



**Government
 Affairs
 Committee
 September 2, 2015**

Table of Contents	Page #
Agenda	2
Leadership Documents	
• Public Policy "Hot Topics"	3
• Leadership News Articles	6
• Legislation Tracker	18
• OMA Advocacy Center	29
• GMO Legislation Resource Materials	31
• Issue One Fair Districts Ohio	33
• Issue Two Anti-Monopoly	35
• Issue Three Marijuana Legalization	37
• Truck Weight Reform	42
• Session Calendar	46
• 131st General Assembly Legislative Directory	48
• ORP / RNC Convention "Honorary Delegate"	
• Counsel's Report	50
• Counsel's Summary on Navistar NOL case	59
• Bricker & Eckler State Budget Review	62
Energy Policy Report	68
• Media stories on utility PPA cases	81
• Compete Coalition	86
Environment Policy Report	89
• Ozone documents	93
• Clean Power Plan documents	105
Human Resources Policy Report	124
Safety & Workers' Compensation Report	132
• PTSD letter	135
• House bill 205 testimony	136
• House Bill 206 testimony	138
• House Bill 207 testimonies	139
Tax Policy Report	
• Final budget tax memo	151
• Income tax rate error memo	153
	158

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

Wednesday, December 2

Government Affairs Committee Meeting Sponsor:



OMA Government Affairs Committee

September 2, 2015



AGENDA

Welcome & Introductions

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

National Association Reports

Committee Members

OMA Counsel's Report

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

Staff Reports

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

Discussion / Action Items

Member Discussion

- Current OMA Action Alerts
- HB 64 State Budget Recap
- Issue 1 Redistricting Ballot
- Issue 2 Anti-Monopoly Ballot Issue
- Issue 3 Marijuana Ballot Issue
- Truck Weight Reform (SETA)
- Electricity "re-regulation"?
- Employee Engagement
- 2016 RNC Convention in Cleveland
- 2016 Elections Roundtable

Guest Presentation:

NAM Policy Staff on ozone standards and
clean power plan (CPP)

Ross Eisenberg, Vice President Energy and Resources Policy
Greg Bertelsen, Director, Energy and Resources Policy

Guest Presentation:

Campaign Update – Prospects for defeating
marijuana legalization (state issues 2 & 3)

Brandon Lynaugh, Partner, Strategic Public Partners (SPP)

Lunch – provided by OMA

Our thanks to today's meeting sponsor:



Public Policy “Hot Topics” September 2, 2015

Overview

The 131st General Assembly continues its summer recess following a contentious budget season that ended on June 30th when Governor Kasich signed the budget bill into law making 44 line-item vetoes. Governor Kasich continues to travel the country advancing his presidential campaign.

General Assembly

State budget legislation dominated the first half of 2015. Find a post-budget report by Bricker & Eckler included in meeting materials. After the dust settled, business tax increases and workers comp coverage expansions were averted but a weakening of state insurance subrogation laws was included effect and could increase insurance costs.

The legislature is expected to be in session from mid-September until early December. See attached legislative session calendar. See attached legislative directory compiled by Hannah News Service listing leadership and committees. A hard copy is also available courtesy of Bricker & Eckler, LLP, Counsel to the OMA.

President Kasich?

John Kasich formally entered the presidential contest earlier this summer. His rise in the polls in New Hampshire has been meteoric. After a strong showing in the August Republican debate, Governor Kasich has been increasingly talked about as a viable standard-bearer for the GOP.

Tax Policy

The state budget made several changes to Ohio’s tax policy. Most noticeably it reduced the state’s highest income tax bracket to lower than 5%. Manufacturers were successful in stopping proposed CAT rate hikes and expansion of sales tax on many business transactions.

Civil Justice

Late in the budget process, Senate leaders inserted a reform to controversial insurance subrogation statutes. Together with other business interests, the OMA lobbied for the removal of this substantive and non-germane amendment. The Governor made partial line-item veto in an attempt to respond to business concerns. See counsel’s report.

Business groups are working together to develop a legislative package of reforms to further enhance Ohio’s legal competitiveness. Staff has a list of proposed concepts and invites member input.

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

The TiPAC bill (SB 38) to impose transparency in certain attorney general contracting was approved and signed by the Governor earlier this Spring. The OMA supported the bill.

Environment

Federal proposals governing clean power plants under 111(d) of the Clean Air Act and to tighten the National Ambient Air Quality Standards (NAAQS) for ground-level ozone from the current 75 parts per billion have eclipsed traditional state environmental issues. If approved the regulations would be enormously costly. The OMA submitted comments expressing concerns with both proposals. The OMA has launched a campaign to fight the final ozone rules due in October 2015. See environment section.

State Issue 1 (Legislative Redistricting)

Late last year, the General Assembly acted HJR 12 (Huffman) to revise the redistricting process. State Issue 1 is a constitutional amendment on the November 2015 ballot. The amendment creates a new bipartisan panel that will decide state legislative district boundaries. The amendment is intended to curb gerrymandering and keep communities more whole. See OMA counsel's report for more information. See Fair Districts for Ohio.

State Issue 2 and 3 (Marijuana Legalization)

State Issue 3 is a constitutional proposal to legalize medical and recreational marijuana on the November ballot. The source would be limited to a cartel of a ten production facilities. Cartel investors are staking needed investment to manage an effective ballot campaign.

Employers are confronted with an expansion of substances that may influence employee performance and safety. Additionally, some drug policy provisions would likely be trumped by the Constitutional provisions if enacted.

The OMA board has endorsed a no vote on issue 3. The OMA board also has endorsed a yes vote on issue 2, a constitutional amendment placed on the ballot by the General Assembly to prohibit special interest monopolies. Concerned manufacturers can communicate concerns to employees and community leaders and may support the paid campaign efforts. Also see separate resource material.

Human Resources – unemployment taxes

Together with the other “Big Five” major business groups, the OMA has retained expertise of the Strategic Services on Unemployment & Workers’ Compensation to develop a plan to correct Ohio’s insolvent unemployment trust fund. The plan being developed would ensure solvency and pay off the state’s debt as soon as possible.

Workers’ Comp & Industrial Commission

The OMA and other business groups were successful in preventing Senate Bill 5, from being amended into the state budget. Senate Bill 5 provides PTSD benefits for first responders through their workers’ compensation benefits. This would be a major shift in workers’ compensation policy for the state.

Energy Efficiency Standards / SB 310 Study Committee

Governor Kasich signed SB 310 into law last June, freezing and making revisions to Ohio’s alternative energy standards. In spite of the bill, most utilities have voluntarily elected to continue their energy efficiency plans. A study committee was created by the bill and is now working on a report due by the end of September. A co-chair of the panel recently told a media outlet that the Clean Power Plan, also known as proposed EPA rule 111(d) would impact the study committee’s findings.

Workforce Development

Amid the fanfare of priority legislation, HB 1 was introduced to better align and fund Ohio's workforce education and training needs. The bill was significantly scaled back and ultimately approved within the state budget. The OMA remains supportive of this first step. Key legislators would like to do more.

Leadership

A Fight Over the Word “Monopoly”

Secretary of State Jon Husted this week [released the titles](#) for the three issues that will appear on the November ballot.

Here’s the title for the marijuana monopoly proposal, Issue 3: “Grants a monopoly for the commercial production and sale of marijuana for recreational and medicinal purposes.”

The group that’s pushing the pot proposal, Responsible Ohio, has gone to the Ohio Supreme Court over the ballot title, claiming it is inaccurate and inflammatory.

So, when’s a ballot issue that creates a monopoly for commercial production and sale of marijuana for recreational or medical purposes not such a monopoly? Apparently, when you are the proposed monopolist. *8/27/2015*

Ohioans against Marijuana Monopolies

This week the OMA and a broad and diverse group of organizations launched "Ohioans against Marijuana Monopolies," which will lead the opposition to the proposed constitutional amendment that would create a marijuana growing monopoly in the state. The amendment will appear on the November General Election ballot as Issue 3.

An [Official Argument against Issue 3](#) has now been filed with the Secretary of State. OMA president Eric Burkland is one of the six signers of the official argument.

The argument makes the case that: 1) Issue 3 cements in the constitution a billion-dollar marijuana monopoly for a small group of wealthy investors; 2) Issue 3 puts our children at risk; and 3) Issue 3 will flood Ohio with marijuana.

Other organizations making up Ohioans against Marijuana Monopolies include: Ohio Council of Retail Merchants, Ohio Farm Bureau, Ohio State Medical Association, Ohio Children’s Hospital Association, Ohio Prosecuting Attorneys Association, and Buckeye State Sheriffs’ Association. *8/18/2015*

Husted Sets Order of Ballot Issues

Secretary of State Jon Husted this week [set the order](#) of the issues that will appear on the November General Election ballot. [Issue 1](#) is legislative

redistricting reform placed on the ballot by the General Assembly. [Issue 2](#), also placed on the ballot by the legislature, would prohibit the use of the Ohio constitution to create commercial monopolies. And, [Issue 3](#), proposed by initiative petition, would create a marijuana growing cartel in the state, a cartel owned by the sponsors of the initiative petition. *8/20/2015*

Responsible Ohio Disputes Issue 3 Ballot Language

This week the Ohio Ballot Board approved [the language](#) that will be put before Ohio voters this fall so that they can determine if Ohio will amend its constitution to legalize marijuana for personal and medical use and set up ten growing sites. A 'yes' vote is necessary to adopt the measure.

ResponsibleOhio, the organization that initiated the campaign, complained that the board-approved Issue 3 language is biased against the issue; the group plans to take its complaint to the Ohio Supreme Court.

Secretary of State Jon Husted serves as the Chairman of the Ohio Ballot Board. Other members include Ohio Senate President Keith Faber, State Representative Kathleen Clyde, former State Senator Nina Turner and Mr. William Morgan. *8/19/2015*

Urge U.S. Senators to Vote for Sensible GMO Labeling Bill

The U.S. House approved by a vote of 275-150 [H.R. 1599](#), the Safe and Accurate Food Labeling Act of 2015, which would overturn state laws for labeling foods made with genetically-modified organisms (GMOs). Next, the measure will be taken up this fall by the Senate.

The OMA agrees with the Coalition for Safe & Affordable Food that the Safe and Accurate Food Labeling Act prevents a costly and confusing patchwork of state labeling mandates, provides consumers with a way to identify GMO-free foods, and has the federal government set uniform national standards on labeling. All of which helps control the cost of producing and buying food.

Be sure to urge your U.S. Senators to vote for this common sense bill. You are encouraged to use the advocacy tools available at the [Coalition for Safe & Affordable Food](#) or at the OMA's [Manufacturing Advocacy Center](#). Here are more resources: Safe & Accurate Food Labeling Act [talking points](#) and [FAQ](#) from the Coalition for Safe & Affordable Food.

Please contact OMA's [Ryan Augsburger](#) with any questions you might have. 8/17/2015

OMA Supports Ford in Amicus

This week the OMA joined in an amicus brief supporting Ford Motor Company in an appeal of a decision to the Supreme Court of Ohio from the Seventh District Court of Appeals.

At issue is a manufacturer's post-sale duty to warn of a risk under product liability statutes. The Seventh District "radically heightened that duty to a level unknown in any other American court."

Read the brief [here](#). 8/20/2015

OMA Board: No on Marijuana Amendment

The OMA board of directors this week took action on two proposed ballot initiatives that will appear on the November General Election ballot.

The board opposes the proposed statewide ballot initiative that would legalize medical and recreational marijuana and grant 10 monopolistic growing licenses to those financing the campaign. The board opposes this ballot issue on the grounds that granting what in effect are business monopolies would undermine free-market competition and potentially also compromise workplace safety.

The board concurrently endorses the constitutional amendment placed on the November 2015 statewide ballot by the Ohio General Assembly that would prohibit citizen petition-initiated constitutional amendments that grant business monopolies for the economic benefit of certain individuals or entities.

The full text of the OMA resolution can be [found here](#). A [press release](#) was distributed to Ohio media outlets. 8/13/2015

Pot's on the Ballot

Ohio Secretary of State Jon Husted this week [certified](#) that ResponsibleOhio, the organization seeking to place a constitutional amendment on the November 2015 ballot that will legalize marijuana for recreational and medical use in Ohio, has collected a sufficient number of additional signatures to cure the previously reported shortfall.

In total, 320,267 valid signatures have been collected, whereas 305,591 signatures were needed to secure a place on the ballot.

Having met the constitutional and legal requirements, the issue will appear on the November 3 general election ballot. The next step in the process is for the Ballot Board to approve the ballot language that voters will consider. 8/13/2015

Manufacturers Find Much in Common with Speaker Rosenberger



Leaders from OMA member companies met with House Speaker Cliff Rosenberger (R-Clarksville) for a couple of hours this week. The Speaker led a roundtable discussion of a wide-range of issues affecting Ohio manufacturing and the economy of Ohio. Rosenberger is a great supporter of manufacturing, and fearless in his pursuit of sometimes difficult issues to advance Ohio and its economy. 8/13/2015

Pictured: Rick Schostek, Executive Vice President, Honda North America, Speaker Cliff Rosenberger, and Eric Burkland, OMA president

Traveling House Committees Offer Opportunity to Testify

Speaker of the Ohio House [Clifford A. Rosenberger](#) (R-Clarksville) [announced](#) that two House standing committees will be touring the state to discuss various issues important to Ohioans.

