediate transactions preceding the final sale of the product, including the acquisition of machinery and equipment and the raw materials that are incorporated into the final product, are not intended to be taxed.

The current version of House Bill 166 includes two provisions that add much needed parity and clarity to the state's manufacturing sales and use tax exemption. The bill provides parity by exempting from sales tax equipment and supplies used to clean equipment used to produce or process food for human consumption. Currently the law only allows the exemption if the food being produced or processed is a *dairy product*. Today, more than ever, it is important that food for human consumption is free from contamination and this provision provides parity for Ohio's booming food processing industry. In fact, Ohio is the largest frozen food processor in the country.

A second provision provides much needed clarity for the entire manufacturing sector. The House-passed version of House Bill 166 exempts from the sales and use tax any supplies or janitorial services purchased to clean machinery in a manufacturing facility.

Manufacturers have found themselves being audited by – or in court against - the Ohio Department of Taxation over this issue as various administrations have had different interpretations of current law and policies. Without the required cleaning, repairs and maintenance, machinery breaks down and complicates the process of producing quality parts and products for sale to customers. Cleaning industrial assets is critical to the manufacturing process. As certainty is one of the most important aspects of a prosperous business climate, codifying this sales exemption into law will eliminate the costly guessing game that has taken place.

At the end of the House Finance Committee budget deliberations, revisions to what has been referred to as the Business Income Tax Deduction (BID) were included in the current version of House Bill 166. The bill now reduces the BID from \$250,000 to \$100,000 and eliminates the 3% flat rate on business income above those amounts.

The OMA urges the Senate to reinstate the current thresholds and flat rate regarding the BID. The tax savings generated by the deduction allow Ohio's manufacturers to reinvest in their operations by purchasing new equipment, expanding production lines, hiring new employees, and raising wages.

Finally, the purpose of Ohio's Job Retention Tax Credit ("JRTC"), as its name implies, is to foster job retention through increased capital investment in Ohio. However, over the years, too few Ohio job creators have taken advantage of the JRTC. The qualifying criteria with respect to applicants' minimum workforce size and capital investment threshold are too high and have been a barrier for most companies to apply for the credit.

In order to ensure we are supporting Ohio companies that are competing globally, we would like to see the recently introduced Senate Bill 153 amended into House Bill 166. That bill is designed to increase the number of manufacturers and eligible Foreign Trade Zone companies to apply for the JRTC, thereby creating an incentive for Ohio employers to make capital investments that preserve existing jobs.

While the provision does expand the number of companies and projects eligible to apply for a JRTC, it would not alter the existing cap on the amount of credits that may be awarded annually by the tax credit authority.

Thank you for the committee's consideration of each of these important tax recommendations that would contribute to Ohio's competitiveness.

Sincerely,



Robert Brundrett  
Director, Public Policy Services

## **Class action lawsuits**

The bill prohibits any person from filing a class action lawsuit related to an overpayment of use tax against a marketplace facilitator on behalf of consumers. Under continuing law, consumers may seek a refund of overpaid use tax from the Tax Commissioner.<sup>115</sup>

## **Tobacco products tax**

The bill changes the phrasing of three nexus-related references in current law involving sellers of tobacco products from “nexus in this state” to “substantial nexus with this state” in order to obtain consistency with R.C. 5741.01. The current tobacco products language expressly references the definition of “nexus” in R.C. 5741.01, so the distinction between the two standards was likely unintentional. However, logic suggests that demonstrating a seller has “nexus” in Ohio is a lower bar to clear than demonstrating that the seller has “substantial nexus” with the state. So the change is substantive rather than technical.

## **Repeal of sales tax exemptions**

The bill repeals the following sales tax exemptions, beginning October 1, 2019:

- An exemption for sales of flight simulators used for pilot or flight crew training. The exemption also includes sales of repair or maintenance parts and services for such simulators.
- An exemption for sales of investment bullion and coins.
- An exemption for services and parts used to maintain and repair an aircraft.
- An \$800 cap on the sales tax that may be charged on sales of shares of a fractionally owned aircraft (e.g., NetJets).
- An exemption for the sale of services and parts used to maintain and repair a fractionally owned aircraft.
- An exemption for sales of vehicles, parts, and repair services to qualified motor racing teams. To qualify, the racing team must employ at least 25 full-time employees and conduct its business with the purpose of competing in at least ten professional racing events per year.<sup>116</sup>

## **Sales tax exemption for food manufacturing equipment**

(R.C. 5739.011)

The bill expands a sales tax exemption for equipment and supplies used to clean other equipment that is used to produce or process food for people. The existing exemption applies only if the food being produced or processed is a dairy product.

