



# **Government Affairs Committee**

**August 25, 2021**

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## **2021 Government Affairs Committee Calendar**

*Meetings begin at 10:00 a.m.*  
Thursday, November 18

## **Our Meeting Sponsor:**





**Government Affairs Committee Agenda  
August 25, 2021**

**Welcome & Introductions**

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

**Policy Rundown**

**Rob Brundrett**, OMA Staff

**Ohio Vaccine Policy Considerations**

**OMA Staff**

**Vaccine Panel**

**Luke Harms**, Whirlpool  
**Patrick Bloom**, Cleveland-Cliffs  
**David Daniels**, Tyson

**OMA Counsel's Report**

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

**Guest Speaker – Ohio Redistricting**

**Bob Clegg**, President, Midwest Communications and Media

**Staff Reports / House Bill 6 Scandal**

- Energy
- Tax
- Safety and Workers' Compensation
- Environment
- Human Resources

**Rob Brundrett**, OMA Staff  
**Rachael Carl**, OMA Staff  
**Kim Bojko**, Partner, Carpenter, Lipps & Leland, OMA Energy  
Counsel

**2021 Government Affairs Committee  
Calendar**

**Our Meeting Sponsor:**

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Thursday, November 18



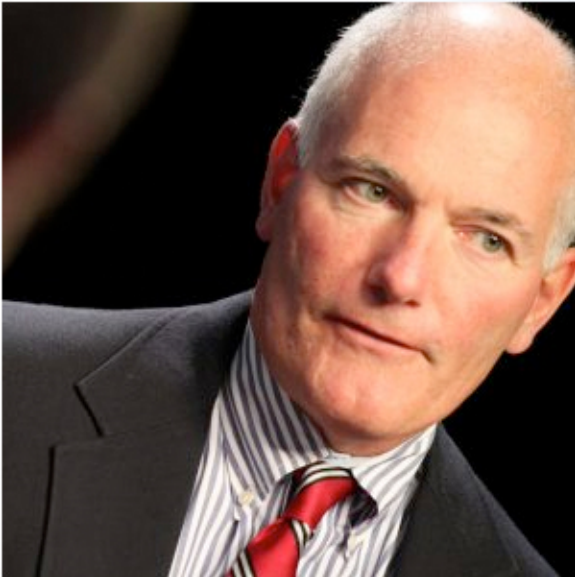
OMA Government Affairs Committee - August 2021

Name	Company	Location
Kevin Abke	Ohio CAT	Perrysburg, OH United States
Ann K. Aquillo	Scotts Miracle-Gro Company	Marysville, OH United States
Mary Beth Arensberg, PhD, RD, LD,FADA	Abbott Nutrition	Columbus, OH United States
Ryan R. Augsburg	The Ohio Manufacturers' Association	Columbus, OH United States
Stacy A. Baca	Whirlpool Corporation - Clyde Division	Clyde, OH United States
James T. Batchelder	The M K Morse Company	Canton, OH United States
Ann Bedford	PPG	Pittsburgh, PA United States
Bradley H. Belden	The Belden Brick Company	Canton, OH United States
Michael Bennett	Stellantis	Washington, DC United States
Patrick Bloom	Cleveland-Cliffs Cleveland Works LLC	Cleveland, OH United States
Kimberly W. Bojko	Carpenter Lipps & Leland LLP	Columbus, OH United States
Terry Boose	Norwalk Concrete Industries	Norwalk, OH United States
Rob Brundrett	The Ohio Manufacturers' Association	Columbus, OH United States
Rachael Carl	The Ohio Manufacturers' Association	Columbus, OH United States
Robert Clegg	Midwest Communications & Media	Powell, OH United States
Scott Corbitt	Anheuser-Busch Companies	Columbus, OH United States
Susan Corfman, MJ	The J.M. Smucker Company PO#: 19560	Orrville, OH United States
Sara Corona	Crown Equipment Corporation	New Bremen, OH United States
Andrew P. Corsig	Pharmaceutical Research and Manufacturers of America (PhRMA)	Cincinnati, OH United States
Nicholas D'Angelo	Eaton	Cleveland, OH United States
David Daniels	Tyson Foods, Inc.	Springdale, AR United States
Kevin DeWine	Crown Equipment Corporation C/o CBD Advisors	Beavercreek Township, OH United States
Bobbi Dillon	The Procter & Gamble Company	Cincinnati, OH United States
Steve Dimon	AMG Vanadium LLC C/o 21 Consulting, LLC	Columbus, OH United States
Ray Drake	UPS	Carol Stream, IL United States
Joseph F. Dutt	Summitville Laboratories	Minerva, OH United States
Heidi Erm	Owens Corning	Toledo, OH United States
Drew Felz	General Mills, Inc. - DC	Washington, DC United States
Tayte French Lutz	French Oil Mill Machinery Company	Piqua, OH United States
Scott Frens	Fort Recovery Industries Inc.	Fort Recovery, OH United States
Jennifer Gilliland	Identity Systems Inc	Columbus, OH United States
Jason Gonzalez	DuPont	Cleveland, OH United States
Nicholas A. Goussetis	U S Steel	Pittsburgh, PA United States
Jay Goyal	Goyal Industries, Inc.	Mansfield, OH United States
Luke M. Harms	Whirlpool Corporation	Washington, DC United States
Lawrence D. Holmes	Fort Recovery Industries Inc..	Greenville, OH United States
Matthew F. Johnston	Worthington Industries, Inc.	Columbus, OH United States
Jamie Karl	The Ohio Manufacturers' Association	Columbus, OH United States
Stephen B. Kittredge	Owens Corning	Washington, DC United States
Megan Kleinman	Rogue Fitness	Columbus, OH United States
Jessica A. Lloyd, MBA	Brilex Industries Inc.	Youngstown, OH United States
Linda M. Martens	Johnson & Johnson	New Albany, OH United States
Chris Masciantonio	U S Steel Corporation	Pittsburgh, PA United States
Dustin McMillan	McMillanCo LLC	Columbus, OH United States
Erik Mikkelson	Covestro C/o Hicks Partners, LLC	Columbus, OH United States
Theresa Mullen	CliftonLarsonAllen, LLP	Canton, OH United States
Ramola Musante	The Sherwin-Williams Company	Washington, DC United States
Melville Nickerson	N R G Energy Inc.	Chicago, IL United States
Rick Platt	Heath-Newark-Licking County Port Authority	Heath, OH United States
Jeffrey W. Reed	American Honda Motor Company	Marysville, OH United States
Brent Rosebrook	PRO-TEC Coating Company	Leipsic, OH United States
Edward G. Sagebiel	Eli Lilly and CompanyLillyPAC & Employee Grassroots	Indianapolis, IN United States
Jim Samuel	NRG Energy Inc. C/o Capitol Integrity Group	Columbus, OH United States
Stacey Schultz	Sugar Creek Packing Company	Cincinnati, OH United States
Christine Schwartz	American Honda Motor Company	Marysville, OH United States
Hugh Scott Seaholm	Universal Metal Products	Wickliffe, OH United States
Brian M. Sernulka	O-I Glass, Inc.	Perrysburg, OH United States

OMA Government Affairs Committee - August 2021

<b>Name</b>	<b>Company</b>	<b>Location</b>
Karen Sisson	3 M Company	Saint Paul, MN United States
Christopher N. Slagle	Bricker & Eckler LLP	Columbus, OH United States
Gretchen Spear	International Paper	Bloomington, MN United States
Michael L. Squillace	Dinsmore & Shohl	Columbus, OH United States
Duane Steelman	Zaclon, LLC	Cleveland, OH United States
Samantha Summers	Whirlpool Corporation	Washington, DC United States
Jeffrey C. Turgeon	Zaclon, LLC	Cleveland, OH United States
April Vanover	FASTLANE/UDRI	Dayton, OH United States
Matthew Wells	WestRock	Richmond, VA United States
Paul Wilczewski	Scotts Miracle-Gro Company	Marysville, OH United States

Total Participants 67



**ROBERT A. CLEGG**  
**PRESIDENT - MIDWEST**  
**COMMUNICATIONS & MEDIA**

EXPERIENCE  
—  
INTEGRITY  
—  
RESULTS



Bob Clegg joined Midwest Communications & Media in 1997 as Senior Vice-President. As a strategic media planner and buyer, Mr. Clegg has worked on over 200 candidate and issue campaigns in more than 35 states. His expertise in statistical analysis and political polling has enabled Clegg to penetrate markets with the most effective and economical media placements utilizing broadcast and cable TV as well as radio and digital advertising.

Prior to joining Midwest Communications & Media, Mr. Clegg served as Ohio Assistant Secretary of State as well as Director of Operations in the Ohio Senate and Chief Operations Director in the Ohio House of Representatives. While at the Ohio House, Mr. Clegg worked for both Ohio Speaker JoAnn Davidson and then State Representative John Boehner.

Mr. Clegg has been a guest lecturer on government and politics at many colleges and universities in Ohio such as The Ohio State University, the University of Toledo, the Ray Bliss Institute at the University of Akron, the University of Dayton and Otterbein University. He also appears as a regular political panelist on WOSU-TV public affairs program “Columbus on the Record” as well as WCMH-TV public affairs program “The Spectrum.”

## OMA Policy Rundown August 25, 2021

### Overview

The General Assembly left Columbus at the end of June after finishing the state's operating budget. Several key policy changes that the OMA advocated for were included in the final product of the bill, most notably the elimination of sales tax for employment services. This has been a major tax issue for OMA members since the tax was originally created in the early 1990s.

Former House Speaker Larry Householder was expelled from the legislature by his colleagues. The former speaker vowed to continue as a public figure. However, the HB 6 bribery scandal took another turn as FirstEnergy agreed to a Deferred Prosecution Agreement and admitted to bribing both the former House Speaker and Sam Randazzo then chair of the PUCO. Randazzo has yet to be charged with any crime. All the while OVEC repeal and ESP repeal languish in committee.

As the delta variant of COVID-19 drives up cases in Ohio, the General Assembly is holding hearings on a bill that would prevent vaccines from being mandated. This would include Ohio's businesses. This is yet another bill from the Republican-led House of Representatives that is not business-friendly.

Finally, the Ohio Redistricting Commission has set a hearing schedule to allow public input into the redistricting process. The Commission is making stops across the state to hear from the public before unveiling newly elected districts.

### COVID-19 Response and Legislation

Governor DeWine announced he would not be issuing any more orders for lockdowns or mask mandates. Even if he wanted to the legislature has passed several laws to eliminate the public health powers from the governor.

COVID-19-related legislation continues to be introduced at a rapid pace. The OMA joined a coalition of Ohio health care and business organizations to voice concerns over HB 248. HB 248 would prohibit any public or private entity (i.e. businesses, schools, childcare facilities, universities, hospitals) from mandating or requesting an individual get any vaccine, or from requiring or requesting an individual's vaccine status. The bill strips employers' rights to implement safety measures meant to protect their workforce, clients, and others.

Other bills, including one that would allow a new right of action against employers, are also waiting to be introduced.

### Elections

Ohio just completed two special primaries for open congressional seats. Mike Carey survived a fourteen-person Republican primary to replace former Congressman Steve Stivers. Carey was able to overcome the field in a large part because he secured an endorsement from Donald Trump. State Rep. Allison Russo won the democratic nomination.

The race to fill Marcia Fudge's 11<sup>th</sup> district seat ended with Shontel Brown defeating former state legislator Nina Turner in another closely watched race. Turner was a favorite for the progressive wing of the democrat party while Brown was considered the establishment favorite.

### Redistricting

2021 is a big year for Ohio's district maps. Every 10 years, the Ohio General Assembly and Congressional districts are redrawn.

The Ohio Redistricting Commission has until September 15 to approve new state legislative maps, comprising 99 House districts and 33 Senate districts. The map would need approval from commissioners representing the minority party of the House and Senate, which are the Democrats, in order to go into effect for ten years. A map can still be approved without minority party support but would only last four years.

The deadline for a new Congressional district map, a process that begins with the Ohio General Assembly, is later in the year. Ohio will lose a Congressional seat and go from 16 members to 15 in the U.S. House of Representatives.

The Commission announced a new website and a public input tour across the state starting this week.

### **Reducing Regulatory Restrictions**

The regulatory reform bill was re-introduced to reduce regulatory restrictions within the Ohio Administrative Code. SB 9 would require state agencies to reduce 30% of these restrictions by June 30, 2025, and it would cap the agencies from adopting additional regulatory restrictions above the 30% reduction.

It is important to ensure that the regulations promulgated are necessary, non-duplicative, and the least burdensome possible while still providing their intended protections. With the current draft of the bill, a required reduction in regulatory restrictions would not allow for the intended purposes of the rules. For example, rules promulgated by the Ohio EPA for the purposes of implementing an Ohio program that otherwise would be run by the federal EPA would face a 30% slash in their rule inventory. This would put those Ohio programs out of compliance with the feds and force EPA programs to revert back to the federal EPA. Certain types of regulations need further consideration from the legislature on the appropriate way to reduce regulatory restrictions.

### **Workforce Development**

Workforce development remains a top priority for Ohio manufacturers even in the time of COVID-19. Former OMA President Eric Burkland has transitioned to lead the OMA's Foundation and its workforce arm. OMA has expanded its network of Industry Sector Partnerships over the past year.

The OMA was able to secure funding in the state budget for Industry Sector Partnerships, TechCred, and high school industry-recognized credentialing.

Once again, the OMA will be hosting its annual Workforce Summit. The Summit will be virtual again this year and take place on October 27-28. There are plenty of sponsorships categories available. If you or your company is interested in registering or sponsoring the summit please talk to Rob or Rachael.

### **Ohio Manufacturing Alliance and Onshoring**

In 2020, OMA supported the Ohio Manufacturing Alliance to produce needed emergency protective equipment. That work was celebrated regularly by Governor DeWine and Lt. Governor Husted.

The OMA has been working with partners to develop a reshoring strategy with the state. An OMA Board Committee has focused on this work. Manufacturing sectors targeted include defense, medical, automotive, and communications among others.

## **State Operating Budget**

Before breaking for its summer recess, the General Assembly approved, and Gov. Mike DeWine signed, a \$74.1 billion, two-year state operating budget (House Bill 110). This compares to roughly \$70 billion in general-fund spending under the previous two-year budget.

The 3,300-page measure received strong bipartisan support, with an 84-13 vote in the House and a 32-1 vote in the Senate. Among the highlights and key provisions impacting manufacturers are the following:

- Elimination of Ohio's sales tax on employment services used by businesses to hire employees. Repeal of this tax has been a longtime priority for Ohio manufacturers. The provision will save employers an estimated \$303 million over the biennium. It's one of the most beneficial pieces of tax reform since the landmark reforms of 2005 when Ohio eliminated the tangible personal property tax and corporate franchise tax.
- Invests significant funding in Ohio's workforce development. This includes \$5 million in grants for Ohio's industry sector partnerships, \$25 million for Ohio's innovative TechCred program, and additional support payments to public schools whose students earn industry-recognized credentials
- Settles the municipal income tax withholdings question for 2021. The budget extends through the end of this year the temporary law that allows municipal income tax withholdings to be based on an employee's principal work location, not where he/she has worked remotely during the pandemic. Employees who worked remotely will be able to file for refunds for the 2021 tax year.

## **Immunity Legislation**

HB 606 was approved by the General Assembly last August. The OMA-supported legislation covers employers against exposure and also covers the manufacturer of emergency protective equipment or components. The bill's protections only last until September of 2021. There was a push by the OMA and allies to extend the protection through the end of 2021 in the state budget bill. That push did not succeed and there has been pushback from some of the legislators.

## **Prompt Pay on Private Contracts**

In an 86-10 vote, the House trampled on the right of private businesses to freely negotiate payment terms in construction contracts by approving HB 68, which was opposed by the OMA.

The bill requires the state to set payment terms in construction contracts and allows for a potential windfall against manufacturers. It eliminates the right to negotiate payment terms and instead requires all construction contracts to be paid within 30 days. The bill also establishes new penalties by imposing an 18% annual interest rate on payments not made within 30 days.

The fight will continue in the Senate led by the OMA with other like-minded allies.

## **Forced Unionization**

Republican-led House Bill 235 would tie the hands of Ohio's refiners to hire workers at their own discretion. As proposed, the bill would require Ohio refineries to hire workers under a government-imposed quota system, where the only eligible employees are those who have completed certified apprenticeship programs traditionally under the auspices of labor. This new "eligibility requirement" for refinery workers would ensure that refineries will no longer have the flexibility needed to hire the safest and most experienced contractors.

Not only does this legislation unnecessarily insert the government into refineries' hiring practices, but it also sets a precedent for adding similar intrusions throughout other industries. We have already



seen this in other states where they have adopted similar legislation and already expanded it beyond the originally targeted industry.

### **Tax Policy**

Several major victories were archived on the tax front in the state operating budget. While the budget did settle the withholding tax issue for the time being there appears to be some appetite for more local government tax reforms. The OMA tax committee will be working to figure out the next step in local government tax reform while also pushing some long-standing tax policy issues like clarifying that janitorial equipment is part of the manufacturing process.

The OMA will also continue to push the Job Retention Tax Credit. The budget bill provided some requested guardrails for the credit and is available for many manufacturers who make substantial capital upgrades.

### **HB 6 Repeal and Bribery Scandal**

The OMA remains the most vocal critic of HB 6 and continues to push for repeal of all anti-customer provisions from HB 6. The legislature passed HB 128 that begins the work of repealing several of HB 6's anti-customer provisions. HB 128 eliminated the nuclear subsidy provisions of HB 6 which cost customers up to \$150M per year. The bill also eliminated the HB 6 decoupling provision, which tied FirstEnergy's future profits to record year 2018 regardless of the amount of power sold, about \$978M annually. The bill also revoked a change made to the Significantly Excessive Earnings Test, which benefited only FirstEnergy by allowing the company to combine profits across three of its companies to avoid customer refunds from its overly profitable company.

The bill did retain HB 6's subsidies for utility-scale solar projects and the two OVEC coal plants. The OMA continues to press for the elimination of these subsidies as well, especially the ill-conceived OVEC subsidy. Senator Mark Romanchuk has introduced SB 117 which would eliminate the OVEC subsidies, and the OMA is a strong proponent.

The investigation continues into the HB 6 bribery scandal. Two of the five persons arrested in connection with the scandal have pled guilty along with the Generation Now dark money group. One of the individuals charged has committed suicide. Only former Speaker Larry Householder and lobbyist Matt Borges continue to insist on their innocence.

FirstEnergy Corp fired CEO Chuck Jones and several other senior managers. FirstEnergy the company has signed a Deferred Prosecution Agreement stating that they bribed both Larry Householder and the former PUCO chairman Sam Randazzo. There is speculation that more indictments are near. A treasure trove of documents was recently released which included text messages from FE executives and Sam Randazzo.

### **Environment**

On Jan. 19, 2021, the Sierra Club, the Ohio Environmental Council, and two individuals filed a petition for review with the Sixth Circuit Court of Appeals, seeking review of U.S. EPA's final rule removing the air pollution nuisance rule from Ohio's State Implementation Plan (SIP).

The removal of the air pollution nuisance rule from Ohio's SIP allows Ohio EPA to discontinue its practice of including a nuisance provision as a standard term and condition within each air permit it issues. In practice, the inclusion of the nuisance provision within Ohio EPA's air permits allows for the filing of a citizen suit alleging that a facility is in violation of the nuisance provision, even if Ohio EPA determines the facility does not operate as a nuisance.

On Feb. 18, the OMA moved to intervene in the Sixth Circuit appeal in support of the EPA's removal of the nuisance rule from Ohio's SIP. The State of Ohio has also moved to intervene in support of the agency's action. That case has been delayed pending a review by U.S. EPA.

### **Unemployment Compensation**

The COVID-19 pandemic has made one state agency the star of the show, and not for good reasons. With an unprecedented number of individuals not working due to government orders and the number of individuals eligible to receive benefits being expanded, the Department of Jobs & Family Services (JFS) felt a strain on their administrative infrastructure and processes for Ohio's unemployment insurance system.

In the beginning, applicants faced extremely long wait times to talk to customer services reps or even get their claims processed. As they were fixing staffing and infrastructure issues, fraudulent claims and overpayments began to surface. From the start of the pandemic until now, JFS has paid out roughly \$6 billion in traditional unemployment claims and almost \$11 billion in Pandemic Unemployment Assistance (PUA) claims. Of the nearly \$17 billion in claims, \$2.1 billion has been identified as fraud or overpayments.

In addition to lax controls and compliance failures, the system also faced another problem: the state's Unemployment Trust Fund was running out of money. To make up the gap, the state borrowed \$1.47 billion from the feds. This trust fund has long been plagued and hasn't been solvent since 1974. The Governor has followed the OMA's lead in requesting the state to use a portion of federal American Rescue Plan Act dollars to pay off the loan before interest begins accruing in January. But paying off the loan won't fix the solvency issue. The General Assembly has shown interest in addressing the long-term structural problems.

In related news, the Governor recently announced that Ohio will be ending its participation in the federal PUA program, effective June 26<sup>th</sup>. The OMA had been lobbying for this change with the administration. While these additional benefits served their purpose at the height of the pandemic, announcing their conclusion is the right thing to do to protect Ohio's economy.

**TO:** OMA Members

**FROM:** Rob Brundrett, Managing Director, Public Policy Services  
Rachael Carl, Director, Public Policy Services

**RE:** **Summary of Manufacturing Impacts in House Bill 110, the State Operating Budget for Fiscal Years 2022-2023**

**DATE:** July 1, 2021

This week, the Ohio General Assembly wrapped up deliberations on House Bill 110, the state operating budget, with both the House and Senate agreeing to the conference committee report with vote counts of 84-13 and 32-1, respectively.

Those votes concluded a four-month process whereby lawmakers received a budget proposal from Governor DeWine and then worked independently to craft a bill that was finally negotiated in conference committee.

Governor DeWine used his veto authority 14 times to line-item veto a variety of policy provisions inserted into the bill by the House and Senate.

Appropriations will take effect immediately while the vast majority of the provisions will take effect in 90 days.

Major highlights of the bill include an across-the-board 3% income tax reduction, the elimination of sales tax on staffing employment (a longstanding OMA priority), and a new system for funding both primary and secondary education in Ohio.

Below are the most impactful provisions for manufacturers, by issue area. Also included are workers' compensation policy changes that were passed in the Bureau of Workers' Compensation budget (House Bill 75) as well as a summary of House Bill 168 which provides relief for Ohio's federal unemployment compensation debt.

## **ENERGY**

Unlike some previous budgets, there was little activity on the energy policy front. House Bill 6 from the 133<sup>rd</sup> General Assembly, which continues to play out, likely played a large role in suppressing energy issues in the budget.

## Changes to the kWh tax

- The bill provides a kilowatt-hour tax exemption for those who generate electricity primarily for their own consumption either on the same premises or at a facility on contiguous property to where the electricity is consumed. This is a major issue for members who had implemented either self-generation or alternative energy generation agreements.

## TAX

State lawmakers used the budget to provide more tax relief for businesses and individuals, including the elimination of sales tax on staffing services. That provision is one of the most beneficial pieces of tax reform since the landmark reforms of 2005, in which Ohio eliminated the tangible personal property tax and corporate franchise tax.

### Elimination of sales tax on staffing services

- The budget bill eliminates Ohio's sales tax on employment services used by businesses to hire temporary or permanent workers — saving Ohio employers an estimated \$303 million over the biennium. The elimination of this tax has been a longtime priority for the OMA Tax Committee; Ohio is one of the few states that still burdens employers with this additional tax.

### Capital gains income tax deductions

- Starting in 2026, the bill creates two new income tax deductions in an effort to attract more venture capital to Ohio. One deduction is for taxpayers with capital gains from the sale of an ownership interest in an Ohio-based business and the other deduction is for all or a portion of capital gains realized by investors in Ohio-based, state-certified venture capital companies.

### Withholding taxes related to COVID-19 emergency

- Extends through the end of 2021 Ohio's temporary law that allows municipal income tax withholdings to be based on an employee's principal work location, not where he/she is working remotely during the COVID-19 pandemic. The bill allows employees to file for refunds in the 2021 tax year. During the beginning of the pandemic, the OMA worked with members to allow the continuation of withholding from a principal place of business. Subsequently, the OMA Tax Committee and staff worked with the legislature to find an administratively acceptable solution to account for remote workers ongoing.

### Personal income tax cut

- The budget includes a 3% across-the-board income tax cut, benefiting small- and mid-sized employers that pay tax on business income through the owners'

individual income taxes. The bill also raised to \$25,000 a year the minimum amount an individual can earn before paying income tax and eliminated the top income tax bracket.

#### Job Retention Tax Credit improvements

- Modifies the Job Retention Tax Credit (JRTC) with OMA-supported language that encourages capital investment in Ohio. The OMA was instrumental in changing the JRTC in the last budget to focus on manufacturers. This latest change gives the administration guidelines to use when vetting applications. An OMA task force worked with staff to provide these criteria to the legislature.

#### BWC dividends exempt from the CAT

- Makes permanent a Commercial Activity Tax (CAT) exemption for the Bureau of Workers' Compensation (BWC) dividends rebated to employers. This exemption was included in Senate Bill 18, signed into law earlier this year, but it only applied to dividends paid in 2020 and 2021. While the OMA has long opposed CAT credits and carveouts, this provision codifies the long-standing assumption that BWC payments are not subject to CAT.

#### Megaprojects tax credit

- The legislature included a new CAT credit for a development project with at least \$1 billion in investment or that creates at least \$75 million in Ohio payroll. The CAT exclusion would apply to the gross receipts of a megaproject supplier from sales to a megaproject operator. The OMA has long opposed CAT credits for such projects instead of focusing on existing Ohio manufacturers that are investing in new capital projects.

### **SAFETY AND WORKERS' COMPENSATION**

The main operating budget did not contain any meaningful workers' compensation changes. This follows a longtime precedent whereby the legislature makes workers' compensation and Industrial Commission process changes in these agencies' respective budget bills.

#### Budget bills for the BWC (House Bill 75) and the IC (House Bill 76)

- The two-year operating budgets for the Bureau of Workers' Compensation (BWC) and the Industrial Commission (IC) were both signed prior to the June 30<sup>th</sup> deadline. Both bills included a slight increase in appropriations, but no major policy initiatives were initially included in the proposals. While the IC budget was eventually passed with no substantive amendments, the final BWC budget included a few agreeable amendments:

- Reducing the statute of limitations for occupational disease claims from two years to one year;
- Preventing claimants who were previously denied a permanent disability benefit from reapplying unless there is a change in circumstances; and
- Aligning the timeline for filing a permanent partial disability (PPD) claim after receiving wages paid in lieu of temporary total disability (TTD) compensation with the timeline for filing a PPD claim after receiving TTD compensation.

## **ENVIRONMENT**

Over the past several budget cycles, the Ohio EPA has been relatively quiet. There was some thought the agency might look for an increase in Title V fees, but the COVID-19 pandemic changed the agency's course of action, and no fee increases were proposed. However, the legislature extended Ohio's preemption authority over local government law on auxiliary containers, which aligns with OMA policy.

### H2Ohio funding

- Continued funding for Ohio's H2Ohio programs was approved through various agencies. The dollars preserve a DeWine administration priority, which is a comprehensive approach to reduce nutrient runoff in Ohio's surface waters.

### Permanently prevent local governments from restricting auxiliary containers

- House Bill 242 of the previous General Assembly prevented local governments from restricting or taxing the use of auxiliary containers, such as plastic bags, for one year. That temporary prohibition is set to expire on January 15, 2022. The budget would extend that ban indefinitely, which aligns with OMA policy that a statewide rule is preferable to a patchwork of local rules.

## **WORKFORCE**

The DeWine administration remains appropriately focused on developing Ohio's talent. The OMA worked closely with the administration's Office of Workforce Transformation in creating programs that support industry sector partnerships and Industry 4.0, among other initiatives.

### Industry Sector Partnership grants

- The budget continues funding for Ohio's network of industry sector partnerships (ISP), which are critical to Ohio's manufacturing workforce development. While the budget allocates \$5 million for ISP grants over two years, it also, unfortunately, includes two earmarks to this grant program, which is designed to be competitively awarded.

### Study committee on career pathways and workforce training programs

- The bill establishes a Joint Legislative Study Committee to examine career pathways and post-secondary workforce training programs. The committee will review 1) current training program positioning with local, regional, and statewide workforce needs; 2) current career pathway alignment with state, regional, and local labor market demand data; and 3) prioritization of credentials that carry the most value in the labor market.

### TechCred funding

- The budget includes \$25 million in funding for Ohio's innovative TechCred program that helps Ohioans earn industry-recognized credentials.

### Industry-recognized credential funding

- The bill provides additional support payments to public schools whose students earn an industry-recognized credential. This important career-building provision for students survived a rocky trip through the budget process.

### MAGNET apprenticeship support

- Included in the budget is a provision sending \$400,000 over the next two years to the Ohio Manufacturing Extension Partnership in Northeast Ohio -- Manufacturing Advocacy and Growth Network (MAGNET) -- to support its apprenticeship program aimed at high school students earning certain technical certifications.

## **HUMAN RESOURCES**

While the state budget does not address Ohio's unemployment debt crisis, the governor, along with the General Assembly, worked together outside the budget to provide employer relief with respect to the state's unemployment compensation debt that ballooned during the COVID-19 pandemic.

### Unemployment compensation debt relief

- The General Assembly passed House Bill 168 which includes a provision to use federal American Rescue Plan Act funds to pay down Ohio's nearly \$1.5 billion unemployment compensation federal debt. If Ohio fails to pay off the debt timely, as soon as next year Ohio's employers would see an increase in their federal unemployment taxes. The OMA was instrumental in working with both the administration and legislature to pass the critical debt relief measure.

### Medical marijuana employer rights

- The budget expressly provides that an employer does not violate the Ohio Civil Rights Law when the employer takes an adverse employment action against a person who uses medical marijuana in conflict with a workplace policy.

### **MISCELLANEOUS**

The legislature made the following additional revisions of note for manufacturers, one is in relation to the COVID-19 pandemic and the other recognizes that the Prescription Drug Transparency & Affordability Advisory Council has finished its work.

#### Buy Ohio provision

- The bill added a buy U.S. and Ohio preference for state agencies purchasing personal protective equipment (PPE) and related products. The provision would still permit public agencies to purchase PPE products not made in Ohio but would give Ohio-made products a preference in bidding.

#### Prescription Drug Transparency & Affordability Advisory Council

- The budget sunsets the official Prescription Drug Transparency & Affordability Advisory Council, but allows any member of the Joint Medicaid Oversight Committee (JMOC) to request to examine any of the topics described in the report previously prepared by the Council.

Throughout 2020, the Council met to discuss Ohio's best path forward on issues including prescription drug price transparency, affordable payment models, and health care efficiency. In November of 2020, the Council completed its hearings and submitted a final report and recommendations to the General Assembly, the governor, and the JMOC. With the Council's work complete, the budget sunsets the Council, but continues to allow an opportunity for further discussion on the report at the JMOC.



June 28, 2021

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## OMA Supports Pro-Manufacturing Provisions in State Budget

COLUMBUS, Ohio – Ohio’s new, two-year operating budget (House Bill 110) – as agreed to by House and Senate leaders – includes important provisions that help ensure the competitiveness of manufacturing, the state’s largest industry.

Included in the budget is language that eliminates Ohio’s sales tax on employment services used by businesses to hire workers. The elimination of this tax has been a longtime priority for Ohio manufacturers since the Buckeye State is one of few states that burden employers with this tax.

*“Manufacturers thank Ohio’s policymakers for adopting a responsible and balanced budget, while at the same time focusing on strategic investments to propel the state’s predominant industry,” said OMA President Ryan Augsburger. “It’s especially important that after nearly three decades, Ohio is about to end the antiquated policy of taxing employment services – especially in a time of critical workforce shortages. The pro-growth provisions in the new budget are a clear signal that the Buckeye State means business.”*

###

*The Ohio Manufacturers’ Association is Ohio’s largest statewide business association comprised solely of manufacturers. Established in 1910, the OMA’s mission is protect and grow Ohio manufacturing. It represents manufacturers of all sizes in every subsector of the industry. Manufacturing is Ohio’s largest economic sector, employing 700,000 Ohioans and contributing more than \$110 billion annually to the state’s economy. Visit [ohiomfg.com](http://ohiomfg.com) – or follow us on [LinkedIn](#), [Twitter](#), and [Facebook](#).*



# Hannah NEWS SERVICE

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

## House, Senate Revised Schedule for Remainder of 2021

The following calendar reflects changes to the Ohio House and Senate schedules for the remainder of 2021. Unless otherwise noted, the House will meet at 1 p.m. on all days while the Senate will meet at 1:30 p.m. on Mondays, Tuesdays and Wednesdays and 11 a.m. on Thursdays. **Dates and times, however, are subject to change.**

### June

Tuesday, June 1 - Senate committee hearings  
Wednesday, June 2 - Senate Session

Tuesday, June 8 - Senate committee hearings/House committee hearings  
Wednesday, June 9 - Senate Session/House Session  
Thursday, June 10 - House Session/Senate Session (if needed)

Tuesday, June 15 - Senate committee hearings/House committee hearings  
Wednesday, June 16 - Senate Session/House Session  
Thursday, June 17 - House Session

Tuesday, June 22 - Senate Session/House committee hearings  
Wednesday, June 23 - Senate Session/House Session  
Thursday, June 24 - Senate Session/House Session  
Friday, June 25 - House Session (if needed)

Monday, June 28 - Senate Session  
Tuesday, June 29 - Senate Session/House Session (if needed)  
Wednesday, June 30 - House Session (if needed)

### July

Thursday, July 1 - **FY22 begins**  
House Session (if needed)

Monday, July 5 - State Offices closed in observance of **Independence Day**.  
Wednesday, July 7 - House Session (if needed)

### August

No scheduled dates.