The committee on Agriculture & Rural Development, chaired by State Rep. [Brian Hill](#) (R-Zanesville), will focus on modern-day agriculture and how it is shaping rural communities in the state. Rep. Hill's committee will hold several hearings the next several weeks including:

Technology - Monday, August 24, Location: The Ohio State University;

Education - Thursday, August 27, Location: ATI in Wooster;

Rural/Economic Development - Tuesday, September 1, Location: Northeast Ohio, place TBD;

Fertilizer Use and Crops - Thursday, September 3,

Location: Western Ohio, place TBD;
Livestock - Wednesday, September 9, Location:
Southern Ohio, place TBD.

The Community & Family Advancement Committee, chaired by Rep. [Tim Derickson](#) (R-Oxford), will examine poverty in Ohio along with workforce development programs designed to help Ohioans out of poverty and into jobs. Rep. Derickson's committee will be holding its first hearing on August 18th in Cincinnati.

If you are interested in testifying on any of these topics, please contact OMA's [Rob Brundrett](#). 8/13/2015

Midwest's Premier Conference on Performance Excellence

The Partnership for Excellence's (TPE) "Quest for Success" is the Midwest's premier conference for performance and operational excellence. Malcolm Baldrige National Quality Award winners, TPE Award winners, and performance excellence professionals will deliver leading-edge presentations with improvement strategies you can immediately apply to your organization. Be one of hundreds to convene September 14-15, 2015 to learn from, engage with, and be inspired by Baldrige Award winners and TPE Regional Program Award winners.

Learn more or register for the conference [here](#). 8/13/2015

Kasich Makes First GOP Debate

Inching out rivals, Governor John Kasich earned his spot in the first major debate of Republican presidential contenders. The debate aired last night. Several months ago, debate host, FOX News, announced the line up would be limited to the ten top polling candidates. On Tuesday, a composite of [public polling data](#) (for the GOP nomination) ranked Kasich as number ten, narrowly besting Texan Rick Perry. 8/6/2015

Truck Weight Reform Opportunity At Hand

As Congress prepares to act on the federal highway bill in September, the stage is now set for consideration of [truck weight reform](#). Manufacturers who support more efficient trucking options now have an opportunity to convince key lawmakers to support truck weight reforms.

The OMA supports the [Coalition for Transportation Productivity](#), which has been working with lawmakers

to push a modified version of the Safe and Efficient Transportation Act for inclusion when the Transportation Committee marks up the measure in September.

Take action now by sending a letter to your members of Congress urging them to support the truck weight reform amendment to the highway reauthorization bill this fall. Here is a [model letter](#). Use it to compose a letter to your Congressional representatives ([find them here](#)) on your company letterhead. 8/6/2015

Governor Kasich Makes it Official



After months of speculation and rumor, Governor Kasich made his bid to become the next president of the United States official this week at an [announcement event](#) in front of thousands of his supporters.

He joins 15 other Republicans who are seeking the most important job in the world.

In front of a packed house in the OSU student union, the OSU grad told the energetic crowd that, "I have decided to run for president of the United States."

After the announcement, Governor Kasich left for New Hampshire where he kicked off his official campaign with several planned events. 7/21/2015

Buzz Kill: Not Enough Valid Signatures to Put Pot on Ballot

The group in charge of the pro-marijuana ballot initiative, [ResponsibleOhio](#), fell more than [29,000 signatures short](#) to qualify for the November ballot. The group has 10 days to make up the difference.

To qualify for the ballot, groups must collect at least 305,591 valid signatures from registered Ohio voters and meet a certain threshold number of signatures from 44 of Ohio's 88 counties. About 42% of

ResponsibleOhio's 660,190 tallied signatures were verified by local county boards of elections.

The additional signatures collected during the 10-day cure period will be reviewed and any new valid signatures will be added to the total tally. The group remains confident that it will achieve the necessary signatures to make the November ballot. 7/22/2015

OMA Director Jane Neal on Ohio Manufacturing [\(video\)](#)

OMA director, Jane Neal, Senior Vice President, AMG Vanadium, Inc., Cambridge, sat down and [talked with us](#) about her company, Ohio manufacturing, and her role as a director on the OMA's board. 7/17/2015

McGladrey Report Points Manufacturers to Global Growth, Innovation & IT

OMA Connections Partner, McGladrey, just posted its analyses of the [2015 McGladrey Manufacturing & Distribution Monitor](#), finding three broad themes:

1. "Favorable interest rates, energy costs and other factors are making the U.S. a preferred destination for foreign capital. ... Foreign competitors hungry for a bigger slice of the world's biggest economy are investing in U.S.-based operations, taking advantage of favorable conditions to grab a share of the market."
2. "... evidence suggests that U.S. companies are falling behind their global competitors in the race to commercialize profitable, high-margin products and services ... U.S. manufacturers ... need to assimilate innovation into their cultures in order to contend with the global competitors ..."
3. "With so much riding on how IT is utilized – providing products and services, increasing efficiencies, optimizing product usage, client engagement – IT leaders need to play a primary role in the strategic direction of the company ..."

The 2015 Monitor was conducted via online questionnaire. There were 1,660 valid responses, including those of participating OMA members, received in March and April. The 2015 Monitor is a series of reports focused on the three major themes of the research: global growth, investing for growth and innovation, and information and data security. [All are available here.](#) 7/21/2015

Four Manufacturers to Give MFG DAY Tips in Upcoming Webinar



How have other manufacturers made the most of Manufacturing Day? Join an employer-focused webinar on Tuesday, August 4 at 3:00 p.m. EDT, "Getting Involved in Manufacturing Day – Employer Event Edition."

This is the second webinar in the employer series. It will feature four manufacturer panelists who will discuss ways to make MFG DAY events successful and the benefits of participating. Panelists include representatives from Ace Clearwater, Caterpillar, FATHOM, and GEMCITY Engineering & Manufacturing. [Register here.](#) 7/21/2015

Ohio Manufacturing Economic Impact is Huge



We just reported out the most current data available about the impact of manufacturing on Ohio's economy.

It was such overall good news that we distributed the report, [Ohio Manufacturing Counts 2015](#), to every member of Ohio's General Assembly and to more than 160 statewide media contacts, as well as [tweeted facts](#) all week. Can't get too much good manufacturing news! 7/13/2015

Ex-Im Bank Needs Long Term Reauthorization

As part of a coordinated effort of manufacturers across the country to urge Congress to pass a long-term reauthorization of the U.S. Export-Import Bank

(Ex-Im), OMA sent this [press release](#) to the state's media this week.

"Elected officials in Washington returned to their home states and districts without finishing their work to reauthorize the U.S. Ex-Im Bank," said Ryan Augsburger, OMA Managing Director, Public Policy Services.

The Ex-Im Bank supports 15,300 jobs in Ohio and more than 1.2 million manufacturing jobs across the country. *7/14/2015*

GMO Labeling Bill Clears Committee

The U.S. House Committee on Agriculture on July 14 approved [H.R. 1599](#), the Safe and Accurate Food Labeling Act of 2015, which would overturn state laws for labeling foods made with genetically-modified organisms (GMOs).

The OMA and other organizations that support the bill, including the Grocery Manufacturers Association and the America Soybean Association, appreciate that the proposal will provide a uniform national policy for biotechnology labeling that will allow consumers access to information they seek while providing state to state predictability for producers and processors.

A House vote may occur as soon as next week; supporters are encouraged to contact their U.S. representatives and senators to encourage full passage. Find your elected officials at the [OMA Manufacturing Advocacy Center](#). Or use the advocacy tools available from the [Coalition for Safe & Affordable Food](#). *7/15/2015*

Senate Sets Fall Session Schedule

The Senate is scheduled to be in session for up to 19 days for the remainder of the year, according to a [schedule](#) released this week by Senate President Keith Faber (R-Celina).

The chamber has a total of 17 session dates in September, October, November and December, with an additional two if-needed dates set for mid-December.

The House's [schedule](#) calls for up to ten session days during the remainder of the year. *7/16/2015*

Unpacking the New State Budget

After months of committee hearings and discussions, Governor Kasich has signed House Bill 64 into law. The state's 2016-2017 biennial budget contains

appropriation items for the next two fiscal years, as well as a number of policy items.

OMA counsel, Bricker & Eckler LLP, has prepared this [summary of the issues](#) most impactful to manufacturers. Also, see page 6 for a rundown of the fall statewide ballot issues. *7/9/2015*

"A Clean Constitution" vs. Legal Marijuana

In November, Ohioans will vote on two separate ballot issues: 1) legalize marijuana for any and all reasons, and identify ten Ohio parcels of real estate as the only sites where it could be legally grown, and 2) amend the constitution to bar future amendments designed to create a "monopoly, oligopoly or cartel" that give a special commercial benefit to certain persons or groups.

The second issue was drafted to trump the marijuana legalization if both pass. Here is an [analysis](#) of the anti-monopoly resolution, HJR4, drafted by the Ohio Legislative Service Commission, which concludes: "In deciding whether and to what extent the two amendments conflict, the court might find that parts of one or both amendments must take effect, while other parts must not."

Here's a piece, "[A Clean Constitution](#)" from Ohio auditor, Dave Yost, that further describes the decision Ohio voters will make this fall. *7/8/2015*

Redistricting Proposal Headed for Ohio Voters

[Fair Districts for Ohio](#) is a bi-partisan coalition organized to reform Ohio's system of drawing state legislative districts. The issue will appear on the ballot this November. Former State Reps. Matt Huffman (R-Lima) and Vernon Sykes (D-Akron) are serving as co-chairs for the campaign and were in Columbus this week for a campaign kickoff.

If voters approve the plan in November, Ohio would adopt terms of a deal that lawmakers struck in late 2014; it would be the first major overhaul to Ohio's process of drawing state legislative districts in more than 40 years.

The measure calls for a seven-member bipartisan panel which would draw the district lines for Ohio General Assembly seats. The commission would be made up of the governor, secretary of state, auditor of state and four legislative appointees. Two minority party votes are necessary before any final map could be adopted. The deal struck by lawmakers was an unprecedented compromise several years and attempts in the making.

The proposal does not include any changes to the map-making process for Ohio's congressional districts. *7/9/2015*

House Sets Session Schedule for Fall

The House officially cancelled its if-needed session dates for July and Speaker Cliff Rosenberger (R-Clarksville) set the [session schedule](#) for the remainder of the year, calling for up to 10 session days from September through the end of 2015. *7/7/2015*

Shipping Coalition Calls for Higher Truck Weights

The [Coalition for Transportation Productivity](#) (CTP), a group of manufacturers, shippers, carriers and allied associations, [this week urged members](#) of Congress to review data from the U.S. DOT's Comprehensive Truck Size & Weight Limits Study and then take action to reform interstate vehicle weight limits for six-axle trucks.

The study justifies a Congressional proposal to authorize states to boost truck weights beyond the current federal standard of 80,000 pounds for trucks equipped with six-axles and enhanced braking systems.

Here are the [organizations and companies](#) working through the CTP. *7/9/2015*

Legislators Propose Repeal of Prevailing Wage

State Reps. Kristina Roegner (R-Hudson) and Rob Hood (R-Ashville) this week introduced legislation to repeal Ohio's prevailing wage law that requires union scale wages be paid to contractor laborers in public works construction projects.

[HB 282](#) will surely be opposed by union interests. The bill has been introduced by Republican lawmakers multiple times through the years, but has never been approved. *7/9/2015*

Study Ranks Ohio Manufacturing & Logistics as "B"

The [2015 Manufacturing & Logistics Report Card](#) shows how each state ranks among its peers in several areas of the economy that underlie the success of manufacturing and logistics. The study is prepared by The Center for Business and Economic Research (CBER), an economic policy and forecasting research center at Ball State University.

The study gives Ohio a "B" for manufacturing industry health, measured by three variables: the share of total income earned by manufacturing employees in each state, the wage premium paid to manufacturing

workers relative to the other states' employees, and the share of manufacturing employment per capita.

The study passed out "A's" to Ohio for logistics industry health and global reach, and gave Ohio "C's" for human capital, worker benefit costs, tax climate, and sector diversification. *7/7/2015*

Governor Signs Budget, Uses Veto Pen

On the June 30 deadline, Gov. Kasich signed the \$71B state budget bill which makes operating appropriations for the biennium beginning, July 1, 2015, and ending June 30, 2017. He also signed the separate budget bills of the Bureau of Workers' Compensation and Industrial Commission.

The governor used his veto authority to eliminate 44 provisions; the fate of some of those of interest to manufacturing follows.

OMA requested a veto of a Senate-added revision to the subrogation laws. The governor partially vetoed the provision. However, even with the partial veto, the changes create a sizeable shift in Ohio's current subrogation law and could be problematic for manufacturers involved in civil litigation. OMA counsel Bricker & Eckler LLP has prepared [this analysis](#) of the effect of the proposed law change and partial veto for members.