---

<sup>115</sup> R.C. 5741.10, not in the bill.

<sup>116</sup> R.C. 122.175, 5739.01, 5739.02(B)(38), (44), (49), (50), and (54), 5739.025, and 5739.05; Section 757.140.

## **Exemption for manufacturing cleaning supplies and services**

(R.C. 5739.011(B)(14); Section 757.140)

The bill exempts from sales and use tax any supplies or janitorial services purchased to clean machinery in a manufacturing facility by categorizing those supplies and services with other exempt purchases used primarily in manufacturing operation to produce items for sale. These cleaning supplies and services are not currently categorized as exempt manufacturing operation purchases, except for equipment used to clean dairy processing equipment.

The exemption applies on and after October 1, 2019.

## **Taxation of transportation network company services**

(R.C. 5739.01(B)(3)(r), (C), (H)(5), and (RRR); Sections 757.60, 757.130, and 757.140)

Current law subjects to sales and use tax sales of services by which a person is transported by motor vehicle or aircraft within Ohio. The bill specifies how sales and use tax applies to a subcategory of these “transportation services.” Specifically, the bill prescribes the manner by which sales and use tax is assessed against “transportation network company services,” which are rendered when a rider uses a digital network to arrange transportation with a driver, e.g., a ride-hailing application such as Uber or Lyft.

First, the bill specifies that the company furnishing the digital network, e.g., Uber or Lyft, is the vendor required to collect and remit sales and use taxes, rather than the driver. Second, the bill specifically excludes from the taxable price of such services any fees charged for the service other than base fares or fees based on distance or time. Excluded fees include airport access fees, booking fees, and tolls.

Finally, the bill provides that such services are only subject to sales or use tax if the rider is picked up and dropped off in Ohio. Under current law, such services are subject to tax only if the transportation occurs entirely within Ohio.

These modifications apply beginning October 1, 2019.

## **Local sales and use tax rate increments**

The bill allows counties and transit authorities to levy their local sales and use taxes in rate increments of 0.05%. Currently, a county or transit authority may levy or increase a rate only in increments of 0.1% or 0.25%.<sup>117</sup>

Continuing law authorizes counties and transit authorities to levy local sales and use taxes that “piggyback” on the state sales and use tax. All of Ohio’s counties, plus eight transit authorities, levy sales and use taxes. Counties and transit authorities each may levy a tax of up to 1.5%.

---

<sup>117</sup> R.C. 5739.021, 5739.023, and 5739.026. The 0.1% increment was authorized recently, in H.B. 69 of the 132nd General Assembly. Before July 1, 2018, rates could only be levied in increments of 0.25%.



May 7, 2019

The Honorable Scott Oelslager  
Chairman, Finance Committee  
Ohio House of Representatives  
77 S. High St., 13<sup>th</sup> Floor  
Columbus, OH 43215

**RE: House Bill 166 – Small Business Income Tax Deduction**

Dear Chairman Oelslager:

Over the past week the House Finance Committee has debated making changes to the current small business income tax deduction. The current version of House Bill 166 would reduce the small business income tax deduction from \$250,000 to \$100,000. This change would detrimentally impact many smaller manufacturers across the state.

The OMA respectfully urges the House Finance Committee to reinstate the current thresholds for the small business tax deduction. The tax savings generated by the deduction allow Ohio's manufacturers to reinvest in their operations by purchasing new equipment, expanding production lines, hiring new employees, and raising wages.

Thank you for the opportunity to comment on this portion of House Bill 166. If you wish, please contact me at (614) 629-6814 or [rbrundrett@ohiomfg.com](mailto:rbrundrett@ohiomfg.com) to discuss further.

Sincerely,

A handwritten signature in blue ink that reads "Robert A. Brundrett".

Robert Brundrett  
Director, Public Policy Services



COLUMBUS | CLEVELAND  
**BRICKER & ECKLER LLP**  
100 South Third Street  
Columbus, OH 43215-4291  
MAIN: 614.227.2300  
FAX: 614.227.2390

www.bricker.com  
info@bricker.com

Justin D. Cook  
614.227.4836  
jdcook@bricker.com

## MEMORANDUM

**TO:** Robert A. Brundrett, Esq.  
The Ohio Manufacturers' Association

**FROM:** Justin D. Cook, Esq.  
Bricker & Eckler LLP

**DATE:** June 3, 2019

**RE:** Job Retention Tax Credit – Summary of S.B. 153

Ohio's Job Retention Tax Credit ("JRTC") is codified under R.C. 122.171. As the name implies, its purpose is to foster job retention through increased capital investment in the State of Ohio. Over the years, very few manufacturers have taken advantage of the JRTC. The enormous minimum workforce size and capital investment thresholds are a significant impediment.