### September

Monday, Sept. 6 - **Labor Day** (State Offices closed)  
Tuesday, Sept. 7 - Senate committee hearings  
Wednesday, Sept. 8 - Senate Session

Tuesday, Sept. 14 - Senate committee hearings/House committee hearings  
Wednesday, Sept. 15 - Senate Session/House Session  
Thursday, Sept. 16 - House committee hearings

Tuesday, Sept. 21 - **CANCELLED:** ~~Senate Session/House committee hearings~~  
Wednesday, Sept. 22 - Senate Session/House Session  
Thursday, Sept. 23 - House Session (if needed)

Tuesday, Sept. 28 - Senate Session/House committee hearings  
Wednesday, Sept. 29 - Senate Session/House Session  
Thursday, Sept. 30 - Senate Session/House committee hearings

### October

Tuesday, Oct. 5 - Senate committee hearings  
Wednesday, Oct. 6 - Senate Session

Monday, Oct. 11 - **Columbus Day** (State Offices closed)  
Tuesday, Oct. 12 - House committee hearings  
Wednesday, Oct. 13 - House Session  
Thursday, Oct. 14 - House committee hearings

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

Tuesday, Oct. 26 - Senate committee hearings/House committee hearings  
Wednesday, Oct. 27 - Senate Session/House Session (if needed)  
Thursday, Oct. 28 - House Session (if needed)

Updated 5/25/21



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## November

Tuesday, Nov. 2 - **Election Day**  
House committee hearings  
Wednesday, Nov. 3 - House Session  
Thursday, Nov. 4 - House Session (if needed)

Tuesday, Nov. 9 - Senate committee hearings  
Wednesday, Nov. 10 - Senate Session  
Thursday, Nov. 11 - **Veterans' Day** (State Offices closed)

Tuesday, Nov. 16 - Senate committee hearings/House committee hearings  
Wednesday, Nov. 17 - Senate Session/House Session  
Thursday, Nov. 18 - House Session (if needed)  
Thursday, Nov. 25 - **Thanksgiving Day** (State Offices closed)

Monday, Nov. 29 - Senate Session  
Tuesday, Nov. 30 - Senate Session/House committee hearings

## December

Wednesday, Dec. 1 - Senate Session/House Session (if needed)  
Thursday, Dec. 2 - House Session (if needed)

Tuesday, Dec. 7 - Senate committee hearings/House committee hearings  
Wednesday, Dec. 8 - Senate Session/House Session  
Thursday, Dec. 9 - House Session (if needed)

Tuesday, Dec. 14 - Senate committee hearings  
Wednesday, Dec. 15 - Senate Session/House Session (if needed)

Friday, Dec. 24 - State Offices closed in observance of **Christmas Day**.

*Updated 5/25/21*

## **Ohio Redistricting Commission Meeting Dates and Times**

<https://www.redistricting.ohio.gov/>

Monday, Aug. 23 from 9:30 a.m. - 12:30 p.m.: Cleveland State University Student Center, Room SC311 (Ballroom, 3rd Floor), 2121 Euclid Avenue Cleveland. COVID-19 guidelines require masks indoors at all times.

· Monday, Aug. 23 from 2:30 p.m. - 5:30 p.m.: Youngstown State University, 1 University Plaza, Kilcawley Center, Chestnut Room, Youngstown. COVID-19 guidelines encourage masks and social distancing.

· Tuesday, Aug. 24 from 9:30 a.m. - 12:30 p.m.: Sinclair Community College, 444 W. Third St., Dayton. COVID-19 guidelines encourage masks and social distancing.

· Tuesday, Aug. 24 from 2:30 p.m. - 5:30 p.m.: University of Cincinnati, 2600 Clifton Avenue, Cincinnati. COVID-19 guidelines require masks indoors at all times.

· Wednesday, Aug. 25 from 9:30 a.m. - 12:30 p.m.: Ohio University - Zanesville, Campus Center, 1425 Newark Road, Zanesville. COVID-19 guidelines require masks indoors at all times.

· Wednesday, Aug. 25 from 2:30 p.m. - 5:30 p.m.: Rio Grande Community College, 218 N. College Ave, Rio Grande. COVID-19 guidelines require masks for unvaccinated people and masks when social distancing cannot be maintained.

· Thursday, Aug. 26 from 9:30 a.m. - 12:30 p.m.: Ohio State University – Lima, Life Science Building, Room 100, 4240 Campus Drive, Lima. COVID-19 guidelines require masks indoors at all times.

· Thursday, Aug. 26 from 2:30 p.m. - 5:30 p.m.: University of Toledo, 2801 Bancroft St., Toledo. COVID-19 guidelines require masks indoors at all times.

· Friday, Aug. 27 from 9:30 a.m. - 12:30 p.m.: University of Akron, 302 E. Buchtel Ave., Akron. COVID-19 guidelines require masks indoors at all times.

· Friday, Aug. 27 from 2:30 - 5:30 p.m.: Ohio State University – Mansfield, Riedel Hall, Room 151. 1760 University Drive, Mansfield. COVID-19 guidelines require masks indoors at all times.

**Version:** As Passed by the House

**Primary Sponsors:** Reps. Cross and Sweeney

Andrew Little, Attorney

## SUMMARY

- Requires private owners of construction projects to pay contractors either:
  - 30 days after receiving a request for payment; or
  - 30 days after work or materials furnished pursuant to plans requiring government approval and an architect's or engineer's seal are certified as being in compliance with the approved plans, or 30 days after receiving a request for payment, whichever is later.
- Applies 18% annual interest to payments not timely made.

## DETAILED ANALYSIS

The bill adds provisions to Ohio's Prompt Pay Act (R.C. 4113.61), which concerns payment timelines for construction projects aside from those involving one-, two-, or three-family dwellings.<sup>1</sup> The new provisions require the private owners of construction projects to pay contractors with whom they have contracted within 30 days of a request for payment or within 30 days of certain specified work being certified as being in compliance with requirements.

The Prompt Pay Act, in its current form, does not contain provisions requiring prompt payment to contractors from private owners. While another provision of law addresses payment from public owners to contractors,<sup>2</sup> the Prompt Pay Act only addresses payments between contractors, subcontractors, material suppliers, and laborers. The bill does not change these provisions.

<sup>1</sup> R.C. 4113.61(C).

<sup>2</sup> R.C. 126.30, not in the bill.

## **Construction projects and the current act**

In a construction project, a contractor may engage subcontractors and buy materials. The subcontractors and material suppliers in turn may engage subcontractors and buy materials. When the project owner pays the contractor, the contractor must pay the contractor's laborers and subcontractors, and material suppliers. This process continues down the line through the subcontractors and material suppliers, who must pay their own laborers and subcontractors and suppliers.

Under continuing law, if a person owed payment makes a timely request for payment from a person owing payment, and if the person owing payment fails to pay the amounts due within ten days of the person owing payment having received payment themselves, the amount owed begins to accrue interest at an 18% annual rate. Laborers must also be paid within ten days of the receipt of funds by the person owing payment, but laborers need not make a request for payment for interest to begin accruing after ten days pass after the person owing payment receives payment.<sup>3</sup> If 30 days elapse after the ten-day deadline, continuing law also allows the person owed payment to bring a civil action to recover the amount due, interest, and attorney's fees.<sup>4</sup>

## **New obligation for owners**

The bill's new provisions require a private owner that has received a written request for payment from a contractor, for an amount allowed under the contract for properly performed work or furnished materials, to make payment as follows:

- For work performed or materials furnished pursuant to plans, drawings, specifications, or data submitted for approval to a municipal, township, or county building department, or to the Superintendent of Industrial Compliance, and which require the seal of a registered architect or engineer, within 30 days after the work performed or materials furnished are certified as complying with the approved plans, drawings, specifications, or data by a licensed architect or engineer, or within 30 days after receiving the request for payment, whichever is later;
- For all other work performed or materials furnished, 30 days after the request for payment is received.

Similar to the continuing provisions for payments by and amongst contractors, subcontractors, material suppliers, and laborers, amounts may be withheld as authorized by law, for retainage as provided in the contract, and as necessary to resolve disputed liens or claims involving the work, labor, or materials. If the private owner fails to pay as required, interest begins to accrue

<sup>3</sup> R.C. 4113.61(A)(2) to (6).

<sup>4</sup> R.C. 4113.61(B).

at 18% annual interest. If 30 days elapse after the deadline, the bill allows the contractor to bring a civil action to recover the amount due, interest, and attorney's fees.<sup>5</sup>

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## HISTORY

Action	Date
Introduced	02-04-21
Reported, H. Commerce and Labor	05-06-21
Passed House (86-11)	05-19-21

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H0068-PH-134/ar

<sup>5</sup> R.C. 4113.61(A) and (B).

**Version:** As Introduced

**Primary Sponsors:** Reps. Swearingen and Baldrige

Paul Luzzi, Attorney

## SUMMARY

- Requires a contractor or subcontractor that performs construction services on a building, structure, facility, or installation that emits or may emit certain regulated air pollutants (“stationary source”) to perform the services using individuals who meet specific training requirements.
- Allows a contractor or subcontractor to complete the services using individuals who do not satisfy the training requirements under certain conditions outside of the contractor’s or subcontractor’s control.
- Requires a contractor or subcontractor to keep records and file reports demonstrating that the contractor or subcontractor is using individuals that satisfy the bill’s training requirements to perform construction services at a stationary source.
- Requires an owner or operator of a stationary source to contract for construction services on the stationary source only with contractors who use individuals that satisfy the bill’s training requirements and subcontract with only subcontractors whose workers satisfy the requirements.
- Requires an owner or operator to, within a specific time period, provide written notice to the Director when the owner or operator believes that a contractor or subcontractor is failing or has failed to use individuals that satisfy the bill’s training requirements.
- Subjects contractors, subcontractors, owners, and operators that violate the bill to civil penalties of up to \$10,000 per violation and requires the Director to investigate possible violations.
- Authorizes the Director to adopt rules to administer and enforce the bill.



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## DETAILED ANALYSIS

The bill, known as the High Hazard Training Certification Act, applies to construction services performed on “stationary sources,” which are buildings, structures, facilities, and installations that emit or may emit regulated air pollutants or any pollutant listed in the “Clean Air Act” other than emissions resulting directly from internal combustion engines. Its requirements apply to a stationary source even if the stationary source is offline for the purpose of being revamped or renewed.<sup>1</sup>

Examples of stationary sources include certain factories, refineries, boilers, and power plants. The Clean Air Act directs the U.S. Environmental Protection Agency to control emissions from stationary sources by developing and implementing standards and guidelines.<sup>2</sup>

### Staffing requirements for construction at stationary sources

Unless one of the exceptions described below applies, the bill requires a contractor or subcontractor that performs construction services on a stationary source to use only the following individuals to perform the services:

- **Class A skilled journeypersons:** Individuals who graduate from a registered apprenticeship program and complete a 30-hour training course in safety and health hazard recognition and prevention approved by the federal Occupational Safety and Health Administration (OSHA);
- **Class B skilled journeypersons:** Individuals who complete the 30-hour OSHA approved safety and health hazard recognition and prevention training course and who acquire at least 10,000 hours of experience in the occupation or trade in which the individual is providing or assigned to provide construction services at the stationary source;
- **Apprentices:** Individuals who are participating in a registered apprenticeship program to learn a skilled occupation pursuant to a registered apprenticeship agreement.<sup>3</sup>

A “registered apprenticeship program” is any of the following programs:

- A program that trains an individual for a trade or occupation through paid on-the-job training and related instruction that has been registered by the U.S. Department of Labor’s Office of Apprenticeship as meeting certain minimum standards under federal law;
- An apprenticeship program registered by the Ohio Department of Job and Family Services (JFS);

<sup>1</sup> R.C. 4145.01(I) and Section 3.

<sup>2</sup> See 42 United States Code (U.S.C.) 85 *et seq.* and EPA, *Stationary Sources of Air Pollution*, available [here](#).

<sup>3</sup> R.C. 4145.01(A), (F), and (G), 4145.02, and 4145.03(B)(1).

- An apprenticeship program registered by a state apprenticeship agency of another state that has been authorized to register apprenticeship programs for federal purposes under that state’s laws.

A registered apprenticeship program may include any apprenticeship program subject to the “Employee Retirement Income Security Act of 1974” or an apprenticeship program supported through an employer’s general funds. However, a registered apprenticeship program does not include an Industry-Recognized Apprenticeship Program (IRAP). An IRAP is an apprenticeship developed or delivered by a trade or industry group, corporation, nonprofit organization, educational institution, union, or joint labor-management organization that results in an industry-recognized credential.<sup>4</sup>

### **Implementation schedule**

A contractor or subcontractor must comply with the following implementation schedule with respect to the proportion of employees who meet the classifications described above:

- Beginning on January 1, 2022, at least 45% class A skilled journeypersons or apprentices and 55% class B skilled journeypersons;
- Beginning on January 1, 2023, at least 65% class A skilled journeypersons or apprentices and 35% class B skilled journeypersons;
- Beginning on January 1, 2024, at least 80% class A skilled journeypersons or apprentices and 20% class B skilled journeypersons.<sup>5</sup>

### **Exceptions**

The bill exempts an individual from the requirement to be a class A or class B skilled journeyperson or apprentice if the individual is employed as a project superintendent, project manager, engineer, or clerical employee and the individual does not perform construction services.

Additionally, a contractor or subcontractor is not required to comply with the bill’s staffing requirements and implementation schedule under either of the following circumstances:

- The contractor or subcontractor requests qualified individuals from a hiring hall or referral system that dispatches individuals who are class A or class B skilled journeypersons or apprentices and, because of workforce shortages, the contractor or subcontractor is unable to obtain sufficient qualified individuals within 48 hours (not including Saturdays, Sundays, or legal holidays) after the request;

<sup>4</sup> R.C. 4145.01(E) and R.C. 4139.01, not in the bill; *see also* 29 U.S.C. 1001, *et seq.* and 29 Code of Federal Regulations (C.F.R.) 29.2 and 29.20.

<sup>5</sup> R.C. 4145.03(B)(2) and (3).

- An emergency during or after which compliance is impracticable, including an emergency that requires immediate action to prevent imminent harm to public health, public safety, or the environment.<sup>6</sup>

## **Recordkeeping**

The bill requires each contractor and subcontractor that performs construction services on a stationary source to keep the following records for a period of not less than three years after the construction services have been completed:

- Payroll records for all individuals who performed construction services;
- Apprenticeship records;
- Copies of the reports described below.

The Director of Commerce or the Attorney General may request to inspect the records any time during the three years a contractor or subcontractor must keep them. A contractor or subcontractor must make the records available no later than seven days from the date the Director or Attorney General makes the request.<sup>7</sup>

## **Reports**

### **Contractor compliance reports**

A contractor subject to the bill's staffing requirement must prepare a quarterly compliance report for each calendar quarter during which the contractor provided construction services at a stationary source. The contractor must submit each report to the Director not later than 30 days after the last day of the calendar quarter and a final report to the Director not later than 30 days after construction services under a contract are completed. Each report must include all of the following information with respect to the calendar quarter covered by the report:

- The contractor's name and address;
- The name and title of the individual preparing the report on behalf of the contractor;
- The name and address of the owner or operator of the stationary source at which construction services were performed;
- The name of the project and project number, if any;
- The total dollar value of the contract;
- The name and address of all subcontractors involved in providing construction services at the stationary source;

<sup>6</sup> R.C. 4145.03(B)(4) and (C).

<sup>7</sup> R.C. 4145.05.

- The total number of class A and class B skilled journeypersons and apprentices who performed construction services;
- The name and address of each registered apprenticeship program from which class A skilled journeypersons graduated and each registered apprenticeship program that provided training to apprentices;
- A certification that the contractor complied with the bill's staffing requirements and implementation schedule;
- All of the following:
  - The total number of class A skilled journeypersons who performed construction services;
  - The total number of class B skilled journeypersons who performed construction services;
  - The total number of apprentices who performed construction services;
  - The numbers of class A and class B skilled journeypersons and apprentices represented as a percent of the total number of class A and class B skilled journeypersons and apprentices who performed construction services.

When the contractor submits a report to the Director, the contractor must provide a copy to the owner or operator of the stationary source at which the services were provided.<sup>8</sup>

The Director must create and make available a form on which a contractor can include the information required in the contractor's compliance report. Not later than 30 days after a report is submitted to the Director, the Director must publicly post it on the Department of Commerce's website.<sup>9</sup>

### **Subcontractor workforce report**

Not later than ten days after the end of each calendar quarter, a subcontractor subject to the bill's staffing requirement must submit a workforce report to each contractor for which the subcontractor provided construction services at a stationary source. Each report must include the following information regarding individuals who performed construction services during that calendar quarter:

- The total number of class A and class B skilled journeypersons and apprentices who performed construction services;
- The total number of class A skilled journeypersons and apprentices who performed construction services;

<sup>8</sup> R.C. 4145.06.

<sup>9</sup> R.C. 4145.11(B).

- The total number of class B skilled journeypersons who performed construction services and the means by which the subcontractor verified that each class B skilled journeyperson has satisfied the experience requirement to be considered a class B skilled journeyperson;
- The name and address of each registered apprenticeship program from which class A skilled journeypersons graduated and each registered apprenticeship program that provided training to apprentices.<sup>10</sup>

## **Owner and operator obligations**

An owner or operator of a stationary source that contracts for construction services at the stationary source on or after the bill's effective date must do both of the following:

- Engage only a contractor that complies with the bill's staffing requirements for construction services at stationary sources;
- Require, in the contract, that the contractor use only subcontractors that comply with the bill's staffing requirements when providing services at the stationary sources.<sup>11</sup>

If an owner or operator believes that a contractor or subcontractor has failed to comply with the implementation schedule described above, the owner or operator must notify the Director in writing. The notice must be provided no later than seven days after the date on which the owner or operator first believes a contractor or subcontractor has failed to comply. The owner or operator must include all of the following in the notice:

- A summary describing the contractor's or subcontractor's alleged noncompliance, including the applicable dates of noncompliance and degree to which the contractor or subcontractor has allowed the proportion of the contractor's or subcontractor's employees performing construction services to deviate from the implementation schedule;
- The corrective actions, if any, that the owner or operator has taken to ensure the contractor or subcontractor is complying with the implementation schedule, and the date by which the owner or operator expects the contractor or subcontractor to comply with the implementation schedule.<sup>12</sup>

## **Prohibitions**

The bill prohibits the owner or operator of a stationary source from doing any of the following:

<sup>10</sup> R.C. 4145.07.

<sup>11</sup> R.C. 4145.03(A).

<sup>12</sup> R.C. 4145.04.

- Failing to enter a contract that complies with the requirements described in “**Owner and operator obligations,**” above;
- Failing to provide written notice to the Director within the specified time when the owner or operator believes that a contractor or subcontractor has failed to comply with the bill’s staffing requirements;
- Submitting a notice to the Director that contains false or inaccurate information.

The bill also prohibits a contractor or subcontractor from doing any of the following:

- Failing to comply with the bill’s staffing requirements for construction services at stationary sources;
- Failing to maintain the records required by the bill;
- Failing to make the required records available for inspection by the Director or the Attorney General within the required timeframe;
- Failing to file the reports required by the bill or submitting a false or inaccurate report.<sup>13</sup>

An owner or operator, contractor, or subcontractor that violates any of the prohibitions listed above is subject to a civil penalty of not more than \$10,000 for each violation. Each day a contractor or subcontractor fails to comply with the bill’s staffing requirements at a stationary source counts as a separate violation. Each day an owner or operator is party to a contract that violates the bill counts as a separate violation.<sup>14</sup>

## **Enforcement**

Any person who believes an owner or operator, contractor, or subcontractor has violated the prohibitions described above may file a written complaint with the Director. On receiving a complaint, the Director may investigate the alleged violation. The Director also may investigate whether an owner or operator, contractor, or subcontractor has violated the bill’s prohibitions on the Director’s own initiative.

If the Director determines after an investigation that reasonable grounds exist to believe a violation has occurred, the Director must provide notice and hold a hearing in compliance with the Administrative Procedure Act.<sup>15</sup>

After a hearing, if the Director determines a violation has occurred, the Director must order the offender to correct the violation. The offender must remedy the violation not later than 30 days after the Director issues the order. An offender that fails to remedy a violation within the time period specified is subject to the civil penalty described above. The Attorney General may, on behalf of the Director, sue in a court of competent jurisdiction to enforce a

<sup>13</sup> R.C. 4145.08.

<sup>14</sup> R.C. 4145.10.

<sup>15</sup> R.C. Chapter 119.

violation. If the Attorney General prevails in a suit, the court must award court costs and reasonable attorney's fees to the Attorney General.

A civil penalty assessed under the bill and any court costs and attorney's fees recovered are paid into the state treasury to the credit of the Industrial Compliance Operating Fund created under continuing law. The fund is used to pay the Division of Industrial Compliance's proportionate share of the Department of Commerce's administrative costs.<sup>16</sup>

The bill authorizes the Director to adopt rules, in accordance with the Administrative Procedure Act, to administer and enforce the bill.<sup>17</sup>

The Director may delegate the Director's enforcement duties under the bill to the Superintendent of the Industrial Compliance. The Superintendent must exercise the Director's powers and perform the delegated duties.<sup>18</sup>

## **Purpose and findings**

The bill states that its purpose is to protect public health and safety by requiring minimum training and skill standards for persons performing construction services on certain high hazard facilities where inferior or faulty work practices can pose serious risks to the public and result in potentially catastrophic consequences. The bill also contains a detailed list of legislative findings. LSC staff did not verify the substance of those findings.<sup>19</sup>

## **Additional definitions**

The bill defines the following terms:

- "Construction" means all service performed at a stationary source, including maintenance, repair, assembly, disassembly, alteration, demolition, modernization, and installation services;
- "Contractor" means any person who undertakes construction at a stationary source under a contract with an owner or operator;
- "Owner or operator" means a person who owns or operates a stationary source at which the person engages in activities described in code 324110 of the 2017 North American Industry Classification System and at which the person engages in one or more covered processes for which the person is required to prepare and submit a risk management plan under the "Clean Air Act," but does not include a person who controls the means of engaging in oil and gas extraction operations;

<sup>16</sup> R.C. 4145.09, with conforming change in R.C. 121.084.

<sup>17</sup> R.C. 4145.11(A).

<sup>18</sup> R.C. 121.083.

<sup>19</sup> R.C. 4145.12 and Section 4.

- “Subcontractor” means any person who undertakes construction at a stationary source under a contract with any person other than an owner or operator.<sup>20</sup>

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## HISTORY

Action	Date
Introduced	03-25-21

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H0235-I-134/ts

<sup>20</sup> R.C. 4145.01.



**Version:** As Pending in House Health

**Primary Sponsor:** Rep. Gross

Elizabeth Molnar, Attorney

## SUMMARY

- Prohibits mandatory vaccinations, vaccination status disclosures, and certain other actions regarding vaccinations.
- Authorizes an individual to bring a civil action if the individual believes a violation has occurred and requires the court to award a prevailing plaintiff attorney's fees, compensation for court costs, and any civil penalty the court considers appropriate.
- Names the act the Vaccine Choice and Anti-Discrimination Act.

## DETAILED ANALYSIS

### Vaccinations

#### Policy statement

The bill declares that it is the policy of Ohio that individuals have a right to direct their own health care decisions, free from coercion or penalty, and with informed consent, for themselves, their children, their family, and anyone for whom they stand in loco parentis.<sup>1</sup>

#### Mandatory vaccinations prohibited

The bill prohibits any of the following from mandating, requiring, or otherwise requesting an individual to receive a vaccine:

- A person (defined to include an individual, business trust, estate, trust, partnership, and association);
- Public official or employee;

<sup>1</sup> R.C. 3792.02(B).

- Public agency;
- State agency;
- Political subdivision;
- School;
- Child day-care center;
- Nursing home;
- Residential care facility;
- Health care provider;
- Insurer;
- Institution (defined to include a nonprofit university, college, academy, or school);
- Employer.<sup>2</sup>

### **Note on school and child care immunizations**

While the bill appears to maintain the law requiring immunizations against certain diseases before a child may enroll in school or child care, it specifically addresses the exemptions to those requirements – in particular, the manner in which a child’s family is notified of them. Under the bill, a school or day-care center that notifies a child’s parent or guardian about the required immunizations must also notify the parent or guardian of the available exemptions. This is to be done in the same timing and manner, including text size and font, as the school or center notifies families of the immunization requirements.<sup>3</sup>

## **Vaccination status disclosures**

### **Policy statement**

The bill declares that it is the policy of Ohio that individuals have a right to expect that their personal privacy rights remain protected, specifically their private health information.<sup>4</sup>

### **Prohibition on disclosures and vaccine passports**

The bill prohibits all of the following from: (1) mandating, requiring, or otherwise requesting an individual to disclose the individual’s vaccine status or participate in a vaccine passport system, vaccine registry, or other mechanism designed for the purpose of tracking an individual’s vaccine status, (2) disclosing an individual’s vaccination status, and (3) making public an individual’s vaccine status:

<sup>2</sup> R.C. 3792.02(B)(1).

<sup>3</sup> R.C. 3792.02(B)(1)(a) to (d).

<sup>4</sup> R.C. 3792.02(C).

- A person (defined to include an individual, business trust, estate, trust, partnership, and association);
- Public official or employee;
- Public agency;
- State agency;
- Political subdivision (defined to include a county, township, municipal corporation, school district, or board of health);
- School;
- Child day-care center;
- Nursing home;
- Residential care facility;
- Health care provider (defined to include professionals and facilities);
- Insurer;
- Institution (defined to include a nonprofit university, college, academy, or school);
- Employer.<sup>5</sup>

### **Note on school and child care immunizations**

The bill includes language stating that its prohibition on disclosures does not apply to the extent described in the law requiring a child’s parent or guardian to provide proof of immunization to the child’s school or child care provider; however, it does specify that, in case of disclosure, a student’s or child’s vaccine status is to be considered and treated as personally identifiable information.<sup>6</sup>

### **Patient care, treatment, or billing**

The bill also includes language stating that its prohibition on disclosures does not apply to a health care provider or insurer as it pertains to patient care, treatment, or billing. In case of a disclosure for purposes of care, treatment, or billing, an individual’s vaccine status must be considered and treated as protected health information.<sup>7</sup>

### **Disclosures by college students**

Current Ohio law requires a college student – when seeking to reside in on-campus housing – to disclose to the college or university whether he or she has been vaccinated against

<sup>5</sup> R.C. 3792.02(C)(1)(a) to (c) and 3792.02(C)(3).

<sup>6</sup> R.C. 3319.321, not in the bill and 3792.02(C)(2)(a).

<sup>7</sup> R.C. Chapter 3798, not in the bill and 3792.02(C)(2)(b).

hepatitis B and meningococcal meningitis. To meet this requirement, the student may complete either the form prepared by the Ohio Department of Health or an equivalent developed by the college or university.<sup>8</sup> The bill repeals this law.

## **Discrimination**

### **Policy statement**

The bill declares that it is the policy of Ohio that individuals have a right to expect that their personal health choices will not result in discriminatory treatment.

### **Prohibition on discrimination**

In the case of an individual who refuses to (1) receive a specific vaccination or series of vaccinations, (2) subscribe to a vaccine or immunity passport or tracking service, or (3) provide proof of vaccination for, immunity to, or testing of a specific contagious or infectious disease, the bill prohibits an individual, business, public official or employee, public agency, state agency, political subdivision, school, child day-care center, nursing home, residential care facility, health care provider, insurer, institution, or employer from doing any of the following:

- Denying service or access to, segregating, requiring a vaccine status label for, requiring disease or immunity testing of, penalizing as a result of, or otherwise discriminating against the individual;
- Providing any disposition, service, financial aid, or benefit to the individual that is different from or provided in a different manner than that provided to another individual;
- Restricting the individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any disposition, service, financial aid, or benefit provided to other individuals;
- Treating the individual differently from others in determining whether that individual satisfies any admission, enrollment, quota, eligibility, membership, or other requirement or condition that individuals are required to meet in order to be provided any disposition, service, financial aid, or benefit available to other members of the general public;
- Denying the individual an opportunity to participate in a program through the provision of service or otherwise afford that individual an opportunity to do so that is different from that afforded to other members of the general public;
- Creating, imposing, or allowing to be imposed any device or method of identification that acts as or might be considered to be a vaccine passport that would be required of

<sup>8</sup> R.C. 1713.55, 3332.25, 3345.47, 3345.85, and 3701.133, repealed by the bill.

any citizen seeking to travel, enter any public space or private property, or do any business in Ohio.<sup>9</sup>

## **Business protections**

### **Policy statement**

The bill declares that it is the policy of Ohio that the success of the state relies largely on the success of its private businesses and that Ohio intends to ensure protection of businesses honoring individual's rights to health choice and privacy.

### **Prohibition**

In the case of a business that complies with the bill's foregoing policy statement and honors the rights of individuals to health choice and privacy, the bill prohibits an individual, business, public official or employee, public agency, state agency, political subdivision, or insurer from doing any of the following:

- Denying service to, penalizing, or otherwise discriminating against the business;
- Providing any disposition, service, financial aid, or benefit to the business that is different from or is provided in a different manner than that provided to another business;
- Restricting the business in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any disposition, service, financial aid, or benefit provided to other businesses.<sup>10</sup>

## **State and local orders**

### **Policy statement**

The bill declares that it is the policy of Ohio that the health choice and privacy of individuals are paramount and must remain so under all circumstances, even in the presence of emergencies.

### **Prohibition on certain state and local orders**

The bill prohibits a public official or employee, public agency, state agency, or political subdivision from doing any of the following:

- Issuing any order or proclamation or taking other action that violates the bill's provisions under the pretense of an emergency;
- Issuing any order or proclamation or taking other action that encourages any individual, business, public official or employee, public agency, state agency, political subdivision,

<sup>9</sup> R.C. 3792.02(D).

<sup>10</sup> R.C. 3792.02(E).

school, child day-care center, nursing home, residential care facility, health care provider, insurer, institution, or employer to violate any of the bill's provisions;

- Issuing any order or proclamation or taking other action that penalizes any individual, business, public official or employee, public agency, state agency, political subdivision, school, child day-care center, nursing home, residential care facility, health care provider, insurer, institution, or employer for refusing to violate any of the bill's provisions.<sup>11</sup>

## **Violations and civil causes of action**

The bill authorizes an individual who believes that any of the bill's provisions have been violated to pursue any of the following:

- Relief under Ohio's anti-discrimination statutes;<sup>12</sup>
- Relief through a complaint submitted to the Attorney General;
- A civil action.<sup>13</sup>

In the case of a complaint submitted to the Attorney General, the bill authorizes the Attorney General, if he or she has reasonable cause to believe that any of the bill's provisions have been violated, to bring either an action to obtain a declaratory judgment or an action to obtain a temporary restraining order (TRO), preliminary injunction, or permanent injunction.

The bill permits a court to issue a TRO or injunction if the Attorney General shows by a preponderance of the evidence that any of the bill's provisions have been violated. It also grants the court the authority to impose – on the motion of the Attorney General or the court itself – any civil penalty that the court considers appropriate.

In the case of a civil action brought by an individual plaintiff, if the plaintiff prevails, the bill requires the court to award the plaintiff financial compensation for court costs and attorney's fees as well as any civil penalty the court considers appropriate.

## **Special vs. general provisions**

The bill specifies that its provisions prevail over any conflicting provisions in a general law, present or future, to the extent of the conflict; however, if any such general law contains a specific exemption from the bill's provisions, including a specific reference to this particular provision, the general law prevails, but only to the extent of the exemption.<sup>14</sup>

<sup>11</sup> R.C. 3792.02(F).

<sup>12</sup> R.C. Chapter 4112, not in the bill.

<sup>13</sup> R.C. 3792.02(G).

<sup>14</sup> R.C. 3792.02(H).

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## HISTORY

Action	Date
Introduced	04-06-21

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**BEFORE THE HEALTH COMMITTEE  
THE OHIO HOUSE OF REPRESENTATIVES  
REPRESENTATIVE SCOTT LIPPS, CHAIR**

**HOUSE BILL 248  
TESTIMONY  
OF  
ROSS MCGREGOR  
OWNER  
PENTAFLEX INC.**

**JUNE 22, 2021**



Chairman Lipps, Vice Chairman Holmes, Ranking Member Russo, and members of the House Health Committee, my name is Ross McGregor, and I am here today in my capacity as the owner of a manufacturing company, Pentaflex, headquartered in Springfield, and on behalf of The Ohio Manufacturers' Association (OMA) of which I am a longtime member, to testify in opposition of House Bill 248.

Throughout the COVID-19 pandemic, Ohio manufacturers led the way in workplace safety while supplying the nation with essential goods, including personal protective equipment and pharmaceuticals. As the state's largest industry sector, manufacturers continue to lead the economic recovery as we transition to a post-pandemic world.

At a company like Pentaflex, with more than 150 associates, it is critical to ensure that our team members have a safe and healthy workplace. The safety and wellbeing of my employees and their families is a primary concern for my company and for all manufacturers. Safety is not just about protecting employees from traditional workplace injuries; safety is also about making sure employees are protected as much as possible from new workplace challenges like COVID-19 or any other illness that can be easily transmitted in the workplace. If one of our employees becomes ill and transmits COVID-19 to his or her coworkers, that transmission poses a health hazard not only among our staff but to our community as well.

Restricting an employer's ability to safeguard its employees' health in the workplace not only puts its employees, their families, and communities in danger, but also impacts the manufacturing supply chain, which is already fragile due to the complex nature of our businesses.

As an example, in South Dakota, a food manufacturing facility that accounted for four to five percent of the nation's pork production had to shut down for 14 days due to a large-scale COVID-19 outbreak. It resulted in significant supply shortages throughout the country. We have seen similar outbreaks, though on a smaller scale, here in Ohio. These outbreaks have a rippling effect on the economy and are especially impactful if it is in manufacturing where many people rely on the goods produced in Ohio for everyday life.

New variant strains are creating uncertainty about the evolution of the pandemic, and Ohio continues to lag behind the rest of the nation in the percentage of vaccinated individuals. Therefore, production plants and workplaces across the state remain susceptible to outbreaks. Supply chain disruptions, rising prices for inputs and energy, and exacerbated labor shortages are already current threats. We should not continue to add to these disruptions by removing the current choices Ohio employers have at their disposal.

The proposed bill oversteps the line between public and private. This bill is the government telling me, a small business owner, what I can and cannot do inside the four walls of my factory when it comes to the safety of my employees and anyone who enters my facility. Our company is required to protect anyone who enters our facilities and we

are liable if someone is injured. Employers are in the best position to make those choices on how best to protect their companies, not the government.

Every policy decision that impacts Ohio's manufacturing competitiveness, in turn, affects our economic health and job creation. Manufacturers need policies that allow us to protect our manufacturing advantage. Throughout the pandemic, Ohio has maintained its position as a national and global manufacturing leader. Let's make sure we are not passing legislation to hinder Ohio employers' ability to do what is in their best interest and keep Ohio at the forefront of the nation's recovery.