Kasich also deleted a Senate-added amendment that concerned OMA. It would have exempted electrical generation plants from the public utility tangible personal property tax and shifted the tax to the transmission and distribution system with the intent of holding districts harmless while keeping costs the same for ratepayers.

While OMA had asked the governor to veto the measure, one new commercial activity tax (CAT) exclusion made it into the final state budget. The [provision](#) relates to "receipts of a manufacturer, supplier, or distributor of beauty, health, personal care, or aromatic products," where the manufacturer meets other narrow provisions. Nonetheless, it is expected to reduce the CAT base by several millions of dollars.

The vetoes not necessarily specific to manufacturers appear to be in line with good government. *7/1/2015*

Ohioans to Vote on Anti-Monopoly Constitutional Amendment

Both chambers this week voted passage of [HJR4](#), a constitutional amendment that would "prohibit an initiated constitutional amendment that would grant a

monopoly or a special economic interest, privilege, benefit, right, or license to any person or entity and to modify the procedure to propose a law or a constitutional amendment by initiative petition."

The resolution passed the Senate in a 20-9 vote and the House concurred with Senate amendments, 72-15; the issue will appear on the November ballot. If passed by Ohio's voters, it would deny ResponsibleOhio's plan for a legal marijuana industry limited to 10 commercial growers. 7/1/2015

Governor Kasich to Announce Presidential Candidacy

Governor John Kasich will officially jump into the crowded Republican presidential field later this month. He has scheduled an announcement event on July 21 at the student union of his alma mater, The Ohio State University. A [website](#) has been created where you can request tickets to attend the announcement event. 7/1/2015

Cheaper to Manufacture in U.S. than China?

[Fortune reports](#) that "BCG, the Boston consultancy, estimates the average cost to manufacture goods in the U.S. is now only 5% higher than in China and is actually 10% to 20% lower than in major European economies. Even more striking: BCG projects that by 2018 it will be 2% to 3% cheaper to make stuff here than in China."

"Part of the reason for the narrowing gap is that wages have been rising in China. ... But perhaps the single largest factor is that fracking has helped dramatically drive down the price of oil and gas that's being used in energy intensive industries such as steel, aluminum, paper and petrochemicals. BCG calculates that U.S. industrial electricity prices are now 30% to 50% lower than those of other major exporters.

"How long will America's advantage last? Harvard Business School's Michael Porter, who along with BCG issued a new report in June called "[America's Unconventional Energy Opportunity](#)," says that America has about a 15-year lead on other nations when it comes to fracking. The most telling number to make that point? The U.S. has 101,117 fracked wells, followed by Canada's 16,990. By contrast China has 258." 6/30/2015

Budget Bill on Way to the Governor

Through the long and winding road of legislative deliberation, the governor's budget bill, HB 64, is arriving at its destination today: the governor's

desk. The mammoth bill contains hundreds of changes to Ohio public policy, touching every citizen in the state.

The conference committee on the bill concluded its work around 2:00 a.m. Thursday. The Senate passed the bill later in the day (after the sun came up). The House, as of this writing, planned to pass the bill this morning (Friday).

The governor has the weekend and early next week to review the bill and decide on any vetoes he'll make. The OMA has asked for two (see related story). The bill needs to be signed by next Tuesday, June 30, in order to go into effect for the biennium that begins July 1.

Look for a comprehensive briefing from the OMA on the bill's impacts on Ohio manufacturers. 6/25/2015

OMA Asks Kasich for Vetoes

OMA president Eric Burkland sent [this letter](#) to Governor Kasich this week asking him to veto two amendments that are contained in the state budget bill, HB 64, calling them unjustified and unsound.

One amendment would exclude certain taxable gross receipts from commercial activity tax (CAT) liability for a "manufacturer, supplier, or distributor of beauty, health, personal care, or aromatic products" which meets very limited criteria (it appears to be targeted to a single central Ohio company and its suppliers). The OMA discourages credits and exemptions against the CAT, in order to preserve the integrity of its broad-base and to ensure fairness.

Another amendment would alter the procedure for distributing recoveries to injured parties and subrogees in tort actions. This amendment constitutes a major change to Ohio's subrogation laws and would have a negative impact on Ohio's civil justice system by undercutting existing contractual relationships, disincentivizing cost control during litigation, and potentially increasing insurance benefit costs to Ohio employers. Here's a [letter of opposition](#) that OMA and fellow members of the Ohio Alliance for Civil Justice filed with Senate President Faber. 6/25/2015

NAM's 2nd Quarter Outlook Survey Shows Less Optimism

The National Association of Manufacturers (NAM) June 2015 [Manufacturers' Outlook Survey](#) revealed "an expected slowdown in exports, sharply highlighting the need for pro-growth policies like Trade Promotion Authority (TPA) and a long-term reauthorization of the Export-Import (Ex-Im) Bank."

Included in the report was NAM's Manufacturing Outlook Index, a new quarterly indicator that will track the changes in manufacturing economic data over time. June's index was 51.7 down from 59.9 in March (numbers greater than 50 suggest the manufacturing outlook is above average, coinciding with an expanding sector).

Additional key survey findings include:

1) Manufacturing optimism has dropped 15% since December, 2) Export growth is expected to remain sluggish, 3) Ozone regulation could hamper new construction; close to 80% of respondents indicated they would likely not proceed or were uncertain about proceeding with new construction or major modifications in an area if they learned that it did not comply with the federal ozone standards, and 4) U.S. fiscal issues impact business; nearly all respondents (95.5%) said it was important for policymakers to address the nation's fiscal challenges. Respondents overwhelmingly (92%) suggested reforming the U.S. tax code as a top solution for reducing the deficit. 6/25/2015

MFG DAY Resources Make it Easy-Peasy to Plan Your Event



MFG DAY has posted a [recorded webinar](#) that walks you through the why and how of MFG DAY event hosting, demonstrates the online event registration process, and answers common questions about participating in MFG DAY.

Or view a PDF of the [PowerPoint slides here](#).

And here's a [one-page guide](#) that breaks the entire process down into four simple steps. 6/17/2015

What Else is in the Senate Budget Proposal?

The Ohio Senate released its version of the state operating budget, [HB 64](#), this week.

More than \$935 million in new money would be invested in K-12 education. The extra funds are to be used to support the per-pupil formula, special education, career-technical education and K-3

literacy. The budget includes \$60 million over the biennium in district bonuses for graduation and \$67 million for reading bonuses.

For higher education, the Senate proposes an increase of the State Share of Instruction by 4.5% in FY 2016 and 4% in FY 2017. The House version had called for a 2% increase in State Share of Instruction funding in both years of the biennium. That's an increase of \$240 million over the two years.

The Senate maintains the politically controversial expansion of the state Medicaid program.

There are a lot of other changes. Read about them [here](#). 6/10/2015

Attorney General DeWine Visits with OMA Board



This week [Attorney General Mike DeWine](#) visited with the OMA board of directors. Among other issues DeWine discussed the heroin "epidemic" in Ohio (and the nation) that has its roots in the drug cartels of Mexico, which controls a supply chain from the growing fields to the streets of our cities. He talked about the problems that will likely be created by a referendum that proposes a marijuana monopoly via the state constitution, which will be on the General Election ballot this fall. 6/9/2015

Pictured: Attorney General Mike DeWine and OMA director Dean Jetter, COO, Ft. Recovery Industries, Inc.

OMA Elects New Directors

Four new members have recently been elected to the OMA board of directors. They are:

Carl E. Johnson, Director of Manufacturing, North America – Refinish, PPG Industries, Inc., Delaware, OH

Dave Johnson, Senior Vice President, Global Surgical Solutions, Steris Corporation, Mentor, OH
Greg Muhlenkamp, Vice President, Engineering, Midmark Corporation, Versailles, OH
Richard J. Walters Sr., U.S. Downstream Finance & Accounting Manager, Plant Controller, Lima Refining Company, Lima, OH
Board chairman, Bill Sopko of William Sopko & Sons Co. Inc., Cleveland, said "The strength of the OMA comes directly from its members and volunteer leaders. We are honored that these four manufacturers, as well as all OMA directors, volunteer their time and talents to protect and grow Ohio manufacturing." 6/6/2015

House Considers Pipe Material Standard

[House Bill 214](#), introduced by Rep. [Andy Thompson](#) (R-Marietta), serves to restrict the preference for one type of suitable piping material over another is it applies to water, waste water, or storm water draining projects and only to projects funded in whole or in part with state funds.

To the extent that certain types of piping materials currently receive a preference from public authorities, they will lose that preference if HB 214 is enacted.

Here is an [analysis](#) of the bill from OMA counsel [Marjorie Yano](#) of Bricker & Eckler LLP. If your company manufactures plastic, iron, steel, or other pipe product, and you have an interest in this legislation, contact OMA's [Ryan Augsburger](#). 6/11/2015

OMA Government Affairs Committee Bones Up on Marijuana Ballot Issue



This week members of the OMA Government Affairs Committee - volunteers from across the OMA membership - heard an impassioned Secretary of State Jon Husted express concerns about a [ballot proposal](#) that would establish monopoly businesses to produce and sell marijuana, while legalizing both recreational and medical marijuana.

The committee also had visits from Speaker of the House Pro-Tem Ron Amstutz (R-Wooster) and House Budget Vice Chair Kirk Schuring (R-Canton).

Also on the [agenda](#) was a member discussion about employer-to-employee communication of election-related information.

The OMA Government Affairs Committee meets quarterly. The next scheduled meeting is Wednesday, September 2. All members are welcome; register [here](#). 6/4/2015

Pictured: Michael E. Heltzer, Government Affairs Manager, B A S F Corporation; Rep. Ron Amstutz; and committee chair Chris Hess, Director, Public Affairs, Eaton

GMOs among Issues on the Table at OMA Food Manufacturers' Meeting



Food manufacturers and their suppliers gathered at the OMA this week to discuss issues of interest. Chaired by OMA member, Derek Crawford, Director, U.S. Government Affairs, Kraft Foods Group, Inc., the group heard presentations from Department of Agriculture, Ohio EPA, and JobsOhio.

A panel discussion on genetically modified food labeling was kicked off by Mandy Hagan, Vice President State Affairs and Grassroots, with the Grocery Manufacturers Association.

The OMA organizes Ohio food manufacturers and their suppliers for an annual meeting. If your company manufactures food products or supplies the food industry, contact OMA's [Dan Noreen](#) so we can keep you up to date on related news and events. 6/4/2015

Pictured: Derek Crawford, Director, U.S. Gov't. Affairs, Kraft Foods Group and Sen. Bob Peterson

OMI Outlines Manufacturers' Technical Needs, Seeks Feedback

The Ohio Manufacturing Institute (OMI), located at The Ohio State University, has completed a draft of findings and recommendations to establish and implement an Ohio Advanced Manufacturing Technical Network strategy. OMI set about to improve manufacturers' utilization of the vast array of Ohio's technical resources by helping make these resources more visible and by aligning resources to industry needs.

By understanding the technological challenges facing Ohio manufacturers, OMI's goal is to facilitate the development, transfer, and commercialization of advanced manufacturing technologies and to create technical network structure, leadership, and sustainability in support of Ohio manufacturers.

The "roadmaps" developed in the study focus on four manufacturing processes, machining, molding, joining/forming and additive manufacturing, and how manufacturers can more fully utilize Ohio's technical resources that support these processes.

OMA invites manufacturers to [review the report](#) and encourages industry feedback to help drive policy and industry solutions. After reviewing the document, OMI invites participation in this [10 minute survey](#).

Feedback is appreciated by June 12. 6/1/2015

Home Stretch Push for Ex-Im

The OMA joined with more than 1,000 organizations in [a letter](#) to members of Congress urging support for long-term reauthorization of the U.S. Export-Import Bank (Ex-Im) before its charter expires on June 30.

The groups wrote: "Failure to secure a long-term reauthorization of Ex-Im would amount to unilateral disarmament in the face of other governments' far more aggressive export credit programs, which have provided their own exporters with significant financing support in recent years. The export credit agencies of our top trading partners provide nearly half a trillion dollars in official export credit financing annually to their exporters – about 18 times more export credit assistance to their exporters than Ex-Im did for U.S. exporters last year." 6/3/2015

383,000 Ohio Jobs Recovered Since Lowest Point in Recession

Stateline recently [took a look at job recovery](#) in the states since the point of their lowest employment in the "Great Recession."

Ohio has recovered more than 383,000 jobs since February 2010, our state's lowest point in the recession.

Ohio employment stood at 5,386,000 in March of this year. 6/3/2015

Governor Kasich Moves into Tie for 9th in Presidential Race

Governor Kasich is now in a tie for 9th place in polling for the 2016 Republican presidential campaign. That is important as Fox News has limited, controversially, participation in the first Republican presidential debate to the top 10, plus ties. That debate will take place in Cleveland on August 6.

Fox recently announced that debate participants "must place in the top 10 of an average of the five most recent national polls ... such polling must be conducted by major, nationally recognized organizations that use standard methodological techniques." Fox did not say which polls would be used.