Currently, R.C. 122.171 provides that "eligible businesses" may apply for a JRTC. An eligible business must employ at least 500 full-time equivalent employees or have an annual Ohio employee payroll of at least \$35,000,000. Further, if the taxpayer is a manufacturer, it must make a capital investment of at least \$50 million (in the aggregate) over a three-year period to qualify.

On May 21, 2019, with the support of the Ohio Manufacturers' Association (the "OMA"), Senator Dolan introduced S.B. 153, which would expand the number of manufacturers and projects eligible to apply for the JRTC. These amendments to the JRTC would incentivize Ohio's employers to make additional capital investments that preserve existing jobs. S.B. 153's proposed adjustments to the JRTC are summarized below:

- The minimum payroll size and number of employees required to apply for the JRTC would be eliminated for manufacturers. For businesses engaged in significant corporate administrative functions (as opposed to manufacturing), the minimum payroll size and number of employees requirement is also eliminated, but only if the business is located in a foreign trade zone.
- The minimum capital investment required for manufacturers to apply for the JRTC would be adjusted to the lesser of \$50,000,000 or an amount equal to five percent of the net book value of all tangible personal property used by the manufacturer at the project site as of the end of the three-year investment period.
- Manufacturers would have to maintain a minimum number of full-time employees specified in the tax credit agreement during the entire term of the credit (as opposed to maintaining at least 500 employees or an annual Ohio payroll of \$35,000,000).

While S.B. 153 would expand the number of manufacturers and projects eligible to apply for a JRTC, it would not alter the existing cap on the amount of

Robert A. Brundrett, Esq.  
The Ohio Manufacturers' Association  
June 3, 2019  
Page 2

credits that may be awarded annually by the tax credit authority. In 2019, the JRTC is capped at \$130MM. Each year the cap increases by \$13MM until 2024. For 2024 and each year thereafter, the maximum credits that may be awarded annually will remain \$195MM.





May 21, 2019

The Honorable Lou Terhar  
Chairman  
Senate Ways and Means Committee  
Ohio Senate  
1 Capitol Square  
Columbus, OH 43215

Dear Chairman Terhar:

Since the inception of the commercial activity tax (CAT), The Ohio Manufacturers' Association, The Ohio Society of CPAs, Ohio State Bar Association, Ohio Chemistry Technology Council, Ohio State Medical Association, and Ohio Dental Association have been united in opposition to diluting the CAT base.

The CAT is a broad-based, low rate tax that applies to gross receipts from virtually all business activities conducted in Ohio. It was enacted to conform to the four main elements of sound tax policy: equality, simplicity of compliance, transparency, and minimal disruption in economic decisions. The CAT promotes equality in that it applies to virtually all business activity in the state. It is simple due to the minimal calculations needed to determine the tax base and relatively few credits or exclusions. It is relatively transparent, while there is some pyramiding that is ameliorated by the low rate. Finally, because of the broad base and low rate, it minimizes the intrusion of tax considerations in economic decisions.

Senate Bill 95 authorizes tax incentives for the operators and certain suppliers of a "megaproject," i.e., a development project with at least \$1 billion in investment or that creates at least \$75 million in Ohio payroll. One of the tax incentives is a CAT exclusion for gross receipts of a megaproject supplier from sales to a megaproject operator.

When the CAT was first enacted, there were few exclusions and credits from the CAT. The tax expenditure associated with those exclusions in 2010, the first year the tax was fully phased in, totaled approximately \$300 million. Those exclusions were built into the tax as enacted and the 0.26 percent rate was established with those exclusions in mind.

In its fiscal year 2018 tax expenditure report, the Department of Taxation lists a larger number of exclusions and credits to the CAT. The total cost of those expenditures, without consideration of the credits, is more than \$700 million! Thus, since its enactment, CAT credits and exclusions have doubled the amount of the tax expenditure.

□

The CAT was created to fix an archaic business taxing system in Ohio that was riddled with exemptions and credits. The old system failed to promote sound tax policy by eroding the tax base and piling disproportionate payments on certain industries.

Thank you for considering our position of preserving the broad-base, low-rate nature of the CAT with very few exclusions and weighing the potential consequences of new large credits.