Thank you, Mr. Chairman, and the members of this committee for the opportunity to provide testimony on House Bill 248, and I am happy to answer any questions from the committee.

August 24, 2021

The Honorable Scott Lipps  
Chairman  
House Health Committee  
Vern Riffe Center  
77 South High Street, 13th floor  
Columbus, OH 43215

**RE: House Bill 248 – Written Opponent Testimony**

Dear Chairman Lipps:

The Ohio Manufacturers' Association (OMA) testified as an opponent to House Bill 248 in June of this year. We would like to take this opportunity to reiterate our opposition to House Bill 248.

A safe and healthy work environment is a primary concern for manufacturers. Not only is it important that employees are protected from traditional workplace injuries, but it is important that they are able to come to work safe and healthy and able to leave the facility in the same manner. In order to do that, employers need the flexibility to make the appropriate decisions for their businesses.

House Bill 248 imposes government mandates against safe and effective safety measures to combat COVID-19 and more importantly it strips employers' rights to make the best decisions for the safety of their business, employees, and guests. This bill jeopardizes all the work that Ohio manufacturers have done during the pandemic to ensure that their doors stay open and that they are able to continue supplying the nation with essential goods, personal protective equipment, pharmaceuticals, and more. As the delta variant continues to disrupt business, the last thing employers need is the government eliminating safe and effective options for the continued operation of manufacturers. Manufacturers have done a good job dealing with the pandemic and are remaining vigilant to protect their employees from the virus.

House Bill 248 represents more than just vaccines. This bill is Ohio's government stepping in and telling the business community they are smarter and more knowledgeable than the business owners who have spent the past 18 months fighting to keep their businesses open and their employees safe. The OMA has long defended the rights of their companies to operate their businesses efficiently and effectively without government intrusion. House Bill 248 chips away the rights of private businesses in an unjustified manner.

As we come out of this pandemic, we need to make it easier for Ohio manufacturers to contribute to the economic recovery of this state. Supply chain disruptions, rising prices for inputs and energy, and exacerbated labor shortages are already current threats. We should not continue to add to these disruptions by removing an employer's ability to make their own business decisions.

Thank you for the opportunity to submit this written testimony. Please feel free to reach out should you or the committee have any questions.

Sincerely,

A handwritten signature in blue ink that reads "Robert A. Brundrett". The signature is written in a cursive style with a prominent initial "R".

Rob Brundrett  
Managing Director, Public Policy Services



## MEMORANDUM

TO: Ohio Manufacturers' Association  
Government Affairs Committee

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

DATE: August 25, 2021

RE: August 2021 OMA Government Affairs Committee Counsel Report

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I. August 2021 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.

The next opportunity for statewide ballot issues is the November 2022 General Election. Statewide ballot issue committees must submit their petition of signatures to be placed on the 2022 general election ballot by or on June 30, 2021.

All ballot issues certified by both the Attorney General and the Ohio Ballot Board may collect signatures to be placed on the upcoming general election ballot. One constitutional amendment initiative petition was submitted on June 23, 2021 to the Attorney General's office, which would place the Nursing Facility Patients' Bill of Rights, also known as Carolyn's law, in Ohio's Constitution. On June 30, 2021, Attorney General Yost certified the initiative petition. Following on July 12, 2021, the Ohio Ballot Board certified the initiative as a single issue, which allows the committee to begin collecting signatures.

On July 27, 2021, a group – the Coalition to Regulate Marijuana Like Alcohol – submitted an initiative petition for an initiated statute to legalize and regulate adult use of cannabis. Attorney General Yost rejected the initially-filed petition due to the summary not accurately capturing the proposed statute's contents and, therefore, and was not a fair and truthful statement of the proposed chapter of law. The group resubmitted the initiative petition with a different summary on August 13, 2021. Attorney General Yost's office approved the petition on August 20, 2021. The petitioners will now go to the Ohio Ballot Board for certification of the proposal as a single issue. If successful, the petitioners may begin the 132,000 valid signatures needed to be placed before the Ohio General Assembly for possible action in early 2022.

III. Pending Legislation (2021-2022).

The House and Senate finished up their budget process late into the evening on June 28, 2021. Both chambers accepted the conference committee report with bipartisan support. Governor DeWine signed the bill into law on June 30, 2021 and vetoed 14 items in House Bill 110. H.B. 110 appropriates approximately \$74.1 billion in General Revenue Funds and \$161.9 billion in total funding for fiscal years 2022 and 2023.

Some noteworthy provisions include the following:

- An extensive overhaul of the state’s public education funding formula, authored by Speaker Bob Cupp (R-Lima) and former Rep. John Patterson (D-Jefferson).
- A \$1.65 billion state income tax cut.
  - Reduces income tax rates starting in 2021 by 3%.
  - Eliminates the highest income tax bracket, leaving only 4 brackets with the new highest bracket at 3.99%.
  - Increases the income level at which the first bracket starts from \$22,150 to \$25,000 in 2021.
  - Suspension of indexing for exemption amounts in 2021 and 2022.
- Elimination of the sales tax on employment services.
- Language to allow employers to continue withholding municipal income taxes from nonresident employees that work from home in 2021, but allows a nonresident employee to apply for a refund during the period of time they worked from home in 2021.
- \$250 million for residential broadband expansion grants.
- \$350 million for brownfield remediation.
- \$150 million for building demolition and site revitalization.
- Authorizes tax incentives for operators and suppliers of “mega projects,” which are development projects that include at least \$1 billion in investment or creates at least \$75 million in Ohio payroll. The mega projects are eligible for the Job Creation Tax Credit program.

The Legislature left for summer recess quickly after finishing the budget. They are expected to return after Labor Day weekend. However, the Ohio House Health Committee scheduled a meeting to hold a hearing on House Bill 248 on August 24, 2021, sponsored by Representative Jennifer Gross (R-West Chester), which will limit employer’s ability to ask for employees’ COVID-19 vaccine status and prohibit discrimination against an employee based on their status.

Repealing House Bill 6 Efforts.

House Bill 128 is sponsored by Representative Jim Hoops (R-Napoleon) and Representative Dick Stein (R-Norwalk). This bill was coined as the House plan to repeal H.B. 6. H.B. 128 fully repeals the nuclear subsidies that were enacted under H.B. 6. The bill also eliminates the decoupling provisions enacted in H.B. 6 and the prior budget change to the significantly excessive earnings test (SEET) that FirstEnergy benefited from. The bill does not touch the OVEC benefits received in H.B. 6. Lastly, the bill requires the Ohio Power Siting Board to issue a report to lawmakers by Dec. 1, 2021, on transmission projects and spending. The bill was introduced on February 16, 2021 and referred to the House Public Utilities Committee. After the bill received amendments to restore the solar subsidies, the House Public Utilities Committee reported the bill out of committee in March. Following, the House approved the measure during session on March 10, 2021 with a vote of 86-7. The bill moved to the Senate, where it was referred to the Senate Energy and Public Utilities Committee. The committee quickly amended the bill and sent it to the Senate floor a week later. The Senate approved the measure with a 33-0 vote. Then, the House concurred with the Senate amendments, and the Governor signed it into law on March 31, 2021.

However, H.B. 128 did not revoke the legacy generation resource subsidies enacted under H.B. 6. Senate Bill 117 is sponsored by Senators Mark Romanchuk (R-Ontario) and Hearcel Craig (D-Columbus), and repeals the legacy generation resource provisions of H.B. 6 and provides customers refunds. The legacy generation resource provisions directly benefit the Ohio Valley Electric Corporation (OVEC). Thus far, the bill has received three hearings in the Senate Energy and Public Utilities Committee.

Additionally, Representatives Laura Lanese (R-Grove City) and Reggie Stoltzfus (R-Paris Township) introduced similar legislation, House Bill 351. The bill was referred to the House Public Utilities Committee on June 22, 2021.

Unemployment Compensation. No legislation has been introduced to this general assembly regarding unemployment compensation. However, many House members have asked cabinet members of the Administration during their budget testimony how much unemployment compensation fraud has cost the state during the recent months. Senate President Matt Huffman (R-Lima) told the Gongwer News Service he wants a long-term solvency plan included in the state budget. However, Speaker Bob Cupp (R-Lima) told Gongwer after the House passed the budget bill, H.B. 110, that the unemployment compensation issue was too complicated to be addressed in the budget. We will continue to monitor House Bill 110 for any provisions which address the solvency issue.

Other legislation was introduced regarding the fraud occurring in the unemployment compensation system during the pandemic. Representative Diane Grendell (R-Chesterland) introduced House Concurrent Resolution 8, which creates the Joint Select Investigative Committee on Unemployment Compensation Fraud. The concurrent resolution was introduced March 24,

2021 and referred to the House Government Oversight Committee. So far, the concurrent resolution has received no hearings in committee.

Senator Bob Hackett (R-London) and Senator Bill Reineke (R-Tiffin) introduced Senate Resolution 21, which urges the federal government to increase the Pandemic Unemployment Assistance program's security against fraudulent actors, both internationally and domestically. The resolution was adopted by the Senate on March 10, 2021 by a vote for 33-0.

In addition, the Ohio Senate amended House Bill 168, to appropriate \$1.5 billion from the state's share of the American Rescue Plan Act (ARPA) funds to repay the state's unemployment compensation system's debt to the federal government due to the COVID-19 pandemic. Interest on this debt, which employers would be required to pay, would have begun accruing in September.

H.B. 68 - Payment to Construction Contractors. Representative Jon Cross (R-Kenton) and Representative Bride Sweeney (D-Cleveland) reintroduced House Bill 380 language on February 4, 2021. House Bill 68 was referred to House Commerce and Labor Committee. H.B. 68 received four hearings in committee, and was passed out of committee on May 5, 2021. Following the House considered the legislation on the floor, and passed it with a vote of 86-10 on May 19, 2021. The Senate referred the bill to the Senate Workforce and Higher Education Committee. Generally, H.B. 68 requires owners of commercial and public construction projects to pay contractors within 30 days after receiving a request for payment. If a payment is not timely made, then an 18% annual interest rate will be applied to the amount owed. This modification to the Prompt Pay Act would include private owners in the act. Currently, the act only addresses payments amongst contractors, subcontractors, material suppliers, and laborers.

State Minimum Wage. Representative Brigid Kelly (D-Cincinnati) and Representative Dontavious Jarrells (D-Columbus) reintroduced legislation to increase Ohio's minimum wage. House Bill 69 increases the minimum wage to ten dollars per hour beginning January 1, 2022. Every year after Ohio's minimum wage will increase by one dollar until 2027 when minimum wage would reach fifteen dollars per hour. The bill was introduced on February 9, 2021 and was referred to the House Commerce and Labor Committee.

Senator Cecil Thomas (D-Cincinnati) and Senator Hearcel Craig (D-Columbus) introduced similar legislation to increase Ohio's minimum wage, Senate Bill 51. S.B. 51 increases the minimum wage to twelve dollars per hour beginning January 1, 2022. Every year after Ohio's minimum wage will increase by one dollar until 2025 when it hits fifteen dollars per hour. S.B. 51 also allows any municipal corporation, township, or county to establish a higher minimum than the state's minimum wage. If the employer is subject to both a municipality's minimum wage and the state's minimum wage, the employer must pay their employees the highest minimum wage they are subject to. The bill was introduced on February 9, 2021 and was referred to the Senate Workforce and Higher Education Committee. The bill received its first hearing on March 10, 2021.



Local Referendum on New Energy Generation Sites. Two bills were introduced that grants the capability to invalidate an Ohio Power Siting Board certificate for wind and solar projects via a voter referendum. Representative Craig Riedel (R-Defiance) and Representative Dick Stein (R-Norwalk) introduced House Bill 118 on February 18, 2021. Senator Bill Reineke (R-Tiffin) and Senator Rob McColley (R-Napoleon) introduced Senate Bill 52 on February 9, 2021. S.B. 52 was referred to the Senate Energy and Public Utilities Committee. The committee amended S.B. 52 multiple times before reporting the bill out on June 2, 2021 by a vote of 7-5. Later the same day, the full Senate considered the bill and passed it with 20-13 vote. The House referred S.B. 52 to the House Public Utilities Committee, where it is scheduled for its first hearing on Wednesday, June 16.

The House quickly began deliberations on the bill in House Public Utilities Committee, holding five hearings and hearing from stakeholders on additional changes to the bill. Through several interested party meetings held during June, a compromise was struck between the parties. Ultimately, the committee amended and passed the bill out of committee on June 25, 2021. The House changes to the bill include:

- Enables county commissioners to approve a project via a lack of action or to adopt a resolution rejecting or limiting the footprint of a proposed project;
- Allows local officials to adopt a resolution subject to referendum to designate a restricted area in which any project is prohibited or block any material amendment to an existing facility;
- Grandfathering in economically significant or large wind farms that have filed complete applications with the Siting Board for a period of no later than 30 days after the effective date;
- Exempts from the bill applications for certificates or material amendments for a solar project if it lies in PJM Interconnection new services queue at the time the application is determined complete;
- For all utility facility applications or material amendments, a utility facility that has been filed with, but not determined to be complete and accepted by the OPSB as of the bill's effective date, the OPSB shall include local representatives as ad hoc members of the OPSB.

The House passed S.B. 52 out of its chamber on June 28, 2021 with a vote of 52-43. The Senate concurred with the House changes, and Governor DeWine signed the bill into law on July 12, 2021. The bill will be effective on October 9, 2021.

S.B. 68 Prohibits Felony Question on Job Applications. Senator Sandra Williams (D-Cleveland) introduced S.B. 68, which prohibits private employers from including on an employment application any question concerning whether an applicant has been convicted of or pleaded guilty to a felony. This bill was introduced on February 17, 2021, and was referred to the Senate

Workforce and Higher Education Committee. The bill received sponsor testimony on March 10, 2021.

Municipal Income Tax Rules. Representatives Kris Jordan (R-Delaware) and Jay Edwards (R-Athens) introduced House Bill 157, which modifies and extends, until December 31, 2021, a temporary rule governing the municipal income taxation of employees who are working at a temporary worksite, including their home, due to the COVID-19 pandemic. Employers can continue to withhold taxes in the municipality of the employees traditional work site, instead of the temporary at home worksite until December 31, 2021. The bill also temporarily shields employers from certain penalties associated with withholding municipal income tax as long as the employer withholds such tax for an employee's principal place of work. The bill received six hearings in House Ways and Means Committee before a substitute bill was reported out of the committee on May 18, 2021. H.B. 157 was considered on the House floor on May 26, 2021 and passed by a vote of 63-31. The language of H.B. 157 was added by the Senate in the substitute bill for H.B. 110 on June 1, 2021. This language remained in the final version of H.B. 110 signed by Governor DeWine into law on June 30, 2020.

Legislation related to the same topic was introduced in the Senate, Senate Bill 97. Senator Kristina Roegner (R-Hudson) introduced S.B. 97 on February 24, 2021. The bill was referred to the Senate Ways and Means Committee and received sponsor testimony on May 12, 2021. S.B. 97 repeals the temporary municipal income taxation rule for employees who are working from home due to COVID-19.

House Democrats, Representatives Monique Smith (D-Fairview Park) and Lisa Sobecki (D-Toledo), introduced House Bill 264, which extends the temporary provision in law allowing employers to withhold taxes in the employees traditional worksite, rather than the location of their home, to the later of 30 days after the end of the state of emergency or December 31, 2022. The bill was referred to the House Ways and Means Committee, but has not received a hearing.

Anti-Discrimination. Similar to legislation introduced in the 133<sup>rd</sup> General Assembly, Representatives Brett Hillyer (R-Uhrichsville) and Michael Skindell (D-Lakewood) introduced House Bill 208, which prohibits discrimination on basis of sexual orientation or gender identity or expression. H.B. 208 was referred to the House Commerce and Labor Committee on March 1, 2021.

Identical legislation was introduced in the Senate by Senator Nicki Antonio (D-Lakewood) and Senator Michael Rulli (R-Salem). Senate Bill 119 was referred to the Senate Government Oversight and Reform Committee, and no hearings have been scheduled.

IV. Tort Reform.

Counsel is currently monitoring various tort reform legislative efforts and await the possible re-introduction of certain civil justice legislative items from prior legislative cycles. Thus far, the 134<sup>th</sup> General Assembly has kept Ohio within the same bounds of tort reform, and continues to discuss how to change the laws to be better for businesses in Ohio.

Third Party Litigation Funding. Senator Steve Wilson (R-Maineville) reintroduced the non-recourse civil litigation legislation, S.B. 94. Specifically, the bill requires a company engaged in the business of non-recourse civil litigation advance in Ohio to register with the Superintendent of Financial Institutions in the Department of Commerce. The bill was referred to Senate Judiciary Committee, and received sponsor testimony on March 31, 2021.

Statute of Limitations on Contracts. Senator George Lang (R-West Chester) introduced S.B. 13 on January 21, 2021, which mirrors H.B. 251 from the previous General Assembly. The legislation shortens Ohio's statute of limitations for actions brought related to contracts. The Senate quickly acted on the bill by referring it and passing it out of the Senate Judiciary Committee within a week. S.B. 13 was considered by the full Senate on February 3, 2021 and passed unanimously out of the chamber. Following, the House referred S.B. 13 to the House Civil Justice Committee on February 10, 2021. The bill received two hearings and was voted out of the committee on February 23, 2021. The House passed the bill on February 25, 2021 with a vote of 94-0. The bill was delivered to Governor DeWine and he signed the bill into law on March 16, 2021. The bill becomes effective 90 days after the Governor's signature.

Representative Brett Hillyer (R-Uhrichsville) introduced similar legislation to S.B. 13, House Bill 53, on February 3, 2021. The bill was referred to the House Civil Justice Committee, but has not received a first hearing.

V. Ohio's Redistricting Efforts.

Ohio's Redistricting process will look different this year due to the 2015 and 2018 constitutional amendments that alter how the general assembly districts and congressional districts will be drawn.

Ohio's General Assembly districts, including the 33 Senate Districts and 99 House Districts, will be drawn by a seven-member Ohio Redistricting Commission, as established in a 2015 constitutional amendment. The Commission includes Governor Mike DeWine, State Auditor Keith Faber, Secretary of State Frank LaRose and two appointees from each chamber of the General Assembly. The Commission will include five Republicans and two Democrats. A bipartisan vote is required to approve a map. Any legal challenge against the map drawn must be filed at the Ohio Supreme Court.

Ohio's Congressional district boundaries will be drawn by the full General Assembly, as established in a 2018 constitutional amendment. To adopt a map, lawmakers must approve districts with a sufficient bipartisan supermajority. If the required supermajority is not reached, the process then passes to the Ohio Redistricting Commission. If the Commission is unable to adopt a plan with sufficient bipartisan support, the General Assembly is again empowered to draw districts, although a lower majority is required. Any legal challenge must be filed at the Ohio Supreme Court.

In mid-February, the U.S. Census Bureau announced that it would not meet the legal deadline of March 31, 2021 to release the census data, citing the effects of the COVID-19 pandemic. Instead, the U.S. Census data set a new deadline of September 30, 2021. Census data gives states their overall population, which allows for new general assembly districts and congressional district lines to be drawn. On February 25, 2021, Ohio's Attorney General Dave Yost (R) filed a case in the Sixth Circuit U.S. District Court in the Southern District of Ohio for injunctive relief against Secretary Coggins of the U.S. Department of Commerce (Case No. 3:21-cv-64).

In the complaint for injunctive and mandamus relief, Attorney General Yost argues that under Ohio's Constitution, the Ohio Redistricting Commission must finalize its work on the general assembly districts by September 1, 2021. Ohio's Redistricting Commission will not be able to meet the constitutional deadline if the Commission does not receive the data until September 30, 2021 as previously announced by the U.S. Census Bureau. Additionally, Ohio's general assembly is supposed to finalize congressional districts by September 30, 2021. Although, the Ohio Constitution spells out other options if the general assembly or the Redistricting Commission is unable to finalize the districts maps by the deadlines, these other options were created if members could not agree on the districts line. Therefore, Ohio will be harmed because it will not be able to utilize the new processes properly for drawing fair district maps. The Attorney General requested the court to either: (1) set aside the Census Bureau's unlawful decision; and (2) issue an injunction either prohibiting the defendants from delaying the release of Ohio's redistricting data beyond March 31, 2021, or else requiring the defendants to provide the State with Ohio's population data at the earliest date this Court deems equitable. Alternatively, the State of Ohio seeks a writ of mandamus requiring the Secretary to meet the statutory March 31 deadline.

The Sixth Circuit U.S. District Court dismissed the case on March 24, 2021 citing the state did not have standing because the state did not establish an injury in fact. Attorney General Yost appealed the District Court's decision to the Sixth Circuit Court of Appeals. The Sixth Circuit Court of Appeals ruled on May 18, 2021 that the state did in fact meet all three requirements for standing. The Court of Appeals remanded the case back to the District Court and ordered it to treat the matter expediently and hold a hearing to determine what if, any, remedy is appropriate. Days later, Attorney General Yost announced a settlement agreement reached with the U.S. Census Bureau. The settlement agreement requires the Bureau to release population data by August 16, 2021.

Census data was ultimately released to Ohio on August 12, 2021. The Ohio Redistricting Commission announced nine public meetings to be held across the state to kick off the legislative mapmaking process beginning in Cleveland and continuing throughout the state in August 2022.

VI. Political Updates.

U.S. Senate Race. The 2022 Senate race for the open seat being vacated by retiring U.S. Senator Rob Portman continues to heat up with additional candidates on both sides of the aisle. Thus far, Republicans will have a crowded primary including: former State Treasurer Josh Mandel, former Ohio Republican Party chair Jane Timken, Mike Gibbons, and Bernie Moreno. Several other Republicans are exploring running such as J.D. Vance and Senator Matt Dolan (R-Chagrin Falls). In the Democratic primary, Congressman Tim Ryan (D-Niles) announced his candidacy for the Senate seat. In addition, Morgan Harper (D- Columbus) announced she will also be running for the seat.

15<sup>th</sup> Congressional District Race. On August 3, 2021, the primary election was held for the 15<sup>th</sup> congressional district. Mike Carey (R-Columbus) won the Republican primary and Allison Russo (D-Upper Arlington) won the Democratic primary. Carey received the support and public endorsement of former President Donald Trump signifying the ongoing importance of the former President's endorsement, for now, in Ohio elections.

Party Designation for Judicial Candidates. House and Senate Republican members introduced legislation to require certain judicial candidates to place their party designation after their names on the ballot. Senator Teresa Gavarone (R-Bowling Green) and Senator Jerry Cerino (R-Kirtland) introduced Senate Bill 80 on February 23, 2021. S.B. 80 received three hearings in Senate Local Government and Elections Committee before being reported on March 23, 2021. The Senate considered and passed the bill on April 21, 2021. After passing the Senate, the bill was sent to the House and referred to the House Government Oversight Committee. The Senate amended H.B. 110, the biennial budget, to include language of S.B. 80. However, the language was removed in the conference committee version of the bill. The House Government Oversight Committee held a hearing on the bill and voted the bill out of committee on June 17, 2021. Following, the House passed the bill on June 25, 2021 by a vote of 52 to 37. Governor DeWine signed it into the law and the bill will be effective September 28, 2021.

VII. Litigation and Amicus Activity Update.

a. Monitored Cases.

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

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

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

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

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

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

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

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

On July 5, 2019, Little Hocking also appealed from the June 4 decision denying its motion to intervene. This appeal is pending in the Fourth District Court of Appeals, designated as Case No. 19CA000015. On July 25, the Court of Appeals ordered Appellant to file a memorandum addressing the issue of jurisdiction. Ultimately, the appeal was dismissed for lack of a final appealable order.



On July 29, 2019, Plaintiff filed an amended complaint to add claims for actual and constructive fraudulent transfer under the Uniform Fraudulent Transfer Act, R.C. 1336.01, *et seq.* On August 28, 2019, Defendant filed a motion to separate and stay Plaintiff's claims for actual and constructive fraudulent transfer. The State opposed this motion. On December 26, 2019, the Court denied this motion. On January 15, 2020, Defendants filed their answers to the amended complaint.

On March 12, 2020, the court granted Plaintiff's motion to compel discovery. The court indicated that it was not impressed with some of the Defendants' objections to discovery and stated that, "discovery, if obstructed, shall be met with punishing sanctions."

In the past few months, several subpoenas for records have been served and objections to some of them have been filed.

A new case scheduling order was issued on October 16, 2020, which sets the following deadlines: (1) fact discovery – February 26, 2021; (2) expert discovery – November 30, 2021; and (3) dispositive motions – January 15, 2022. The trial is scheduled to begin on April 4, 2022.

Also, on October 16, 2020, the Court found Defendants to be in noncompliance with some of its previous orders. It ordered Defendants to produce all documents responsive to Plaintiff's First Request for Production of Documents without regard to privilege. If the State intends to use a document, then Defendants may assert a privilege and seek an in camera review.

On October 23, 2020, DuPont appealed from the October 16 order to the extent it requires the production of privileged information. It also filed an emergency motion for stay pending the outcome of the appeal. Plaintiff opposed the motion to stay. To date there has been no ruling on the motion to stay. On July 22, 2021, the Fourth District Court of Appeals dismissed the appeal for lack of a final appealable order.

On November 2, 2020, Plaintiff filed a motion for leave to file its second amended complaint due to DuPont's corporate reorganization and alleged attempt to transfer its assets. DuPont opposed this motion. To date there has been no ruling on the motion for leave to file a second amended complaint.

On December 22, 2020, the Court ordered Defendants to produce the Corporate Environmental Database and other items listed in Plaintiff's December 2, 2020 letter. The court further indicated that failure to comply by December 15, 2020 "will result in an evidentiary sanction."

Judge Hogan retired, effective December 31, 2020 and withdrew from the case. Retired Judge Richard McMonagle was assigned as the presiding judge for this cases effective February 1, 2021.

On April 1, 2021, Defendants moved to dismiss Plaintiff's unjust enrichment claim, which was denied on May 12. Also on April 1, 2021, Defendants moved to join the Ohio EPA and its Director as real parties in interest. This motion was denied on May 17.

On April 26, 2021, Defendants Corteva, Inc. and DuPont de Nemours, Inc. moved to dismiss the complaint for lack of personal jurisdiction. This motion has been fully briefed as of May 14, 2021.

On May 10, 2021, Plaintiffs moved for partial summary judgment on the assumption of liabilities of Corteva Inc. and DuPont de Nemours, Inc.

On June 11, 2021, E.I. du Pont de Nemours and Company's filed a Motion for a Protective Order Over Documents Plaintiff Seeks from Third-Party Deloitte.

On June 17, 2021 Plaintiff filed a Motion Compel Discovery from Defendants E. I. Du Pont Nemours and Co. and The Chemours Company

On July, 2, 2021, the court amended the scheduling order. A final pretrial and settlement conference is scheduled for October 4, 2022. The trial is now scheduled for November 1, 2022.

On July 22, 2021, the Fourth District Court of Appeals entered a Decision and Judgment Entry dismissing the appeal filed in October 2020 by DuPont.

On August 4, 2021, the court denied Corteva and du Pont's Motion to Dismiss and granted plaintiff's cross-motion for partial summary judgment on the assumption of liability.

- 2) *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.

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

On September 12, 2019, the State moved for leave to file an Amended Complaint, which was granted. On September 16, 2019, Purdue Pharma filed a notice of suggestion of bankruptcy and automatic stay of proceedings. The State moved to sever the claims against Purdue Pharma. The case is proceeding against the remaining Defendants. Defendants filed answers to the amended complaint on November 1, 2019. Several subpoenas have been served on third-parties and third-party discovery is ongoing. On February 25, 2020, the State filed its First Amended Complaint.

On April 3, 2020, a motion to compel the State to comply with agreed procedures for the production of documents was filed. This motion has been fully-briefed, but has not yet been decided.

On August 28, 2020, Defendant Mallinckrodt filed a Motion to Dismiss the First Amended Complaint. The motion has not yet been decided.

On October 13, 2020, Mallinckrodt filed a Notice of Suggestion of Pendency of Bankruptcy and Automatic Stay of Proceedings. On October 15, 2020, the State moved for an order severing the claims against Mallinckrodt. The parties continue to engage in third-party discovery; several subpoenas for records and motions to have been filed.

On February 26, 2021, the State, Janssen Pharmaceuticals, Inc., and Johnson & Johnson entered into a 60-day stipulated stay of discovery in contemplation of settlement. This stipulated agreement does not affect proceedings against any other Defendant. A joint notice regarding this stipulated stay was filed on April 26, 2021 permitting the parties another 60 days to stay discovery in contemplation of settlement.

The remaining parties continue to engage in discovery and have filed motions to compel discovery and motions for protective orders precluding or limiting discovery.

On July 16, 2021, the State filed a motion for leave to file a Second Amended Complaint. This motion was fully briefed as of August 12, 2021.

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

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

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

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

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

On May 20, 2019, the Court denied the Defendants' motions to dismiss. Answers were filed on July 3, 2019. Also on July 3, 2019, the State filed a motion seeking an order to prohibit speaking objections during depositions. On July 15, 2019, the Court granted this motion. Defendants have filed several pro hac vice motions to admit out-of-state counsel to participate in this case. On July 25, 2019, the Court entered a stipulated protective order.

Several non-party Defendants that have been served with subpoenas (such as the Office of Budget and Department of Public Safety) have moved to quash them and for protective orders. Discovery disputes have resulted in multiple motions to compel and motions for protective orders. Notably, the Court denied McKesson's third motion for a protective order and ordered it to present a corporate representative for a Rule 30(B)(5) deposition. The Court granted the Defendants': (1) motions to compel the State to respond to discovery requests relating to damages, fact witnesses, and expenditures; and (2) motions to compel the production of documents from several state agencies. Some briefing has been held in abeyance due to COVID-19.

On May 29, 2020, McKesson moved for leave to file under seal its motion to preclude evidence of certain damages. On June 1, 2020, McKesson moved to reopen discovery. On June 1, 2020, the Court reset some discovery deadlines, but kept the trial date of October 19, 2020.

On June 29, 2020, the Court granted the motion to preclude certain damages. As a result of this ruling, the State may not offer evidence or argument concerning any damages incurred before 2006.

On July 31, 2020, Defendants filed their motions for summary judgment under seal. The motions assert that summary judgment in favor of Defendants is appropriate on the following grounds: (1) failure to prove an element of the public nuisance and negligence claims; (2) failure to establish proximate cause; (3) Plaintiff's claims are abrogated by the Ohio Product Liability Act; and (4) Plaintiff cannot establish damages. On August 31, 2020, Plaintiff filed a motion for leave under seal its memorandum opposing Defendants' motion for summary judgment, which was granted. The trial is scheduled to begin on March 8, 2021.

Plaintiff opposed Defendant's summary judgment motions on September 9, 2020. On September 18, 2020, Defendants filed their reply memoranda in support of summary judgment. On August 10, 2020, the Court denied McKesson's motion to reopen fact discovery.

On August 24, 2020, Defendants filed a motion to defer the trial date due to the ongoing COVID-19 pandemic. On August 28, 2020, the Court filed an entry designating the Madison County Fairgrounds as the venue for trial, due to the size of the Madison County Courthouse and COVID-19 considerations. The March 8, 2021 trial was continued and is now scheduled for September 7, 2021.

Plaintiffs opposed Defendants' summary judgment motions on September 9, 2020. On September 18, 2020, Defendants filed their reply memoranda in support of summary judgment.

On January 5, 2021, the court set a tentative hearing date of July 27, 2021 for the motions for summary judgment.

On January 7, 2021, the court cancelled the trial date of March 8, 2021 due to the COVID pandemic.

On August 2, 2021, the court rescheduled the trial for September 20, 2021, the pretrial conference for September 9, 2021, and oral argument on several motions for August 17, 2021.

#### 4) Global Opioid Settlement.

On October 21, 2019, Distribution companies AmerisourceBergen, McKesson, Cardinal Health and drug manufacturer Teva Pharmaceuticals reached a \$260 million settlement with the adverse parties in the combined cases to be heard in Cleveland, Ohio. The distribution companies

will pay the counties \$215 million, while Teva will pay \$20 million and donate \$25 million to Suboxone.

Another separate lawsuit against pharmacies was set to go to trial in November, but Judge Polster cancelled the trial due the pandemic and rescheduled the trial to May of 2021. In December of 2020, Judge Polster notified parties in the case that the trial delayed again due to concerns with safety and the pandemic. The new trial date is October 4, 2021.

The State of Ohio was still pursuing separate lawsuits against drug makers and distributors. Most trials were delayed until September 2021. On July 21, 2021, Attorney General Dave Yost announced Ohio joined a nationwide agreement between the three largest distributors of opioids – Cardinal, McKesson and AmerisourceBergen – and manufacturer Johnson & Johnson. This settlement includes monetary payment, but also requires those companies to take steps to prevent a similar crisis. Ohio is set to receive up to \$1.02 billion in the settlement. The state could get up to \$829 million from the distributors and up to \$197 million from Johnson & Johnson. The funds will be distributed based upon the formula previously announced as the OneOhio plan, which 142 of 143 litigating local governments have joined OneOhio. In addition the agreement will result in several court orders requiring Cardinal, McKesson, and AmerisourceBergen to:

- Establish a centralized independent clearinghouse to provide all three distributors and state regulators with aggregated data and analytics about where drugs are going and how often, eliminating blind spots in the current systems used by distributors.
- Use data-driven systems to detect suspicious opioid orders from customer pharmacies.
- Terminate customer pharmacies' ability to receive shipments, and report those companies to state regulators when they show certain signs of diversion.
- Prohibit shipping of suspicious opioid orders and report such suspicious orders.
- Prohibit sales staff from influencing decisions related to identifying suspicious opioid orders.

The agreement will also result in court orders requiring Johnson & Johnson to stop selling opioids, not fund or provide grants to third parties for promoting opioids, not lobby on activities related to opioids, and share clinical trial data under the Yale University Open Data Access Project.

- 5) *Hardwick v. 3M Company*, U.S. District Court, Southern District of Ohio, Eastern Division, Case No. 2:18-cv-1185.