Right now, in a [five-poll average](#) prepared by Real Clear Politics, the governor is in a tie for 9th with Texas's Rick Perry with 2% of the vote. Jeb Bush leads the race with 14.8%, followed by Wisconsin Governor Scott Walker with 13% and Florida Senator Marco Rubio at 2.2%. 5/28/2015

Bill Passed to Allow Winner-Take-All Republican Presidential Primary

This week the Ohio Senate approved, and passed on to Governor Kasich's desk, HB 153 (Dovila, R-Berea), which would move Ohio's 2016 presidential primary election back one week to March 15.

The reason for pushing back the primary election date? After the 2012 election, the national Republican Party passed rules under which Ohio GOP delegates would be elected in 16 separate elections, one for each congressional district, if the state holds its primary before March 15. In 2012, this proportional system gave Rick Santorum 21 of the state's 66 Republican delegates, even though Mitt Romney won the statewide primary election.

Moving the election to March 15 allows the party to have a winner-takes-all delegate allocation. That'll help Governor Kasich, who very likely could win the

Ohio primary vote, and therefore all of Ohio's Republican delegates. *5/28/2015*

OMA President Sends Letter to Editor in Support of Ex-Im Bank

OMA president Eric Burkland delivered [this letter](#) to the editor of the Cincinnati Enquirer: "I was disappointed to see the misguided op-ed titled "Boehner Should Join Kasich Against Ex-Im" by Americans for Prosperity state director Baylor Myers.

The Ohio Manufacturers' Association represents numerous local manufacturers, many of which directly, or indirectly, rely on the availability of Export-Import Bank financing. Across the state, more than 326 small businesses use the Bank to support over 17,000 Ohio jobs.

Oftentimes, Ex-Im is the only source some manufacturers can obtain financing from to export locally made products around the world. If the Bank were to close, as some special interest groups propose, the ability of these businesses to compete in the global marketplace would be impaired. This would mean fewer export sales and fewer jobs for Ohioans."

And, "Congress should reauthorize the Ex-Im Bank and allow Ohio businesses to continue to succeed abroad." *5/21/2015*

Be Ready: PUCO Roadcheck June 2-4

The Public Utilities Commission of Ohio (PUCO) is participating in the 28th annual Roadcheck, an international transportation safety and security event, scheduled June 2-4. The 72-hour event highlights the important role roadside enforcement plays in saving lives on North America's highways and helping to provide a safe and secure place to travel.

PUCO inspectors will be on the job day and night during the event conducting safety inspections of commercial motor vehicles (CMVs) on roadways all across Ohio in an effort to reinforce important state and federal safety regulations that ensure Ohio's roadways remain safe.

Each safety inspection follows a thorough process to make sure that the driver and CMV meet necessary state and federal regulations. Vehicles and drivers that fail to meet these regulations may be placed out-of-service and cannot continue operating until they comply with the regulations.

Roadcheck is sponsored by the [Commercial Vehicle Safety Alliance](#) as an annual event to highlight the

impacts law enforcement and the transportation industry have on highway safety. The event has been held since 1988 in the United States, Canada and Mexico. In 2014, PUCO specialists completed 150 inspections during Roadcheck, discovering 261 safety violations. *5/21/2015*

Governor Kasich Talks to Fox's Megyn Kelly

Governor Kasich continues to make the rounds on the national television news shows. Unlike some other of his potential competitors for the Republican presidential nomination, the governor had a clear and definitive answer to Kelly's question about the Iraq war.

Watch the governor [here](#). *5/20/2015*

Exporting? Thinking of Exporting?

District Export Councils (DECs) are organizations of business leaders from local communities, appointed by various U.S. Secretaries of Commerce, whose knowledge of and expertise in international business provides a source of professional advice for their region's local firms. Fifty-nine DECs exist throughout the country including two in Ohio that have created [this website](#) with a ton of resources and learning events. *5/18/2015*

Watch Out for the "Beaumonters!"

The [only all-girls team](#) among the 65 teams competing in this year's National Robotics League grand championship is from the Buckeye State. And, they made Ohio proud!

The girls are from Beaumont High School, an all-girls Catholic school in Cleveland Heights. They designed, manufactured and assembled their 15-pound fighting battle robot and named it "Joan of Arc." They called themselves the "Beaumonters." They came in fourth.

Their advisors are from Christopher Tool and Manufacturing, a family-owned firm that makes aircraft parts.

Congratulations, Molly Cogan, Ana Maria Vargas, Julie Schiffer and Alyssa Muttillio! *5/20/2015*

OMA Member on U.S. Dept. of Commerce Manufacturing Council

U.S. Secretary of Commerce Penny Pritzker chairs the [Manufacturing Council](#), a forum of private sector leaders. The council was established in 2004 to serve

as the principal private sector advisory body to the Secretary of Commerce on matters relating to U.S. manufacturing.

On the council for the 2015-16 term is OMA member Timothy O'Meara, President, [GEMCITY Engineering & Manufacturing](#), Dayton.

Council members advise the Secretary of Commerce on government policies and programs that affect U.S. manufacturing and recommend ways to ensure that the United States remains the preeminent destination for investment in manufacturing across the globe.

The council membership reflects a balanced cross-section of U.S. manufacturing industry sectors, including entities from various geographic locations and businesses of varying size. Other Ohio representatives on the council include Hiroyuki Fujita, Founder, President & Chief Executive Officer, Quality Electrodynamics, Mayfield Village, and Albert Green, Chief Executive Officer, Kent Displays, Kent. 5/8/2015

Calling Food Manufacturers!

The annual [OMA Food Manufacturers & Suppliers Meeting](#) is [Tuesday, June 2](#) at 1:30 in the OMA offices.

This forum is for the state's food & beverage manufacturers and their suppliers. Discussion will focus on: state & federal GMO legislation; packaging issues; extended producer responsibility; recycling initiatives; federal, state and local labeling efforts; and water regulations.

Guest presenters include Ohio Agriculture Department Director, David Daniels, EPA Deputy Director for Business Relations, Laurie Stevenson, and JobsOhio Managing Director, Aaron Pitts.

A networking dinner will follow the meeting at the Scioto Country Club, 2196 Riverside Dr., Columbus, OH 43221.

For more information or to register contact [Denise Locke](#), (800) 662-4463, or go to [My OMA](#) to register. 5/13/2015

OMA President: Get Emerging Workforce to Know Manufacturing

This week OMA president Eric Burkland participated on a panel at the 4th Annual Ohio Appalachian State of the Region Conference.

He [discussed](#) public perceptions of manufacturing as reported in a recent study by Deloitte and the Manufacturing Institute.

The [study](#) indicates that Americans overwhelmingly support manufacturing in principle, but only one out of three parents would encourage their children to pursue manufacturing careers. However, *those familiar with manufacturing* are two times more likely to recommend manufacturing careers and rank manufacturing in their top three career choices.

In other words, one way to address the workforce shortage is to showcase today's manufacturing. Burkland pointed to these strategies: 1) Get lots more people in our communities familiar with manufacturing; 2) Expand internship, co-op, and apprenticeship programs massively; 3) Get to the schools to get to know the emerging workforce; and 4) Get the emerging workforce into our plants and offices to get to know manufacturing.

Consider showcasing your company in your community; [Manufacturing Day](#) resources can help you change public perception. 5/14/2015

Ned Hill Takes Position at OSU

Ned Hill, economist and long-time advisor to the OMA, this week [announced](#) that he has accepted a position at The Ohio State University, effective September 1 this year. Ned currently is dean of the Maxine Goodman Levin College of Urban Affairs at Cleveland State University.

He will teach economic development policy, public policy and public finance in both the Glenn College and the Department of City and Regional Planning in the College of Engineering's Knowlton School of Architecture.

And, Ned will continue his research on factors that affect the competitive position of the Ohio's manufacturing sector, workforce policy, and business strategy, as well as state and local economic development strategy and urban public policy.

He [told the Plain Dealer](#) that the position is a "dream job." Congratulations, Ned! 5/14/2015

Miscellaneous Legislation of Interest to Manufacturers

Prepared by: The Ohio Manufacturers' Association
Report created on September 1, 2015

- HB3 BUSINESS FILING FEES-JOBS WEBSITE** (DERICKSON T, ROMANCHUK M) To reduce certain business filing fees charged and collected by the Secretary of State and to specify that Ohio-based companies are to have access to appropriate features of the OhioMeansJobs web site.
Current Status: 6/25/2015 - **SIGNED BY GOVERNOR**; Eff. 90 days
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-3>
- HB10 ATTORNEY TRANSPARENCY** (BUTLER, JR. J) To provide transparency in contracts between the state and private attorneys.
Current Status: 3/17/2015 - House Government Accountability and Oversight, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-10>
- HB17 EMERGENCY CIVIL IMMUNITY** (BLESSING III L, LANDIS A) To provide civil immunity for architects, contractors, engineers, surveyors, and tradespersons providing volunteer services during a declared emergency.
Current Status: 4/22/2015 - Senate Civil Justice, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-17>
- HB42 LOCAL GOVERNMENT FUND** (GERBERRY R, CERA J) To require that, for fiscal year 2016 and each fiscal year thereafter, the Local Government Fund must receive the same proportion of state tax revenue that the Fund received in fiscal year 2005.
Current Status: 2/11/2015 - Referred to Committee House Finance
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-42>
- HB46 GOVERNMENT EXPENDITURE DATABASE** (DOVILLA M) To require the Treasurer of State to establish the Ohio State Government Expenditure Database.
Current Status: 4/22/2015 - Referred to Committee Senate Finance
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-46>
- HB49 AIRLINE-AIR FREIGHT COMMISSION** (BARNES, JR. J) To create the Commercial Airline and Air Freight Commission.
Current Status: 4/14/2015 - House Transportation and Infrastructure, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-49>
- HB53 TRANSPORTATION BUDGET** (GROSSMAN C) To make appropriations for programs related to transportation and public safety for the biennium beginning July 1, 2015, and ending June 30, 2017, and to provide authorization and conditions for the operation of those programs.
Current Status: 4/1/2015 - **SIGNED BY GOVERNOR**; eff. 7/1/2015
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-53>

- HB64 OPERATING BUDGET (SMITH R)** To make operating appropriations for the biennium beginning July 1, 2015, and ending June 30, 2017, and to provide authorization and conditions for the operation of state programs.
Current Status: 6/30/2015 - **SIGNED BY GOVERNOR**; Eff. 7/1/15
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-64>
- HB68 ALCOHOL-BY-VOLUME (RAMOS D)** To allow beer manufacturers to manufacture beer containing not more than 21% of alcohol by volume beginning on the effective date of this act, and, beginning one year after the effective date of this act, to allow the sale and distribution of beer containing not more than 21% of alcohol by volume in this state by increasing the legally permitted alcohol content of beer from 12% to 21%.
Current Status: 6/23/2015 - House Government Accountability and Oversight, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-68>
- HB100 VEHICLE WEIGHT LIMITS (SLABY M, PATMON B)** To require that a vehicle with a gross vehicle weight rating or an actual gross vehicle weight of more than 10,000 pounds be driven only in either of the two right-hand lanes of a freeway with three lanes of travel in the same direction, except in limited circumstances.
Current Status: 3/24/2015 - House Transportation and Infrastructure, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-100>
- HB109 STATE HEALTH BENEFIT EXCHANGE (STINZIANO M, ANTONIO N)** To create the Ohio Health Benefit Exchange.
Current Status: 4/28/2015 - House Insurance, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-109>
- HB130 PUBLIC RECORDS-DATA BOARD (HAGAN C, DUFFEY M)** To create the DataOhio Board, to specify requirements for posting public records online, to require the Auditor of State to adopt rules regarding a uniform accounting system for public offices, to establish an online catalog of public data at data.Ohio.gov, to establish the Local Government Information Exchange Grant Program, and to make an appropriation.
Current Status: 6/17/2015 - **REPORTED OUT AS AMENDED**, House State Government, (Fifth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-130>
- HB145 STEM PARTNERSHIP PROGRAM (MCCOLLEY R, HOWSE S)** To establish the STEM Public-Private Partnership Pilot Program to provide high school students the opportunity to receive education in a targeted industry while simultaneously earning high school and college credit and to make an appropriation.
Current Status: 4/14/2015 - Referred to Committee House Finance
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-145>
- HB153 PRESIDENTIAL PRIMARY DATE (DOVILLA M)** To change the date on which presidential

primary elections are held.