Sincerely,

Rob Brundrett  
The Ohio Manufacturers'  
Association

Greg Saul  
The Ohio Society of CPAs

Todd Book  
Ohio State Bar Association

Joe Rosato  
Ohio State Medical  
Association

Jennifer Klein  
Ohio Chemistry Technology  
Council

David J. Owsiany  
Ohio Dental Association

## Tax

### Contact Your State Senator on Key Budget Issues May 31, 2019

The Ohio Senate continues to debate the state budget bill (**HB 166**), which includes several tax changes — both good and bad for manufacturers. The OMA encourages you to let your state senator know that Ohio's number one industry is watching and will hold lawmakers accountable. We've made it easy to **contact your senator**

First, the good news on tax-related legislation.

- Language in the budget bill would exempt all manufacturers from sales and use tax on any supplies or janitorial services purchased to clean machinery in a manufacturing facility. This has long been an OMA Tax Committee priority. This provision would bring certainty to the current exemption law.
- Senate Finance Chairman **Matt Dolan** (R-Chagrin Falls) introduced a bill (**SB 153**) that would expand eligibility for the Job Retention Tax Credit. His proposal would be aimed at manufacturers, and would expand eligibility based on new capital investment — versus being tied to payroll or employee count.
- Another provision in the budget bill would create parity among all food manufacturers by allowing a sales-and-use tax exemption for equipment and supplies used to clean equipment that produces or processes food for human consumption. Currently the exemption is only for dairy food manufacturing. Now the bad news.

- The House-passed budget bill would reduce the business income tax deduction for pass-through entities from the current \$250,000 to \$100,000, and remove the 3% flat tax rate for income over that threshold. The tax savings generated by the deduction have allowed Ohio manufacturers to reinvest in their operations by purchasing new equipment, expanding production lines, hiring new employees, and boosting wages.

Please contact **Rob Brundrett** with the OMA if you have questions or concerns about these or other tax issues. *5/30/2019*

### OMA Advocates for Tax Exemption Clarity in Budget May 24, 2019

This week, the OMA sent a **letter** to the chairman of the Senate Finance Committee stressing the importance of two House changes to the budget bill.

The current version of **House Bill 166** includes two provisions that add much needed clarity to the state's manufacturing sales-and-use tax exemption. The bill's current language would provide parity by exempting from sales tax the equipment and supplies used to clean equipment that produces or processes food for human consumption. Current law allows the exemption only if the food produced or processed is a dairy product.

A second provision in HB 166 provides much needed clarity for the entire manufacturing sector. The House-passed version exempts from the sales-and-use tax any supplies or janitorial services purchased to clean machinery in a manufacturing facility. Some manufacturers have been audited or faced legal action brought by the Ohio Department of Taxation over this issue as various administrations have had different interpretations of current law. Codifying this exemption into law will eliminate the costly guessing game that has taken place over the years.

By **clicking here**, you can take action on these two issues — in addition to advocating for the eligibility expansion of the Job Retention Tax Credit, and the restoration of the business income tax deduction. *5/23/2019*

### **Senator Dolan Introduces OMA-Backed Tax Bill** **May 24, 2019**

Senator **Matt Dolan** (R-Chagrin Falls) has introduced **Senate Bill 153** to make changes to the Job Retention Tax Credit (JRTC) at the suggestion of the OMA Tax and Finance Committee.

The purpose of the JRTC is to foster job retention through increased capital investment in Ohio. But over the years, too few Ohio job creators have taken advantage of the credit. The qualifying criteria — with respect to applicants' minimum workforce size and capital investment threshold — are too high and have been a barrier for most companies.

To ensure that Ohio companies can compete globally, SB 153 is designed to increase the number of manufacturers and eligible Foreign Trade Zone companies that can apply for the JRTC, thereby creating an incentive for Ohio employers to make capital investments that preserve existing jobs.

The bill would:

- Allow companies headquartered in Foreign Trade Zones to be eligible to apply without meeting current payroll and employee count minimums.
- Eliminate the minimum payroll size and number of employees required for manufacturers to apply for the JRTC.
- Require a minimum capital investment for manufacturers of the lesser of \$50 million or an amount equal to 5% of the tangible personal property at the project site.
- Require manufacturers to maintain their FTE count during the term of the credit.