Fifteen years ago, the Supreme Court of Ohio was asked to consider whether class certification under Civ.R. 23 (B)(2) (which applies to injunctive relief) is proper in an action seeking to establish a medical-monitoring fund for employees who alleged they had been exposed to beryllium dust and fumes. *See Wilson v. Brush Wellman, Inc.*, 103 Ohio St.3d 538 (2004). The

Court's analysis focused on whether the relief requested, medical monitoring, was primarily compensatory or injunctive. The Court noted that, "depending on the nature of the precise relief sought and the circumstances of the particular case, many courts have declined to certify medical monitoring classes when joined with requests for funding and compensation." *Id.* at 542. And, that is what the *Wilson* plaintiffs sought both compensation and funding for medical-monitoring relief. After carefully analyzing the criteria for class certification, the Court concluded that plaintiffs did not meet the standard for class certification under Civ.R. 23 (B)(2).

*Brush-Wellman* is still the last word from the Supreme Court of Ohio on the issue of medical-monitoring relief in a class action.

But, on September 30, 2019, an Ohio federal court may have opened the door to such relief in the future. In *Hardwick v. 3M Company*, Case No. 2:18-cv-1185, the Court denied the Defendants' motion to dismiss a class action complaint focused on PFAS (per- and polyfluoroalkyl substances). According to the U.S. EPA, PFAS are a group of man-made chemicals that have been manufactured and used in a variety of industries around the world since the 1940s. The two most extensively produced PFAS (PFOA and PFOS) are persistent in the environment and in the human body. The named Plaintiff in the *Hardwick* case, a firefighter for more than 40 years, alleges that he used firefighting foams that contained PFAS. Because PFAS are so prevalent, if this class is certified, it may be only the tip of the iceberg on PFAS class actions seeking damages and medical-monitoring relief, which likely would need to be funded for decades.

After the Court denied the motions to dismiss, some of the Defendants filed answers and some filed a motion for reconsideration. The Court denied the motion for reconsideration on the issue of personal jurisdiction. On September 1, 2020, Defendant Daikin Industries filed a petition for permission to appeal the personal jurisdiction issue under 28 U.S.C. §1292(b). The Court denied permission to appeal this issue on February 17, 2021.

On April 30 2020, the District Court entered a preliminary pretrial order based on the parties Rule 26(f) report, which required the parties to (1) submit letters by May 20, 2020, regarding the timing of Plaintiff's motion for class certification, and (2) serve initial disclosures by May 30, 2020. The pretrial order indicated that a discovery schedule will not be issued until the yet-to-be-filed motion for class certification is determined.

On July 31, 2020, Plaintiffs moved for class certification. Defendants filed their response opposing class certification on December 14, 2020. Plaintiffs filed a reply on March 12, 2021. The motion for class certification has not yet been decided.

Subpoenas for documents have been served upon third-parties.

- 6) PFAS cases against DuPont de Nemours Inc., *U.S. District Court, Southern District of Ohio, Eastern Division, Case No. 2:17-cv-00998*; and U.S. Sixth Circuit Court of Appeals, Case No. 21-3418.

Thousands of cases were filed against DuPont alleging that the company contaminated drinking water for years by discharging toxic chemicals known as PFAS into the water from one of its plants along the Ohio River. Plaintiffs allege that the exposure from the chemicals lead to a greater risk of developing six types of illnesses: testicular cancer, kidney cancer, thyroid disease, ulcerative colitis, high cholesterol, and preeclampsia. Shortly after some of cases went to trial a few years ago, DuPont settled cases involving more than 3,500 victims for \$670.7 million.

There is a 60-person group of Plaintiffs suffering from testicular and kidney cancer whose claims have not been settled. Two of these cases went to trial in 2020 (involving a woman with kidney cancer and a man with testicular cancer) and found no basis for punitive damages to be awarded. The jury deadlocked in the kidney cancer case. DuPont filed a motion for new trial on April 24, 2020 and filed a motion to clarify the record on appeal on June 9, 2020. The motion for new trial has not yet been addressed, nor has DuPont filed an appeal. Therefore, this case is ongoing.

On February 24, 2020, the Plaintiffs filed a motion for judgment as a matter of law and Defendants filed a motion for judgment as a matter of law. On September 8, 2020, the court granted Plaintiffs' motion and denied Defendants' motion.

On December 31, 2020, the court denied DuPont's motion for mistrial (filed on March 3, 2020) and renewed motion for a mistrial as to Travis and Julie Abbott (also filed on March 3, 2020).

On April 3, 2021, the court granted DuPont's unopposed motion for continuation of the stay of execution of judgment.

On April 27, 2021, DuPont appealed to the Sixth Circuit Court of Appeals. Appellant and multiple amici filed briefs in July 2021. Appellee's brief is due on September 10, 2021, with Appellant's reply brief due 21 days after filing of Appellee's brief.

b. Amicus Cases.

- 1) *Abbott, et al. v. E.I. du Pont de Nemours and Company*, Sixth District Court of Appeals, Case No. 21-3418.

On July 28, 2021, the OMA filed an amicus brief, along with the Ohio Alliance for Civil Justice, in a case involving the "trigger" for when a cause of action accrues. The OMA asserted that applying the "discovery rule" to determine when a cause of action accrues generally requires analyzing when the plaintiff knew or should have known two things: (1) the existence of an injury, and (2) that the injury is related to a certain cause. *See, e.g.*, Ohio Rev. Code § 2305.10(B)(1).



The OMA asserted that the inquiry does not end with an individual plaintiff denying knowledge that would have triggered the statute — the inquiry continues to determine what a reasonable person should have known.

The OMA argued that the District Court’s rulings open the discovery rule so wide that it all but swallows the statute of limitations in the latent-injury context. The OMA urged that because the District Court’s ruling undermines the application of and policy reasons for statutes of limitations broadly, the Sixth Circuit should reverse the judgment of the District Court.

Briefing will be completed in October and oral argument will be scheduled thereafter.

2) *Brandt v. Pompa, et al., Ohio Supreme Court, Case No. 2021-0497.*

Ohio’s noneconomic damage caps have been challenged as unconstitutional for the third time in 15 years. The Ohio Supreme Court first held the caps were constitutional on their face in *Arbino v. Johnson & Johnson*, 116 Ohio St.3d 468 (2007). In 2016, the constitutionality of caps were upheld in as “as-applied” challenge where the plaintiff was a victim of sexual assault as a minor. See *Simpkins v. Grace Brethren Church of Delaware, Ohio*, 149 Ohio St.3d 307 (2016).

In July 2021, the Ohio Supreme Court accepted a case similar to *Simpkins*. See *Brandt v. Pompa*, Ohio Supreme Court Case No. 2021-0497. Brandt, who was sexually assaulted multiple times as a minor, was awarded \$100 million in punitive damages (punitive damage caps not applicable because the tortfeasor was convicted of a crime), \$14 million in noneconomic damages for conduct that occurred prior to the effective date of the caps, and \$20 million for conduct that occurred after the effective date of the caps. The trial court reduced the \$20 million award to \$250,000 per the noneconomic damage cap statute. Plaintiff filed a discretionary appeal challenging the constitutionality of the caps. The defendant is serving a life sentence, has no assets, and no incentive to support the caps. In short, the outcome of this case will not impact the parties, but will impact every other tort case pending, or to be brought, in Ohio.

*Brandt* is seeking to overturn *Arbino*, which has served Ohio litigants well for the past fourteen years. There have not been any amendments to the statutory caps since their enactment in 2006. Since *Simpkins* was decided, the Court has five (of seven) new justices.

Appellant’s brief is due on October 5, 2021. The OMA will participate with other business organizations as amici curiae to uphold the constitutionality of the noneconomic damage caps.

VIII. Update to the Tax Counsel’s Report.

Tax Counsel Justin Cook provided an update from the August Tax Counsel’s Report.

1. Selected Legislation:

H.B. 110. H.B. 110, Ohio's budget bill, includes a number of important tax provisions. These provisions include the following:

- *Income Tax Rates.* Personal income tax rates were substantially reduced. The highest marginal rate is now 3.99%.
- *Municipal Income Tax Withholding.* The bill amends the previously adopted temporary COVID municipal income tax withholding provisions found in Section 29 of H.B. 197.
  1. The bill extends the temporary withholding rule based on an employee's principal place of work through December 31, 2021.
  2. The bill clarifies that the temporary withholding rule now applies whenever someone is working at an alternate location "in response to the COVID-19 pandemic." Prior law stated the temporary rule only applied when employees were "required" to work from an alternate location. This raised questions about whether it applied in instances when an employer permitted, but did not mandate, an employee work from home.
  3. The bill clarifies that the temporary withholding rule of H.B. 197 is permissive (not required), thus an employer may continue to apply the default rules of R.C. 718.03 and withhold based on where an employee actually renders services.
  4. The bill expressly states an employee's principal place of work can change during the COVID pandemic and that such a change impacts an employer's obligations under the temporary COVID withholding rules.
  5. The bill establishes that for calendar year 2021, employers who file a municipal net profit tax return should use the location of where services are actually performed by their employee to apportion taxable net income to specific municipalities.
  6. The bill provides that for 2021, the temporary withholding rule does not apply for determining an employee's tax liability. This leaves open the door for refunds in the current tax year.
- *Job Creation Tax Credit.* The bill amends the Job Creation Tax Credit to permit work from home employees to count towards Ohio payroll under certain conditions.
- *Job Retention Tax Credit.* The new budget bill enacts clear guidelines about which projects should be given priority under the job creation tax credit. By establishing clear standards, taxpayers hope the State will be more willing to grant these credits. Under the new statutory language, applicants establish greater priority by meeting as many of the following criteria



as possible: (a) Within the preceding five years, the applicant has not received a credit under this section or section 122.17 of the Revised Code for a project at the same project site as that proposed in the application; (b) The applicant is not currently receiving a credit under this section or section 122.17 of the Revised Code; (c) The applicant has operated at the project site for at least the preceding ten years; (d) The project involves a significant upgrade of the project site, rather than only routine maintenance of existing facilities, such as an increase in capacity of a facility, new product development, or technology upgrades or other facility modernization; and (e) The applicant intends to use machinery, equipment, and materials supplied by Ohio businesses in the project when possible.

- *Employment Services Sales Tax.* H.B. 110 eliminates Ohio’s sales tax on temporary labor. Elimination of this tax has been a long-held goal for many in the manufacturing sector, as well as the larger business community.
- *CAT Minimum Tax.* The bill requires the CAT minimum tax to be calculated based on prior year gross receipts (as opposed to current year receipts as was the prior practice).

2. Selected Proposed Legislation:

H.B. 234. As previously reported, H.B. 234 was introduced on March 25, 2021. It remains pending before the House of Representatives’ Ways and Means Committee. The bill would gradually phase-out the CAT over tax years 2022 through 2025.

H.B. 292. H.B. 292 proposes a sales tax exemption for parts and components used in electric vehicle production. Exemption for these types of transactions is generally already provided under R.C. 5739.02(B)(42).

H.B. 348. H.B. 348 proposes substantial changes to Ohio’s unclaimed property laws and the obligations of holders to remit such property to the State.

3. Ohio Supreme Court.

*Rancho Cincinnati Rivers L.L.C. v. Warren County Board of Revision et al.*, 2021-Ohio-2798, 2021 WL 3640076 (Aug. 18, 2021). This case involves an appeal of real property taxes assessed on real estate comprising a Lowe’s Home Improvement store. It provides an important clarification of how leased property must be valued under Ohio law.

The statute at issue directs an auditor to determine “as nearly as practicable, the true value of the fee simple estate, as if unencumbered.” A “lease” is generally considered to be an encumbrance on property. Thus, the property owners argued the statute requires an auditor to value property as if it was vacant on the date of a hypothetical sale between a willing buyer and seller.

The Ohio Supreme Court disagreed. The Court held that the term “unencumbered” in this context had an “acquired meaning” as a result of a number of judicial opinions. In this context, the statute instead requires the auditor to value property assuming a lease that is typical in the market where the property is located. This approach renders a much higher valuation than if a property is assumed to be vacant. Applying this rationale, the Court ruled against the property owners.

**To: OMA Government Affairs Committee**  
**From: Rob Brundrett / Rachael Carl**  
**Re: Energy Public Policy Report**  
**Date: August 25, 2021**

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### **Overview**

Over the summer the U.S. Attorney's office announced the Deferred Prosecution Agreement signed by FirstEnergy. In the document, FirstEnergy admitted to bribing the former Ohio Speaker of the House and the former Chairman of the PUCO. Fallout continues from the House Bill 6 scandal.

More legislation continues to be introduced on the energy policy front. The newest piece would create energy efficiency legislation aimed mostly at residential customers. OVEC and ESP repeal bills continue to have hearings in both the House and Senate. More energy legislation is expected to be introduced during the fall session.

### **General Assembly News and Legislation**

#### **Bribery and Corruption at the Statehouse Update**

The fallout from the House Bill 6 scandal has not stopped, in fact it just gets uglier and uglier.

Last month FirstEnergy signed a Deferred Prosecution Agreement which included a \$230 million penalty for bribing former House Speaker Larry Householder and Sam Randazzo, the former Public Utilities Commission of Ohio chair. Under the agreement reached with FirstEnergy, the utility cannot pass the costs of the fine onto customers. The \$230 million fine will be split 50-50 between federal and state government.

The release of new documents show Sam Randazzo six years ago received "a huge personal windfall from FirstEnergy in exchange for what the company has said was his agreement to change sides on a key state regulatory move" to effectively bail out less profitable power plants by imposing extra charges on ratepayers. According to The Plain Dealer, FirstEnergy more than quadrupled Randazzo's contract in 2015 — increasing it from \$2.5 million to \$11.2 million.

With all the new information that has been released Ohio Attorney General Dave Yost expanded his House Bill 6 racketeering lawsuit to include new defendants and additional factual allegations based on recent filings by the U.S. Department of Justice in its criminal case. Yost's new filing added the following defendants:

- Chuck Jones, former CEO of FirstEnergy;
- Michael Dowling, former senior vice president for FirstEnergy;
- Former Public Utility Commission of Ohio (PUCO) Chairman Sam Randazzo; and
- Several entities associated with Randazzo, including the now-dissolved IEU-Ohio Administration Co., LLC.

Yost also wants Randazzo to return a \$4.3 million FirstEnergy payment the company admitted was a bribe, as well as his public salary while serving as PUCO chair.

A third-party audit report has found FirstEnergy charged Ohio ratepayers millions in undocumented spending, including for payments the company made to a dark money group tied to the House Bill 6 scandal. The audit report — part of four ongoing proceedings being

conducted by the Public Utilities Commission of Ohio (PUCO) to investigate FirstEnergy's HB 6 activities — only looked into 17 payments specifically flagged by FirstEnergy.

According to a PUCO news release, the auditing firm recommends that ratepayers be refunded \$6.6 million — and that \$7.4 million be excluded from the company's next base rate case in 2024.

Gongwer News Service reported the audit also found FirstEnergy lacked sufficient documentation for millions more in other payments, including \$14 million to firms owned by Sam Randazzo, the former PUCO chair.

Finally, Larry Householder was expelled from the House of Representatives by a vote of his colleagues prior to the summer recess. He was the first Ohio legislator to be expelled by his peers for "disorderly conduct" since the Civil War. The former speaker vowed to remain a public figure.

Some good news courtesy of the OMA and its energy team is that FirstEnergy customers are set to receive a "decoupling" refund on their August electricity bills — thanks to OMA-supported legislation (House Bill 128) that partially repealed the scandal-tainted House Bill 6.

#### House Bill 10 – Repeal House Bill 6

The bill sponsored by Democrat David Leland is loosely modeled on House Bill 772 from the previous General Assembly. The bill would repeal the majority of provisions from House Bill 6 including, the nuclear subsidies, decoupling, and OVEC. It would replace the efficiency rider programs with optional market-based approaches details to be determined. The bill has had one hearing but did generate some buzz when it was first introduced.

#### Senate Bill 10 – Repeal Decoupling and SEET

The Ohio Senate unanimously passed Senate Bill 10 — the OMA-supported bill introduced by Sen. Mark Romanchuk (R-Mansfield) to repeal House Bill 6's decoupling provision, which allowed FirstEnergy to lock in annual guaranteed revenue at record-setting 2018 levels (\$978 million).

SB 10 also repealed the "significantly excessive earnings" provision authorized in the last state budget (HB 166). That change to the so-called SEET test had allowed FirstEnergy to combine profits across its three companies, offsetting "significantly excessive" Ohio Edison gains with those from less profitable companies, thereby avoiding related customer refunds.

Under SB 10, revenue collected under these provisions would be refunded. Anticipated decoupling costs for customers were estimated at \$17 million for 2020 and more than \$101 million for 2021 for all customer classes. SEET refund amounts are yet to be determined. SB 10's provisions were passed as part of HB 128 which repealed portions of HB 6.

#### House Bill 18 – Straight Repeal of House Bill 6

Rep. Lanese reintroduced her straight repeal bill she also sponsored in the fall of 2020. The straightforward bill repeals all of House Bill 6 in its entirety. It would have the effect of setting Ohio's energy law landscape back to how it was prior to House Bill 6. The bill has had sponsor testimony in the House.

### Senate Bill 32 – Electric Car Charging Station Grant Rebate

The bill sponsored by Senator Rulli requires that the Ohio Department of Transportation creates an electric car charging station grant and rebate. The bill has had one hearing in the Senate.

### Senate Bill 44 – Repeal Portions of House Bill 6

Senate Bill 44 is the vehicle the Senate choose to repeal the nuclear credit portions of House Bill 6. While a good first step in righting some of the wrongs over the past two years the bill still fell woefully short of providing comprehensive protections for customers. The OMA provided interested party testimony and pointed out the shortcomings of the bill and encouraged the Ohio Senate to push harder to repeal OVEC and the entire Clean Air Fund. The bill passed out of Senate unanimously. The House included portions of this bill in HB 128 the partial repeal bill vehicle.

### House Bill 47 – Electric Car Charging Station Grant Rebate

House Bill 47 requires the Ohio Department of Transportation to create an electric car charging station grant and rebate. It is a companion bill to Senate Bill 32. The bill has had four hearings.

### Senate Bill 52 – Wind and Solar Referendum

Senate Bill 52 has passed both houses and was signed by the Governor in June. The controversial bill changed drastically from the introduced version but walked away from the power siting board process and allowed local governments to deny portions of counties and deny applications for large scale wind and solar.

Specifically, the bill:

- Enables county commissioners to approve a project via a lack of action, or to adopt a resolution rejecting or limiting the footprint of a proposed project;
- Allows local officials to adopt a resolution, subject to referendum, to designate a restricted area in which any project is prohibited or block any material amendment to an existing facility; and
- Creates two ad-hoc seats to the Ohio Power Siting Board to represent county commissioners and township trustees in proceedings affecting their jurisdiction.

In an attempt to provide a workable solution, the OMA engaged at the Power Siting Board-level to reach a compromise — one that still achieved the goals of the bill sponsors — but remains opposed to the final version of the bill. To ensure clarity, uniform policy, and economy of process, the OMA continues to urge a statewide approach to such projects and decisions.

### Senate Bill 89 – Renewable Energy

Sen. Matt Dolan (R-Chagrin Falls) introduced Senate Bill 89 to make an 8.5% renewable portfolio standard (RPS) permanent. Dolan told the media that the bill represents a compromise necessitated by the passage of House Bill 6, which lowers Ohio's renewable energy benchmarks from 12.5% to 8.5% by 2026 and terminates the RPS in 2027.

An 8.5% RPS would not be affected by FERC's Minimum Offer Price Ruling (MOPR). Any RPS exceeding 8.5% would be subject to the MOPR (due to state subsidies), impairing new renewable projects' ability to compete for PJM capacity revenue. In contrast, the growing market of private corporate renewable energy purchases will not be subject to the MOPR ruling.

The bill has an uphill battle with his fellow Republicans but portions of the bill may find a way through the legislature. The bill did have a first hearing this month.

### House Bill 110 – Operating Budget

The new state budget contains little that impacts energy policy. However, it does provide a kilowatt-hour tax exemption for entities that generate electricity primarily for their own consumption, either on the same premises or at a facility on a property contiguous to where the electricity is consumed. This is a valuable provision for OMA members that had implemented either self-generation or alternative-energy generation agreements.

### Senate Bill 117 – OVEC Repeal

Brad Belden, president of The Belden Brick Company and chair of the OMA Energy Committee, testified on behalf of the OMA in support of Senate Bill 117 — legislation to repeal House Bill 6's \$700 million ratepayer-funded subsidy for two Ohio Valley Electric Corporation (OVEC) coal plants, one of which is in Indiana. The bill would also refund customers the charges borne since HB 6 took effect.

The OMA has been on the frontlines advocating for the repeal of anti-customer provisions included in HB 6 including, the nuclear subsidies and decoupling provision. The OVEC subsidies are one of the last pieces of HB 6's anti-market policy that remains in law. Customers will be on the hook for these subsidies through 2030 without action by state lawmakers.

Before the June recess the utilities testified in opposition of the bill. Shockingly, the utilities testified that the OVEC subsidies are in fact not subsidies since there's a slim chance customers could someday receive a rebate.

Under questioning from committee members, it was conceded that at no time since OVEC's creation had any customer even received a credit from the riders. The operator of OVEC — which is jointly owned by several parent electrical utilities — also conceded that the two coal plants being subsidized by HB 6 would not close if the rider was eliminated.

The OMA continues to work with SB 117's sponsors, to eliminate the subsidy and protect manufacturers from unnecessary electric charges and riders

### Senate Bill 118 – Solar Subsidy Repeal

Sen. Romanchuk introduced SB 118 to rollback \$20 million a year in payments to five solar projects – another subsidy folded into the corrupt HB 6. Originally HB 128 eliminated the subsidy. The House reinserted the subsidy as part of the committee process.

### House Bill 128 – Repeal Portions of House Bill 6

Gov. Mike DeWine signed HB 128, which cancels out the nuclear subsidy provisions of HB 6 (133rd General Assembly), originally targeted to support the Davis-Besse and Perry nuclear plants to the tune of up to \$150M/year.

HB 128 also removed the costly HB 6 “decoupling” provision, which tied FirstEnergy future profits to record year 2018 regardless of the amount of power sold, about \$978M annually. The new law also revoked a change made to the Significantly Excessive Earnings Test, which benefited only FirstEnergy by allowing the company to combine profits across three of its companies to avoid customer refunds from its overly profitable company.

The new bill retains HB 6's subsidies for utility-scale solar projects and for two coal plants (one in Ohio, one in Indiana), leaving the door open for more corrective action that could cancel these subsidies that work against ratepayers.

The bill was voted unanimously in the Senate 33-0, 86-7 in the House originally, but then the House unanimously (89-0) concurred with the Senate amendments. HB 128 was sponsored by Reps. James Hoops (R-Napoleon) and Dick Stein (R-Norwalk)

#### House Bill 192 – Prohibit Energy Generation

The bill prohibits counties, townships, and municipal corporations from prohibiting energy generation from fossil fuels and gas pipelines. The House has had three hearings on this bill.

#### House Bill 201 – Natural Gas Bans

The House passed House Bill 201, legislation designed to prohibit local governments from banning or blocking consumers from obtaining natural gas hookups. The OMA worked with the bill sponsor and other interested parties to ensure the intent of the bill matched its language.

The Senate passed the bill just prior to breaking for the summer recess. The OMA became a bill supporter after successfully securing several changes in the House to clarify the bill's intent and protect customers.

#### House Bill 260 – Electric Charge Refunds

The bill would require the refund of improper and illegal electric charges. The OMA is a strong proponent of the bill. Since 2009 utilities have wrongfully collected over \$1.5 billion from ratepayers. This bill will require refunds to customers within a year of being deemed improper.

#### House Bill 271 – Natural Gas Infrastructure

This month the House had sponsor testimony on House Bill 271, legislation that would establish a grant and loan program to coordinate and expand access to natural gas. The program would be funded by excess revenue in the Oil and Gas Well Fund and/or future appropriations made by the General Assembly. Businesses, non-profits, and local governments would be eligible to apply for funding.

#### House Bill 317 – Electric Security Plan Repeal

Earlier this month Rep. Shane Wilkin (R-Hillsboro) introduced House Bill 317. At the macro level, HB 317 would eliminate electric security plans (ESPs).

The ESP process was originally established to ensure electricity prices would not increase too much as utilities continued the transition to a mature de-regulated market. Since its creation, however, the ESP process has turned into a mechanism that regulated utilities use to increase costs through numerous above-market charges added to customers' bills. The proposal would eliminate ESPs and require utilities to provide standard service offers under a competitive market-rate offer. The bill would also allow utilities to implement economic development and job-retention programs under the market-rate offer, while allowing utilities to apply to the PUCO to recover non-bypassable costs of those unlimited programs.

The OMA is engaged on the bill and met with House leaders. There is concern that the bill might allow for unintentional alternatives for utility riders. The OMA has shared information with the House on potential repeal language.

#### House Bill 381 – Electric Rates for Structures on Residential Property

The bill would allow for certain structures on a retail electric customer's property to be charged the same as the primary residence.

### House Bill 351 – Repeal Non-Bypassable Cost Recovery Mechanisms

The bill would repeal the OVEC provisions of House Bill 6 and require customers refunds. It was introduced and referred to committee in June.

### House Bill 389 – Energy Efficiency

House Bill 389 would create new, utility-run energy efficiency programs. Sponsored by Reps. David Leland (D-Columbus) and Bill Seitz (R-Cincinnati), HB 389 would allow electric distribution utilities to implement “energy waste reduction” programs, which would be targeted at residential consumers. Individuals who did not want to participate would be required to opt out. Commercial and industrial users would be excluded.

Oddly the bill is being introduced after the General Assembly spent the past 7 years trying to eliminate energy efficiency programs.

### Senate Concurrent Resolution 7 - Urge Preservation of the Minimum Offer Price Rule

The resolution memorializes PJM Interconnection, L.L.C. and the Federal Energy Regulatory Commission to urge the preservation of the Minimum Offer Price Rule for the PJM capacity market.

### **PUCO News**

#### FirstEnergy Will Refund \$27M in HB 6 Decoupling Charges

FirstEnergy customers are set to receive a “decoupling” refund on their August electricity bills — thanks to OMA-supported legislation (House Bill 128) that partially repealed the scandal-tainted House Bill 6.

The Public Utilities Commission of Ohio (PUCO) — due in part to the OMA Energy Group’s legal advocacy — approved FirstEnergy’s plan to refund customers more than \$27 million in fees collected through HB 6’s decoupling mechanism, which allowed the utility to guarantee itself revenue. Refund amounts will vary based on customers’ electric use this August.

Prior to the PUCO’s approval, the OMA Energy Group provided an active voice in legal proceedings to advocate for a full refund of the decoupling dollars, partnering with the attorney general and Office of the Ohio Consumers’ Counsel.

HB 128, which was passed in March and took effect June 30, required the decoupling refunds. The bill also repealed HB 6’s centerpiece — more than \$1 billion in subsidies for two nuclear plants operated by a former FirstEnergy subsidiary.

### **News and Notes**

#### PJM Changes Course on State-Subsidized Generation

The ongoing battle over state subsidies in competitive electric markets continues as PJM — the grid operator whose service area includes Ohio — recently backed off its years-in-the-making Minimum Offer Price Rule (MOPR) expansion.

A response to a Federal Energy Regulatory Commission (FERC) order, PJM’s MOPR expansion spelled trouble for state-subsidized generation. The MOPR expansion was applied in the most recent PJM capacity auction, resulting in low-capacity prices, increases in low-carbon generation, and healthy reserve margins.

Under PJM’s new proposal, which must be approved by FERC, complaints would be submitted to FERC on a case-by-case basis if a generator uses “conditioned state support” or coordinated



“buyer-side market power.” FERC would make the final call. State-subsidized generation would not be subject to the MOPR for a variety of reasons, such as if the subsidy is for “environmental attributes” or “economic development.”

While more analysis is needed, PJM’s new proposal appears to loosen how states can subsidize their favored generators

#### PJM’s First Capacity Auction in Three Years Yields Low Electricity Prices

PJM — the grid operator whose service area includes Ohio — has completed its first Base Residual Auction (BRA) for capacity in three years for the 2022/23 delivery year. The BRA had been delayed while the Federal Energy Regulatory Commission (FERC) created new rules to discourage state subsidies from influencing competitive market pricing.

This spring’s auction was the first to implement FERC’s Minimum Offer Price Rule (MOPR) — and may be the only auction to do so. Natural gas-fueled generation, nuclear, solar, wind, and energy efficiency all cleared more megawatts in this auction, while coal plants experienced a significant reduction. The resulting BRA capacity price was \$50/MW-day — the lowest capacity price in nine years. The BRA procured a 19.9% reserve margin, far exceeding PJM’s reliability target of 14.5%. Duke Energy’s Ohio customers will pay a slightly higher — but still low — capacity price of \$71.69/MW-day.

Missing out on the low market prices and marked increase in low and no-carbon generation was Dominion Energy, which pulled out of the market, apparently to increase its renewable energy supply.

#### Substantial Increase Hitting Natural Gas Bills

Last summer, Columbia Gas Transmission — also known as TCO — filed a rate case proposal with the Federal Energy Regulatory Commission (FERC) to recoup roughly \$3 billion in transmission-related expenses. As filed, the proposal could increase transmission charges by as much as 78%.

Direct shippers and customers of natural gas-distribution utilities served by TCO are already seeing the increase in their bills. (Increased charges are subject to refund based on final terms.) For gas-intensive manufacturers, this added cost may be quite significant.

The OMA Energy Group (OMAEG) has intervened in this case to protect manufacturers’ interests, specifically to reduce the proposed rate increase and eliminate any new penalties or operating restrictions. Only parties that intervened last year have legal standing to influence the outcome. Contact OMA staff to learn how you can support the OMA’s litigation efforts.

The OMA Energy Group has joined an industrial coalition to pushback on proposals to hike natural gas shipping costs.

# Opinion: Ohio lawmakers must jettison final laws tied to largest bribery scheme in state history

Ryan Augsburger

Contributed Commentary

If we could turn back the clock a hundred years, we would find that even in 1921 Ohio was a leader in electricity use and one of the top five electrified states.

Because industry is the largest consumer of energy, Ohio's early leadership in electrification — made possible by a free market — helped the Buckeye State establish its manufacturing legacy and earn its place as one of the nation's top three manufacturing states a century later.

One thing that has not changed with time is manufacturers' need for affordable, accessible, market-based electricity.

This is why in 2019 The Ohio Manufacturers' Association led efforts to oppose House Bill 6 — the scandal-ridden Ohio law that authorized customer-funded subsidies for certain electric utilities.

From last summer's arrest of former House Speaker Larry Householder — along with four others tied to HB 6 — to criticism from federal regulators, HB 6 has been a public relations setback for Ohio. This month's announcement that FirstEnergy has agreed to a \$230 million penalty for bribing Householder and Sam Randazzo, the former chair of the Public Utilities Commission of Ohio (PUCO), is another black eye for the Buckeye State.

The good news is state lawmakers recently repealed key provisions of HB 6. Gone are the law's nuclear subsidies, which would have cost consumers an estimated \$150 million a year (and more than \$1 billion in total).

Also rescinded was HB 6's profit-guaranteeing "decoupling" provision, saving Ohio's FirstEnergy customers an estimated \$355 million in total through 2024. As a part of this repeal, PUCO — due in part to the OMA Energy Group's legal advocacy — recently

approved FirstEnergy's plan to refund customers more than \$27 million in decoupling fees that were already collected.

Finally, lawmakers removed a utility-friendly provision that would have allowed FirstEnergy distribution utility companies to keep even more profit rather than returning excessive earnings to customers.

Despite these responsible steps by the legislature, there is at least one more critical provision of HB 6 that must be repealed to limit the harm inflicted and keep Ohio's electricity costs and services competitive.

HB 6 authorized subsidies for two uneconomical coal-fired plants built in the 1950s, including one in Indiana. Under the provision, Ohioans will pay an estimated \$700 million in subsidies to the Ohio Valley Electric Corporation (OVEC), which owns the plants. Ohio ratepayers should not be on the hook to keep outdated electricity plants afloat.

The Ohio Manufacturers' Association supports Senate Bill 117 by state Sen. Mark Romanchuk, R-Ontario, to repeal HB 6's OVEC subsidies and refund customers the charges borne since the law took effect.

Ohio policymakers moved in the right direction by eliminating several harmful aspects of HB 6. Now, SB 117 provides another opportunity to do the right thing and discard a final piece of the legislation tied to the largest bribery and racketeering scheme in state history.

The primary lesson from HB 6 is that sound energy policy needs the marketplace – not subsidies or new requirements from Columbus. As former OMA Chairman David Johnson, CEO of Summitville Tiles, told state lawmakers during the HB 6 debate in 2019: Markets drive fuel diversity better than government mandates.

Let's make sure Ohio invests in productive energy policy by putting a nail in the coffin of HB 6 and its OVEC subsidies.

In the meantime, manufacturers will continue to remind elected officials that since 1999, Ohio's electricity deregulation law has saved consumers an estimated \$3 billion a year. These savings have made Ohio manufacturing even more competitive.

*Ryan Augsburger is president of The Ohio Manufacturers' Association, the state's largest statewide business association comprised solely of manufacturers. Established in 1910, the OMA's mission is protect and grow Ohio manufacturing.*

## FirstEnergy promised huge windfall to former utilities lawyer after company says it got him to change sides on key regulatory issue

Updated: Aug. 02, 2021, 5:58 p.m. | Published: Aug. 02, 2021, 3:26 p.m.

By [Andrew J. Tobias, cleveland.com](#)

COLUMBUS, Ohio -- New documents show Sam Randazzo, a former longtime utilities lawyer who years later became Ohio's top utilities regulator, in 2015 received a huge personal windfall from FirstEnergy Corp. in exchange for what the company has said was his agreement to change sides on a key state regulatory move sought by the company. At the time, Randazzo was in private practice, representing a trade group of large industrial electricity customers, but also had a 2012 consulting agreement with FirstEnergy. In 2015, FirstEnergy more than quadrupled Randazzo's contract, going from owing him \$2.5 million to owing him \$11.2 million, according to the documents, obtained Monday through a public records request.

In exchange, FirstEnergy has said, Randazzo agreed to stop opposing the company's bid for state approval for a controversial "power purchasing agreement" that effectively would have bailed out some of its aging power plants, including the Davis-Besse nuclear plant near Toledo and the W.H. Sammis coal plant near Steubenville. The move, [which was eventually blocked by federal regulators](#), was an early iteration of what became House Bill 6, the nuclear bailout law that now is the center of an ongoing federal corruption probe.