Current Status: 6/10/2015 - **SIGNED BY GOVERNOR**

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-153>

- HB175** **GLOBAL MARKET PROGRAM** (BARNES, JR. J) To establish the "Access to Global Market Opportunities for Ohio Manufactured Products Program" to be composed of the "Ohio Global Leadership Initiative" and the "Global Initiative on International Relations" to create new, untapped global markets for Ohio businesses and thereby promote job creation.
- Current Status:** 5/27/2015 - House Economic and Workforce Development, (Third Hearing)
- State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-175>
- HB189** **VOTER IDENTIFICATION** (BRENNER A) To revise the law concerning the identification an elector must provide in order to cast absent voter's ballots, to vote in person at a polling place, or to cast a provisional ballot.
- Current Status:** 5/12/2015 - Referred to Committee House Government Accountability and Oversight
- State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-189>
- HB194** **PATENT INFRINGEMENT** (ROEGNER K) To prohibit a person from engaging in the widespread sending of bad faith, objectively baseless communications of patent infringement and to authorize the Attorney General to investigate and institute a civil action if the Attorney General believes a person has made such assertions of patent infringement.
- Current Status:** 5/26/2015 - House Judiciary, (First Hearing)
- State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-194>
- HB233** **REDEVELOPMENT DISTRICTS** (SCHURING K) To authorize municipal corporations to create downtown redevelopment districts and innovation districts for the purposes of promoting the rehabilitation of historic buildings, creating jobs, encouraging economic development in commercial and mixed-use areas, and supporting grants and loans to technology-oriented and other businesses.
- Current Status:** 6/16/2015 - House Government Accountability and Oversight, (Second Hearing)
- State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-233>
- HB263** **JUDICIAL-COUNTY SALARY INCREASES** (ROGERS J, CELEBREZZE N) To increase judicial salaries and the salaries of county elected officials, township trustees, township fiscal officers, and boards of elections members, to reinstate the annual cost of living adjustment to their salaries, and to make appropriations.
- Current Status:** 6/23/2015 - Referred to Committee House Government Accountability and Oversight
- State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-263>
- HB280** **BALANCED BUDGET COMPACT** (KRAUS S, KOEHLER K) To adopt the Compact for a Balanced Budget and to declare an emergency.

Current Status: 6/30/2015 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-280>

HB282 **PREVAILING WAGE LAW** (ROEGNER K, HOOD R) To repeal Section 509.70 of Am. H.B. 497 of the 130th General Assembly to repeal the Prevailing Wage Law.

Current Status: 7/7/2015 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-282>

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

Current Status: 3/3/2015 - Referred to Committee House Government Accountability and Oversight
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HJR-2>

HJR4 **ANTI-MONOPOLY-CONSTITUTIONAL AMENDMENTS** (SMITH R) Proposing to amend sections of Article II of the Constitution of the State of Ohio to prohibit an initiated constitutional amendment that would grant a monopoly or a special economic interest, privilege, benefit, right, or license to any person or entity and to modify the procedure to propose a law or a constitutional amendment by initiative petition.

Current Status: 7/1/2015 - Filed with Secretary of State
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HJR-4>

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

Current Status: 2/25/2015 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HR-25>

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

Current Status: 2/4/2015 - Referred to Committee Senate Finance
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-22>

SB26 **BUSINESS FILING FEES** (OBHOF L) To reduce certain business filing fees charged and collected by the Secretary of State and to specify that Ohio-based companies are to have access to appropriate features of the OhioMeansJobs web site.

Current Status: 4/15/2015 - House Economic and Workforce Development, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-26>

SB38 **STATE-ATTORNEY CONTRACTS** (SEITZ B) To provide transparency in contracts between the state and private attorneys.

Current Status: 5/12/2015 - **SIGNED BY GOVERNOR**; eff. 8/12/2015
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-38>

- SB57** **TOWNSHIP ROAD REGULATION** (EKLUND J) To authorize counties to adopt resolutions regulating motor vehicle traffic on county and township roads.
Current Status: 3/3/2015 - Senate State and Local Government, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-57>
- SB79** **FELONY-JOB APPLICATION** (WILLIAMS S) To prohibit employers from including on an employment application any question concerning whether an applicant has been convicted of or pleaded guilty to a felony.
Current Status: 3/4/2015 - Referred to Committee Senate Transportation, Commerce and Labor
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-79>
- SB87** **MINIMUM WAGE** (TAVARES C) To require that domestic workers be paid the minimum wage, as provided in Section 34a of Article II, Ohio Constitution.
Current Status: 3/4/2015 - Referred to Committee Senate Transportation, Commerce and Labor
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-87>
- SB181** **LIMITED LIABILITY COMPANY LAW** (OBHOF L, SCHIAVONI J) To declare the policy of the Limited Liability Company Law generally to give maximum effect to freedom of contract, and to make other changes regarding corporations and limited liability companies.
Current Status: 6/24/2015 - Senate Civil Justice, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-181>
- SB199** **HANDGUN LICENSE-ACTIVE MILITARY** (UECKER J) To specify that an active duty member of the U.S. Armed Forces: (1) does not need a concealed handgun license to carry a handgun concealed if the member is carrying valid military identification and a certificate indicating successful small arms qualification; and (2) may be sold or furnished a handgun if the member has received military or equivalent small arms training.
Current Status: 7/20/2015 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-199>
- SCR3** **CONGRESSIONAL FAST-TRACK OPPOSITION** (SCHIAVONI J, GENTILE L) To urge the Congress of the United States, and in particular the Ohio Congressional delegation, to vote against Fast Track Legislation.
Current Status: 4/22/2015 - Referred to Committee Senate Transportation, Commerce and Labor
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SCR-3>
- SJR1** **PUBLIC OFFICE COMPENSATION COMMISSION** (FABER K) Proposing to amend Sections 4, 20, and 31 of Article II, Section 19 of Article III, and Section 6 of Article IV and to enact Section 20a of Article II of the Constitution of the State of Ohio to establish the Public Office Compensation Commission.
Current Status: 6/24/2015 - House Government Accountability and Oversight, (Second Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SJR-1>

SJR2

CONGRESSIONAL REDISTRICTING (LAROSE F, SAWYER T) Proposing to enact Sections 1, 2, 3, 4, 5, 6, 7, and 8 of Article XIX of the Constitution of the State of Ohio to revise the redistricting process for congressional districts.

Current Status: 7/22/2015 - Introduced

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



Ohio Legislative Service Commission

Bill Analysis

Aida S. Montano

H.B. 194

131st General Assembly
(As Introduced)

Reps. Roegner, Brown, Becker, Vitale, Terhar, Hood, Kraus, Romanchuk, Blessing

BILL SUMMARY

- Prohibits any person, in connection with the assertion of a United States patent, from engaging in the widespread sending of bad faith, objectively baseless communications stating that the recipients or persons affiliated with them are infringing the patent and bear liability or owe compensation.
- Specifies that a written communication is objectively baseless if the assertions contained in the communication lack a reasonable basis in fact or law due to any of specified circumstances.
- Provides examples of communications made in bad faith.
- Specifies the types of communications that would not constitute an unlawful practice for a person who owns or has the right to license or enforce a patent.
- Prescribes the factors that a court may consider as evidence that a person has not made a bad faith assertion of a patent infringement.
- Permits the Attorney General to investigate whether a person has engaged in sending bad faith, objectively baseless assertions of patent infringement.
- Authorizes the Attorney General to bring a civil action seeking an injunction to restrain or prevent a person from taking actions and making allegations constituting bad faith, objectively baseless assertions of patent infringement.

CONTENT AND OPERATION

Prohibition against bad faith patent infringement claims

The bill prohibits any person, in connection with the assertion of a United States patent, from engaging in the widespread sending of bad faith, objectively baseless written or electronic communications to intended recipients stating that those recipients or persons affiliated with them are infringing or have infringed the patent and bear liability or owe compensation for that infringement.¹ An "**intended recipient**" is a person who purchases, rents, leases, or otherwise obtains a product, service, or technology in the commercial market and that is, or later becomes, the subject of a patent infringement allegation.²

Objectively baseless communication

Under the bill, a written communication is objectively baseless if the assertions contained in the communication lack a reasonable basis in fact or law due to any of the following:³

- The person asserting the patent is not a person, or does not represent a person, with the current right to license the patent to, or to enforce the patent against, the intended recipients or persons affiliated with them.
- The communication seeks compensation for a patent that has been held to be invalid or unenforceable in a final, unappealable or unappealed, judicial or administrative decision.
- The communication seeks compensation on account of activities undertaken after the patent has expired.

Bad faith communications

The bill lists the following examples of communications made in bad faith:⁴

- A communication with content likely to materially mislead a reasonable recipient because the content fails to include facts reasonably necessary to inform the intended recipient of all of the following: (1) the identity of the

¹ R.C. 2307.66(A).

² R.C. 2307.66(F)(1).

³ R.C. 2307.66(B).

⁴ R.C. 2307.66(C).

person asserting a right to license the patent to, or enforce the patent against, the recipient or affiliated persons, (2) the patent or patents issued by the United States Patent and Trademark Office alleged to have been infringed, and (3) an identification of at least one product, service, or technology of the intended recipient that is alleged to infringe the identified patent or patents.

- A communication that falsely states that litigation has been filed against the intended recipient or falsely threatens that administrative or judicial relief will be sought if compensation is not paid or the infringement issue is not otherwise resolved.

Exceptions

Nothing in the bill is to be construed to deem it an unlawful practice for any person who owns or has the right to license or enforce a patent to do any of the following:⁵

- Advise another person of that ownership or right of license enforcement;
- Communicate to another person that the patent is available for license or sale;
- Notify another person of the infringement of the patent;
- Seek compensation on account of a past or present infringement or for a license to the patent.

Evidence that there is no bad faith assertion of patent infringement

The bill permits a court to consider the following factors as evidence that a person has not made a bad faith assertion of patent infringement:⁶

(1) The person's written communication contains the required information.

(2) The person makes or has made a substantial investment in the use of patents in the production or sale of a product, service, or technology covered by the patent.

(3) The person is the inventor or joint inventor of the patent or, in the case of a patent filed by and awarded to an assignee of the original inventor or joint inventor, is

⁵ R.C. 2307.66(D).

⁶ R.C. 2307.66(E).

the original assignee; an institution of higher education; or a technology transfer organization owned or affiliated with an institution of higher education.⁷

(4) The person has either demonstrated good faith business practices in previous efforts to enforce the patent or a substantially similar patent or successfully enforced the patent or a substantially similar patent through a patent infringement action.

(5) Any other factor that the court finds relevant.

Attorney General's investigation and civil action

The Attorney General (AG) may investigate allegations that a person has engaged in the sending of bad faith, objectively baseless written or electronic assertions of patent infringement. The AG may investigate based on the AG's own inquiries or as a result of complaints. For this purpose, the AG may administer oaths, subpoena witnesses, adduce evidence, and require the production of relevant matter. If the relevant matter is located outside of Ohio, the AG may designate representatives, including officials of the state in which the matter is located, to inspect the matter on the AG's behalf.⁸

The AG may institute a civil action seeking a preliminary or permanent injunction to restrain or prevent a person from taking actions and making bad faith assertions of patent infringement if the AG believes that the action would be in the public interest. The court may issue an order granting the injunction, whether individually or in concert with another corporation, association, partnership, or other person or legal entity. The injunction order must be binding on the person against whom it is directed and all officers, agents, servants, employees, attorneys, and those persons in active concert or participation with the person against whom it is directed who receive actual notice of the order whether by personal service or otherwise.⁹

The bill provides that the above provisions do not limit or affect other rights, duties, privileges, and powers conferred by law upon the courts and the Attorney General.¹⁰

⁷ As used in this provision, "institution of higher education" has the same meaning as in the law governing the right of publicity in an individual's persona. R.C. 2741.01, which is not in the bill.

⁸ R.C. 2307.67(A).

⁹ R.C. 2307.67(B).

¹⁰ R.C. 2307.67(C).



HISTORY

ACTION

DATE

Introduced

05-11-15

H0194-I-131.docx/emr





Manufacturing Advocacy Center

The power of collective action



- [Advocate](#)
- [Find Elected Officials](#)
- [Register to Vote](#)
- [Find Legislation](#)
- [Become a Key Contact](#)

ACTIVE ISSUES

Federal Issues

[Ozone Air Quality Standards - Most Expensive Reg. Ever](#)

U.S. EPA intends to tighten the ozone air quality standards from the current 75 ppb (parts per billion) to within a range of 65 to 70 ppb (see press release). The Clean Air Act requires EPA to review the standards every five years. EPA last updated... [+] more

[Support Federal Truck Weight Reform](#)

The U.S. House of Representatives is preparing to act on the federal highway bill, and thus the stage is set for consideration of truck weight reform. Manufacturers who support more efficient trucking options have an opportunity to convince key lawmakers to... [+] more

[Urge U.S. Senate to Pass Sensible GMO Food Labeling Bill](#)

The OMA agrees with the Coalition for Safe & Affordable Food that the Safe and Accurate Food Labeling Act is the right answer for consumers, businesses and farmers because it prevents a costly and confusing patchwork of state labeling mandates, provides consumers with a... [+] more

State Issues

[Oppose this Risky & Costly Workers' Comp Bill](#)

The Ohio Senate is considering Senate Bill 5 (SB 5), which would allow workers' compensation claims for posttraumatic stress disorder (PTSD) for first responders where there are no physical injuries. Ohio Bureau of Workers' Compensation (BWC) Administrator Steve Buehrer... [+] more

Other Issues

[Manufacturers Oppose Marijuana Legalization Amendment](#)

The OMA board of directors took action in response to two proposed statewide ballot initiatives that would change the Ohio Constitution. Subsequently, OMA president Eric Burkland released this statement: "The OMA's board of directors formally opposes the... [+] more

[U.S. EPA Clean Power Plan: Unworkable](#)

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



Who do **YOU** know?

OMA Key Contacts use their relationships with elected officials to explain and support manufacturers' policy positions.

Become an OMA Key Contact!