While SB 153 would expand the number of companies and projects eligible to apply for a JRTC, it would not alter the existing cap on the amount of credits that could be awarded annually by the tax credit authority. In 2019, the JRTC would be capped at \$130 million. Each year, the cap would increase by \$13 million until 2024. For 2024 and each year thereafter, the maximum credits that could be awarded annually would be capped at \$195 million. *5/23/2019*

### **OMA Leads Coalition to Stop CAT Erosion** **May 24, 2019**

This week, the OMA led a coalition of business organizations in defense of the Ohio Commercial Activity Tax (CAT). Since 2005, the OMA and like-minded associations have continually reminded lawmakers the importance of keeping the CAT broad-based and set at a low rate.

On Tuesday, May 21, the Senate Ways and Means Committee reported out **Senate Bill 95**, which authorizes tax incentives for the operators and certain suppliers of a “mega-project” — such as a development project with at least \$1 billion in investment or that creates at least \$75 million in Ohio payroll. One of the tax incentives is a CAT exclusion for gross receipts of a mega-project supplier from sales to a mega-project operator.

The OMA and others **provided testimony** to point out that “the CAT was created to fix an archaic business taxing system in Ohio that was riddled with exemptions and credits. The old system failed to promote sound tax policy by eroding the tax base and piling disproportionate payments on certain industries.”

The OMA remains the state’s only major business organization to fight back and not support an expansion of CAT credits and carveouts. *5/23/2019*

### **OMA Asks Senate for Support on Pro-Manufacturing Provisions in State Budget** **May 24, 2019**

The OMA this week **submitted testimony** on House Bill 166 — the bill to fund the state’s two-year operating budget — as the Senate Finance Committee received testimony on the legislation. The OMA made its suggestions based on changes made to the budget by the House of Representatives.

The OMA requested the following:

- Remove the detrimental House changes to the business income tax deduction.
- Support exempting from sale tax any supplies or janitorial services purchased to clean machinery in a manufacturing facility.
- Support exempting from sales tax any equipment and supplies used to clean equipment that produces or processes food for human consumption.
- Support the eligibility expansion for the Job Retention Tax Credit.

The Senate is expected to make a variety of changes to the bill in the first week of June. The budget must be signed by June 30 for the appropriations to take effect on July 1, the first day of the new state fiscal year. *5/23/2019*

**New Guidance Provided on Opportunity Zone Initiatives**  
**May 24, 2019**

OMA Connections Partner **Calfee** this week provided an update on the federal Opportunity Zone Program, created as part of the 2017 Tax Cuts and Jobs Act. The program is back in the headlines because the long-awaited second round of proposed regulations was recently published by the Treasury Department, Calfee **reports**. This guidance helps clarify how investments in these zones would work. The goal of Opportunity Zones is to provide tax incentives for investors who make long term capital investment in designated low-income areas. Investors must invest through a qualified Opportunity Fund. **Ohio** has opportunity zones in 73 of Ohio's 88 counties. *5/23/2019*

**Ohio's Pass-Through Tax Incentive Would Be Reduced by 60% Under House Plan**  
**May 3, 2019**



This week, Ohio House Speaker Larry Householder (R-Glenford) announced a plan to include a personal income tax cut in Ohio's two-year budget. The tax cut would be funded by reducing or eliminating selected incentives.

Specifically, the House's income tax cut would be paid for by reducing the amount that pass-through businesses — such as partnerships, sole proprietorships or LLCs — could earn before paying the state income tax. The exemption threshold, passed in 2015, would go from the current \$250,000 to \$100,000. The House may also consider eliminating a 40% break for income over \$250,000, the speaker noted.

Other provisions that could be used to pay for the income tax cut include Ohio's motion picture tax credit and an exception for fractional ownership of airplanes. *5/2/2019*

**OMA Lands Two Manufacturing Tax Exemptions in Budget Sub-Bill**  
**May 3, 2019**

Thursday afternoon, the House Finance Committee unveiled the updated House version of the state budget bill (HB 166). Included were two amendments that the OMA urged lawmakers to include.

The first accepted amendment would expand the existing sales tax exemption for equipment and supplies used to clean equipment used in the production or processing of dairy products. This would include equipment used to produce or process any sort of food for human consumption.

The other accepted amendment would exempt from sales-and-use tax any supplies or janitorial services purchased to clean machinery in a manufacturing facility.

Both amendments have been OMA Tax Committee priorities over the years. It is imperative that manufacturers **contact their state representative** to keep both provisions in the budget. 5/2/2019

**OMA Tax Committee Hears from State Officials**  
**April 12, 2019**



This week, the OMA Tax Committee held its first meeting of 2019. Guest speakers were Ohio Tax Commissioner **Jeff McClain** and Rep. **Gary Scherer** (R-Circleville), vice chair of the House Finance Committee and a member of the House Ways & Means Committee.