Randazzo had opposed a similar request from American Electric Power the previous year, arguing it would cause customers' electricity bills to go up, [according to a 2014 report from Energy News Network](#). In an interview with the outlet, he initially signaled he might oppose FirstEnergy's request, too. "If it turns out that the proposal FirstEnergy is presenting is not superior to the market and would cost money instead of save money, then not only will it be opposed on factual grounds, but it will be challenged legally," Randazzo said in 2014.

But Randazzo ended up supporting the measure, reads a court filing FirstEnergy made last month as part of a deal with federal prosecutors, with the 2015 changes coinciding with and "in exchange for" Randazzo's group withdrawing its opposition.

Rob Kelter, an attorney with the Environmental Law and Policy Center, said FirstEnergy's "power purchasing agreement" before the Public Utilities Commission of Ohio was hugely contentious at the time, and fiercely opposed by all environmental and consumer groups except for the one that Randazzo led. Randazzo's eventual support was a pivotal factor in the PUCO's decision to approve it, Kelter said.

"Parties before the commission assume that everybody is on the up and up, and parties are taking positions based on principled reasons, not based on inside deals with utilities," Kelter said. "And the respect that regulators had for Sam was based on the assumption that his positions were based on his free market principles. Not on his agreement with FirstEnergy."

In addition to showing how much Randazzo benefited personally from what the company said was his support on a key policy issue, the new documents shed additional light on the contract that FirstEnergy admitted last month [became a vehicle for the \\$4.3 million bribe it paid to Randazzo](#) weeks before Gov. Mike DeWine hired him to run the PUCO in February 2019. The admission about the bribe, and the details about Randazzo dropping his opposition to FirstEnergy's sought regulatory change, came in writing through the deferred

prosecution agreement, a deal through which FirstEnergy will avoid being convicted of a corruption-related crime.

Randazzo has not been charged, and has denied any wrongdoing. But FirstEnergy has admitted to bribing him. Randazzo resigned from his position in November 2020, shortly after FirstEnergy [first disclosed the \\$4.3 million payment to its shareholders](#) in a federal regulatory filing, and days after the FBI searched Randazzo's house in Columbus. The discovery of the payment to Randazzo, FirstEnergy said, led it to fire several top executives, including then-CEO Chuck Jones.

[Cleveland.com](#) and The Plain Dealer obtained Randazzo's written contracts with

FirstEnergy through a public records request sent last week to the Ohio Consumers' Counsel, a state agency set up as a watchdog for consumers. The OCC [received it from FirstEnergy](#) through discovery in an ongoing PUCO case through which the state is investigating whether FirstEnergy billed customers for the money it spent pushing for House Bill 6. FirstEnergy could have tried to block the disclosure of the document, under the terms of a legal agreement between it and the OCC, but decided not to.

An attorney for Randazzo declined to comment for this story. But Randazzo previously has said the agreement was reviewed and approved "by senior executives at FirstEnergy." Jennifer Young, a company spokesperson, declined to offer additional details on the contract with Randazzo.

"While we're unable to comment on the contract in light of pending proceedings, we are carefully reviewing and revising our political activity and lobbying/consulting practices, including requiring robust disclosures about lobbying activities," she said. The 2015 contract amendment documenting Randazzo's significantly increased retainer, a written copy of which FirstEnergy gave to the OCC, was unsigned. Prosecutors and

FirstEnergy said last month that the changes weren't legally binding, since it was never formally executed, and that invoices to Randazzo's company were set up to bypass FirstEnergy's normal process of approving payments.

Randazzo's initial contract, signed in 2013, was to pay him \$2.5 million over five years. The 2015 changes extended it to 12 years, front-loaded with increased payments so Randazzo was to receive \$8.5 million from 2016 to 2019, and then another \$2.7 million from 2020 through 2024.

The updated contract also required Randazzo to sit in on a meeting with FirstEnergy officials and state legislative leaders to discuss Senate Bill 310, [a 2014 law signed by then-Gov. John Kasich](#) that effectively froze Ohio's renewable energy and energy efficiency mandates for two years. The mandates later were eliminated as part of House Bill 6.

FirstEnergy's 2015 changes to its consulting deal with Randazzo lays out terms that are generous to Randazzo, requiring the company to pay the contract amount in full to the Sustainability Funding Alliance of Ohio, a company Randazzo owned, even if FirstEnergy decided to terminate the deal at any time.

And that's what FirstEnergy and Randazzo did in December 2018, hashing out the particulars during a meeting at Randazzo's Columbus condo with two top FirstEnergy executives,

according to the deferred prosecution agreement FirstEnergy reached with federal prosecutors.

During the meeting, Randazzo, Jones and Michael Dowling, another FirstEnergy executive “discussed the remaining payments under the consulting agreement” as well as Randazzo’s “candidacy for the open PUCO chair position.” On Dec. 19, Randazzo texted with Jones and Dowling about the payment, according to court records.

“We’re gonna get this handled this year, paid in full, no discount. Don’t forget about us,” Jones texted in the conversation with Randazzo.

Randazzo responded, “you guys are welcome anytime and any where! [sic] can open the door. Let me know how you want me to structure the invoices. Thanks,” before adding. “I think I said this last night but just in case – if asked by the administration to go for the Chair spot, I would say yes.”

Randazzo has said he applied for the PUCO job after he was recruited and lured out of retirement by members of the DeWine administration. In February 2019 DeWine hired him in one of the first major moves of his term as governor. DeWine has said he knew about Randazzo’s past ties with FirstEnergy when he hired him, [but didn’t know](#) about the \$4.3 million payment at the time.

After Randazzo became PUCO chairman in April, he helped the company push for state law changes worth hundreds of millions of dollars, FirstEnergy officials said in their deferred prosecution agreement. That included helping develop and lobby for the House Bill 6 nuclear bailout bill, which also included a “decoupling” provision that guaranteed FirstEnergy’s revenues at record 2018 levels, and helping the company avoid a 2024 PUCO electricity rate review -- which executives referred to as “the Ohio hole” -- that the company feared would hurt its bottom line.

As part of its deferred prosecution agreement, FirstEnergy also has admitted it paid \$61 million in bribes, in the form of political donations, to former House Speaker Larry Householder. In exchange, Householder helped push House Bill 6 into law, and helped defend it against a repeal campaign effort. Householder, who was removed from his leadership position shortly after his July 2020 arrest, and kicked out of the legislature in June, has pleaded not guilty and denied wrongdoing.

House Bill 6 largely has been repealed, including the nuclear subsidies and the decoupling provision.

# FirstEnergy DCR rider audit report filed

*The PUCO has issued an expanded audit report of FirstEnergy's Ohio electric distribution companies' delivery capital recovery rider.*

FirstEnergy DCR rider audit report filed

COLUMBUS, OHIO (Aug. 3, 2021) – Today the Public Utilities Commission of Ohio's (PUCO) issued an expanded audit report of FirstEnergy's Ohio electric distribution companies' delivery capital recovery rider for the 2020 calendar year. The audit report recommends \$6.6 million should be returned to customers.

This audit report is a part of the [PUCO's four separate and ongoing proceedings](#) to investigate issues related to FirstEnergy and the passage of House Bill 6 during the 133rd General Assembly.

The audit report examined expenses identified by FirstEnergy Corp. in its Feb. 18, 2021 report to the Securities and Exchange Commission (SEC) to be improperly classified, misallocated, or lacked supporting documentation. The audit examined payments to 17 vendors over a 10-year period, totaling \$24.5 million.

The audit report identifies \$6.6 million of the \$24.5 million total that were included in customer bills and should be refunded. Specifically, the vendor payments include \$2.4 million that were charged to customers in base distribution rates, \$4.15 million charged to customers through the demand side management and energy efficiency rider. The audit also identified \$82,850 charged to customers in pole attachment rates. Pole attachment rates are generally only paid by other utilities, telecom providers and municipal corporations.

Other vendor payments were allocated to the utilities' Delivery Capital Recovery Rider. The audit report indicates the companies had already reached annual revenue caps used in the ratemaking formula for rider DCR, meaning removing these vendor payments would have no impact on customer bills.

Additionally, the audit report identifies \$7.4 million in expenses that were recorded as capital and should be excluded from future ratemaking during the companies' next distribution rate case. The companies are required to file an application with the PUCO to set base distribution rates by May 2024.

[A complete and unredacted audit report](#), prepared by the PUCO's independent third-party auditor, is available in the case docket online in case [20-1629-EL-RDR](#).

The purpose of the audit report is to determine if any of the identified vendor payments were included in rates paid by customers and should be refunded. PUCO staff nor the audit report



make any conclusions or recommendations on the prudence or appropriateness of how the vendor payments were selected.

A PUCO administrative law judge will establish a procedural schedule in this case to determine the next step.

### **RELATED AND ONGOING CASES**

The PUCO has [four separate pending investigations](#) related to FirstEnergy and the passage of Amended Substitute House Bill 6 (133 G.A.)

### **BACKGROUND**

The PUCO regulates FirstEnergy's three Ohio electric distribution utilities: Cleveland Electric Illuminating, Ohio Edison and Toledo Edison.

On Feb. 18, 2021, FirstEnergy Corp.'s 10-K to the SEC disclosed it had identified "certain transactions ... that were either improperly classified, misallocated ... or lacked supporting documentation."

On March 8, 2021, PUCO staff filed a letter stating it had reviewed the transactions disclosed by FirstEnergy Corp. and requested to expand the scope of an ongoing audit of the delivery capital recovery rider for Cleveland Electric Illuminating Company, Ohio Edison and Toledo Edison to determine if any of the identified transactions were included in rates paid by customers.

On March 10, 2021, the Commission granted PUCO staff's request and directed the Commission's third-party auditor, Blue Ridge Consulting Services, Inc., to expand the scope of its audit.

**Energy Legislation**  
**Prepared by: The Ohio Manufacturers' Association**  
**Report created on August 23, 2021**

- HB10**      **REPEAL HB6 - REVISE ELECTRIC UTILITY SERVICE LAW** (LELAND D) To repeal Section 5 of H.B. 6 of the 133rd General Assembly to make changes regarding electric utility service law, to allow the implementation of energy waste reduction programs, and to repeal certain provisions of H.B. 6 of the 133rd General Assembly.  
**Current Status:** 2/17/2021 - House Public Utilities, (First Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-10>
- HB18**      **REPEAL HB6** (LANESE L) Repeal HB 6 of the 133rd GA  
**Current Status:** 2/17/2021 - House Public Utilities, (First Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-18>
- HB47**      **ELECTRIC CAR CHARGING STATION GRANT REBATE** (LOYCHIK M) To require the Director of Transportation to establish an electric vehicle charging station grant rebate program and to make an appropriation.  
**Current Status:** 6/22/2021 - **BILL AMENDED**, House Transportation and Public Safety, (Fourth Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-47>
- HB87**      **EXEMPT UTILITY SUPPLY CONTRACTS FROM 10-YEAR MAXIMUM** (STEPHENS J, JOHN M) To exempt county utility supply contracts entered into under a joint purchasing program from the 10-year maximum period for such contracts and to declare an emergency.  
**Current Status:** 5/17/2021 - **SIGNED BY GOVERNOR**; eff. Immediately  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-87>
- HB118**      **REVISE CERTAIN WIND FARM/SOLAR FACILITY LAWS** (RIEDEL C, STEIN D) To require inclusion of safety specifications in wind farm certificate applications, to modify wind turbine setbacks, and to permit a township referendum vote on certain wind farm and solar facility certificates.  
**Current Status:** 5/12/2021 - **SUBSTITUTE BILL ACCEPTED**, House Public Utilities, (Fourth Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-118>
- HB128**      **REPEAL HB6** (HOOPS J, STEIN D) To make changes regarding electric utility service law, to repeal certain provisions of H.B. 6 of the 133rd General Assembly, and to provide refunds to retail electric customers in the state.  
**Current Status:** 3/31/2021 - **SIGNED BY GOVERNOR**; eff. 90 days  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-128>
- HB152**      **REVISE LAW GOVERNING UNIT OPERATION** (STEWART B, GINTER T) To revise the law governing unit operation.

**Current Status:** 6/24/2021 - **BILL AMENDED**, House Energy and Natural Resources, (Fourth Hearing)

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-152>

**HB192 PROHIBIT LOCAL GOVERNMENTS FROM STOPPING CERTAIN ENERGY GENERATION (CUTRONA A)** To prohibit counties, townships, and municipal corporations from prohibiting energy generation from fossil fuels and gas pipelines.

**Current Status:** 5/6/2021 - House Energy and Natural Resources, (Third Hearing)

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-192>

**HB201 PREVENT LOCAL GOVERNMENTS FROM LIMITING NATURAL GAS USE (STEPHENS J)** To prevent local governments from limiting use of natural gas and propane.

**Current Status:** 7/1/2021 - **SIGNED BY GOVERNOR**; eff. 90 days

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-201>

**HB260 REQUIRE REFUNDS FOR IMPROPER UTILITY CHARGES (LANESE L, TROY D)** To require refunds to utility customers who have been improperly charged.

**Current Status:** 5/26/2021 - House Public Utilities, (Second Hearing)

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-260>

**HB271 ESTABLISH NATURAL GAS INFRASTRUCTURE PROGRAM (EDWARDS J)** To establish a natural gas infrastructure development program and fund to help meet Ohio's natural gas supply needs.

**Current Status:** 5/6/2021 - House Energy and Natural Resources, (First Hearing)

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-271>

**HB273 CONSUMERS' COUNSEL OPERATING CALL CENTER (O'BRIEN M)** To amend Section 245.10 of H.B. 166 of the 133rd General Assembly to remove the prohibition on the Office of the Consumers' Counsel operating a call center and to make an appropriation.

**Current Status:** 5/4/2021 - Referred to Committee House Finance

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-273>

**HB299 CONSUMER UTILITY BILLING TRANSPARENCY ACT (SKINDELL M)** To enact "The Consumer Utility Billing Transparency Act" requiring the itemization of all riders, charges, taxes, and other costs on certain utility bills.

**Current Status:** 5/19/2021 - House Public Utilities, (First Hearing)

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-299>

**HB300 BAN OIL/NATURAL GAS EXTRACTION FROM LAKE ERIE BED (SKINDELL M)** To to ban the taking or removal of oil or natural gas from and under the bed of Lake Erie.

**Current Status:** 5/20/2021 - House Energy and Natural Resources, (First Hearing)

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-300>

- HB317 REPEAL ELECTRIC SECURITY PLANS (WILKIN S)** To repeal electric security plans and make other changes to the law regarding competitive retail electric service.  
**Current Status:** 5/26/2021 - House Public Utilities, (Second Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-317>
- HB351 REPEAL NONBYPASSABLE COST RECOVERY MECHANISMS (LANESE L, STOLTZFUS R)** To repeal the nonbypassable cost recovery mechanisms associated with legacy generation resources and to provide customer refunds.  
**Current Status:** 6/22/2021 - Referred to Committee House Public Utilities  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-351>
- HB381 ELECTRIC CHARGES - OTHER STRUCTURES (GRENDLELL D)** To allow for certain structures on a retail electric customer's property to be charged the same as the primary residence.  
**Current Status:** 7/27/2021 - Introduced  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-381>
- HB389 REGARDING ENERGY EFFICIENCY (LELAND D, SEITZ B)** To permit electric distribution utilities to establish energy efficiency and peak demand reduction portfolios.  
**Current Status:** 8/12/2021 - Introduced  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-389>
- SB8 BROADBAND-ELECTRIC COOPERATIVE EASEMENTS (MCCOLLEY R)** Regarding broadband expansion, including access to electric cooperative easements and facilities, and to make an appropriation.  
**Current Status:** 2/17/2021 - Referred to Committee House Finance  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-8>
- SB10 REFUNDS TO ELECTRIC CUSTOMERS (ROMANCHUK M)** To terminate any approved decoupling mechanism, to modify the significantly excessive earnings determination for an electric security plan, and to provide refunds to retail electric customers in the state.  
**Current Status:** 2/24/2021 - Referred to Committee House Public Utilities  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-10>
- SB20 COUNTY UTILITY SUPPLY CONTRACTS (HACKETT R)** To exempt county utility supply contracts entered into under a joint purchasing program from the 10-year maximum period for such contracts and to declare an emergency.  
**Current Status:** 3/24/2021 - Referred to Committee House State and Local Government  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-20>
- SB29 ELIMINATE AUTO ENROLLMENT-UTILITY AGGREGATION (HOAGLAND F)** To eliminate automatic enrollment in governmental electric and natural gas aggregation programs.

**Current Status:** 2/23/2021 - Senate Energy and Public Utilities, (First Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-29>

**SB32**      **ELECTRIC VEHICLE CHARGING STATION (RULLI M)** To require the Director of Transportation to establish an electric vehicle charging station grant rebate program and to make an appropriation.

**Current Status:** 2/17/2021 - Senate Transportation, (First Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-32>

**SB44**      **REVISE HB6 FROM 133RD G.A. (RULLI M, CIRINO J)** To repeal the nuclear resource credit payment provisions, and amend, and rename as solar resource, the renewable resource credit payment provisions of H.B. 6 of the 133rd General Assembly.

**Current Status:** 3/9/2021 - Referred to Committee House Public Utilities  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-44>

**SB52**      **WIND TURBINE SETBACKS (REINEKE W, MCCOLLEY R)** To permit a board of county commissioners to designate energy development districts and to permit a board of township trustees or a board of county commissioners to prevent power siting board certification of certain wind and solar facilities.

**Current Status:** 7/12/2021 - **SIGNED BY GOVERNOR**  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-52>

**SB89**      **RENEWABLE ENERGY (DOLAN M)** To extend the renewable portfolio standard, increase solar energy benchmarks, and extend the property tax exemption for qualified energy projects that use renewable energy resources.

**Current Status:** 5/12/2021 - Senate Energy and Public Utilities, (First Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-89>

**SB95**      **REGULATE UTILITY RESELLERS (MAHARATH T)** To require refunds to utility customers who have been improperly charged and to regulate certain resellers of utility service.

**Current Status:** 3/31/2021 - Senate Energy and Public Utilities, (First Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-95>

**SB117**      **REPEAL LEGACY GENERATION PROVISIONS-HB6 (ROMANCHUK M, CRAIG H)** To repeal the legacy generation resource provisions of H.B. 6 of the 133rd General Assembly and provide customers refunds.

**Current Status:** 6/15/2021 - Senate Energy and Public Utilities, (Second Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-117>

**SB118**      **REPEAL RENEWABLE RESOURCE CREDITS-HB6 (ROMANCHUK M)** To repeal the renewable resource credit payment provisions enacted under H.B. 6 of the 133rd General Assembly.

**Current Status:** 3/31/2021 - Senate Energy and Public Utilities, (First Hearing)

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-118>

**SB127**      **PREVENT LOCALITIES-LIMIT USE OF NATURAL GAS** (LANG G, RULLI M) To prevent local governments from limiting use of natural gas.

**Current Status:** 5/12/2021 - Senate Energy and Public Utilities, (Second Hearing)

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-127>

**SCR7**      **MEMORIALIZE PJM INTERCONNECTION** (ROMANCHUK M) To memorialize PJM Interconnection, L.L.C. and the Federal Energy Regulatory Commission to urge the preservation of the Minimum Offer Price Rule for the PJM capacity market.

**Current Status:** 8/19/2021 - Referred to Committee Senate Rules and Reference

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SCR-7>

**TO: OMA Government Affairs Committee**  
**FROM: Rob Brundrett / Rachael Carl**  
**RE: Environment Public Policy Report**  
**DATE: August 25, 2021**

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### **Overview**

Ohio EPA remains on the sidelines at the Ohio statehouse. The agency's priority is on rulemaking and its regulatory agenda. Top regulatory issues are regional haze, Lake Erie TMDL, H2Ohio, and the ozone standard.

Staff has been returning to the office over the past several months. Members should anticipate more onsite inspections.

### **General Assembly News and Legislation**

#### **Senate Bill 9 – Regulatory Reform**

SB 9 is the regulatory reform bill. Portions of the bill were passed in the 133<sup>rd</sup> GA's operating budget bill. The current bill requires an inventory of all regulatory restrictions from agencies in Ohio. The agencies then must reduce these rules by 30% by 2025. The OMA continues to try and work with the bill sponsors on an amendment that would make federal program requirements exempt from the rule inventory. The concern is if Ohio eliminates the program requirements, Ohio manufacturers would then be regulated by the federal agencies as opposed to the local Ohio agencies. The chairman of the House committee hearing the bill is aware of the issues brought up by the OMA.

#### **Senate Bill 84 – Clean Ohio Revitalization Program**

SB 84 expands the list of applicants eligible to apply for Clean Ohio Revitalization Fund grants to include a county land reutilization corporation. It also directs deferred payments the state receives from JobsOhio to the Clean Ohio Revitalization Fund. The bill has gotten some press and has had two hearings in the Senate.

#### **House Bill 110 - State Operating Budget**

The House and Senate agreed to continue to fund H2Ohio operations in the operating budget.

A larger legislative win was extending the state's preemption laws on packaging. There was some concern that the governor may veto the provision, but ultimately it made it through the process and it goes into effect in October.

#### **House Bill 143 – Clean Ohio Program**

HB 143 is the companion bill to SB 84. It has not had any hearings yet in the House.

#### **Senate Bill 143 – Adopt Aluminum MCL**

SB 143 would require Ohio EPA to adopt a maximum contaminant level (MCL) for aluminum in drinking water of 0.2 milligrams per liter. The agency would need to consider factors such as other state MCLs and studies. The bill has had three hearings in the Senate.

#### **House Bill 155 – Land Reutilization Nuisance Abatement Program**

HB 155 creates the Land Reutilization Nuisance Abatement Program to fund the abatement of nuisance structures on blighted property. It provides \$100 million over the biennium. The bill has had four hearing in House committee.

### House Bill 158 – Prohibit Use of Certain Firefighting Foam

SB 158 supported by the chemical industry would prohibit the use of Class B firefighting foam containing intentionally added PFAS chemicals for testing purposes (unless certain measures are implemented) or for training purposes. Ohio has seen a surge in PFAS interest including a statewide drinking water assessment. This bill is one way help alleviate the release of PFAS chemicals, when they are not needed. The bill was passed by the full House and is now pending in the Senate.

### House Bill 175 – Deregulate Certain Ephemeral Water Features

HB 175 is set for its third hearing this week. The bill excludes ephemeral features from water pollution control programs, including the section 401 water quality certification program. It also specifies that an ephemeral feature is a surface water flowing or pooling only in direct response to precipitation, such as rain or snow. Finally, the bill eliminates the section 401 water quality certification review fee that applies to ephemeral streams (currently \$5 per linear foot of stream to be impacted, or \$200, whichever is greater). These types of water issues continue to spring up in the General Assembly and are garnering more national attention.

The bill has had five hearings in the House. In a rare step, Ohio EPA Director Laurie Stevenson testified in opposition to the bill.

### House Bill 365 – Drinking Water Safety Rules – PFAS

The bill establishes maximum allowable contaminant levels in drinking water and water quality standards for certain contaminants related to the PFAS family. This bill was introduced in the prior General Assembly and did not pass. OMA is watching this bill closely due to the related PFAS work the association has done in the past.

### Senate Joint Resolution 2 – Clean Water Bonds

SJR2 proposes to submit to the Ohio voters for approval at the November general election, a constitutional amendment authorizing the state to issue up to \$1 billion in general obligation bonds for clean water improvements; up to \$100 million in bonds may be issued per year, in addition to amounts previously authorized but unissued. It has had no hearings.

## **Regulations**

### Ohio Submits Regional Haze Plan

Ohio EPA submitted to the U.S. EPA the final Regional Haze State Implementation Plan (SIP) for the second implementation period. The purpose of the regional haze rule is to restore the natural visibility in national parks and wilderness areas. OMA submitted comments in support of Ohio's Regional Haze State Implementation Plan (SIP) for the second implementation period, as well as Ohio EPA's stated intention to request that the U.S. EPA review and approve Ohio's long-term strategy and the other elements of the SIP.

OMA is participating in a stakeholder process formed by Ohio EPA in response to U.S. EPA's guidance memo on regional haze.

### OMA Submits Comments in Response to Ohio EPA Seeking Input on Maumee TMDL

Ohio EPA asked interested parties for comments for the Maumee Watershed Nutrient TMDL Project. The comments were to cover the information included in Steps 1 and 2 of the TMDL development process. The OMA provided comments regarding the TMDL.



### Cincinnati and Cleveland in Non-Attainment for Ozone and Ohio EPA Looks to Make Changes to Nitrogen Oxide Emission Rules as a Result

As expected, the Cincinnati and Cleveland non-attainment areas did not meet the ozone standard by the end of the 2020 ozone season. In addition, neither area qualified for the one-year extension. In anticipation of a “bump-up” to moderate non-attainment, Ohio EPA has issued an “Early Stakeholder Outreach” regarding emissions of nitrogen oxides.

The Cleveland and Cincinnati areas are currently classified as marginal non-attainment areas under the 2015 ozone standard. The areas were required to meet the ozone standard by Aug. 3, 2021 based on monitoring data collected during the 2018-2020 ozone monitoring seasons, which extend from March 1 to Oct. 31 each year.

### **Ohio EPA / U.S. EPA Agency News**

#### OMA Intervenes in Appeal of U.S. EPA’s Removal of Air Nuisance Rule

On Jan. 19, 2021, the Sierra Club, the Ohio Environmental Council, and two individuals filed a petition for review with the Sixth Circuit Court of Appeals, seeking review of U.S. EPA’s final rule removing the air pollution nuisance rule from Ohio’s State Implementation Plan (SIP).

The removal of the air pollution nuisance rule from Ohio’s SIP allows Ohio EPA to discontinue its practice of including a nuisance provision as a standard term and condition within each air permit it issues. In practice, the inclusion of the nuisance provision within Ohio EPA’s air permits allows for the filing of a citizen suit alleging that a facility is in violation of the nuisance provision, even if Ohio EPA determines the facility does not operate as a nuisance.

On Feb. 18, the OMA moved to intervene in the Sixth Circuit appeal in support of the EPA’s removal of the nuisance rule from Ohio’s SIP. The State of Ohio has also moved to intervene in support of the agency’s action.

On April 14, the court granted a motion to hold the petition in abeyance while U.S. EPA reconsidered its decision to remove the nuisance rule from Ohio’s SIP.

On August 12, U.S. EPA filed a status update stating the agency was still reviewing the rule and expects to complete its review at the end of the abeyance period.

#### OMA Files Brief in PFAS Litigation

Last month the OMA led an amicus effort in the Travis Abbott, et al. v. E. I. du Pont de Nemours and Company case at the U.S. Court of Appeals for the Sixth Circuit. The plaintiff in the case claimed that the chemical C8 which was used as a processing aid to manufacture Teflon caused testicular cancers. The amicus brief led by the OMA was focused on a statute of limitations issue. The crux of the brief’s argument was that the court erred by taking the statute of limitations issue away from the jury under the objective test for inquiry notice and, instead, ruled as a matter of law that the plaintiff’s claims were timely.

#### State AGs Sue Biden Administration Over ‘Social Costs’ of Greenhouse Gases

A dozen attorneys general — including Ohio AG Dave Yost — are suing the Biden administration for increasing the cost of greenhouse gas emissions. The group says only Congress has authority to boost the price tag, which has been raised from \$7 per metric ton to the Obama-era level of \$50 until the administration figures out what it considers the “social costs” of carbon dioxide, methane, and nitrous oxide emissions, according to TheHill.com.

The administration's working group has established preliminary cost figures at about \$9.5 trillion a year. The lawsuit says the higher costs will cause serious harm to U.S. industry.



June 25, 2021

**VIA Electronic Mail** (holly.kaloz@epa.ohio.gov)

Ms. Holly Kaloz  
Ohio EPA Division of Air Pollution Control  
Lazarus Government Center  
P.O. Box 1049  
Columbus, OH 43216-1049

**Re: Ohio EPA Public Notice – Ohio’s Regional Haze State Implementation Plan**

Dear Ms. Kaloz:

Pursuant to Ohio EPA’s public notice of its intended submittal of Ohio’s Regional Haze State Implementation Plan (SIP) for the Second Implementation Period to U.S. EPA, The Ohio Manufacturers’ Association (OMA) is hereby providing Ohio EPA with written comments to Ohio Regional Haze SIP for the Second Implementation Period.

The OMA is dedicated to protecting and growing manufacturing in Ohio. The OMA represents over 1,300 manufacturers in every industry throughout Ohio. For more than 100 years, the OMA has supported reasonable, necessary and transparent environmental regulations that promote the health and well-being of Ohio’s citizens. The OMA appreciates the opportunity to comment on Ohio EPA’s Regional Haze SIP for the Second Implementation Period.

The OMA supports Ohio’s Regional Haze SIP for the Second Implementation Period, and Ohio EPA’s stated intention to request that U.S. EPA review and approve Ohio’s long-term strategy and the other elements of the SIP.

The OMA would like to thank Ohio EPA for the opportunity to comment and to participate in this public notice and comment process. We look forward to working with Ohio EPA as these comments are taken under consideration.

Sincerely,

A handwritten signature in blue ink that reads "Rob Brundrett".

Rob Brundrett  
Director, Public Policy Services

cc: Julianne Kurdila, Committee Chair  
Christine Rideout Schirra, Esq.



July 9, 2021

**VIA Electronic Mail** (epatmdl@epa.ohio.gov)

Ohio EPA Division of Surface Water  
Attn: TMDL Unit  
Lazarus Government Center  
P.O. Box 1049  
Columbus, OH 43216-1049

**Re: Maumee River Watershed TMDL – Stages 1 and 2/Modules 1 and 2**

Dear Ohio EPA:

Pursuant to Ohio EPA's Maumee Watershed Nutrient TMDL Outreach Module 2, The Ohio Manufacturers' Association (OMA) is hereby providing Ohio EPA with written comments regarding Ohio EPA's Module 2 notice of its development of the Maumee Watershed Nutrient TMDL, including the Study Plan (Stage One) and the Biological and Water Quality Report (Stage Two).

The OMA is dedicated to protecting and growing manufacturing in Ohio. The OMA represents over 1,400 manufacturers in every industry throughout Ohio. For more than 100 years, the OMA has supported reasonable, necessary and transparent environmental regulations that promote the health and well-being of Ohio's citizens. OMA appreciates the opportunity to comment on Ohio EPA's Maumee Watershed Nutrient TMDL Outreach Module 2. Ohio EPA's development of the Maumee Watershed Nutrient TMDL is of great interest to the OMA, as the TMDL has the potential to significantly impact OMA's members, some of whom are NPDES permit holders (whether direct or indirect dischargers) located within the Maumee watershed.

The OMA presents the following comments regarding Stage 2/Module 2 related to the Maumee Watershed Nutrient TMDL:

1. Nonpoint Source Contribution.

The Ohio Nutrient Mass Balance Report and the Ohio Domestic Action Plan document that 90% of the total phosphorus load in the Maumee Watershed is nonpoint source contribution. OMA agrees with Ohio EPA's determination that, to be effective, the Maumee Watershed Nutrient TMDL must focus primarily on the nonpoint sources of phosphorus, such as agricultural contributions. It would be unreasonable (and ineffective) for the TMDL to place tighter limits on point source dischargers where the

vast majority of the load originates with nonpoint sources – in fact, such an approach would not result in progress towards the TMDL goals.

Additionally, in many cases Ohio EPA has already required point source dischargers to reduce phosphorus loads. Because these dischargers have already made necessary reductions, they should receive credit for these actions in any future Loading Analysis Plan, modeling effort and TMDL. In particular, point source dischargers covered by an existing near-field phosphorus TMDL should generally not be targeted for additional reductions in the current far-field TMDL.

## 2. Total Phosphorus as Limiting Nutrient.

As detailed in the Great Lakes Water Quality Agreement reports and in Module 2, phosphorus is considered the growth-limiting nutrient in the Maumee watershed, meaning that the available quantity of this nutrient controls the pace at which algae and aquatic plants are produced. Accordingly, Ohio EPA is correctly targeting only phosphorus in the TMDL. If future studies suggest that other nutrients, such as nitrogen, merit further evaluation, Ohio EPA should provide opportunity for notice and comment on the proposed evaluation and on any further actions that are shown to be necessary to attain the designated uses.

## 3. Stakeholder Involvement.

The OMA looks forward to reviewing Ohio EPA's Loading Analysis Plan and to the opportunity to submit comments at that time. We also look forward to additional public comment periods as Ohio EPA undertakes Stages 4 and 5 of the TMDL process. Stakeholder involvement in the planning process will play a critical role in ensuring a fair, workable and informed TMDL that those most impacted can support and that does not unnecessarily impose significant financial burdens on the business community.

The OMA would like to thank Ohio EPA for the opportunity to comment and to participate in this rulemaking process. We look forward to working with Ohio EPA as these comments are taken under consideration, and at any future stages of this rulemaking.

Sincerely,



Rob Brundrett  
Director, Public Policy Services

cc: Julianne Kurdila, Committee Chair  
Christine Rideout Schirra, Esq.