[Become an OMA Key Contact](#)

Who do YOU know? Key Contacts are OMA members who have a relationship - personal or professional or civic - with members of the Ohio General Assembly, U.S. Congress, or other elected officials. As a Key Contact you might be called on to contact your elected... [+][more](#)

Powered by [voterVOICE](#) 



RYAN AUGSBURGER

VICE PRESIDENT AND MANAGING DIRECTOR OF PUBLIC POLICY SERVICES

August 17, 2015

GMO Labeling Bill Voted out of House 275-150

The U.S. House approved [H.R. 1599](#), the Safe and Accurate Food Labeling Act of 2015, which would overturn state laws for labeling foods made with genetically-modified organisms (GMOs).

Next, the measure will be taken up this fall by the Senate.

The OMA agrees with the Coalition for Safe & Affordable Food that the Safe and Accurate Food Labeling Act prevents a costly and confusing patchwork of state labeling mandates, provides consumers with a way to identify GMO-free foods, and has the federal government set uniform national standards on labeling.

Be sure to urge your U.S. Senators to vote for this common sense bill. You are encouraged to use the advocacy tools available at the [Coalition for Safe & Affordable Food](#) or at the OMA's [Manufacturing Advocacy Center](#).

More Resources

Safe & Accurate Food Labeling Act [talking points](#) and [FAQ](#) from the Coalition for Safe & Affordable Food

Please contact me with any questions you might have.

Kind regards,

[Ryan Augsburger](#)

The Ohio Manufacturers' Association | 33 North High Street | Columbus, OH 43215

If you have consented to receive OMA emails, you may withdraw it. Please [click here](#) to unsubscribe from all OMA emails, or write us at the above address.

To update your OMA profile and email preferences, please [click here](#).



RYAN AUGSBURGER

VICE PRESIDENT AND MANAGING DIRECTOR OF PUBLIC POLICY SERVICES

July 17, 2015

Dear Ryan,

GMO Labeling Bill Clears Committee

The U.S. House Committee on Agriculture on July 14 approved [H.R. 1599](#), the Safe and Accurate Food Labeling Act of 2015, which would overturn state laws for labeling foods made with genetically-modified organisms (GMOs).

The OMA and other organizations that support the bill, including the Grocery Manufacturers Association and the America Soybean Association, say the proposal will provide a uniform national policy for biotechnology labeling that will allow consumers access to information they seek while providing state to state predictability for producers and processors.

The issue may get a House vote as soon as next week; please contact your U.S. representatives and senators to encourage full passage. You are encouraged to use the advocacy tools available at the [Coalition for Safe & Affordable Food](#).

Ohio Ag Department Files New Food Producer Rules

The Ohio Department of Agriculture recently "final filed" some rules that impact food manufacturers and producers. Most of the changes were perfunctory, but we did want to raise a few issues to your attention. The two additions, found at OAC 901:3-3-17(E)-(F), are:

1) Manufacturers are now required to notify the Ohio Department of Agriculture when there is an instance of spoilage, process deviation, or contamination with microorganisms during the production of low acid foods if:

- There is a potential health endangering significance; and
- Where the food, in whole or in part, has entered distribution.

2) Manufacturers of low acid foods must prepare and maintain files on procedures for recalling products, including processes to:

- Identify, collect, warehouse and control any recalled products;
- Determine the effectiveness of a recall;
- Notify the Ohio Department of Agriculture of any recall;
- Implement recall programs.

All other amendments were for clarity and stylistic purposes. The proposed rules are [linked here](#).

Please contact me with any questions you might have.

Issue 1

TITLE

Proposed Constitutional Amendment

Proposed by Joint Resolution of the General Assembly

To enact new Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10 of Article XI and to repeal Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15 of Article XI of the Constitution of the State of Ohio.

A majority yes vote is necessary for the amendment to pass.

The proposed amendment would:

- End the partisan process for drawing Ohio House and Senate districts, and replace it with a bipartisan process with the goal of having district boundaries that are more compact and politically competitive.
- Ensure a transparent process by requiring public meetings, public display of maps, and a public letter explaining any plan the Commission adopts by a simple majority vote.
- Establish the bipartisan Ohio Redistricting Commission, composed of 7 members including the Governor, the Auditor of State, the Secretary of State, and 4 members appointed by the majority and minority leaders of the General Assembly.
- Require a bipartisan majority vote of 4 members in order to adopt any final district plan, and prevent deadlock by limiting the length of time any plan adopted without bipartisan support is effective.

If passed, the amendment will become effective immediately.

	YES	SHALL THE AMENDMENT BE APPROVED?
	NO	



Who We Are

Fair Districts for Ohio is a bipartisan coalition seeking to improve the process of drawing state legislative districts in Ohio. Co-Chairmen Matt Huffman and Vernon Sykes began building the coalition after a near unanimous vote by state lawmakers from both parties to place a constitutional amendment before the voters of Ohio to reform the process of drawing districts. With overwhelming support from both Republican and Democratic lawmakers, the issue will appear on the ballot this November giving Ohioans the opportunity to ensure state legislative districts are fair for everyone.

About The Issue

The first major overhaul to Ohio's process of drawing state legislative districts in over 40 years, this measure brings reforms to several key areas:

Bipartisan

- ✓ Creates a new seven-member bipartisan panel called the "Ohio Redistricting Commission."
- ✓ The commission must have at least two members from the minority party.
- ✓ Requires the commission to be co-chaired by two members, one chosen by each party.
- ✓ Requires at least two votes from each party in order to approve a district plan, otherwise a temporary plan is put in place and the commission must reconvene to redraw it.

Transparent

- ✓ Requires all commission meetings be open to the public and broadcast by electronic means of transmission using a medium readily accessible by the general public.
- ✓ The commission must hold a minimum of three public hearings.
- ✓ Before voting on a district plan, the commission is required to present the proposal to the public and to seek public input.
- ✓ Requires the commission to submit a statement to the public explaining their process.

Fairness

- ✓ Protects against gerrymandering by prohibiting any district from primarily favoring one political party.
- ✓ Requires districts to closely follow the statewide preferences of the voters.

Accountable

- ✓ Creates a process for the Ohio Supreme court to order the commission to redraw the map if the plan favors one political party.

Protects Communities

- ✓ Keeps our communities together by requiring a district plan to split as few counties, municipal corporations, and townships as possible.

Issue 2

TITLE

Proposed Constitutional Amendment

Proposed by Joint Resolution of the General Assembly

Proposing to amend Section 1e of Article II of the Constitution of the State of Ohio.

A majority yes vote is necessary for the amendment to pass.

The proposed amendment would:

- Prohibit any petitioner from using the Ohio Constitution to grant a monopoly, oligopoly, or cartel for their exclusive financial benefit or to establish a preferential tax status.
- Prohibit any petitioner from using the Ohio Constitution to grant a commercial interest, right, or license that is not available to similarly situated persons or nonpublic entities.
- Require the bipartisan Ohio Ballot Board to determine if a proposed constitutional amendment violates the prohibitions above, and if it does, present two separate ballot questions to voters. Both ballot questions must receive a majority yes vote before the proposed amendment could take effect.
- Prohibit from taking effect any proposed constitutional amendment appearing on the November 3, 2015 General Election ballot that creates a monopoly, oligopoly, or cartel for the sale, distribution, or other use of any federal Schedule I controlled substance.
- The Ohio Supreme Court has original, exclusive jurisdiction in any action related to the proposal.

If passed, the amendment will become effective immediately.

	YES	SHALL THE AMENDMENT BE APPROVED?
	NO	

Vote **YES** on Issue 2

Protect Our Constitution from Monopoly Interests

Your Yes Vote on Issue 2 Will:

- Ensure that Ohio's Constitution is not for sale and **prohibit special interests** from amending the Constitution to create **monopolies, oligopolies or cartels**.
- **Prohibit special interests** from buying an amendment to our Constitution that creates **permanent preferential tax rates or commercial rights** for themselves or for any business.
- Prohibit special interests from amending our Constitution to guarantee financial profits for themselves or get special economic privileges that are not available to other similarly situated persons or entities.
- Ensure that our Constitution is used as intended by its framers – for matters that benefit the broad public interest.
- Ensure that our Constitution cannot be abused and corrupted by those interested in obtaining exclusive deals and special commercial benefits.
- Uphold our state's traditional spirit and traditional meaning of free commerce, fair trade and fair dealing.

Why Ohio Needs Issue 2:

- The Constitution should be used to protect fundamental rights of all individuals, not to guarantee financial profits for a select few.
- Special interests are using our state's initiative process to create exclusive financial benefits for themselves in our Constitution. They are writing themselves exclusive constitutionally protected monopolies in our most important document.
- These special interests hire political operatives to push proposed amendments that would give investors monopoly control over certain commercial activities.
- Ohio's citizens' initiative process has existed since 1912 and was intended to be used only in the broad public interest, never for maximizing private return on investment for self-interested investors or any corporations they form.
- Nineteen states have constitutional provisions banning monopolies. It is time for Ohio to become the twentieth state.

End the special deals for special interests, **vote YES for Issue 2**

*Prepared by Senator Keith Faber and
Representatives Ryan Smith, Mike Curtin, and David Leland*

Issue 3

TITLE

Proposed Constitutional Amendment

Proposed by Initiative Petition

To add Section 12 of Article XV of the Constitution of the State of Ohio.

A majority yes vote is necessary for the amendment to pass.

The proposed amendment would:

- Endow exclusive rights for commercial marijuana growth, cultivation, and extraction to self-designated landowners who own ten predetermined parcels of land in Butler, Clermont, Franklin, Hamilton, Licking, Lorain, Lucas, Delaware, Stark, and Summit Counties. One additional location may be allowed for in four years.
- Permit retail sale of recreational marijuana at approximately 1,100 locations statewide.
- Legalize the production of marijuana-infused products, including edible products, concentrates, sprays, ointments and tinctures by marijuana product manufacturing facilities.
- Allow each person, 21 years of age or older, to purchase, grow, possess, use, transport and share over one-half pound of marijuana or its equivalent in marijuana-infused products at a time (a total of 8 ounces of usable, homegrown marijuana for recreational use, plus 1 ounce of purchased marijuana for recreational use), plus 4 homegrown, flowering marijuana plants. Authorize the use of medical marijuana by any person, regardless of age, who has a certification for a debilitating medical condition.
- Permits marijuana growing, cultivation and extraction facilities, product manufacturing facilities, retail marijuana stores and not-for-profit medical marijuana dispensaries to be within 1,000 feet of a house of worship; a publicly owned library; a public or chartered non-public elementary or secondary school; or a child day-care center, or playground that is built after January 1, 2015 or after the date the marijuana operation applies for a license to operate.
- Prohibit any local or state law, including zoning laws, from being applied to prohibit the development or operation of marijuana growth, cultivation, and extraction facilities, retail marijuana stores, and medical marijuana dispensaries unless the area is zoned exclusively residential as of January 1, 2015 or as of the date that an application for a license is first filed for a marijuana establishment.

- Create a special tax rate limited to 15% on gross revenue of each marijuana growth, cultivation, and extraction facility and marijuana product manufacturing facility and a special tax rate limited to 5% on gross revenue of each retail marijuana store. Revenues from the tax go to a municipal and township government fund, a strong county fund, and the marijuana control commission fund.
- Create a marijuana incubator in Cuyahoga County to promote growth and development of the marijuana industry and locate marijuana testing facilities near colleges and universities in Athens, Cuyahoga, Lorain, Mahoning, Scioto and Wood Counties, at a minimum.
- Limits the ability of the legislature and local governments from regulating the manufacture, sales, distribution and use of marijuana and marijuana products. Create a new state government agency called the marijuana control commission (with limited authority) to regulate the industry, comprised of seven Ohio residents appointed by the Governor, including a physician, a law enforcement officer, an administrative law attorney, a patient advocate, a resident experienced in owning, developing, managing and operating businesses, a resident with experience in the legal marijuana industry, and a member of the public.

	YES	SHALL THE AMENDMENT BE APPROVED?
	NO	



FOR IMMEDIATE RELEASE

August 13, 2015

CONTACT

Eric Burkland (614) 224-5111

**OMA Opposes Proposed “Marijuana Legalization Amendment,”
Endorses “Anti-Monopoly Amendment” on November Ballot**

Board cites concern about monopolies undermining free-market competition, potential threats to workplace safety, and belief that medical professionals are best suited to determine state policy for medical marijuana

(Columbus, OH) – The Ohio Manufacturers’ Association (OMA) issued the following statement from OMA President Eric Burkland today regarding the OMA Board of Directors’ action in response to two proposed statewide ballot initiatives that would change the Ohio Constitution:

“The OMA’s Board of Directors formally opposes the proposed statewide ballot initiative that would legalize medical and recreational marijuana and grant 10 monopolistic growing licenses to those financing the campaign. The Board opposes this ballot issue on the grounds that granting what in effect are business monopolies would undermine free-market competition and potentially also compromise workplace safety.

The Board concurrently endorses the Constitutional amendment placed on the November 2015 statewide ballot by the Ohio General Assembly that would prohibit citizen petition-initiated Constitutional amendments that grant business monopolies for the economic benefit of certain individuals or entities.