Appointed by Gov. Mike DeWine last January to head the Department of Taxation, Commissioner McClain briefed committee members on his agency's priorities, including implementation of the lead-abatement credit, opportunity zones, and adjustments to the state's employment services tax.

Rep. Scherer discussed key aspects of Ohio's new transportation funding plan, signed last week by Gov. DeWine to provide an additional \$865 million a year for roads funding. Rep. Scherer also spoke about efforts to craft legislation that would establish guidelines for internet retail sales tax collections. Last summer's U.S. Supreme Court ruling (*South Dakota v. Wayfair*) allows states to collect sales taxes from out-of-state online retailers that have sales of more than \$100,000, or more than 200 annual transactions.

Follow tax issues affecting Ohio manufacturers **here**. 4/10/2019

**OMA Pushes for Elimination of Sales Tax on Temp Employees**  
**April 12, 2019**

Today is the deadline for Ohio House members to submit their amendment priorities to leadership for the state budget. One of the **amendments the OMA was able to**

**secure** for submission is the elimination of sales tax on temporary manufacturing employees. This has been a long-time pain for Ohio's manufacturers. Effective January 1993, in order to fill a hole in the state budget, employment services were added as a taxable service by a legislative conference committee facing a midnight deadline to reach agreement on a new budget. Since then Ohio has been one of the minority of states to burden employers with this additional tax.

OMA continues to seek a solution for manufacturers through the manufacturing sales and use tax exemption, which should include temporary labor. To learn more about this issue and how you can be involved, contact OMA's **Rob Brundrett**. 4/11/2018

**Tax Commissioner McClain Gives Budget Testimony – Meet Him at OMA Next Week**  
**April 5, 2019**

This week Ohio Department of Tax Commissioner **Jeff McClain** provided **budget testimony** on behalf of his department. Unlike the past several state budgets, **House Bill 166** does not include a substantive shift in Ohio's taxing schemes, much to the relief of manufacturers.

Commissioner McClain will be visiting with the OMA Tax Committee next Tuesday, April 9, at the OMA offices. Members will be discussing the budget in detail and also visiting with House Finance Committee Vice Chairman **Gary Scherer** (R-Circleville). **Register today!** 4/4/2019

**Ohio Taxpayers May Be Missing a Big Deduction Opportunity**  
**April 5, 2019**

From OMA Connections Partner Clark Schaefer Hackett: "A surprising number of Ohio taxpayers are missing a golden opportunity to reduce their tax liability using a relatively straightforward deduction.

"The Ohio Business Income Deduction allows taxpayers to deduct from their federal adjusted gross income the first \$250,000 of business income earned by single taxpayers or married taxpayers who file jointly. For married taxpayers who file separately, the deduction applies to the first \$125,000 of business income."

Read **more about this opportunity**. *4/1/2019*

**RSM Reports Middle Market Business Index for Q1**  
**April 5, 2019**

From OMA Connections Partner: “The RSM US Middle Market Business Index tumbled in the first quarter to 124.1 from 132. The decline in both current conditions and the expected outlook for the economy and capital expenditures should be interpreted by policymakers as a signal that the “uncertainty tax” generated by the direction of U.S. trade policy and recent volatility in financial markets has spilled over into the real economy.

“While we are not suggesting that an end to the current business cycle—which is approaching the longest-running economic expansion in post-World War II U.S. history—is imminent, but the probability of one has increased due to the uncertainty that lingers in the economy.

“Despite the souring economic outlook and modest deterioration in revenues and profits during the current quarter, middle market businesses expect improvement in the next six months with 62 percent expecting revenues to increase and 60 percent anticipating a rise in net earnings.”

Read more and **download the report here**. *4/1/2019*

**Beware the Ides of March — If You Own a Pass-Through Entity**  
**March 8, 2019**

From OMA Connections Partner, GBQ Partners: “Shakespeare’s words don’t apply just to Julius Caesar; they also apply to calendar-year partnerships, S corporations and limited liability companies (LLCs) treated as partnerships or S corporations for tax purposes. Why? The Ides of March, more commonly known as March 15, is the federal income tax filing deadline for these “pass-through” entities.”