**Environment Legislation**  
Prepared by: The Ohio Manufacturers' Association  
Report created on August 23, 2021

- HB143**      **REGARDS THE CLEAN OHIO PROGRAM (HILLYER B)** Relating to the Clean Ohio Program and to make an appropriation.  
*Current Status:* 2/24/2021 - Referred to Committee House Finance  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-143>
- HB152**      **REVISE LAW GOVERNING UNIT OPERATION (STEWART B, GINTER T)** To revise the law governing unit operation.  
*Current Status:* 6/24/2021 - **BILL AMENDED**, House Energy and Natural Resources, (Fourth Hearing)  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-152>
- HB155**      **LAND REUTILIZATION NUISANCE ABATEMENT PROGRAM (UPCHURCH T, SMITH M)** To create the Land Reutilization Nuisance Abatement Program and to make an appropriation.  
*Current Status:* 6/16/2021 - House Economic and Workforce Development, (Fourth Hearing)  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-155>
- HB158**      **PROHIBIT USE OF CERTAIN FIREFIGHTING FOAM FOR TESTING/TRAINING (BALDRIDGE B)** To prohibit the use of class B firefighting foam containing intentionally added PFAS chemicals for testing and training purposes.  
*Current Status:* 6/15/2021 - Senate Veterans and Public Safety, (First Hearing)  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-158>
- HB175**      **DEREGULATE CERTAIN EPHEMERAL WATER FEATURES (HILLYER B)** To deregulate certain ephemeral water features under various water pollution control laws.  
*Current Status:* 6/23/2021 - House Agriculture and Conservation, (Fifth Hearing)  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-175>
- HB251**      **CREATE INDOOR MOLD PROGRAM (MILLER J, RUSSO A)** To require the Director of Health to establish an indoor mold program.  
*Current Status:* 4/14/2021 - Referred to Committee House Health  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-251>
- HB300**      **BAN OIL/NATURAL GAS EXTRACTION FROM LAKE ERIE BED (SKINDELL M)** To to ban the taking or removal of oil or natural gas from and under the bed of Lake Erie.  
*Current Status:* 5/20/2021 - House Energy and Natural Resources, (First Hearing)  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-300>

- HB349 PROHIBIT CONSTRUCTION OF CERTAIN ANIMAL FEEDING FACILITIES** (SHEEHY M, HICKS-HUDSON P) To prohibit the construction of a new or modification by expansion of an existing concentrated animal feeding facility under certain circumstances.  
**Current Status:** 6/16/2021 - Referred to Committee House Agriculture and Conservation  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-349>
- HB365 DRINKING WATER SAFETY RULES** (LIGHTBODY M, RUSSO A) To require the Director of Environmental Protection to adopt rules establishing maximum allowable contaminant levels in drinking water and water quality standards for certain contaminants.  
**Current Status:** 7/1/2021 - Introduced  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-365>
- HB385 PROHIBIT DISCHARGE OF WASTE INTO OHIO WATERS** (CROSS J) To prohibit a municipal corporation located within the Western Basin of Lake Erie from discharging any amount of waste into Ohio waters.  
**Current Status:** 8/6/2021 - Introduced  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-385>
- HR56 URGE CONGRESS TO ELIMINATE E-CHECK PROGRAM** (PAVLIGA G, GRENDALL D) To respectfully urge the United States Congress and the President to amend the Federal Clean Air Act to eliminate the requirement to implement the E-Check Program and direct the Administrator of USEPA to begin new rule-making procedures under the Administrative Procedure Act to repeal and replace the 2015 National Ambient Air Quality Standards; to respectfully urge the United States Congress and the President to pass legislation to achieve improvements in air quality more efficiently while allowing companies to innovate and help the economy grow; to urge the Administrator of USEPA to alleviate burdensome requirements of the E-Check Program and the Clean Air Act if the United States Congress and the President fail to act; and to encourage OEPA to explore alternatives to E-Check in Ohio.  
**Current Status:** 6/10/2021 - **ADOPTED BY HOUSE**; Vote 62-29  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HR-56>
- SB83 BROWNFIELDS** (WILLIAMS S, RULLI M) To require the Ohio Environmental Protection Agency to conduct a study to determine where brownfield sites are located in this state and to make an appropriation.  
**Current Status:** 6/23/2021 - House Agriculture and Conservation, (Second Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-83>
- SB84 CLEAN OHIO REVITALIZATION FUND** (WILLIAMS S, RULLI M) To make changes to the law relating to the Clean Ohio Revitalization Fund.  
**Current Status:** 3/23/2021 - Senate Agriculture and Natural Resources, (Second Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-84>

- SB143**      **ADOPT MAXIMUM CONTAMINANT LEVEL-ALUMINUM (O'BRIEN S)** To require the Director of Environmental Protection to adopt a maximum contaminant level for aluminum in drinking water.  
**Current Status:** 6/15/2021 - Senate Agriculture and Natural Resources, (Third Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-143>
- SB171**      **REGULATE SALE OF BRINE FROM OIL/GAS OPERATIONS (HOAGLAND F, RULLI M)** To establish conditions and requirements for the sale of brine from oil or gas operations as a commodity and to exempt that commodity from requirements otherwise applicable to brine.  
**Current Status:** 6/22/2021 - Senate Agriculture and Natural Resources, (Third Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-171>
- SJR2**      **PERMIT BONDS-CLEAN WATER IMPROVEMENTS (GAVARONE T, YUKO K)** Proposing to enact Section 2t of Article VIII of the Constitution of the State of Ohio to permit the issuance of general obligation bonds to fund clean water improvements.  
**Current Status:** 4/21/2021 - Referred to Committee Senate Finance  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SJR-2>



**To: OMA Government Affairs Committee**  
**From: Rob Brundrett / Rachael Carl**  
**Re: Human Resources Public Policy Report**  
**Date: August 25, 2021**

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### **Overview**

The legislature came out of the gate running for the start of the 134<sup>th</sup> General Assembly. So far, they have been able to pass the state's two-year operating budget, send federal COVID-19 relief funds out the door, and make a mess of a few other items.

Most notably, the legislature took action to address the state's unemployment compensation debt. Due to the pandemic, Ohio saw an unprecedented increase in unemployment. With the state quickly running low on money to pay the claims, Ohio borrowed from the federal government to ensure that state payments would still be made to claim filers. The OMA worked with the administration and legislature to pass a critical debt relief measure included in House Bill 168. The bill will require the state to use federal American Rescue Plan Act dollars to pay down Ohio's nearly \$1.5 billion unemployment compensation federal debt. If Ohio fails to pay off the debt timely, as soon as next year, Ohio's employers would see an increase in their federal unemployment taxes.

On a related note, Governor DeWine ended Ohio's participation in the federal Pandemic Unemployment Assistance (PUA) program effective June 26th. The OMA pushed for this change with the administration and while these additional benefits served their purpose at the height of the pandemic, announcing their conclusion is the right thing to do to protect Ohio's economy. As we saw in other states, a lawsuit was filed against the state citing that the state had no right to end participation in the PUA program. Fortunately, a Franklin County Common Pleas judge ruled against reinstating the \$300/week checks. An appeal has been filed in the Tenth District Court of Appeals, so stay tuned on this one.

We are continuing to see a push from the House on pandemic-related legislation. One such bill, House Bill 248, would prohibit any public or private entity (i.e. businesses, schools, childcare facilities, universities, hospitals) from mandating or requesting an individual get any vaccine, or from requiring or requesting an individual's vaccine status. Many of these pieces of legislation are touted as freedom of choice bills; however, these anti-business bills essentially strip employers' rights to implement safety measures meant to protect their workforce, clients, and others.

In exciting news, the OMA will once again be hosting its annual Workforce Summit. The Summit will be virtual again this year and take place on October 27-28. There are plenty of sponsorships categories available. If you or your company is interested in registering or sponsoring the summit please talk to Rob or Rachael.

### **General Assembly News and Legislation**

#### **House Bill 122 – Telehealth Services**

This bill would expand telemedicine services to apply to more health care professionals. House Bill 122 would also prohibit health plans from imposing cost-sharing for telehealth services that exceed cost-sharing costs for in-person visits. The bill unanimously passed the House and is now pending before the Senate Health Committee.

#### House Bill 125 – Health Insurance Premiums/Benefits

The bill would codify in state law certain provisions within the federal Patient Protection and Affordable Care Act. Such provisions include limits on premium charges, cost-sharing limits, preexisting condition exclusions, etc. House Bill 125 has received one hearing in the House.

#### House Bill 135 – Health Insurance Cost-Sharing Practices

The bill would require insurers to apply amounts paid by or on behalf of covered individuals toward cost-sharing requirements. House Bill 135 passed out of the House Health Committee and is pending a House Floor vote.

#### House Bill 139 – Collection of Unemployment Overpayments

This bill would allow the Ohio Department of Job and Family Services to waive the collection of unemployment benefit overpayments (except for instances of fraud) if the overpayment was made between March 15, 2020, and April 30, 2021. The bill has received one hearing in the House Insurance Committee.

#### House Bill 156 – Employment Practices for Retail Food Establishments

House Bill 156 would limit retail food establishment employers' hiring practices. It would specify terms like when an employer can hire additional employees, how far in advance a work schedule has to be given, when an employer has to pay an employee for a missed shift, etc. This bill has not received a hearing yet.

#### House Bill 160 – Health Care Cost Estimates

This bill would require certain health care providers and health plan issuers to provide to patients a cost estimate for nonemergency health care products, services, or procedures before each is provided. House Bill 160 has received one hearing in the House Insurance Committee.

#### House Bill 187 – Require Paystubs

The bill would require employers to provide their employees with pay stubs that include certain information from the pay period such as the total wages earned and any wage deductions or additions. House Bill 187 was reported out of House Commerce & Labor Committee in June and unanimously passed the House Floor the same month. The bill is now pending before the Senate Small Business and Economic Opportunity Committee.

#### House Bill 189 – Require Coverage of PANDAS, PANS

House Bill 189 would require health plan issuers and the Medicaid program to cover treatments and services related to Pediatric Autoimmune Neuropsychiatric Disorders Associated with Streptococcal Infections and Pediatric Acute-onset Neuropsychiatric Syndrome. The bill has had one hearing in the House Health Committee.

#### House Bill 232 – Ohio Equal Pay Act

This bill would require government entities to evaluate their employees' pay scales to ensure compensation is based on skills, responsibilities, and working conditions across job categories. It would also require vendors doing business with the state to obtain an Equal Pay Certificate, certifying that women at the companies are equal opportunities. The bill has received one hearing in the House Commerce and Labor Committee.

#### House Bill 233 – Anonymous Reporting for Wage Discrimination

House Bill 233 would require the Ohio Civil Rights Commission to establish a system for individuals to anonymously report wage discrimination. It has not received any hearings yet.

#### House Bill 248 – Vaccine Choice Act

House Bill 248 would prohibit any public or private entity (i.e. businesses, schools, childcare facilities, universities, hospitals) from mandating or requesting an individual get any vaccine, not just the COVID-19 vaccine, or from requiring or requesting an individual's vaccine status. In essence, this bill would strip employers' rights to implement important safety measures meant to protect their workforce, clients, and others.

This bill has garnered quite a bit of attention since its introduction. Even national news outlets have picked up the hearings on this bill, noting the misinformation and conspiracies that the proponents of the bill have been spreading. The OMA has joined a coalition of Ohio health care and business organizations to voice concerns to members of the House Health Committee over this bill. The OMA has also provided testimony at each of the last two hearings. One testimony even came from OMA member Ross McGregor, owner of Pentaflex, and got quite a pick-up in the press. We will continue to engage the committee and House leadership on this important issue.

#### House Bill 253 – Vaccine Passports

The bill would prohibit government entities from requiring individuals to show proof of their COVID-19 vaccination. House Bill 253 has received one hearing so far.

#### House Bill 350 – Prohibit Mandatory COVID-19 Vaccine

House Bill 350 would prohibit any person or governmental entity from mandating the COVID-19 vaccine or requiring individuals to show proof of vaccination. An exemption does apply to health care providers, but in a limited capacity. It would also prohibit employers from discriminating against employees based on their vaccination history and the bill goes further by making employers liable for employees that develop an adverse reaction to the COVID-19 vaccine. So far, House Bill 350 has received one hearing in the House Civil Justice Committee.

#### Senate Bill 47 – Overtime Pay Exemptions

The bill would exempt an employer from paying overtime wages when an employee is traveling to and from a worksite, when an employee is engaged in activities that are preliminary or postliminary to their principal activities, or when an employee is engaged in activities requiring an insubstantial or insignificant period of time beyond their scheduled work hours. Senate Bill 47 has received three hearings in the Senate Ways & Means Committee.

#### Senate Bill 51 – Increase Minimum Wage

This bill would incrementally increase the state's minimum wage to \$15 per hour by 2025. It would also allow local authorities to establish higher minimum wage requirements.

#### Senate Bill 68 – Felony Conviction on Job Application

This bill would prohibit employers from asking on a job application any question on whether an applicant has been convicted or plead guilty to a felony.

#### Senate Bill 70 – Salary History on Job Application

The bill would prohibit employers from requesting prospective employee's wages or salary history.

#### Senate Bill 116 – Proof of Identity for Unemployment

In an effort to tamp down on fraud, Senate Bill 116 would require beneficiaries to provide proof of identification at a local employment office before their unemployment payments can begin. So far, this bill has received two hearings in the Senate.

### Senate Bill 119 – Ohio Fairness Act

This bill would add sexual orientation and gender identity or expression to the state's anti-discrimination laws designed to protect people from unfair labor, housing, and other discrimination. Senate Bill 119 has yet to receive a first hearing.

### Senate Bill 153 – Expand EEG/TMS Pilot Program

Senate Bill 153 would allow for the continuation and expansion of the Transcranial Magnetic Stimulation (TMS) program funded in the state's previous operating budget. The expansion includes the requirement that EEG be used in combination with TMS treatments and allows for more participants to use this type of treatment. In a topic near and dear to the bill sponsor's heart, this pilot program was created to help veterans and first responders who suffer from PTSD.

While the bill passed out of the Senate earlier, the legislature also included this measure in House Bill 110, the state's operating budget.

### Senate Bill 177 – Pregnant Workers Fairness Act

The bill would require employers to make reasonable accommodations for employees that are pregnant or breastfeeding. Senate Bill 177 has not received any hearings so far.

## **Workforce Services**

The OMA continues to remain heavily involved in developing a manufacturing workforce for the future. If your company is looking to engage on workforce, please reach out to OMA staff.

### Industry Sector Partnership (ISP) Grants

ISP grants are back in action. Last year, the state only awarded one year of grants due to funding issues with COVID-19. Eight OMA-endorsed sector partnerships were successful in receiving grants totaling more than half of the funding awarded that round.

The state's two-year operating budget, House Bill 110, will allocate \$2.5 million in funding each year (\$5 million combined) for the ISP grant program. While the line-item does, unfortunately, include earmarks, the remaining funds for this competitively awarded grant program will assist in growing collaborative, industry-led partnerships that help develop the next generation of workers.

### Industry-Recognized Credentials

Through the recent enactment of House Bill 110, the state's operating budget, Ohio will continue to invest in Ohio's workforce and economy by helping more Ohioans earn industry-recognized credentials.

Only two years after the creation of the TechCred program and 1,310 Ohio employers have been approved for funding, supporting the earning of 23,723 tech-focused credentials by employees. The overwhelming majority of approved applicants have been manufacturers.

House Bill 110 allocates \$25 million to the program with the hopes of continuing the program's success and funding an additional 20,000 credentials over the next two years. Currently, the tenth round of TechCred is underway, but the application period closes on Aug. 31<sup>st</sup>. The OMA's TechCred guidance document is attached for more information.

High school students are also getting in on the action when it comes to credentials. House Bill 110 dedicates \$41 million over the next two years to support the Innovative Workforce Incentive Program (IWIP). Designed to expand student access and provide new opportunities for the next generation of the workforce, the IWIP provides incentive payments to schools for high school students that earn an industry-recognized credential.

#### Manufacturing Mentorship Program

Late last year, Ohio's long-awaited Manufacturing Mentorship Program went live. Under the program, which was driven by the OMA and created in the previous state operating budget (House Bill 166), Ohio manufacturers are now able to employ 16- and 17-year-olds on a part-time basis in manufacturing occupations.

The program aims to expose youth to the many viable, rewarding careers in the industry while strengthening the workforce development pipeline. To participate, manufacturing employers must:

- Set a duration of employment;
- Assign a mentor to the minor;
- Provide required training; and
- Encourage participation in career tech programs.

The OMA has created a short reference document for any manufacturer that wants to take advantage of the new program. The document, which is attached, contains a link to a standardized form from the Ohio Department of Commerce to simplify the recording requirements.

# 5<sup>TH</sup> ANNUAL Ohio Manufacturers' Workforce Summit 2021 SPONSOR PACKAGES



**WHAT:** The 5th Annual Ohio Manufacturers' Workforce Summit

**WHEN:** 2 half-days! Wednesday, October 27 and Thursday, October 28

**WHERE:** Online

**WHO:** Expected registration of 500+ Ohio manufacturers, policymakers, community college and university leaders, K-12, economic development professionals, and statewide workforce development suppliers.

**WHY:** This event showcases state and national experts – as well as successful practitioners – in manufacturing talent attraction and development. It provides a forum for Ohio's manufacturers and their workforce partners to gain new insights, tools, and resources to improve their acquisition and development of talent.

**THANK YOU!** Your generous support helps develop and support the skilled workforce essential to manufacturing, Ohio's most productive economic sector, for now and for the future.

## PLATINUM - \$25,000

### Platinum Sponsors will receive:

- Eight complimentary registrations to the Summit
- Listing on main sponsor web page with link to your preferred website URL
- Dedicated sponsor web page featuring:
  - PLATINUM Sponsor designation at top of page
  - Your company name
  - Your logo
  - Link to your preferred website URL
  - Written description about your company (sponsor supplied)
  - Space to host your video (sponsor supplied)
- Your company's name/logo on all pre-Summit communications (invitations, social posts, reminder emails, and promotional video)
- Recognition as Platinum Sponsor during opening and closing remarks
- Featured sponsor of all keynote sessions and breaks
- Featured sponsor of a giveaway item

## GOLD - \$10,000

### Gold Sponsors will receive:

- Eight complimentary registrations to the Summit
- Listing on main sponsor web page with link to your preferred website URL
- Dedicated sponsor web page featuring:
  - GOLD Sponsor designation at top of page
  - Your company name
  - Your logo
  - Link to your preferred website URL
  - Written description about your company (sponsor supplied)
  - Space to host your video (sponsor supplied)
- Your company's name/logo on all pre-Summit communications (invitations, social posts, reminder emails, and promotional video)
- Recognition as Gold Sponsor during opening and closing remarks
- Featured sponsor of one keynote session
- Featured sponsor of a giveaway item

**90%** of 2020 Summit attendees said the Summit was a good use of their time.

### To secure your sponsor package, please contact:

Dan Noreen, Director, Development • The Ohio Manufacturers' Association  
dnoreen@ohiomfg.com • (614) 348-1225

## SILVER - \$5,000

### Silver Sponsors will receive:

- Six complimentary registrations to the Summit
- Listing on main sponsor web page with link to your preferred website URL
- Dedicated sponsor web page featuring:
  - SILVER Sponsor designation at top of page
  - Your company name
  - Your logo
  - Link to your preferred website URL
  - Written description about your company (sponsor supplied)
  - Space to host your video (sponsor supplied)
- Your company's name/logo on all pre-Summit communications (invitations, social posts, reminder emails, and promotional video)
- Recognition as Silver Sponsor during opening remarks
- Featured sponsor of a giveaway item

### From a Summit Participant:

*"It was all relevant. Learning about all the initiatives and programs in Ohio was very valuable."*

## FRIENDS OF MANUFACTURING - \$1,000

**Here's an affordable option for Industry Sector Partnerships, workforce community organizations, as well as manufacturers!**

- Three complimentary registrations to the Summit
- Listing on Friends of Manufacturing sponsor web page:
  - Your company name
  - Your logo
  - Link to your preferred website URL



### From a Summit Participant:

*"I was very impressed by this year's content and format and I was pleased to be able to attend all sessions instead of having to choose between competing blocks of time."*



**To secure your sponsor package, please contact:**

Dan Noreen, Director, Development • The Ohio Manufacturers' Association  
dnoreen@ohiomfg.com • (614) 348-1225





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The legislature has heard that this bill's purpose is to prevent the COVID-19 vaccine from becoming mandatory, but HB 248-11 applies to ALL immunizations, including childhood vaccines. If passed, **this legislation has the potential to reverse decades of immunity from life-threatening, but vaccine-preventable diseases** such as measles, mumps, hepatitis, meningitis and polio. In fact, the words "COVID-19" or "coronavirus" are not found anywhere in the bill.

This legislation would also take away the rights of individuals who have businesses in Ohio to implement important safety measures meant to protect their employees, clients, and others. Many businesses have seen enormous fallout as a result of the pandemic and are working to rebuild and move forward. Business owners should each retain the right to carefully evaluate the unique circumstances they face, and make their own determinations about what is best for keeping the workplace healthy and their overall recovery.

**As current Ohio law allows for school immunization exemptions to decline vaccinations for medical, religious, or reasons of conscience (known as the philosophical exemption), and businesses requiring vaccinations as a condition of employment include appropriate exemptions, we question the need for HB 248-11.** This overly broad proposal would further strip away accountability and compassion for our fellow Ohioans, and cause severe disruption to our state's health, economy, and way of life. **It is our urgent plea that HB 248-11 be rejected, to protect the vitality of Ohio's children and families and avoid disastrous consequences for the future of our state.**

Respectfully,

Academy of Medicine of Cincinnati  
Akron Children's Hospital  
American Cancer Society Cancer Action Network, Inc.  
American College of Emergency Physicians  
American College of Physicians  
American College of Surgeons - Ohio  
Anthem  
Arthritis Foundation  
Association of Ohio Health Commissioners  
BASA – Ohio's Superintendent Association  
Bio Ohio  
Biotechnology Innovation Organization (BIO)  
Buckeye Health Plan  
CancerCare  
Cardinal Health  
Center for Dignity in Healthcare for People with Disabilities  
Central Ohio Primary Care Physicians  
Charitable Healthcare Network  
Children's Defense Fund  
Cincinnati Children's Hospital Medical Center  
Cincinnati USA Regional Chamber  
Cleveland Clinic  
Columbus Chamber of Commerce  
Columbus Medical Association  
Columbus Partnership  
Dayton Area Chamber of Commerce  
Dayton Children's Hospital  
Global Healthy Living Foundation  
Greater Akron Chamber  
Greater Dayton Area Hospital Association  
Groundwork Ohio  
Immunization Advocacy Network of Ohio  
Immunize Colorado  
Immunize Ohio  
Inter-University Council of Ohio  
LeadingAge Ohio  
Lutheran Social Services of Central Ohio  
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March of Dimes  
Medical Group Management Association  
Mercy Health  
Molina Healthcare  
Montgomery County Medical Society  
Mount Carmel Health System  
National Association of Pediatric Nurse Practitioners  
National Meningitis Association  
National Patient Advocate Foundation  
Nationwide Children's Hospital  
National Hispanic Medical Association  
Ohio Academy of Family Physicians  
Ohio Alliance of Boys and Girls Clubs  
Ohio American College of Emergency Physicians  
Ohio Association of Advanced Practice Nurses  
Ohio Association of Child Care Providers  
Ohio Association of Community Health Centers  
Ohio Association of Health Plans  
Ohio Association of Rheumatology  
Ohio Association of Elementary School Administrators  
Ohio Association of School Nurses  
Ohio Association of Secondary School Administrators  
Ohio Business Roundtable  
Ohio Chamber of Commerce  
Ohio Champions for Vaccines  
Ohio Chapter - American Academy of Pediatrics  
Ohio Chapter – American College of Cardiology  
Ohio Children's Hospital Association  
Ohio College of Clinical Pharmacy  
Ohio College Health Association  
Ohio Counseling Association  
Ohio Counseling Association  
Ohio Dermatological Association  
Ohio Health Care Association  
Ohio Health  
Ohio Hematology Oncology Society  
Ohio Hospital Association  
Ohio Manufacturers' Association

Ohio Nurses Association  
Ohio Orthopaedic Society  
Ohio Osteopathic Association  
Ohio Pharmacists Association  
Ohio Physical Therapy Association  
Ohio Psychiatric Physicians Association  
Ohio Public Health Association  
Ohio Society of Pathologists  
Ohio Society for Respiratory Care  
Ohio Society of Health-System Pharmacists  
Ohio State Coroners Association  
Ohio State Medical Association  
Premier Health  
ProMedica Russell J. Ebeid Children's Hospital  
Retire Safe  
Science and Families Engaging Communities Coalition and  
Action Fund  
SummaCare  
The Academy of Medicine of Cleveland & Northern Ohio  
The Aids Institute  
The American College of Obstetricians and Gynecologists  
The Christ Hospital Health Network  
The Health Collaborative  
The Ohio Council of Retail Merchants  
The Ohio Foot & Ankle Medical Association  
The Ohio State University Wexner Medical Center  
Triage Cancer  
TriHealth  
UC Health  
UH Rainbow Babies and Children's Hospital  
University of Cincinnati Center for Excellence in  
Developmental Disabilities  
Vaccinate Your Family



## Application Period for TechCred: August 2021

One way to boost Ohio's manufacturing talent is by utilizing [TechCred](#) – an innovative program that reimburses employers that help employees earn industry-recognized, technology-focused credentials.

Since the inception of the program, 1,310 Ohio employers have been approved for funding, supporting the earning of 23,723 tech-focused credentials by employees. At last check, manufacturers – including several smaller manufacturers – accounted for more than half of all approved applications.

The [list of eligible TechCred credentials](#) includes examples of education and training providers that offer certificates or certifications. Employers can work with listed or unlisted training providers.

**A new round of TechCred funding is planned for August 2021. Employers will be able to submit applications from Aug. 1 through Aug. 31.** Businesses with employees who have completed their TechCred training should submit proof of credential completion to receive reimbursement at [TechCred.Ohio.gov](#).

Key points regarding the program include:

- Employers can receive up to \$2,000 for each current or new employee who earns a qualified credential (up to \$30,000 per funding round).
- Businesses of all sizes are eligible.
- There is a [pre-approved list of credentials](#), including industrial maintenance and welding certifications, among many others.
- [Employers may request that new credentials be added](#) by submitting an application, which will be reviewed by a panel of stakeholders. The OMA is involved in this review of submitted credentials.
- Many of the program's approved credentials can be earned online.
- Here is a [recorded OMA webinar](#) about the TechCred program.

The following updates have been implemented to further streamline TechCred:

- The length of the grant is 12 months from the award date.

*(Continued)*

- Training programs must start on or after the date of the award – not before – and must be completed in fewer than 12 months.

Employers that apply for TechCred funding have good odds of approval.

If your business is interested, visit [TechCred.Ohio.gov](https://TechCred.Ohio.gov) and submit your application.

For more information on past awardees, visit the [TechCred dashboard](#) on Data.Ohio.gov.

For questions regarding your application, [click here](#) or email [Workforce@OWT.Ohio.Gov](mailto:Workforce@OWT.Ohio.Gov).





# FACT SHEET: OHIO'S MANUFACTURING MENTORSHIP PROGRAM INTRODUCES YOUNG PEOPLE TO MANUFACTURING CAREERS, BUILDS WORKFORCE PIPELINE

The Ohio Manufacturers' Association (OMA) advocated for legislation that would enable Ohio's 16- and 17-year old students to work on a part-time basis in Ohio's manufacturing industry as a way to showcase the many viable careers in the industry, while strengthening the workforce development pipeline for manufacturers.

Legislation enabling the Manufacturing Mentorship Program was passed in House Bill 166, the state's 2019-2021 operating budget, and became available to Ohio's youth and manufacturing employers in August 2020.

Before this provision was passed by the legislature, only students aged 16 and 17 could work in the manufacturing sector if they were part of a "bona fide educational program." (Ohio's Career and Technical Center programs are typically considered bona fide, as are other school programs that have been approved by the Ohio Department of Education.)

The Manufacturing Mentorship Program enables **any** 16- or 17-year-old student to work in a manufacturing setting **without** being enrolled in a specific "bona fide educational program."

## How does the program work?

These are the activities that participating employers are required to execute:

1. Provide the minor with required training (detailed below).
2. Assign the minor to a mentor who provides direct and close supervision when the minor is engaged in workplace activity.
3. Encourage the minor to participate in a career-technical education program such as one approved by the Ohio Department of Education (if they are not already).
4. Comply with all applicable state and federal laws and regulations related to the employment of minors.
5. Maintain records sufficient to document the satisfaction of all criteria established by the program under the law (section 4109.22 of the Ohio Revised Code).
  - a. Maintain documents for no less than two years following the employment of the minor or after the minor turns 18, whichever is later.
  - b. Make the documents available to the director of the Ohio Department of Commerce or the director's designee upon request.

The Ohio Department of Commerce has created **this document** for ease of compliance with any record requirements.

## Specific training requirements for students in the program:

1. Completion of a 10-hour course in general industry safety and health hazard recognition and prevention approved by the U.S. Department of Labor Occupational Safety and Health Administration (OSHA);
2. Instruction on how to operate the specific tools the minor will use during employment;
3. Training on the general safety and health hazards to which the minor may be exposed at the minor's workplace;
4. Training on the value of safety and management commitment; and
5. Information on the employer's drug testing policy.

If a minor has already successfully completed a 10-hour OSHA course, the minor *may* participate in an OSHA-approved 30-hour course in general industry safety and health hazard recognition and prevention.

Participating employers are responsible for all costs associated with training. If the minor provides proof of OSHA required training within the six months prior to employment, then the employer is not required to pay for new OSHA training.

## Ensuring safety: Restrictions on tools operated by minors

The law requires that the Ohio Department of Commerce specify a list of tools that a minor, who is 16- or 17-years old, may operate during his or her employment in a manufacturing occupation. The director is required to use the manual issued by the Wage and Hour Division of the U.S. Department of Labor titled the “Field Operations Handbook” when developing the list.

The law prohibits an employer from permitting a minor who is not participating in the Manufacturing Mentorship Program from operating a tool on the list developed by the Ohio Department of Commerce. (An employer is prohibited from permitting a minor, regardless of their participation in the Manufacturing Mentorship Program, to operate a tool that is prohibited for use by minors of that age under the Fair Labor Standards Act.)

## Tools permitted for Manufacturing Mentorship Program Participants

The following tools may be used by minors 16 and 17 years of age if they are participants in the Manufacturing Mentorship Program:

### General tools:

1. Pipe and bolt threading machine;
2. Pipe nipple and automatic pipe nipple machines;
3. Certain electric carts used as a means of transportation in large industrial plants and at railroad stations, as long as they are not driven on public roads;
4. Riding mowers or golf carts in a warehouse setting, as long as they are not driven on public roads;
5. Powered contour measuring instruments; and
6. Multi-axis type robotic equipment.

### Tools permitted with conditions:

1. Welding tools only while under direct supervision;
2. Waterjet cutting machines with devices for fully automatic feeding and ejection and with a fixed guard that prevents operators or helpers from placing any part of their bodies in the point-of-operation area;
3. Computer numerical control (CNC) machines while under direct supervision;
4. Production press machines that are not already listed as a specific prohibition or exception in Chapter 4101:9-2 of the Administrative Code, so long as those devices include fully automatic feeding and ejection and a fixed guard that prevents operators or helpers from placing any part of their bodies in the point-of-operation area;
5. Plastics molding machines when fitted with the proper guarding and are not manually fed;
6. Plastics extruders while under direct supervision; and
7. Soldering irons while under direct supervision.

### Tools restricted by type of use:

1. Certain tools that require the placing of material on a moving chain or in a hopper or slide for automatic feeding, such as:
  - a. Band resaw only when it incorporates the use of a chain feed and there is no direct interaction with the tool;
  - b. Automatic nailing machine only when it incorporates the use of a hopper, belt, or chain feed, and there is no direct interaction with the tool;
2. Automatic wire-stitching machines only when it incorporates the use of a hopper or chain feed and there is no direct interaction with the tool; and
3. Tools designed for carrying or moving nonhazardous material from one machine to another (hike-a-way).

### Miscellaneous Tools:

Any other tools that are permitted under the Fair Labor Standards Act and are not specifically prohibited by section 4109.05 or the Revised Code or the rules adopted thereunder.

## Starting Your Manufacturing Mentorship Program

Manufacturers that are ready and willing to follow the Manufacturing Mentorship Program requirements described in this document and in Section 4109.22 of the Ohio Revised Code may implement their programs.

## MMP Compliance Checklist

Pursuant to section 4109.22 of the Revised Code, the manufacturing mentorship program was created to provide minors age sixteen or seventeen years of age real-world experience in manufacturing occupations in Ohio. To be compliant with this program, an employer employing a minor must do all of the following:

- **Determine the duration of the minor’s employment:**

- Does the employer have a signed agreement between the minor’s legal guardian and a representative of the employer stating the employment duration? Yes  No
- What is the format of this agreement? Where is the agreement maintained?

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Signature of Employer’s Representative: \_\_\_\_\_ Date: \_\_\_\_\_

- **Assign the minor a mentor to provide direct supervision while the minor is engaged in any workplace activity:**

- Has the minor been assigned a mentor? Yes  No
- Provide the name, title, contact information, and agreement with the mentor.

Name, Title, and Contact Information: \_\_\_\_\_

Is an agreement in place with the mentor? Yes  No  Type of agreement: \_\_\_\_\_

Signature of Mentor: \_\_\_\_\_ Date: \_\_\_\_\_

- **Provide the minor with the following training or obtain proof that the minor has previously completed the required training within the six-month period immediately before the beginning of employment:**

- OSHA-approved 10-hour general safety training; or OSHA-approved 30-hour industry-specific safety training if the minor has previously completed an OSHA - approved 10-hour course.
 

Completion Date \_\_\_\_\_
- Instructions on operation of specific tools to be used during employment.
 

Completion Date \_\_\_\_\_



- General safety and health hazards to which the minor may be exposed at the workplace. Completion Date \_\_\_\_\_
- The value of safety and management commitment. Completion Date \_\_\_\_\_
- Information on the employer's drug testing policy. Completion Date \_\_\_\_\_

[Proof of completed training should be attached to this checklist]

- **Encourage the minor to participate in a career-technical education program approved by the Ohio Department of Education if the minor is not already participating in such a program when employment begins:**
  - Has the minor been given information about career-technical education programs available in the field and geographic area? Yes  No  List the programs that have been described and attach any promotional information provided to the minor to this checklist.

Signature of Employer's Representative: _____ Date: _____

- **Ensure compliance with all applicable state and federal laws and regulations relating to the employment of minors:**
  - Attach a copy of the minor's State of Ohio work permit, if applicable, to this checklist.

Pursuant to rule 4101:9-2-02.1 of the Ohio Administrative Code, employers are required to maintain records sufficient to document the satisfaction of all criteria established in section 4109.22 of the Revised Code for no less than two years following the employment of the minor or after the minor turns eighteen. Accordingly, it is recommended that this checklist and supporting documents be used for that purposed and be maintained for that period of time.