Board members believe medical professionals are best suited for determining appropriate state policy for medical marijuana. The Board therefore urges the Ohio General Assembly to undertake a study of the effects of medical marijuana and to recommend a process for considering appropriate medical protocols, established by certified medical professionals, as part of any future marijuana legalization effort – including specific recommendations on workplace safety considerations and guidelines.”

Full text of the OMA Board’s Resolution can be found [here](#).

The mission of The Ohio Manufacturers’ Association is to protect and grow Ohio manufacturing.

#

A Resolution to support the proposed 2015 Ohio General Election ballot issue that would prohibit constitutional amendments that grant business monopolies, and to oppose the proposed constitutional amendment that would create a monopoly for marijuana growing.

WHEREAS, efforts to legalize marijuana have grown around the United States, with 23 states now having adopted some form of legislation regulating the use of medical marijuana, four states having adopted recreational marijuana use, and several states having decriminalized in some manner marijuana-related offenses; and

WHEREAS, a proposed constitutional amendment that has qualified for the 2015 Ohio General Election ballot would legalize medical and recreational marijuana and grant 10 monopolistic growing licenses to those financing its campaign; and

WHEREAS, the Ohio General Assembly, by passage of House Joint Resolution 4, has placed a constitutional amendment on the 2015 Ohio General Election ballot that would “prohibit an initiated constitutional amendment that would grant a monopoly, oligopoly, or cartel, specify or determine a tax rate, or confer a commercial interest, right, or license to any person or nonpublic entity”; and

WHEREAS, The Ohio Manufacturers’ Association takes an interest on such matters of statewide importance, in that they impact free-market competition and affect the business climate, and further, that measures promoting recreational marijuana compromise workplace safety.

NOW, THEREFORE, be it resolved by the Board of Directors of The Ohio Manufacturers’ Association, that:

SECTION 1: The Board opposes the ballot initiative which would constitutionalize a monopolistic enterprise for marijuana growing.

SECTION 2: The Board supports the proposed constitutional amendment that would bar the constitutional creation of business monopolies for the benefit of individuals.

SECTION 3: The Board urges the Ohio General Assembly to study the effects of medical marijuana and to recommend a process for the consideration of appropriate medical protocols established by certified medical professionals as a part of any potential legalization including specific recommendations on workplace safety considerations and guidelines.

William E. Sopko, Chairman
The Ohio Manufacturers’ Association Board of Directors

Attest:

Lisa B Schaaf, Board Secretary
August 13, 2015

LEGAL MARIJUANA

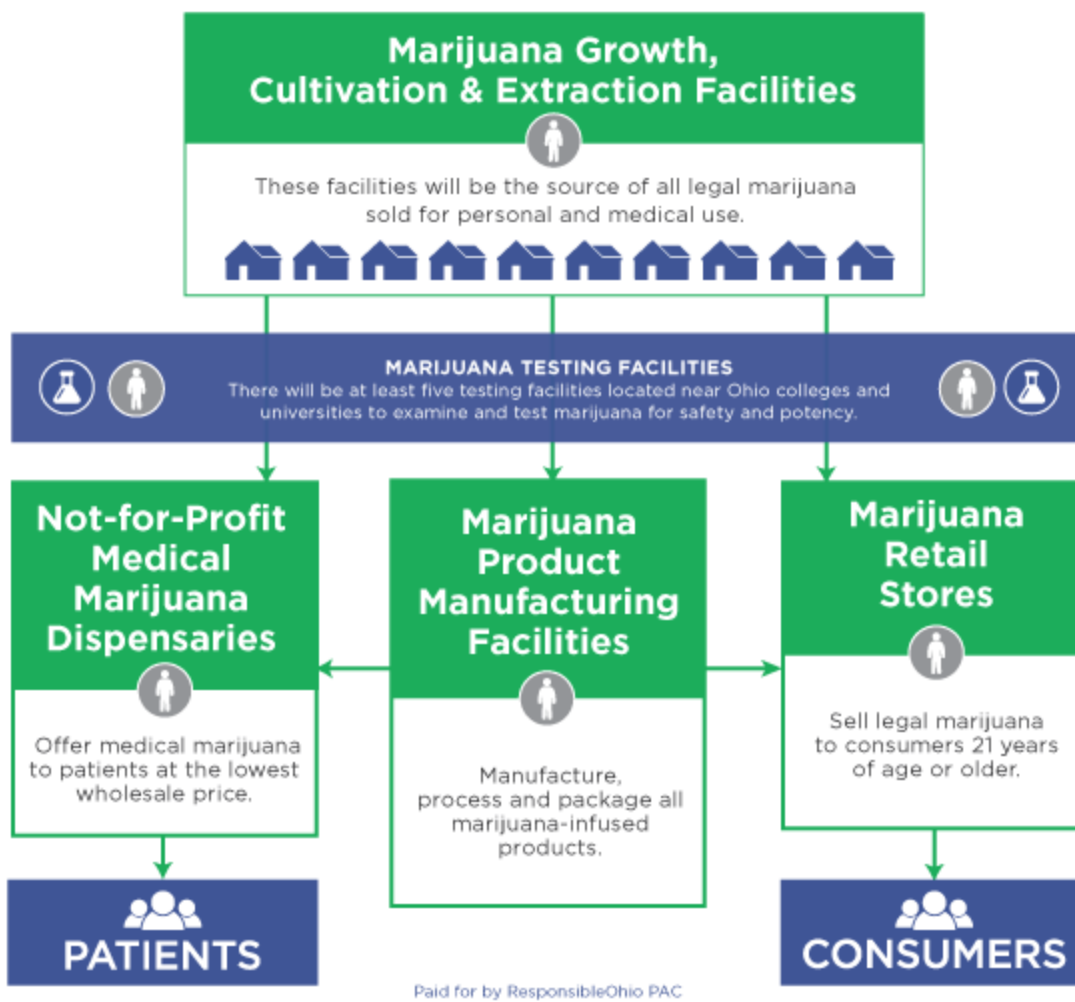
OPPORTUNITIES FOR OHIOANS



Ohioans will have many opportunities to take part in this new industry. For example, they can own and operate retail stores; make marijuana-infused products like sprays, drinks and baked goods; design product packaging; and transport products between facilities. This open market will **create new businesses and thousands of new jobs**. The possibilities will be limited only by Ohioans' creativity.



Indicates new jobs and opportunities for entrepreneurs.





Coalition for Transportation Productivity
Making Roads Safer | Protecting the Environment | Strengthening the Economy
www.transportationproductivity.org

Important CTP Legislative Alert

Congress will Debate Truck Weight Reform in September; Help us Generate Support to Congress Today

After months of uncertainty over timing and funding for the highway bill, the stage is now set for consideration of truck weight reform as part of a highway reauthorization bill which will be taken up by the House Transportation Committee this September. Chairman Shuster announced the decision this week to move forward on a reauthorization bill after the House and Senate negotiated a three-month extension of current law that will extend current highway funding until October 29.

This gives CTP approximately six more weeks to make a final push to convince key lawmakers to support our truck weight reform effort. Based on the extensive work of CTP's Lobbying Committee, we are very close to securing majority support for a modified version of the Safe and Efficient Transportation Act when the Transportation Committee marks up the measure in September. Our goal is to include truck weight reform language in the House version of the highway bill and then retain it during the House-Senate conference on the measure.

It is critical that every CTP member join now in reaching out to members of Congress. Here's what we need from every member as quickly as possible:

Send a letter on your letterhead to your member of Congress urging them to support the truck weight reform amendment that Rep. Reid Ribble plans to offer to the highway reauthorization bill this fall. Click [here](#) to access a sample letter that you can send.

Help us generate similar letters from your network. This includes employees, member companies, allies, suppliers and/or other local business contacts. The more local support we can generate from the district of key members of Congress, the better.

Consider submitting a local newspaper editorial or letter to the editor in support of truck weight reform. We can assist you in developing copy and helping you submit. This can make a real difference in how members of Congress view this issue.

Organize a plant tour for your member of Congress over the month of August to show your member of Congress exactly how truck weight reform would help your company. These visits are very powerful tools to help us sell the need for reform, and members of Congress will be in their districts during the month of August.

We are six weeks away from possible action on one of the most significant improvements in transportation productivity in a generation. Don't let these next few weeks go by without doing your part to help us advance this issue. Weigh-in for truck weight reform!

The Safe Trucking Act:

Flexible Truck Weight Reform for Safe, Greener, More Efficient Transportation

The U.S. needs responsible truck weight reform. For more than 30 years, the federal vehicle weight limit has been set at 80,000 pounds—a restriction that now challenges our economy, environment and infrastructure. About a quarter of U.S. truck shipments meet this limit with significant space in their trailers, meaning that shippers use more truckloads, miles and fuel than necessary.

With nearly 70 percent of all U.S. freight tonnage moved by trucks and overall freight tonnage expected to grow nearly 25 percent over the next decade¹, we need solutions now to make trucking more productive. Without responsible truck weight reform, the U.S. will sink deeper into a capacity crisis that is already threatening economic productivity and environmental sustainability.

Congress should enact the Safe, Flexible and Efficient Trucking Act (Safe Trucking Act) to safely make truck transportation more sustainable.

Responsible, Flexible, State-Based Reform: Each state would have the option to set Interstate System weight limits of up to 91,000 pounds, but only for vehicles equipped with six axles rather than the typical five. These vehicles are no bigger or longer than standard 80,000-pound five-axle trucks. The legislation does not reduce any state and local authority over non-Interstate System roads.

Comparable Safety & Handling: The U.S. DOT found that the Safe Trucking Act configuration features comparable handling characteristics and improved braking ability, stopping one foot faster than the 80,000-pound five-axle truck currently used throughout the nation.² The Safe Trucking Act also enables the U.S. DOT to require additional safety equipment for these vehicles, creating a world-class standard vehicle for the movement of heavy goods.

Bridge Formula Compliant: The Safe Trucking Act configuration is “federal bridge formula compliant”—meaning that it meets weight distribution requirements for vehicles traveling on bridges on the Interstate Highway System.³ The U.S. DOT also found that wide use of the Safe Trucking Act configuration would not cause any increase in one-time rehabilitation costs for Interstate bridges.⁴

Significant Pavement Cost Savings: By decreasing the weight per-axle and per-tire, the Safe Trucking Act configuration would yield significant pavement wear savings—as much as 4.2 percent of total pavement restoration budgets.⁵

Minimal Rail Diversion: The U.S. DOT found, assuming wide use of the configuration, that the Safe Trucking Act configuration would shift cargo from less productive trucks to the more productive trucks allowed by this legislation. Impact on rail was found to be minimal, estimated as diverting less than one-third of 1 percent of rail revenues (less than \$200 million in rail freight each year)—an amount that is easily offset by the projected annual growth rate of freight rail.⁶ Under the state option approach, diversion likely would be even less.

The Safe Trucking Act is supported by a growing body of research and empirical data.

Safe Roads: The Safe Trucking Act configuration not only features handling that is comparable to the typical truck configuration; by improving overall trucking efficiency, it will help make roads safer.

- A significant factor in the number of vehicle/tractor-trailer accidents is vehicle miles traveled. Reducing the number of trucks needed to deliver a specific amount of freight would help reduce vehicle miles traveled and therefore help make roads safer.⁷
- Since the United Kingdom similarly raised its gross vehicle weight limit for six-axle vehicles in 2001, fatal truck-related accident rates had declined by 35 percent by 2006. More freight had been shipped, but the vehicle miles traveled to deliver a ton of freight had declined.⁸



- A 2009 Wisconsin DOT study found that if a law like the Safe Trucking Act had been in place in 2006, it would have reduced truck-related accidents in the state.⁹ Analysis of the study by the American Trucking Associations projects that the Safe Trucking Act configuration would have prevented a total of 90 accidents in Wisconsin in 2006.

Safe Roads: The Safe Trucking Act will allow heavier trucks onto Interstate highways—the safest place for heavier traffic.

- Within the U.S., more than 90 percent of states allow heavier trucks to access some or all secondary roads, but federal regulations keep them off the Interstate—the safest place for truck shipments. In addition, many of the heavier trucks that are already permitted on state roads operate on five axles—instead of the safer six axles required by the Safe Trucking Act.
- In 2011, Congress allowed Maine to grant Interstate access to heavier, six-axle trucks. Since then, Maine highway fatalities have reached a 70-year low and fatalities involving commercial trucks have been reduced from 23 in 2009 to 10 in 2014.¹⁰

Cleaner Environment: The Safe Trucking Act will save fuel and reduce greenhouse emissions.

- Six-axle trucks loaded to 91,000 pounds allow shippers to move a given amount of product with a median reduction in fuel consumption of 13 percent, relative to five-axle trucks carrying 80,000 pounds.¹¹
- The U.S. DOT estimates implementation of the 91,000-pound six-axle configuration would "result in a decline in fuel costs, carbon dioxide emissions...and emissions of nitrogen oxide."¹²

Stronger Economy: The Safe Trucking Act will help U.S. manufacturers confront the capacity crunch while stimulating investment and economic growth.