Read **more from GBQ**. *3/5/2019*

**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 10<sup>th</sup> 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 June 3, 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)  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-17>
- HB19**      **PINK TAX EXEMPTION** (ANTANI N, KELLY B) To exempt from sales tax the sale of tampons and other feminine hygiene products associated with menstruation.  
*Current Status:* 5/7/2019 - House Ways and Means, (Fourth Hearing)  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-19>
- HB46**      **STATE GOVT EXPENDITURE DATABASE** (GREENSPAN D) To require the Treasurer of State to establish the Ohio State Government Expenditure Database.  
*Current Status:* 5/15/2019 - **REPORTED OUT**, House State and Local Government, (Fifth Hearing)  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-46>
- HB47**      **TAX COMPLAINTS-LEGAL ASSISTANCE FOUNDATION** (GREENSPAN D) To increase the time within which property tax complaints must be decided.  
*Current Status:* 5/29/2019 - Referred to Committee Senate Ways and Means  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-47>
- HB54**      **LGF TAX REVENUE INCREASE** (CERA J, ROGERS J) To increase the proportion of state tax revenue allocated to the Local Government Fund from 1.66% to 3.53% beginning July 1, 2019.  
*Current Status:* 2/12/2019 - Referred to Committee House Ways and Means  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-54>
- HB56**      **MINE SAFETY EXCISE TAX** (CERA J) To allocate 3.75% of kilowatt-hour excise tax revenue for mine reclamation, mine drainage abatement, and mine safety.  
*Current Status:* 2/26/2019 - House Energy and Natural Resources, (First Hearing)  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-56>
- HB57**      **HEATING SOURCES TAX EXEMPTION** (PATTERSON J, CERA J) To exempt certain heating sources from sales taxation and to hold local governments and libraries harmless from the revenue effect.  
*Current Status:* 2/12/2019 - Referred to Committee House Ways and Means  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-57>

- HB60**      **DIAPER SALES TAX EXEMPTION** (ANTANI N, KELLY B) To exempt from sales and use tax the sale of child and adult diapers.  
**Current Status:** 3/19/2019 - House Ways and Means, (Third Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-60>
- HB62**      **TRANSPORTATION BUDGET** (OELSLAGER S) To increase the rate of and modify the distribution of revenue from motor fuel excise taxes, to make appropriations for programs related to transportation and public safety for the biennium beginning July 1, 2019, and ending June 30, 2021, and to provide authorization and conditions for the operation of those programs.  
**Current Status:** 4/3/2019 - **SIGNED BY GOVERNOR**; eff. 90 days, Taxes eff. 7/1/19  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-62>
- HB75**      **PROPERTY VALUE CONTESTS** (MERRIN D) To require local governments that contest property values to formally pass an authorizing resolution for each contest and to notify property owners.  
**Current Status:** 4/9/2019 - **REPORTED OUT**, House Ways and Means, (Fourth Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-75>
- HB92**      **VOTE ON COUNTY SALES TAX** (ANTANI N, SMITH J) To require voter approval of any increase in the rate of a county sales tax.  
**Current Status:** 3/13/2019 - House State and Local Government, (First Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-92>
- HB109**      **SAP EXTRACTION TAX BREAK** (PATTERSON J, LATOURETTE S) To authorize a property tax exemption for land used for commercial maple sap extraction.  
**Current Status:** 3/5/2019 - Referred to Committee House Ways and Means  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-109>
- HB112**      **TAX REMITTANCE-BAD DEBTS** (SCHAFFER T) To allow vendors to receive a refund of sales tax remitted for certain bad debts charged off as uncollectible by credit account lenders.  
**Current Status:** 5/14/2019 - House Financial Institutions, (Second Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-112>
- HB121**      **TAX CREDIT-CLASSROOM MATERIALS** (SCHAFFER T) To allow a credit against the personal income tax for amounts spent by teachers for instructional materials.  
**Current Status:** 3/19/2019 - House Primary and Secondary Education, (First Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-121>