Signature of Employer's Representative: \_\_\_\_\_ Date: \_\_\_\_\_

Signature of Employee: \_\_\_\_\_ Date: \_\_\_\_\_

Signature of Employee's Legal Guardian: \_\_\_\_\_ Date: \_\_\_\_\_

*\*Please note that these are steps recommended by the Bureau of Wage and Hour to ensure compliance with this program, other documentation or evidence of compliance may also be acceptable to the Bureau on case-by-case basis.*

## Human Resources, Health Care & Employment Law Legislation

Prepared by: The Ohio Manufacturers' Association  
Report created on August 24, 2021

- HB122 TELEHEALTH SERVICES** (FRAIZER M, HOLMES A) To establish and modify requirements regarding the provision of telehealth services.  
*Current Status:* 4/21/2021 - Referred to Committee Senate Health  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-122>
- HB125 HEALTH INSURANCE PREMIUMS/ BENEFITS** (CROSSMAN J, LIGHTBODY M) Regarding health insurance premiums and benefits.  
*Current Status:* 2/24/2021 - House Insurance, (First Hearing)  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-125>
- HB135 PROHIBIT CERTAIN HEALTH INSURANCE COST-SHARING PRACTICES** (MANCHESTER S, WEST T) To prohibit certain health insurance cost-sharing practices.  
*Current Status:* 3/16/2021 - **REPORTED OUT**, House Health, (Third Hearing)  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-135>
- HB139 WAIVE COLLECTION OF CERTAIN UNEMPLOYMENT OVERPAYMENTS** (SOBECKI L, CROSSMAN J) To allow the Director of Job and Family Services to waive the collection of certain unemployment benefit overpayments and to declare an emergency.  
*Current Status:* 3/24/2021 - House Insurance, (First Hearing)  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-139>
- HB156 REGULATE EMPLOYMENT PRACTICES OF CERTAIN RETAIL/FOOD EMPLOYERS** (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:* 3/3/2021 - Referred to Committee House Commerce and Labor  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-156>
- HB160 HEALTH CARE COST ESTIMATES** (HOLMES A) Regarding the provision of health care cost estimates.  
*Current Status:* 3/10/2021 - House Insurance, (First Hearing)  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-160>
- HB187 EARNINGS, DEDUCTIONS STATEMENTS** (KELLY B, LIPPS S) To require an employer to provide earnings and deductions statements to each of the employer's employees.  
*Current Status:* 6/23/2021 - Referred to Committee Senate Small Business and Economic Opportunity  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-187>
- HB189 REQUIRE COVERAGE OF PANDAS, PANS** (YOUNG B) To require health plan issuers and the Medicaid program to cover treatments and services related to Pediatric

Autoimmune Neuropsychiatric Disorders Associated with Streptococcal Infections and Pediatric Acute-onset Neuropsychiatric Syndrome.

**Current Status:** 4/20/2021 - House Health, (First Hearing)

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-189>

**HB232**      **OHIO EQUAL PAY ACT** (HOWSE S, MIRANDA J) To enact the Ohio Equal Pay Act to address wage disparities in public and private employment.

**Current Status:** 6/22/2021 - House Commerce and Labor, (First Hearing)

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-232>

**HB233**      **REQUIRE ANONYMOUS SYSTEM TO REPORT WAGE DISCRIMINATION** (BOYD J, CRAWLEY E) To require the Ohio Civil Rights Commission to establish a system for individuals to anonymously report wage discrimination.

**Current Status:** 4/14/2021 - Referred to Committee House Commerce and Labor

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-233>

**HB248**      **VACCINE CHOICE ACT** (GROSS J) To authorize an individual to decline a vaccination and to name this act the Vaccine Choice and Anti-Discrimination Act.

**Current Status:** 8/24/2021 - House Health, (Sixth Hearing)

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-248>

**HB253**      **REGARDS PROOF OF COVID-19 VACCINATIONS** (CUTRONA A) Regarding proof of COVID-19 vaccinations.

**Current Status:** 5/18/2021 - **BILL AMENDED**, House Health, (First Hearing)

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-253>

**HB350**      **PROHIBIT MANDATORY COVID-19 VACCINE** (CUTRONA A) To prohibit mandatory COVID-19 vaccinations, requiring proof of COVID-19 vaccination, and certain other actions relating to an individual's COVID-19 vaccination or health status and to declare an emergency.

**Current Status:** 6/22/2021 - House Civil Justice, (First Hearing)

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-350>

**HB388**      **REGARDING VACCINE REFUSAL** (JORDAN K) To prohibit taking certain actions against an individual because the individual refuses to be vaccinated against a disease.

**Current Status:** 8/12/2021 - Introduced

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-388>

**HB396**      **FAIR PAYCHECK WORKPLACE CERTIFICATE** (SMITH K, SMITH M) To create the fair paycheck workplace certificate.

**Current Status:** 8/18/2021 - Introduced

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-396>

- HCR8**      **CREATE JOINT SELECT COMMITTEE ON UC FRAUD** (GRENDALL D) To create the Joint Select Investigative Committee on Unemployment Compensation Fraud.  
*Current Status:* 3/24/2021 - Referred to Committee House Government Oversight  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HCR-8>
- HCR10**      **URGE CONGRESS ENACT PROTECTING THE RIGHT TO ORGANIZE ACT OF 2021** (KELLY B, SOBECKI L) To urge the Congress of the United States to enact the Protecting the Right to Organize Act of 2021.  
*Current Status:* 4/14/2021 - Referred to Committee House Commerce and Labor  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HCR-10>
- HCR16**      **ENCOURAGE GENDER EQUITY, DIVERSITY IN LEADERSHIP.** (WEST T, RUSSO A) To encourage equitable and diverse gender representation on the boards and in senior management of Ohio companies and institutions.  
*Current Status:* 4/22/2021 - Referred to Committee House Commerce and Labor  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HCR-16>
- SB47**      **OVERTIME PAY-EXEMPTIONS** (BRENNER A, PETERSON B) To except traveling to and from a worksite and performing certain routine tasks from the overtime pay requirement.  
*Current Status:* 5/12/2021 - **BILL AMENDED**, Senate Ways and Means, (Third Hearing)  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-47>
- SB51**      **INCREASE MINIMUM WAGE** (THOMAS C, CRAIG H) To increase the state minimum wage and to allow municipalities, townships, and counties to establish higher minimum wage requirements.  
*Current Status:* 3/10/2021 - Senate Workforce and Higher Education, (First Hearing)  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-51>
- SB68**      **PROHIBIT JOB APPLICATION-ASK ABOUT FELONY CONVICTION** (WILLIAMS S) To prohibit private employers from including on an employment application any question concerning whether an applicant has been convicted of or pleaded guilty to a felony.  
*Current Status:* 3/10/2021 - Senate Workforce and Higher Education, (First Hearing)  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-68>
- SB70**      **PROHIBIT ASKING JOB APPLICANT'S SALARY HISTORY** (MAHARATH T) To prohibit employers from seeking a prospective employee's wage or salary history.  
*Current Status:* 3/17/2021 - Senate Small Business and Economic Opportunity, (First Hearing)  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-70>

- SB116**      **PROOF OF IDENTITY-UNEMPLOYMENT** (HACKETT R, REINEKE W) To require a person to provide proof of identity at a local employment office before receiving unemployment compensation or pandemic unemployment assistance and to declare an emergency.  
*Current Status:* 3/24/2021 - Senate Insurance, (Second Hearing)  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-116>
- SB119**      **PROHIBIT DISCRIMINATION-SEXUAL ORIENTATION, GENDER** (ANTONIO N, RULLI M) To enact the Ohio Fairness Act to prohibit discrimination on the basis of sexual orientation or gender identity or expression, to add mediation as an informal method that the Ohio Civil Rights Commission may use, and to uphold existing religious exemptions under Ohio's Civil Rights Law.  
*Current Status:* 3/10/2021 - Referred to Committee Senate Government Oversight and Reform  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-119>
- SB153**      **TMS PILOT PROGRAM** (HOAGLAND F) To expand the Electroencephalogram Transcranial Magnetic Stimulation Pilot Program and to make an appropriation.  
*Current Status:* 6/16/2021 - Referred to Committee House Finance  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-153>
- SB177**      **REQUIRE ACCOMMODATIONS-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:* 5/11/2021 - Introduced  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-177>
- SR21**      **URGE CONGRESS-INCREASE PANDEMIC UNEMPLOYMENT** (HACKETT R, REINEKE W) Urge Congress increase pandemic unemployment program security.  
*Current Status:* 3/10/2021 - **ADOPTED BY SENATE**; Vote 33-0  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SR-21>

**TO: OMA Safety and Workers' Compensation Committee**  
**FROM: Rob Brundrett / Rachael Carl**  
**RE: Safety & Workers' Compensation Public Policy Report**  
**DATE: August 25, 2021**

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## Overview

As the spread of the Delta variant has accelerated and the number of cases has increased, the CDC and OSHA have recently released new guidance for controlling the spread of COVID-19. OSHA's updated recommendations align with the CDC's recent revisions. Most recommendations are clarifying existing ones, but the one change they did make was to their guidance on masks for fully vaccinated individuals. They are now recommending that fully vaccinated workers in areas of substantial or high community transmission wear masks in order to protect unvaccinated workers. OSHA is also continuing to emphasize that vaccination is the best step to protect workers, and with the recent announcement that the FDA has granted full approval for the Pfizer vaccine, this may give individuals additional confidence when choosing whether to be vaccinated.

While COVID-19 has taken up much of the conversation in recent months, a few non-coronavirus-related items of note have arisen. The two-year operating budgets for the Bureau of Workers' Compensation (BWC) and the Industrial Commission (IC) were both signed before the June 30th deadline. Both bills included a slight increase in appropriations, but no major policy initiatives were initially included in the proposals. While the IC budget was passed with no substantive amendments, the final BWC budget included a few minor amendments (see bill description below for House Bill 75).

In addition to wrapping up all of the state's two-year operating budgets, the legislature took action to address the state's unemployment compensation debt. The OMA was instrumental in working with both the administration and legislature to pass the critical debt relief measure included in House Bill 168. The bill will require the state to use federal American Rescue Plan Act dollars to pay down Ohio's nearly \$1.5 billion unemployment compensation federal debt. If Ohio fails to pay off the debt timely, as soon as next year, Ohio's employers would see an increase in their federal unemployment taxes.

Finally, we have an emerging topic for the fall: marijuana. Introduced earlier this month by Reps. Casey Weinstein (D-Hudson) and Terrence Upchurch (D-Cleveland), House Bill 382 would legalize the recreational use of marijuana in Ohio. According to the bill sponsors, the legislation works off of four key components: decriminalization; a marijuana excise tax; commerce and licensing; and medical marijuana.

But we have not just marijuana legislation on the horizon, we have a ballot initiative as well. After rejecting the first petition for not having a "fair and truthful statement" summary, the Attorney General announced last week that he has certified the revised version proposed initiated statute that would legalize marijuana use in the state for all adults. The ballot initiative is being pushed by a group called the Coalition to Regulate Marijuana Like Alcohol. The certified language is a statewide initiative to ask the General Assembly to approve legalization — or if lawmakers say no, give backers the option to try to place the measure on the ballot. Now that the Attorney General has certified that the summary is fair and truthful, it goes to the Ballot Board to ensure that it contains only one proposed law before petitioners can start gathering signatures.

## **Legislation and Rules**

### **House Bill 17 – Workers’ Compensation in Firefighter Cancer Claims**

This bill would make changes to how compensation and benefits are paid out to a firefighter who contracted cancer. If the claim is paid from the state insurance fund, it shall be paid from the surplus fund account. If it is paid by a self-insuring employer, the amount would be paid from compensation that the employer reports to the Bureau of Workers’ Compensation Administrator. So far, the bill has received one hearing in the House Insurance Committee.

### **House Bill 75 – State’s Bureau of Workers’ Compensation Budget**

While the BWC’s two-year operating budget did include a slight increase in administrative funding, House Bill 75 did include several noteworthy reforms that have the OMA’s support, including:

- Reducing the statute of limitations for occupational disease claims from two years to one year;
- Preventing claimants who were previously denied a permanent disability benefit from reapplying unless there is a change in circumstances; and
- Aligning the timeline for filing a permanent partial disability (PPD) claim after receiving wages paid in lieu of temporary total disability (TTD) compensation, with the timeline for filing a PPD claim after receiving TTD compensation.

### **House Bill 76 – State’s Industrial Commission Budget**

As expected, the Commission’s requested budget included no big policy changes nor big increases in appropriation. The bill was signed by the governor earlier this month.

### **House Bill 311 – Expand EEG/TMS Pilot Program**

House Bill 311 is a companion bill to Senate Bill 153 (see more description below), and has yet to receive any hearings.

### **Senate Bill 66 – Career Pathways Apprenticeship Program**

The bill would establish the Career Pathways Apprenticeship Program. The program would create partnerships between schools, businesses, and communities to develop career pathways for apprenticeships in various fields, including manufacturing, information technology, and healthcare, among others. The bill has had one hearing in the Senate Workforce & Higher Education Committee.

### **Senate Bill 69 – Noncredit Career-Technical Programs**

This bill would require that career or technical certification programs offered at a community college be counted as a credit toward an associate degree in a related field. The Chancellor of Higher Education would establish the policies necessary for awarding those credits. The bill has had one hearing in the Senate Workforce & Higher Education Committee.

### **Senate Bill 153 – Expand EEG/TMS Pilot Program**

Senate Bill 153 would allow for the continuation and expansion of the Transcranial Magnetic Stimulation (TMS) program funded in the state’s previous operating budget. The expansion includes the requirement that EEG be used in combination with TMS treatments and allows for more participants to use this type of treatment. In a topic near and dear to the bill sponsor’s heart, this pilot program was created to help veterans and first responders who suffer from PTSD.

While the bill passed out of the Senate earlier, the legislature also included this measure in House Bill 110, the state's operating budget.

### **BWC Agency Notes**

#### **Self-Insuring Employer Semi-Annual Assessments Due Aug. 31**

The Self-Insuring Employer Semi-Annual Assessment payment is due to the Bureau of Workers' Compensation (BWC) by August 31, 2021.

Employers may view their invoices and pay online or over the phone via a checking/savings account or by credit card. BWC accepts VISA®, MasterCard®, or American Express® and does not charge a convenience fee for credit card payments.

#### **BWC Reports Net Assets of \$8.5 Billion**

The Ohio Bureau of Workers' Compensation (BWC) recently reported total assets of \$24.1 billion and total liabilities of \$15.5 billion, for a net position of \$8.5 billion as of June 30.

According to Gongwer News Service, the BWC board has proposed another cut of 9.9% to public employer premiums starting Jan. 1, 2022. The BWC board typically waits until later in the year to review private employer premiums, which have been lowered 11 times since 2009.

#### **Bill Introduced to Legalize Recreational Use of Pot**

Legislation was formally introduced to legalize the recreational use of marijuana in Ohio. House Bill 382 includes four key components: decriminalization; a marijuana excise tax; commerce and licensing; and medical marijuana.

Meanwhile, another effort to legalize the recreational use of marijuana in Ohio was approved by Attorney General Dave Yost after a re-submission of their petition. A group called the Coalition to Regulate Marijuana Like Alcohol is trying to circulate a statewide initiative to ask the General Assembly to approve legalization — or if lawmakers say no, give backers the option to try to place the measure on the ballot.

The National Safety Council reports that studies show employees who tested positive for marijuana had 55% more industrial accidents, 85% more injuries, and 75% greater absenteeism compared to those who tested negative.

#### **What the New CDC Mask Policy Means for Employers**

As reported in the OMA's COVID-19 Update, the CDC has adjusted its masking guidelines as the Delta variant of the coronavirus continues to spread. Specifically, the CDC now recommends people in areas with "substantial" and "high" COVID-19 transmission wear masks indoors, regardless of vaccination status.

#### **BWC Accepting Employer Applications for Workplace Wellness Grant Program**

The Ohio Bureau of Workers' Compensation is accepting applications for the Workplace Wellness Grant Program, which assists employers with the creation and implementation of a workplace wellness program. Employers may receive \$300 per participating employee over a four-year period, up to a maximum amount of \$15,000 per policy.



### BWC Rate Reduction Now in Effect

On July 1, a 7.1% rate reduction for Ohio Bureau of Workers' Compensation (BWC) premiums took effect. According to the BWC, private employers will pay nearly \$72 million less in premiums this fiscal year due to the reduction, approved by the BWC board back in February.

Keep in mind that the 7.1% rate cut represents a statewide average reduction to premiums. The actual premium paid by individual private employers depends on multiple factors.

### Safety Issues

#### OSHA's Latest COVID-19 Guidance

OSHA has issued updated guidance to help employers protect workers from the coronavirus. The updated guidance — which reflects the CDC's revised recommendations — expands information on measures for protecting workers in higher-risk workplaces with mixed-vaccination status workers, including manufacturing facilities.

OSHA's updated guidance does the following:

- Recommends fully vaccinated workers in areas of substantial or high community transmission (currently all Ohio counties) wear masks to protect unvaccinated workers;
- Recommends fully vaccinated workers who have close contact with people with COVID-19 wear masks for up to 14 days unless they have a negative test at least 3-5 days after such contact; and
- Clarifies recommendations to protect unvaccinated workers and other at-risk workers in manufacturing and food processing facilities.

OSHA continues to emphasize that vaccination is the best step to protect workers, and says it will continue to review its COVID-19 Emergency Temporary Standard every 30 days.

#### Reminder About OSHA's New Regional Noise Program

OSHA inspections begin Sept. 1 for manufacturing facilities with hearing loss rates higher than the national average. Industries with NAICS codes that start with 32 and 33 are the primary targets for this Regional Emphasis Program.

#### OSHA Considers Indoor Heat Standard

OSHA is working on a new heat standard to protect indoor workers without climate-controlled environments, including those in manufacturing. According to EHS Today, while the proposed standard is in its early stages, it appears the OSHA standard could require break times and order employers to monitor employee acclimatization, as well as temperatures and humidity levels in workplaces.

“Such provisions could effectively require costly changes in manufacturing worksites that do not have air conditioning and have a local source of heat, such as a furnace or an oven,” one attorney said.

#### OSHA to Update Mechanical Power Presses Standard

OSHA has announced it is seeking public input as the agency considers updates to its mechanical power presses standard. The agency will use the information it receives to

determine what actions, if any, to take to reduce regulatory burdens while maintaining safety. Comments are due Oct. 26.

Resources to Protect Occupational Hearing Loss

OSHA has established a Regional Emphasis Program (REP) to raise hearing protection awareness among Midwest manufacturing employers, including those in Ohio. Following a three-month outreach phase that began June 1, OSHA intends to schedule and inspect select manufacturing facilities that have hearing loss rates higher than the U.S. average.

The OMA has recently hosted a webinar that addressed noise-related health risks. OMA members have full access to the OMA's online library, which includes a recorded webinar and accompanying handouts on this topic.



**U.S. Department of Labor issues updated guidance on protecting unvaccinated and other at-risk workers from the coronavirus**

*United States Department of Labor sent this bulletin at 08/13/2021 09:31 AM EDT*

Trade Release from OSHA

Having trouble viewing this email? [View it as a Web page.](#)

# Trade Release



U.S. Department of Labor  
Occupational Safety and Health Administration  
Office of Communications  
Washington, D.C.  
[www.osha.gov](http://www.osha.gov)

For Immediate Release  
August 13, 2021  
Contact: Office of Communications  
Phone: 202-693-1999

**U.S. Department of Labor issues updated guidance on protecting unvaccinated and other at-risk workers from the coronavirus**

**WASHINGTON, DC** – The U.S. Department of Labor’s Occupational Safety and Health Administration today issued [updated guidance](#) to help employers protect workers from the coronavirus. The updated guidance reflects developments in science and data, including the Centers for Disease Control and Prevention’s updated COVID-19 guidance issued July 27.

The updated guidance expands information on appropriate measures for protecting workers in higher-risk workplaces with mixed-vaccination status workers, particularly for industries such as manufacturing; meat, seafood and poultry processing; high volume retail and grocery; and agricultural processing, where there is often prolonged close contact with other workers and/or non-workers.

OSHA’s latest guidance:

- Recommends that fully vaccinated workers in areas of substantial or high community transmission wear masks in order to protect unvaccinated workers;
- Recommends that fully vaccinated workers who have close contacts with people with coronavirus wear masks for up to 14 days unless they have a negative coronavirus test at least 3-5 days after such contact;

- Clarifies recommendations to protect unvaccinated workers and other at-risk workers in manufacturing, meat and poultry processing, seafood processing and agricultural processing; and
- Links to the latest guidance on K-12 schools and CDC statements on public transit.

OSHA continues to emphasize that vaccination is the optimal step to protect workers and encourages employers to engage with workers and their representatives to implement multi-layered approaches to protect unvaccinated or otherwise at-risk workers from the coronavirus.

As part of the agency's ongoing commitment to review the COVID-19 Healthcare Emergency Temporary Standard every 30-days, OSHA also said that the safeguards set forth by the standard remain more important than ever. After reviewing the latest guidance, science and data, and consulting with the CDC and partners, OSHA has determined the requirements of the healthcare ETS remain necessary to address the grave danger of the coronavirus in healthcare. OSHA will continue to monitor and assess the need for changes in the healthcare ETS each month.

Our priority is the safety and health of workers, and we will continue to enforce the law to ensure workers are protected from the virus while they are on the job, including through OSHA's National Emphasis Program on COVID.

# # #

U.S. Department of Labor news materials are accessible at <http://www.dol.gov>. The department's [Reasonable Accommodation Resource Center](#) converts departmental information and documents into alternative formats, which include Braille and large print. For alternative format requests, please contact the department at (202) 693-7828 (voice) or (800) 877-8339 (federal relay).



## 134TH GENERAL ASSEMBLY

# Reps. Weinstein and Upchurch introduce legislation to legalize recreational marijuana

July 30, 2021

State Reps. Casey Weinstein (D-Hudson) and Terrence Upchurch (D-Cleveland) introduced legislation that would legalize the recreational use of marijuana in Ohio. The bill will have four major components: Decriminalization, Marijuana Excise Tax, Commerce and Licensing, and Medical Marijuana.

“It’s time to lead Ohio forward,” said Rep. Weinstein. “This is a big step for criminal justice reform, for our veterans, for economic opportunity, and for our individual liberties.”

“This bill is much needed in Ohio, and it’s time for Ohio to become a national leader in marijuana decriminalization and legalization. This bill is more than just about legalization, it’s about economic and workforce development, it’s about decriminalization, and it’s about healthcare! The time is now, and I look forward to getting this done in a bipartisan fashion,” said Rep. Upchurch.

This legislation would allow for adult cultivation and possession of marijuana and allows for the expungement of conviction records for previous cultivation and possession offenses.

The bill would also levy an excise tax of 10 percent on a marijuana retailer's or microbusiness's gross receipts from the sale of marijuana. Excise tax revenue would be distributed in part to primary and secondary (K-12) education, for the repair and maintenance of roads and bridges, and up to \$20 million annually for two years would be used for clinical trials researching the efficacy of marijuana in treating the medical conditions of veterans and preventing veteran suicide.

The bill now awaits a bill number and committee assignment.



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# The Columbus Dispatch

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## NEWS

# Ohio marijuana legalization measure gets boost as attorney general OKs language for law

**[Grace Deng](#) and [Jessie Balmert](#)** The Columbus Dispatch

Published 4:08 p.m. ET Aug. 20, 2021 | Updated 4:09 p.m. ET Aug. 20, 2021

An effort to legalize marijuana in Ohio cleared its first hurdle Friday.

Ohio Attorney General Dave Yost approved revised language for a law proposed by a group called the Coalition to Regulate Marijuana Like Alcohol. Yost rejected a previous version on Aug. 5.

**More:** Supporters of Ohio marijuana legalization measure resubmit petition language to attorney general

The law, called "An Act to Control and Regulate Adult Use Cannabis," would allow adults age 21 and older to buy, possess, grow and use marijuana.

A 10% tax on marijuana sales would go to funding jobs, addiction treatment and community support for areas with marijuana businesses. Ohio's medical marijuana businesses, several of which are backing the plan, could automatically get recreational marijuana licenses.

The proposal would change state law but not the state constitution. The attorney general's approval is the first step in a long process that could end with the November 2022 election.

The next step would be a certification from the Ohio Ballot Board, which will determine whether the proposal is one topic or multiple ones. If the Ohio Ballot Board certifies the petition, supporters would need to collect 132,887 signatures of registered voters to put the measure before Ohio lawmakers.

Lawmakers then would have four months to respond. If they don't pass the bill, another 132,887 signatures would allow supporters to put the measure directly in front of voters on a statewide ballot.

Ohio's Republican-controlled Legislature legalized medical marijuana in 2016 in response to a constitutional amendment from a national group.

*Bureau chief Jackie Borchardt contributed to this report.*

*Grace Deng and Jessie Balmert are reporters for the USA TODAY Network Ohio Bureau, which serves the Columbus Dispatch, Cincinnati Enquirer, Akron Beacon Journal and 18 other affiliated news organizations across Ohio.*



**TO: OMA Government Affairs Committee**  
**FROM: Rob Brundrett / Rachael Carl**  
**SUBJECT: Tax & Finance Public Policy Report**  
**DATE: August 25, 2021**

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## **Overview**

The first half of the General Assembly has been quite eventful thus far. While there was buzz around what we were hoping was the winddown of COVID-19, most of the legislature remained focused on the big task-at-hand: the state's two-year operating budget, House Bill 110.

Fortunately, the OMA came out ahead in the final version of House Bill 110. One of the biggest wins was the elimination of Ohio's sales tax on employment services used by businesses to hire temporary or permanent workers. The OMA has been fighting on behalf of manufacturers for nearly three decades to eliminate this unfair tax on Ohio employers. The elimination of this tax is estimated to save Ohio employers over \$303 million just in the next two years.

In addition to repealing the sales tax on employment services, the OMA also saw a win for the ongoing withholding tax issue. During the beginning of the pandemic, the OMA worked with the legislature to allow the continuation of withholding from a principal place of business, not where an employee is working remotely during the COVID-19 pandemic. Unfortunately, that provision was set to expire shortly after the rescission of the Governor's State of Emergency order. Fortunately, we were able to get an extension of that practice into the budget bill until the end of 2021, but with a sunset date now set in stone, conversations are starting to turn to whether additional tax changes are needed to align with the new reality that more employees may be working from home full-time. These discussions are sure to start gaining momentum in the fall.

The budget provided a few additional tax reform measures. The legislature saw fit to include a 3% across-the-board income tax cut, benefiting small and mid-sized employers that pay tax on business income through the owners' individual income taxes. They also made permanent a Commercial Activity Tax (CAT) exemption for the Bureau of Workers' Compensation dividends rebated to employers (originally, the exemption only applied to dividends paid in 2020 and 2021) and they modified the Job Retention Tax Credit with OMA-supported language to give the administration guidelines for vetting applications. Unfortunately, the legislature included a new CAT credit for a development project with at least \$1 billion in investment or that creates at least \$75 million in Ohio payroll. The CAT exclusion would apply to the gross receipts of a megaproject supplier from sales to a megaproject operator. The OMA has long opposed CAT credits for such projects instead of focusing on existing Ohio manufacturers that are investing in new capital projects.

## **Tax & Finance Legislation**

### **Senate Bill 18 – Internal Revenue Code Conformity**

Senate Bill 18 brought Ohio's tax laws into conformity with changes made to the Internal Revenue Code. The Senate bill as enacted included an amendment that would clarify

the application of the CAT. The language ensured that both BWC rebates and federal PPP Loan proceeds are not considered gross receipts for purposes of the CAT.

Senate Bill 18 was signed by the governor with an emergency clause on March 31<sup>st</sup> in order to be enacted in time to apply for the 2020 tax year.

#### Senate Bill 19 – Tax Exemption for Wetland Mitigation

Senator Tim Schaffer (R-Lancaster) introduced a bill to exempt certain privately owned wetlands from property tax. A qualifying property would have to be under a wetland mitigation project and be owned by a 501(c)(3) organized for the purpose of natural resources protection, preservation, restoration, or enhancement of water quality. The bill passed the Senate in late February and has had a slew of dizzying hearings in the House Ways & Means Committee. After two usual hearings, the committee decided to pile on amendments for the bill at each of the next three hearings. Those amendments included a tax exemption for watercraft not purchased in Ohio but are seasonally stored or repaired here, studies on ineligible properties benefiting from the homestead exemption, and limiting the tax authority of the Toledo Area Regional Transit Authority (TARTA), among others.

Senate Bill 19 ended up passing the House in June, but has yet to be taken up for concurrence in the Senate. I'm guessing a few of these House amendments have caused a bit of a pause.

#### Senate Bill 45 – State & Local Tax Inducements

Senators Bob Peterson (R-Washington Court House) and Stephanie Kunze (R-Hilliard) re-introduced legislation from the last General Assembly. Senate Bill 45 would enhance state and local tax inducements for businesses making substantial fixed asset and employment investments and their suppliers. The bill would provide a CAT credit for the integrated supply chain to a qualifying project.

The bill had three hearings in the Senate Ways & Means Committee, with the OMA had submitted a letter with like-minded allies regarding protecting the integrity of the CAT. However, the Senate found an avenue in the state's budget bill (HB 110) and it was amended into the bill just prior to its enactment.

#### Senate Bill 62 – Commerce & Taxation

As a companion bill to House Bill 133, Senate Bill 62 would have made numerous changes to Ohio's Residential Mortgage Loan Act and in addition, require credit reporting agencies to provide credit reports to businesses, similar to credit reports to individuals. Of note for OMA members, the bill included a temporary provision to allow property owners to seek a change in assessed property value if they believe the value of their property has depreciated due to the pandemic.

This legislation is no longer being pushed since House Bill 133 was signed by the Governor in May and the language regarding property owners' ability to challenge their appraisal due to COVID-19 damages was amended into Senate Bill 57, which was signed in April.

#### Senate Bill 97 – Municipal Income Tax Withholding

Introduced by Sen. Kristina Roegner (R-Hudson), Senate Bill 97 would codify a specific date to sunset Sec. 29 from the last General Assembly's House Bill 197.

As a refresher, Sec. 29 from House Bill 197 has allowed manufacturers and other Ohio businesses to continue withholding employees' income tax from the business' principal location and not employees' homes.

With many Ohioans working remotely due to COVID-19, the General Assembly acted wisely to save businesses the burden, expense, and compliance nightmare of revamping their tax systems in the midst of the pandemic.

Last summer, legislators and interested parties began discussing a repeal of the provision in House Bill 197 so that withholdings would be redirected to the local governments of an employee's home address if he/she is working remotely. The Senate Ways & Means Committee amended the bill to align with the OMA's advocacy efforts and the bill would sunset Sec. 29 on December 31, 2021, and return to pre-COVID-19 withholding rules on January 1, 2022.

The bill has received one hearing in the Senate, but much has changed since then. Not only did the House pass similar legislation, House Bill 157, which is now also under consideration in the Senate, but the legislature also included this language in House Bill 110, the state's operating budget. With a sunset date now set in stone as December 31, 2021, conversations are starting to turn to whether additional tax changes are needed to align with the new reality that more employees may be working from home full-time.

#### Senate Bill 98 – Tax Exemption

Sponsored by Sen. Niraj Antani (R-Miamisburg), Senate Bill 98 would provide a sales tax exemption to transportation and warehousing businesses for the sales involving transporting finished goods from the manufacturing facility to a retail destination or transporting goods between distribution facility locations. This bill has yet to receive a first hearing.

#### Senate Bill 108 – Provides Grants to Bars, Restaurants, & Lodging

Enacted in May, Senate Bill 108 directs federal funds received under the Coronavirus Aid, Relief, and Economic Security (CARES) Act to certain industries. This bill appropriates \$100 million in grants for bars and restaurants and another \$25 million in grants to the lodging industry.

#### Senate Bill 109 – Provides Grants to Businesses, Fairs, Child Care, & Veteran Homes

Also enacted in May, Senate Bill 109 is providing \$556.9 million in federal CARES Act funds to be used for grants to businesses and child care providers impacted by COVID-19, for food assistance and other assistance programs, and for local fairs and Ohio Veterans Homes.

#### Senate Bill 110 – Provides Rent & Utility Assistance

This bill is no longer being pushed since its companion, House Bill 167 (see bill description below), was signed into law in May.

#### Senate Bill 114 – Sales Tax Exemption for Diapers

Senate Bill 114 would exempt the sale of child and adult diapers from sales and use tax. While there is an existing exemption for prescription adult diapers in certain cases, Antani is looking to extend the exemption to all diapers for adults and children. So far, this bill has had one hearing in the Senate Ways & Means Committee.

#### House Bill 45 – Tax Amnesty Program

This bill would establish a tax amnesty period from April 1, 2021, to May 31, 2021. During this period, the Tax Commissioner must waive any interest and penalties if a taxpayer pays the full amount of their delinquent taxes or fees. House Bill 45 has had one hearing in the House Ways & Means Committee.

#### House Bill 47 – Electric Vehicle Charging Station Grant

Newcomer Representative Mike Loychik (R-Cortland) introduced his first bill recently, House Bill 47. The bill would require the Ohio Department of Transportation to establish a rebate grant program for the installation of certain electric vehicle charging stations. It would also appropriate \$10 million to the program for both fiscal year 2022 and fiscal year 2023. The bill has received four hearings in the House Transportation & Public Safety Committee.

#### House Bill 48 – Internal Revenue Code Conformity

As a companion to Senate Bill 18 (see bill description above), Representatives Bill Roemer (R-Richfield) and Gail Pavliga (R-Atwater) introduced House Bill 48. Since Senate Bill has passed both chambers and been signed by the Governor, this bill is no longer being pushed.

#### House Bill 74 – State Transportation Budget

On March 25<sup>th</sup>, the General Assembly wrapped up their work on a two-year \$8.3 billion transportation measure, with the governor signing shortly thereafter for enactment by March 31<sup>st</sup>. This bill allocates monies from the federal government and state fuel tax for highway construction and maintenance. It also funds the state Department of Transportation, Highway Patrol, and Bureau of Motor Vehicles.

#### House Bill 86 – Bonus Depreciation Adjustments

Introduced by Rep. Bill Roemer (R-Richfield), House Bill 86 would temporarily suspend, for taxable years 2020 and 2021, special provisions related to Ohio's bonus depreciation adjustments in years when a taxpayer has a net operating loss. This bill has received two hearings in the House Ways & Means Committee.

#### House Bill 124 – Equalize Pass-Through Entity Withholding

House Bill 124 would reduce tax withholding rates for pass-through entities by equalizing the withholding rate with their income tax rate of taxable income. The has received one hearing in the House Ways & Means Committee for sponsor testimony from Reps. Bill Roemer (R-Richfield) and Bob Young (R-Green).

#### House Bill 157 – Municipal Income Tax Withholding

Similar to Senate Bill 97, House Bill 157 would codify a specific date to sunset Sec. 29 from last General Assembly's House Bill 197. As introduced by Reps. Kris Jordan (R-Ostrander) and Jay Edwards (R-Nelsonville), the bill would have immediately repealed this temporary provision. However, as passed by the House in late May, the bill would sunset Sec. 29 on December 31, 2021, and return to pre-COVID-19 withholding rules on January 1, 2022.

House Bill 157 is now pending before the Senate. (See Senate Bill 97 bill description for more details.)

#### House Bill 165 – Tax Credit for Retail Sale of Ethanol Fuel

House Bill 165, sponsored by Rep. Riordan McClain (R-Upper Sandusky), attempts to encourage fuel retailers to sell higher blends of ethanol at the pump. The bill would authorize a temporary tax credit, for four years, for the retail sale of high-ethanol blend motor fuel, and just like Senate Bill 45, one of those credits can be taken against the CAT. The credit is capped at \$10 million total for the four years.

The bill has passed out of the House Ways & Means Committee in June, but has not received a House Floor vote yet. During House hearings, the OMA, in coordination with like-minded allies, submitted a letter regarding protecting the integrity of the CAT and will continue to engage the Senate on this issue.

#### House Bill 167 – Provides Rent & Utility Assistance

Signed into law in May, House Bill 167 will provide \$465 million in assistance to households unable to pay rent and utilities due to the COVID-19 pandemic. These funds were established through the federal Consolidated Appropriations Act and will flow through Ohio's Community Action Agencies to provide assistance to Ohioans.

#### House Bill 168 – Provides Grants to Businesses, Fairs, Child Care, & Veteran Homes

Although the companion bill, Senate Bill 109 (see bill description above), was enacted in May. The Senate took this bill up for a separate consideration – paying off the state's nearly \$1.5B federal debt for unemployment compensation. Using federal dollars from the American Rescue Plan Act, the Senate stripped out the original contents of the bill and amended it to pay off the debt and the Governor signed it into law in June.

#### House Bill 169 – Provides Grants to Bars, Restaurants, & Lodging Industry

House Bill 169 is no longer being pushed since its companion, Senate Bill 108 (see bill description above), was enacted in May.

#### House Bill 174 – Tax Deduction for Certain Capital Gains

In an attempt to encourage economic activity, House Bill 174 would allow for a deduction against state income tax for all or a portion of capital gains received by investors in certain Ohio-based venture capital operating companies. The bill has received just one hearing so far in the House Economic & Workforce Development Committee for sponsor testimony by Reps. Laura Lanese (R-Grove City) and Jon Cross (R-Kenton).

#### House Bill 197 – Income Tax Credit for Training CDL Drivers

Reps. Reggie Stolfus (R-Paris Township) and Rodney Creech (R-W. Alexandria) introduced House Bill 197 in hopes of increasing training opportunities for new truck drivers and addressing the truck driver shortage. The bill would allow a nonrefundable income tax credit of up to \$25,000/year for employers in their expenses related to training employees to operate a commercial vehicle but only during calendar years 2022-2025. House Bill 197 passed out of the House Ways & Means Committee in June and is awaiting a House Floor vote.

#### House Bill 234 – Repeals the CAT

If enacted, House Bill 234 would eliminate the CAT effective in calendar year 2026. The bill provides for a 5-year phase-out of the tax beginning in calendar year 2022 and reducing the percentage by 20% each year until its completely repealed. We are all anxiously awaiting the first hearing on this bill from sponsors Reps. Jennifer Gross (R-West Chester) and Riordan McClain (R-Upper Sandusky), as it has not been scheduled

yet. While repealing a CAT would be a marvelous victory, we doubt an elimination of the CAT wouldn't lead to replacing the state's lost revenue with some other type of tax. We will have to watch this one very closely.

#### House Bill 264 – Municipal Tax Withholding

Similar to Senate Bill 97/House Bill 157, House Bill 264 would extend the temporary withholding provision in Sec. 29. Unlike Senate Bill 97/House Bill 157, House Bill 264 would extend the sunset of this provision until December 31, 2022. During debates on this issue, some legislators and interested parties continue to ask for the end date of the temporary withholding provision to be pushed out even further. They have concerns about the refunds employees might request and how the loss of revenue will impact cities.

This bill has not received its first hearing yet for sponsor testimony by Reps. Monique Smith (D-Fairview Park) and Lisa Sobecki (D-Toledo).

#### House Bill 292 – Sales Tax Exemption for Electric Vehicles

Sponsored by Reps. Lisa Sobecki (D-Toledo) and Al Cutrona (R-Canfield), House Bill 292 would create a temporary sales tax exemption, for sales on electric vehicles (EV) on or before December 31, 2026. Although raw materials of a manufactured item that will be sold are already exempt, this language may be a bit broader since the exemption in the bill states that you do not need to be “producing” the electric vehicle for sale.

While this may not be the bill sponsors' intent, the sponsors did intentionally include another provision to create the Electric Vehicle Commission. The 7-member commission would provide an annual report that would evaluate factors like the inventory of existing EV manufacturing facilities, inventory of workforce for the EV industry, and determining which traditional auto manufacturing facilities should be transitioned into EV facilities, among other topics.

This bill has not received a first hearing yet.

### **Tax & Finance News**

#### Increase in Producer Prices Set Record

While the consumer price index has risen 5.3% over the past 12 months, producer prices for final demand goods and services have jumped 7.7% — the biggest increase on record, according to Chad Moutray, chief economist for the National Association of Manufacturers.

Despite the recent spike in prices, experts at OMA Connections Partner RSM said this week that “expectations are for the inflation rate in the next few years to move above 2.3% before settling back to roughly 2.25% over time.”

Nationwide, manufacturing production increased 1.4% in July, the strongest monthly gain since March, according to the Federal Reserve. But the chip shortage and supply-chain disruptions have hindered vehicle production, which has remained down 3.6% since January.

### Changes in Store for Section 174 Research Expenses

Next year, changes made by the 2017 federal tax reform law are slated to modify Section 174 — the provision that allows manufacturers and other taxpayers to immediately deduct the cost of qualified research expenses. Under this modification, research expenses would be required to be capitalized and amortized over multiple years instead of being deducted in the year incurred. Now's the time to consider what will be necessary if Congress fails to amend the provision.

On Aug. 25, OMA Connections Partner Plante Moran will host a free webinar to discuss Section 174 rules and explain the changes on the horizon.

### Federal Infrastructure Bill Would End Employee Retention Credit

OMA Connections Partner CliftonLarsonAllen reports the proposed bipartisan infrastructure bill would end the Employee Retention Credit (ERC) for wages paid after Sept. 30 for most businesses. This means the maximum credit any one employee would be able to generate for a qualifying business in 2021 would be \$21,000 (or \$7,000 per quarter for each of the first three quarters of the year).

### SBA's Streamlined Forgiveness for PPP Loans

The U.S. Small Business Administration recently launched its streamlined Paycheck Protection Program (PPP) loan forgiveness portal. According to this analysis from OMA Connections Partner Clark Schaefer Hackett, the new guidance should apply to over 90% of PPP loans — those of \$150,000 or less

### NAM: Federal Tax Bill Poses Threat to Manufacturers

The chairman of the U.S. Senate Finance Committee, Sen. Ron Wyden (D-OR), has introduced the Small Business Tax Fairness Act. According to the National Association of Manufacturers (NAM), the bill would significantly limit the existing 20% deduction for manufacturers organized as “pass-through” entities — such as S-corporations or partnerships.

Phasing out this provision — created under the 2017 tax reform signed by former President Donald Trump — would result in “a major tax increase” and “effectively punish manufacturers,” the NAM says.

### U.S. Tariffs on China Have Raised Nearly \$100 Billion

Nearly \$100 billion in duties have been collected by the U.S. Customs and Border Protection (CBP) through former President Donald Trump's tariffs on Chinese goods. Politico reports that even though the rate of collections has slowed as companies switched to other foreign suppliers, the tariffs figure dwarfs the \$10.9 billion CBP has collected from Trump's steel and aluminum tariffs. A broad coalition of business groups has pressed the Biden administration to lift the tariffs.

### National Spotlight on Ohio's Tax Competitiveness

Recently, FOX Business spotlighted Ohio's recent tax relief and other changes in the state's FY2022-23 budget. The network's story notes that manufacturers like Amgen, Peloton, and First Solar have made recent announcements about expanding investments in Ohio.

Lt. Gov. Jon Husted is quoted as saying that while state policymakers cannot change what's going on at the federal level, he sees this time as an opportunity for Ohio, predicting that "capital is going to flee" to lower tax destinations.

#### Judge Rules in Ohio's Favor on Tax Relief Lawsuit

A federal judge recently ruled that the Biden administration cannot prevent Ohio from providing tax relief to its citizens simply because the state accepted federal dollars from the American Rescue Plan Act. (As previously reported, Ohio's new budget provides roughly \$1.7 billion in personal income tax relief.)

Judge Douglas Cole sided with the state in the lawsuit filed by Attorney General Dave Yost, who said the decision was a "win for the preservation of the U.S. Constitution."

In its July 5 editorial, The Wall Street Journal cheered Ohio's tax relief efforts, as well as the state's legal victory — calling it "a double victory for taxpayers."

#### Ohio Ends FY21 \$1.54 Billion Ahead of Estimates

Ohio ended the fiscal year on June 30 with \$1.54 billion (6.2%) more in tax revenue than originally forecast. Gongwer News reported that according to the Office of Budget and Management's preliminary revenue tables, the state took in just under \$26.5 billion in tax revenue over 12 months, compared to an estimate of \$24.9 billion.

Compared to FY20, the state brought in \$3.8 billion (17%) more in FY21.

State Budget Director Kimberly Murnieks said the variance could be attributed to a variety of factors, including soaring sales tax revenues. For the fiscal year, the sales-and-use tax beat estimates by more than \$1 billion, or 9%, as the state collected nearly \$12.2 billion in this category.



**Taxation Legislation**  
Prepared by: The Ohio Manufacturers' Association  
Report created on August 23, 2021

- HB45**      **TAX AMNESTY PROGRAM** (WEST T, ROEMER B) To require the Tax Commissioner to administer a temporary amnesty program from April 1, 2021, to May 31, 2021, with respect to delinquent state taxes and fees, to repeal Section 1 of this act on June 1, 2021, and to declare an emergency.  
*Current Status:* 5/4/2021 - House Ways and Means, (First Hearing)  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-45>
- HB47**      **ELECTRIC CAR CHARGING STATION GRANT REBATE** (LOYCHIK M) To require the Director of Transportation to establish an electric vehicle charging station grant rebate program and to make an appropriation.  
*Current Status:* 6/22/2021 - **BILL AMENDED**, House Transportation and Public Safety, (Fourth Hearing)  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-47>
- HB48**      **INTERNAL REVENUE CODE CHANGES** (ROEMER B, PAVLIGA G) To expressly incorporate changes in the Internal Revenue Code since March 27, 2020, into Ohio law and to declare an emergency.  
*Current Status:* 2/9/2021 - House Ways and Means, (First Hearing)  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-48>
- HB74**      **ENACT FY22-23 TRANSPORTATION BUDGET** (OELSLAGER S) To make appropriations for programs related to transportation and public safety for the biennium beginning July 1, 2021, and ending June 30, 2023, and to provide authorization and conditions for the operation of those programs.  
*Current Status:* 3/31/2021 - **SIGNED BY GOVERNOR**; eff. immediately  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-74>
- HB86**      **BONUS DEPRECIATION ADJUSTMENTS FOR CERTAIN TAXPAYERS** (ROEMER B) To temporarily suspend provisions relating to bonus depreciation adjustments for a taxpayer with a federal net operating loss.  
*Current Status:* 5/25/2021 - House Ways and Means, (Second Hearing)  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-86>
- HB110**      **OPERATING BUDGET** (OELSLAGER S) To make operating appropriations for the biennium beginning July 1, 2021, and ending June 30, 2023, to levy taxes, and to provide authorization and conditions for the operation of state programs.  
*Current Status:* 7/1/2021 - **SIGNED BY GOVERNOR**; effective 7/1/21  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-110>
- HB124**      **EQUALIZE PASS-THROUGH ENTITY WITHHOLDING** (ROEMER B, YOUNG B) To equalize the pass-through entity withholding and the business income tax rate.  
*Current Status:* 2/23/2021 - House Ways and Means, (First Hearing)

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-124>

- HB157**      **MODIFY MUNICIPAL INCOME TAX RULES - COVID WFH** (JORDAN K, EDWARDS J) To amend Section 29 of H.B. 197 of the 133rd General Assembly to modify municipal income tax employer withholding rules for COVID-19-related work-from-home employees.  
**Current Status:** 6/2/2021 - Referred to Committee Senate Ways and Means  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-157>
- HB165**      **ALLOW TEMPORARY TAX CREDIT FOR SALE OF CERTAIN MOTOR FUEL** (MCCLAIN R) To temporarily authorize a nonrefundable tax credit for the retail sale of high-ethanol blend motor fuel.  
**Current Status:** 6/22/2021 - **REPORTED OUT AS AMENDED**, House Ways and Means, (Fifth Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-165>
- HB167**      **PROVIDE RENT, UTILITY ASSISTANCE** (OELSLAGER S) To provide rent and utility assistance and to make an appropriation.  
**Current Status:** 5/11/2021 - **SIGNED BY GOVERNOR**; eff. immediately  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-167>
- HB168**      **UNEMPLOYMENT DEBT** (FRAIZER M) To remit funds from the State Fiscal Recovery Fund to repay unemployment advances, to provide funds to support improvements at pediatric behavioral health care facilities, to require the Development Services Agency to establish the Water and Sewer Quality Program, and to make appropriations.  
**Current Status:** 6/29/2021 - **SIGNED BY GOVERNOR**; eff. immediately  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-168>
- HB169**      **PROVIDE GRANTS - BARS, RESTAURANTS, LODGING INDUSTRY** (CUTRONA A, SWEARINGEN D) To provide grants to bars and restaurants and the lodging industry and to make an appropriation.  
**Current Status:** 4/21/2021 - Referred to Committee Senate Finance  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-169>
- HB174**      **AUTHORIZE INCOME TAX DEDUCTION FOR CERTAIN CAPITAL GAINS** (CROSS J, LANESE L) To authorize an income tax deduction for capital gains received by investors in certain Ohio-based venture capital operating companies.  
**Current Status:** 3/24/2021 - House Economic and Workforce Development, (First Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-174>
- HB197**      **INCOME TAX CREDIT - TRAINING COMMERCIAL VEHICLE OPERATOR** (STOLTZFUS R, CREECH R) To authorize an income tax credit for an employer's expenses to train a commercial vehicle operator.  
**Current Status:** 6/8/2021 - **REPORTED OUT AS AMENDED**, House Ways and Means, (Fourth Hearing)

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-197>

- HB234 REPEAL THE COMMERCIAL ACTIVITY TAX (GROSS J, MCCLAIN R)** To repeal the commercial activity tax with a five-year phase-out.  
**Current Status:** 4/14/2021 - Referred to Committee House Ways and Means  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-234>
- HB264 MODIFY TAX RULE FOR EMPLOYEES OF TEMPORARY WORKSITE (SMITH M, SOBECKI L)** To amend Section 29 of H.B. 197 of the 133rd General Assembly to modify the municipal income tax withholding rule for employees working at a temporary worksite.  
**Current Status:** 4/22/2021 - Referred to Committee House Ways and Means  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-264>
- HB292 TEMPORARY SALES TAX EXEMPTION FOR ELECTRIC VEHICLES (SOBECKI L, CUTRONA A)** To create a temporary sales tax exemption for electric vehicle production parts and to create the Electric Vehicle Commission.  
**Current Status:** 6/22/2021 - House Transportation and Public Safety, (First Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-292>
- HCR8 CREATE JOINT SELECT COMMITTEE ON UC FRAUD (GRENDALL D)** To create the Joint Select Investigative Committee on Unemployment Compensation Fraud.  
**Current Status:** 3/24/2021 - Referred to Committee House Government Oversight  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HCR-8>
- HR35 CREATE HOUSE SELECT COMMITTEE ON PROPERTY TAX EDUCATION, REFORM (TROY D)** To authorize the creation of the temporary House Select Committee on Property Tax Education and Reform.  
**Current Status:** 5/18/2021 - House Ways and Means, (First Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HR-35>
- SB18 INTERNAL REVENUE CODE (ROEGNER K, SCHAFFER T)** To expressly incorporate changes in the Internal Revenue Code since March 27, 2020, into Ohio law, to exclude certain loan amounts forgiven under federal law from the commercial activity tax, to authorize a commercial activity tax exclusion for Bureau of Workers' Compensation dividends paid to employers, and to declare an emergency.  
**Current Status:** 3/31/2021 - **SIGNED BY GOVERNOR**; eff. immediately  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-18>
- SB19 REGARDING PROPERTY TAXATION (SCHAFFER T)** To modify the law regarding property taxation and sales and use tax.  
**Current Status:** 6/28/2021 - **PASSED BY HOUSE**; Amended on Floor, Bill Vote 61-36

*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-19>

- SB45**      **TAX INDUCEMENTS CERTAIN BUSINESSES** (PETERSON B, KUNZE S) To enhance state and local tax inducements for businesses making substantial fixed asset and employment investments and their suppliers.  
*Current Status:* 2/23/2021 - Senate Ways and Means, (Third Hearing)  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-45>
- SB62**      **COMMERCE AND TAXATION** (HACKETT R) Relating to commerce and taxation.  
*Current Status:* 3/23/2021 - Senate Financial Institutions and Technology, (Third Hearing)  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-62>
- SB97**      **MUNICIPAL INCOME TAX-WORK FROM HOME** (ROEGNER K) To modify municipal income tax employer withholding rules for COVID-19-related work-from-home employees  
*Current Status:* 5/12/2021 - Senate Ways and Means, (First Hearing)  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-97>
- SB98**      **SALES TAX EXEMPTION** (ANTANI N) To exempt from sales and use tax things used primarily to move completed manufactured products or general merchandise.  
*Current Status:* 3/3/2021 - Referred to Committee Senate Ways and Means  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-98>
- SB108**      **PANDEMIC RELIEF-BARS, RESTAURANTS, LODGING** (HUFFMAN S, ROMANCHUK M) To provide grants to bars and restaurants and the lodging industry and to make an appropriation.  
*Current Status:* 5/17/2021 - **SIGNED BY GOVERNOR**; eff. immediately  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-108>
- SB109**      **PANDEMIC RELIEF-BUSINESS, CHILD CARE, VETERANS** (MANNING N, RULLI M) To provide grants to businesses, local fairs, child care providers, and veterans homes and to make an appropriation.  
*Current Status:* 5/17/2021 - **SIGNED BY GOVERNOR**; eff. immediately  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-109>
- SB110**      **RENT, UTILITY ASSISTANCE** (O'BRIEN S, WILSON S) To provide rent and utility assistance and to make an appropriation.  
*Current Status:* 3/24/2021 - Referred to Committee House Finance  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-110>
- SB114**      **SALES TAX EXEMPTION-DIAPERS** (ANTANI N) To exempt from sales and use tax the sale of child and adult diapers.  
*Current Status:* 3/31/2021 - Senate Ways and Means, (First Hearing)

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-114>

**SB171**      **REGULATE SALE OF BRINE FROM OIL/GAS OPERATIONS** (HOAGLAND F, RULLI M) To establish conditions and requirements for the sale of brine from oil or gas operations as a commodity and to exempt that commodity from requirements otherwise applicable to brine.

**Current Status:** 6/22/2021 - Senate Agriculture and Natural Resources, (Third Hearing)

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-171>

**SR21**      **URGE CONGRESS-INCREASE PANDEMIC UNEMPLOYMENT** (HACKETT R, REINEKE W) Urge Congress increase pandemic unemployment program security.

**Current Status:** 3/10/2021 - **ADOPTED BY SENATE**; Vote 33-0

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SR-21>

## Miscellaneous Legislation of Interest to Manufacturers

Prepared by: The Ohio Manufacturers' Association

Report created on August 23, 2021

- HB2**      **REGARDS BROADBAND EXPANSION** (CARFAGNA R, STEWART B) Regarding broadband expansion, including access to electric cooperative easements and facilities, to make an appropriation, and to declare an emergency.  
*Current Status:* 5/17/2021 - **SIGNED BY GOVERNOR**; eff. immediately  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-2>
- HB13**      **MODIFY THE CAMPAIGN FINANCE LAW** (GRENDALL D, FRAIZER M) To modify the campaign finance law and to declare an emergency.  
*Current Status:* 4/15/2021 - House Government Oversight, (Second Hearing)  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-13>
- HB68**      **PRIVATE CONTRACTOR PAYMENT** (CROSS J, SWEENEY B) To require owners of private construction projects to timely pay a contractor.  
*Current Status:* 5/26/2021 - Referred to Committee Senate Workforce and Higher Education  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-68>
- HB69**      **INCREASE STATE MINIMUM WAGE** (KELLY B, JARRELLS D) To increase the state minimum wage.  
*Current Status:* 2/10/2021 - Referred to Committee House Commerce and Labor  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-69>
- HB74**      **ENACT FY22-23 TRANSPORTATION BUDGET** (OELSLAGER S) To make appropriations for programs related to transportation and public safety for the biennium beginning July 1, 2021, and ending June 30, 2023, and to provide authorization and conditions for the operation of those programs.  
*Current Status:* 3/31/2021 - **SIGNED BY GOVERNOR**; eff. immediately  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-74>
- HB90**      **OVERSIGHT OF GOVERNOR'S AND HEALTH ORDERS** (WIGGAM S, EDWARDS J) To establish legislative oversight of the Governor's executive orders, certain public health orders, and emergency rules, including by establishing the Ohio Health Oversight and Advisory Committee.  
*Current Status:* 2/24/2021 - **SUBSTITUTE BILL ACCEPTED**, House State and Local Government, (Third Hearing)  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-90>
- HB110**      **OPERATING BUDGET** (OELSLAGER S) To make operating appropriations for the biennium beginning July 1, 2021, and ending June 30, 2023, to levy taxes, and to provide authorization and conditions for the operation of state programs.

**Current Status:** 7/1/2021 - **SIGNED BY GOVERNOR**; effective 7/1/21  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-110>

**HB111**      **ALTER USE OF CELLPHONES WHILE DRIVING LAWS** (LIGHTBODY M) To alter the law governing the use of a handheld electronic wireless communications device while driving.

**Current Status:** 5/11/2021 - House Transportation and Public Safety, (First Hearing)

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-111>

**HB149**      **JUDICIAL CANDIDATES-PARTY BALLOT DESIGNATION** (SWEARINGEN D, STEWART B) To require certain judicial candidates to appear on the ballot with a party designation.

**Current Status:** 6/28/2021 - Referred to Committee Senate Local Government and Elections

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-149>

**HB153**      **PRESCRIPTION DRUGS, MEDICATION SWITCHING** (LISTON B, CARRUTHERS S) Regarding prescription drugs and medication switching.

**Current Status:** 6/16/2021 - House Insurance, (Third Hearing)

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-153>

**HB167**      **PROVIDE RENT, UTILITY ASSISTANCE** (OELSLAGER S) To provide rent and utility assistance and to make an appropriation.

**Current Status:** 5/11/2021 - **SIGNED BY GOVERNOR**; eff. immediately

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-167>

**HB168**      **UNEMPLOYMENT DEBT** (FRAIZER M) To remit funds from the State Fiscal Recovery Fund to repay unemployment advances, to provide funds to support improvements at pediatric behavioral health care facilities, to require the Development Services Agency to establish the Water and Sewer Quality Program, and to make appropriations.

**Current Status:** 6/29/2021 - **SIGNED BY GOVERNOR**; eff. immediately

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-168>

**HB169**      **PROVIDE GRANTS - BARS, RESTAURANTS, LODGING INDUSTRY** (CUTRONA A, SWEARINGEN D) To provide grants to bars and restaurants and the lodging industry and to make an appropriation.

**Current Status:** 4/21/2021 - Referred to Committee Senate Finance

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-169>

**HB177**      **ALLOW GOVERNMENTS TO USE BLOCKCHAIN** (CARFAGNA R, FRAIZER M) To allow a governmental entity to utilize distributed ledger technology, including blockchain technology.

**Current Status:** 5/6/2021 - **PASSED BY HOUSE**; Vote 95-2



**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-177>

**HB199 REMOVE CAP FOR NONECONOMIC LOSS - RAPE VICTIMS** (BOGGS K, RUSSO A) To remove the cap on damages for noneconomic loss when a victim of rape or assault brings a tort action.

**Current Status:** 4/27/2021 - House Civil Justice, (First Hearing)

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-199>

**HB227 REGARDING CONCEALED WEAPONS** (BRINKMAN T, JORDAN K) To rename a concealed handgun license as a concealed weapons license, to allow a concealed weapons licensee to carry concealed all deadly weapons not otherwise prohibited by law, to expand state preemption of firearms regulation to include all deadly weapons, to repeal a notice requirement for licensees stopped for law enforcement purposes, to authorize expungement of related convictions, and to allow a person age 21 or older to carry a concealed deadly weapon without a license.

**Current Status:** 6/17/2021 - House Government Oversight, (Third Hearing)

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-227>

**HB235 HIGH HAZARD TRAINING CERTIFICATION ACT** (SWEARINGEN D, BALDRIDGE B) To enact the High Hazard Training Certification (HHTC) Act regarding construction services performed under a contract at a stationary source.

**Current Status:** 5/19/2021 - House Commerce and Labor, (First Hearing)

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-235>

**HB267 LIMIT PUBLIC HEALTH ORDERS** (JORDAN K) To limit the duration of public health orders and to allow the General Assembly to act via concurrent resolution in response to a public health emergency if the Governor or Department of Health does not.

**Current Status:** 5/4/2021 - Referred to Committee House State and Local Government

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-267>

**HB269 REPEAL SB22** (GALONSKI T) To repeal the version of Section 3 of S.B. 22 of the 134th General Assembly scheduled to take effect on June 23, 2021, to repeal the changes made by S.B. 22 of the 134th General Assembly to the laws governing legislative oversight of certain orders and rules issued by the executive branch, including the establishment of the Ohio Health Oversight and Advisory Committee, and to declare an emergency.

**Current Status:** 5/4/2021 - Referred to Committee House State and Local Government

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-269>

**HB272 TRANSPARENCY IN THIRD-PARTY SELLERS** (PLUMMER P, GHANBARI H) Regarding transparency by large-volume third-party sellers in online marketplaces.

**Current Status:** 6/9/2021 - **BILL AMENDED**, House Commerce and Labor, (Second Hearing)



**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-272>

- HB283**      **EXPAND DISTRACTED DRIVING LAWS** (ABRAMS C, LAMPTON B) To expand the texting while driving prohibition to a general prohibition against using an electronic wireless communications device while driving, with certain exceptions, and to create data collection requirements based on associated violations of the distracted driving laws.  
**Current Status:** 6/10/2021 - **SUBSTITUTE BILL ACCEPTED**, House Criminal Justice, (Second Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-283>
- HB286**      **AGENCY ORDER APPEAL - LOCAL COURT OF COMMON PLEAS** (SEITZ B) To change the venue in which appeal from an agency order is proper to the local court of common pleas.  
**Current Status:** 6/22/2021 - **REPORTED OUT**, House Civil Justice, (Fifth Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-286>
- HB294**      **OHIO ELECTION SECURITY, MODERNIZATION ACT** (SEITZ B, RAY S) To enact the Ohio Election Security and Modernization Act to create an automated voter registration and verification system, to modify the law governing absent voting, and to make other changes to the Election Law.  
**Current Status:** 6/17/2021 - House Government Oversight, (Second Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-294>
- HB295**      **REGARDING CONSTITUTIONALITY OF FEDERAL ACTIONS** (JORDAN K) Regarding the constitutionality of federal actions.  
**Current Status:** 5/11/2021 - Referred to Committee House Government Oversight  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-295>
- HB296**      **MODIFY VOTER REGISTRATION** (LEPORE-HAGAN M, LISTON B) To modify the law governing voter registration and the method of conducting elections.  
**Current Status:** 5/12/2021 - Referred to Committee House Government Oversight  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-296>
- HB306**      **OHIO ANTI-CORRUPTION ACT** (SWEENEY B, RUSSO A) To modify the campaign finance law, and to name this act the Ohio Anti-Corruption Act.  
**Current Status:** 5/12/2021 - Referred to Committee House Government Oversight  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-306>

- HB310 ESTABLISH VIRTUAL TESTIMONY** (KELLY B, MILLER A) To require that a committee of the General Assembly establish a means of hearing virtual testimony.  
*Current Status:* 5/19/2021 - Referred to Committee House Government Oversight  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-310>
- HB348 CHANGE UNCLAIMED FUNDS LAW** (MERRIN D) To make changes to the Unclaimed Funds Law.  
*Current Status:* 6/22/2021 - House Financial Institutions, (First Hearing)  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-348>
- HB376 OHIO PERSONAL PRIVACY ACT** (CARFAGNA R, HALL T) To enact the Ohio Personal Privacy Act.  
*Current Status:* 7/12/2021 - Introduced  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-376>
- HB387 CHANGE ELECTION LAW** (DEAN B) To make changes to the Election Law.  
*Current Status:* 8/12/2021 - Introduced  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-387>
- HCR21 RESCIND CERTAIN ORDERS, RULES** (WIGGAM S, FERGUSON R) To rescind certain orders and rules in whole or in part.  
*Current Status:* 6/17/2021 - **SUBSTITUTE BILL ACCEPTED**, House Government Oversight, (First Hearing)  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HCR-21>
- HR47 REPLACE FLEET OF POSTAL SERVICE VEHICLES** (MILLER J, O'BRIEN M) To express support for the need for a replacement fleet of United States Postal Service vehicles that meets the climate goals of the United States, protects critical supply chains, and promotes a cleaner, more stable future for a burgeoning 21st century domestic vehicle industry.  
*Current Status:* 5/11/2021 - House Transportation and Public Safety, (First Hearing)  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HR-47>
- SB8 BROADBAND-ELECTRIC COOPERATIVE EASEMENTS** (MCCOLLEY R) Regarding broadband expansion, including access to electric cooperative easements and facilities, and to make an appropriation.  
*Current Status:* 2/17/2021 - Referred to Committee House Finance  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-8>
- SB9 REDUCE REGULATIONS** (MCCOLLEY R, ROEGNER K) To require certain agencies to reduce the number of regulatory restrictions in their administrative rules.

**Current Status:** 5/20/2021 - House Government Oversight, (First Hearing)

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-9>

**SB13**      **SHORTEN PERIOD OF LIMITATIONS-CONTRACTS** (LANG G) To shorten the period of limitations for actions upon a contract; to make changes to the borrowing statute pertaining to applicable periods of limitations; and to establish a statute of repose for a legal malpractice action.

**Current Status:** 3/11/2021 - **SIGNED BY GOVERNOR**; eff. 6/16/21

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-13>

**SB22**      **LEGISLATIVE OVERSIGHT-PUBLIC HEALTH ORDERS** (JOHNSON T, MCCOLLEY R) To establish legislative oversight of orders issued by the executive branch, including by establishing the Ohio Health Oversight and Advisory Committee.

**Current Status:** 3/24/2021 - Consideration of Governor's Veto; House Overrides Veto, Vote 62-35

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-22>

**SB80**      **JUDGES-PARTY DESIGNATION ON BALLOT** (GAVARONE T, CIRINO J) To require certain judicial candidates to appear on the ballot with a party designation.

**Current Status:** 7/1/2021 - **SIGNED BY GOVERNOR**; eff. 90 days

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-80>

**SB94**      **NON-RECOURSE CIVIL LITIGATION** (WILSON S) To amend the law regarding the non-recourse civil litigation advance business.

**Current Status:** 3/31/2021 - Senate Judiciary, (First Hearing)

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-94>

**SB101**      **ELECTRIC VEHICLE MANUFACTURERS-DEALERSHIPS** (RULLI M) To permit a manufacturer of all-electric motor vehicles to operate one or more dealerships in this state.

**Current Status:** 5/5/2021 - Senate Transportation, (First Hearing)

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-101>

**SB108**      **PANDEMIC RELIEF-BARS, RESTAURANTS, LODGING** (HUFFMAN S, ROMANCHUK M) To provide grants to bars and restaurants and the lodging industry and to make an appropriation.

**Current Status:** 5/17/2021 - **SIGNED BY GOVERNOR**; eff. immediately

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-108>

**SB109**      **PANDEMIC RELIEF-BUSINESS, CHILD CARE, VETERANS** (MANNING N, RULLI M) To provide grants to businesses, local fairs, child care providers, and veterans homes and to make an appropriation.

**Current Status:** 5/17/2021 - **SIGNED BY GOVERNOR**; eff. immediately

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-109>

- SB110**      **RENT, UTILITY ASSISTANCE** (O'BRIEN S, WILSON S) To provide rent and utility assistance and to make an appropriation.  
**Current Status:** 3/24/2021 - Referred to Committee House Finance  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-110>
- SB114**      **SALES TAX EXEMPTION-DIAPERS** (ANTANI N) To exempt from sales and use tax the sale of child and adult diapers.  
**Current Status:** 3/31/2021 - Senate Ways and Means, (First Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-114>
- SB121**      **DIAPER NEED AWARENESS** (MAHARATH T) To designate the last week of September as "Diaper Need Awareness Week."  
**Current Status:** 3/10/2021 - Referred to Committee Senate Health  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-121>
- SB146**      **PREVENT BID PRIORITY-HIGHWAY PAVEMENT** (ANTANI N) To require the Director of Transportation to adopt rules that prevent any particular type of highway pavement from receiving priority in the highway construction bidding process.  
**Current Status:** 6/16/2021 - Senate Transportation, (First Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-146>
- SB161**      **SURGICAL SMOKE** (BRENNER A) Regarding surgical smoke.  
**Current Status:** 4/21/2021 - Referred to Committee Senate Health  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-161>
- SB179**      **REQUIRE VIRTUAL TESTIMONY** (THOMAS C) To require that a committee of the General Assembly establish a means of hearing virtual testimony.  
**Current Status:** 5/19/2021 - Referred to Committee Senate Government Oversight and Reform  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-179>
- SB184**      **LARGE VOLUME ONLINE SELLERS** (LANG G, RULLI M) Regarding transparency by large-volume third-party sellers in online marketplaces.  
**Current Status:** 5/26/2021 - Referred to Committee Senate Financial Institutions and Technology  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-184>

**SCR5**

**DENOUNCE RACISM AND DISCRIMINATION-COVID-19** (MAHARATH T, THOMAS

C) To denounce all forms of stigmatization, racism, and discrimination occurring as a result of the COVID-19 pandemic.

**Current Status:** 3/24/2021 - Referred to Committee Senate Health

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SCR-5>