- HB134**      **MARCH SALES TAX HOLIDAY** (ANTANI N, WEINSTEIN C) To provide a three-day sales tax "holiday" each March during which sales of qualifying Energy Star products are exempt from sales and use taxes.  
**Current Status:** 3/19/2019 - Referred to Committee House Ways and Means  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-134>
- HB135**      **SALES TAX HOLIDAY EXPANSION** (ANTANI N) To expand the class of products exempt from sales tax if bought during a sales tax holiday.  
**Current Status:** 4/30/2019 - House Ways and Means, (First Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-135>
- HB162**      **MOTION PICTURE TAX CREDIT** (PATTON T) To increase the overall cap on the motion picture tax credit from \$40 million per fiscal year to \$100 million per fiscal biennium.  
**Current Status:** 3/26/2019 - Referred to Committee House Finance  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-162>
- HB166**      **OPERATING BUDGET** (OELSLAGER S) To make operating appropriations for the biennium beginning July 1, 2019, and ending June 30, 2021, and to provide authorization and conditions for the operation of state programs.  
**Current Status:** 6/5/2019 - Senate Finance, (Sixth Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-166>
- HB175**      **TAX EXEMPTION-GOODS MOVEMENT** (ANTANI N) To exempt from sales and use tax things used primarily to move completed manufactured products or general merchandise.  
**Current Status:** 4/2/2019 - Referred to Committee House Ways and Means  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-175>
- HB183**      **TAX CREDIT-BEGINNING FARMERS** (MANCHESTER S, PATTERSON J) To allow income tax credits for beginning farmers who participate in a financial management program and for businesses that sell or rent agricultural land, livestock, facilities, or equipment to beginning farmers.  
**Current Status:** 4/30/2019 - House Agriculture and Rural Development, (Second Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-183>
- HB187**      **TAX ISSUES-AUGUST** (MERRIN D, WIGGAM S) To prohibit local tax-related proposals from appearing on an August special election ballot.  
**Current Status:** 4/10/2019 - Referred to Committee House State and Local Government  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-187>
- HB197**      **TAX CODE CORRECTIONS** (POWELL J, MERRIN D) To enact the "Tax Code Streamlining and Correction Act" to make technical and corrective changes to the laws governing taxation.  
**Current Status:** 5/7/2019 - House Ways and Means, (First Hearing)

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-197>

- HB222**      **CDL TRAINING TAX CREDIT** (STOLTZFUS R, HOWSE S) To authorize an income tax credit for an employer's expenses to train a commercial vehicle operator.  
**Current Status:** 5/8/2019 - Referred to Committee House Ways and Means  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-222>
- HB245**      **PROPERTY TAX EXEMPTION TIMELINES** (SMITH J) To remove the current deadlines by which an owner or lessee of a qualified energy project must apply for a property tax exemption.  
**Current Status:** 5/21/2019 - Referred to Committee House Energy and Natural Resources  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-245>
- SB8**        **TAX CREDITS-OHIO OPPORTUNITY ZONE** (SCHURING K) To authorize tax credits for investments in an Ohio Opportunity Zone.  
**Current Status:** 5/8/2019 - House Economic and Workforce Development, (Second Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-8>
- SB37**      **MOTION PICTURE TAX CREDIT** (SCHURING K) To extend eligibility for and make other changes to the motion picture tax credit.  
**Current Status:** 5/8/2019 - **PASSED BY SENATE**; Vote 32-0  
**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:** 6/5/2019 - Senate Finance, (Fourth Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-39>
- SB95**      **STATE AND LOCAL TAX INDUCEMENTS** (KUNZE S, PETERSON B) To enhance state and local tax inducements for businesses making substantial fixed asset and employment investments and their suppliers.  
**Current Status:** 5/21/2019 - **REPORTED OUT**, Senate Ways and Means, (Third Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-95>
- SB109**     **WORKFORCE SCHOLARSHIP PROGRAM** (SCHURING K) To establish the Workforce Scholarship Program, to terminate the provisions of the Scholarship Program on December 31, 2023, to authorize tax credits for graduates of the Scholarship Program and their employers, and to make an appropriation.  
**Current Status:** 4/24/2019 - Senate Finance, (First Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-109>

**SB125**      **TAX DEDUCTION-529 PLANS** (HOTTINGER J, BRENNER A) To expand the income tax deduction allowed for contributions to Ohio's 529 education savings plans to include contributions to 529 plans established by other states.

**Current Status:** 4/10/2019 - Referred to Committee Senate Ways and Means

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-125>

**SB132**      **GAS TAX-LOCAL GOVERNMENT ALLOCATION** (WILLIAMS S) To modify the amount of revenue derived from any increase in the motor fuel tax rate that is allocated to local governments and to change the manner in which that revenue is divided between municipal corporations, counties, and townships.

**Current Status:** 5/1/2019 - Referred to Committee Senate Transportation, Commerce and Workforce

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-132>

**SB153**      **JOB RETENTION TAX CREDIT-ALTERNATIVE REQUIREMENTS** (DOLAN M) To permit manufacturers to meet alternative minimum employment and investment requirements to qualify for the Job Retention Tax Credit.

**Current Status:** 6/4/2019 - Senate Ways and Means, (First Hearing)

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-153>