- Demand for both truck and rail shipment is growing, and capacity constraints are extraordinarily tight, with demand for truck shipment far outpacing truck availability. Truck weight reform would help address this capacity crisis.
- By allowing companies to consolidate goods and reduce the number of weekly shipments, the U.S. DOT estimates the impact of implementing the Safe Trucking Act configuration would reduce logistics costs by 1.4 percent annually, yielding "significant logistics savings" of approximately \$5.6 billion.¹³
- U.S. gross vehicle weight limits are among the lowest of all industrialized nations. Canada, Mexico and most European nations already employ higher vehicle weight limits—putting U.S. shippers at a competitive disadvantage.¹⁴

Infrastructure Friendly: The Safe Trucking Act configuration would reduce road wear and minimize bridge impact.

- By lowering axle weight limits, the Safe Trucking Act configuration reduces pavement costs by as much as 4.2 percent.¹⁵
- In addition to stating that the Safe Trucking Act configuration is bridge formula compliant, the U.S. DOT found that one-time bridge rehabilitation costs for Interstate System bridges are the same with wider use of the Safe Trucking Act vehicle as with today's five-axle 80,000-pound configuration.¹⁶

¹ ATA U.S. Freight Transportation Forecast to 2025, American Trucking Associations, 2014.

² U.S. DOT Comprehensive Truck Size & Weight Limits Study Technical Reports, Vol. II, "Highway Safety and Truck Crash Comparative Analysis," June 2015, pp. 60-65.

³ U.S. DOT Comprehensive Truck Size & Weight Limits Study Technical Reports, Vol. I, "Technical Summary Report," June 2015, p. 20; and U.S. DOT Deputy Administrator Gregory G. Nadeau Letter to Congressman Reid J. Ribble, April 24, 2015

⁴ U.S. DOT Comprehensive Truck Size & Weight Limits Study Technical Reports, Vol. II, "Bridge Structure," June 2015, pp 62-63.

⁵ U.S. DOT Comprehensive Truck Size & Weight Limits Study Technical Reports, Vol. I, "Technical Summary Report," June 2015, pp. ES-8, ES-11.

⁶ U.S. DOT Comprehensive Truck Size & Weight Limits Study Technical Reports, Vol. I, "Technical Summary Report," June 2015, p. 39.

⁷ Carson, Directory of Significant Truck Size and Weight Research, NCHRP 20-07 Task 303, 2011, p. 49; Wisconsin Truck Size and Weight Study, Wisconsin Department of Transportation, 2009, p. ES-13.

⁸ Transportation Statistics Bulletin: Road and Freight Statistics 2007, UK Department for Transport, 2008.

⁹ Wisconsin Truck Size and Weight Study, Wisconsin Department of Transportation, 2009, p. 8-3.

¹⁰ "Road Deaths at 70-Year Low in Maine," Bangor Daily News, Jan. 12, 2015.

¹¹ Analysis of the Potential Benefits of Larger Trucks for U.S. Businesses Operating Private Fleets; University of Michigan Transportation Research Institute; 2009, p. 13.

¹² U.S. DOT Comprehensive Truck Size & Weight Limits Study Technical Reports, Vol. I, "Technical Summary Report," p. ES-6.

¹³ U.S. DOT Comprehensive Truck Size & Weight Limits Study Technical Reports, Vol. I, "Technical Summary Report," June 2015, pp. ES-11, 39.

¹⁴ International Vehicle Performance Benchmarking Study, Organisation for Economic Co-operation & Development (OECD), 2008.

¹⁵ U.S. DOT Comprehensive Truck Size & Weight Limits Study Technical Reports, Vol. I, "Technical Summary Report," June 2015, p. ES-11.

¹⁶ U.S. DOT Comprehensive Truck Size & Weight Limits Study Technical Reports, Vol. II, "Bridge Structure Comparative Analysis," June 2015, pp. 62-63.



DATE

Representative [REDACTED]
US House of Representatives
Washington, DC 20515

Dear Rep. [REDACTED]:

I am writing to urge your support for a truck weight reform proposal that is likely to be included in the surface transportation reauthorization legislation when it goes before the House this fall. Rep. Reid Ribble is working on legislation that would give states the authority to allow heavier trucks equipped with six axles rather than five to access appropriate Interstate Highways. Given the highway capacity issues, driver shortages and freight growth gripping our industry, this targeted, safe proposal is certain to pave the way for a more modern, efficient, and safer transportation network.

This year the U.S. Department of Transportation (DOT) Truck Size and Weight Study confirmed the safety and efficiency of these heavier six-axle trucks. The DOT reviewed two configurations of six-axle trucks – those weighing 91,000 and 97,000 pounds – and found significant benefits to both. Most notably, turning and braking characteristics of both configurations were shown to be comparable to a five-axle truck weighing 80,000 pounds, and the bridge impacts of both configurations were classified as “small” relative to bridge program costs. In fact, the truck weighing 91,000 pounds demonstrated no increase in Interstate bridge costs relative to the 80,000-pound control vehicle. Further, both heavier six-axle truck configurations were shown to generate significant pavement restoration savings, as well as shown to help companies reduce overall logistics costs and vehicle miles traveled by their fleets. Importantly, the DOT study also found that any amount of freight diversion from rail to truck that might arise from such heavier truck configurations would be more than offset by the overall freight growth expected for both the rail and trucking industries in the years ahead.

Armed with this evidence, we hope you will join in supporting the inclusion of truck weight reform language in the highway bill. This reform represents perhaps the greatest opportunity to improve the productivity of our nation’s transportation system in more than a generation.

Sincerely,

NAME
TITLE
LOCATION

Session Schedule

September 2015			
Date		Senate	House
Tuesday, September 15		Session at 1:30 p.m.	
Wednesday, September 16		Session at 1:30 p.m.	
Tuesday, September 22		Session at 1:30 p.m.	
Wednesday, September 23		Session at 1:30 p.m.	
Tuesday, September 29		Session at 1:30 p.m.	
Wednesday, September 30		Session at 1:30 p.m.	Session at 1:30 p.m.

October 2015			
Date		Senate	House
Wednesday, October 7		Session at 1:30 p.m.	Session at 1:30 p.m.
Wednesday, October 14		Session at 1:30 p.m.	Session at 1:30 p.m. (If Needed)
Tuesday, October 20		Session at 1:30 p.m.	
Wednesday, October 21		Session at 1:30 p.m.	

November 2015			
Date		Senate	House
Tuesday, November 10		Session at 1:30 p.m.	Session at 11:00 a.m. (If Needed)
Tuesday, November 17		Session at 1:30 p.m.	Session at 11:00 a.m.

Wednesday, November 18		Session at 1:30 p.m.	Session at 1:30 p.m.
------------------------	--	----------------------	----------------------

December 2015			
---------------	--	--	--

Date		Senate	House
Tuesday, December 1		Session at 1:30 p.m.	Session at 11:00 a.m. (If Needed)
Wednesday, December 2		Session at 1:30 p.m.	Session at 1:30 p.m.
Tuesday, December 8		Session at 1:30 p.m.	Session at 11:00 a.m.
Wednesday, December 9		Session at 1:30 p.m.	Session at 1:30 p.m.
Tuesday, December 15		Session at 1:30 p.m. (If Needed)	
Wednesday, December 16		Session at 1:30 p.m. (If Needed)	

Ohio Senate

Senate Building | Capitol Square | Columbus OH 43215

Republicans (23) - Democrats (10)

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

Bacon, Kevin 614.466.8064
 (R-06) Rm 035 614.890.1285
 5325 Ponderosa Dr., Columbus 43231

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

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

Brown, Edna 614.466.5204
 (D-11) Rm 051 419.243.5691
 2461 Warren St., Toledo 43620

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

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

Coley, Bill 614.466.8072
 (R-04) Rm 140 513.874.2747
 8265 Cherry Laurel, West Chester 40844

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

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

Gardner, Randy 614.466.8060
 (R-23) Rm 240 419.531.0487
 109 S. Mitchell Rd., Bowling Green 43402

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

Hite, Cliff 614.466.8150
 (R-01) Rm 142 419.425.4483
 2147 Westmoor Rd., Findlay 45840

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

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

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

Jordan, Kris 614.466.8086
 (R-10) Rm 039 740.548.0946
 265 Sawine Ridge Dr. N., Powell 43065

Larose, Frank 614.466.4823
 (R-27) Rm 221 330.461.6446
 553 Royal Crest, Copley 44321

Senate Committees

*Ranking Minority

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

Civil Justice 466-4900
 (R)-Chair: Oelslager, (R)-Vice-Chair
 (R) Eklund, Hughes, Lehter, Seitz, Uecker
 (D) *Skindell, Brown, Thomas

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

Education 466-4526
 (R)-Chair: Hite (R)-Vice-Chair
 (R) Balderson, Coley, Gardner, Jordan,
 Manning, Peterson, Widener
 (D) *Sawyer, Thomas, Williams, Yuko

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

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

Education Subcommittee 466-8150
 Hite (R)-Chair; Sawyer (D)-Vice Chair
 (R) Balderson, Coley, Lehter, Widener
 (D) Thomas, Yuko

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

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

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

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

Ohio Supreme Court

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

Chief Justice - Maureen O'Connor

Paul E. Pfeifer
 Terrence O'Donnell
 Judith Ann Lanzinger

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

Joint Legislative Committees

State Controlling Board 752.6392
 Rep. McMain, Smith R., Sens. Coley, Widener
 Democrats:
 Rep. Boyce, Sen. Sawyer

Joint Committee on Agency Rule Review (JCARR) 466.4086
 Larry Wolpert - Executive Director
 Rep. Duffey (R)-Chair
 Sen. Uecker (R)-Vice-Chair
 Republicans:
 Reps. Grossman, Hayes, Sens. Balderson,
 Democraats:
 Reps. Johnson G., Phillips, Sens. Tavares, Yuko

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

U.S. Senate

Senate Office Building | Washington D.C. | 20515

Brown, Sherrad 202.224.2315
 713 Hart SOB
 District:
 200 N. High St., room 614
 Columbus, OH 43215

Portman, Rob 202.224.3353
 448 Russell SOB
 District:
 37 W. Broad St., room 300
 Columbus, OH 43215

U.S. House

House Office Building | Washington D.C. | 20515

Beatty, Joyce 202.225.4231
 2186 Rayburn HOB
 District:
 One Maritime Plaza, room 600
 Toledo, OH 43604

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

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

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

Gibbs, Bob 202.225.6265
 329 Cannon HOB
 District:
 110 Cottage St.
 Ashland, OH 44805

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

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

Joyce, David 220.225.5731
 District:
 10075 Ravenna Rd
 Twinsburg, OH 44087

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

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

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

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

Schivers, Steve 202.225.2015
 1023 Longworth HOB
 District:
 3790 Municipal Way
 Hilliard, OH 43026

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

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

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

Hannah NEWS SERVICE

131st General Assembly
 Legislative Directory
 2015-2016



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

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



Bricker & Eckler
ATTORNEYS AT LAW

COLUMBUS | CLEVELAND
CINCINNATI-DAYTON
MARIETTA

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

www.bricker.com
info@bricker.com

MEMORANDUM

TO: Ohio Manufacturers' Association
Government Affairs Committee

FROM: Bricker & Eckler LLP

DATE: September 2, 2015

RE: Legislative, Judicial Report

I. September 2015 Government Affairs Committee Counsel Report.

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

II. Ballot Issues.

Issue 1 (Ohio General Assembly Redistricting): H.J.R. 12 was enacted during the last few days of the 130th General Assembly to create a new Ohio Redistricting Commission. If enacted by Ohio voters in November 2015, Issue 1 will require a seven person panel to draw new legislative districts, instead of the current five. The Ohio Redistricting Commission will consist of the Governor, Auditor of State, Secretary of State, one person appointed by the Speaker of the House of Representatives, one person appointed by the House Minority Leader, one person appointed by the Senate President, and one person appointed by the Senate Minority Leader.

The Commission will convene every 10 years – in years ending in the numeral one – for the purpose of drawing new lines for General Assembly districts. The amendment requires the Commission to make a draft plan public and, before adopting a plan, to conduct a minimum of three public hearings to hear public input on the proposed plan.

The proposal requires the affirmative vote of four members of the Commission, including two minority party members, to adopt a new legislative map for the full 10 year term. The Commission must adopt a plan by September 1.

If the Commission fails to adopt a plan with bipartisan support by September 1, the commission must introduce a proposed general assembly district plan by a simple majority vote of the commission. Following the introduction of this proposed plan, the commission must hold an additional public hearing.

OMA Government Affairs Committee – Counsel Report
September 2, 2015
Page 2 of 10

No later than September 15, the Commission must vote on the proposed plan. If the plan garners votes from two members of the minority party, it will become effective for 10 years. If the plan is approved with a simple majority vote of the Commission, but without the required two votes from minority party members, then the plan is effective “until two general elections for the house of representatives have occurred under the plan.” At that point, the Commission will reconvene to redraw the districts. If, upon redrawing the districts in this scenario the plan is approved again.

In addition to detailing the process for the Ohio Redistricting Commission, the amendment also outlines the map-drawing process, including minimizing splits of political subdivisions. The amendment also states that no plan “shall be drawn primarily to favor or disfavor a political party” and that districts shall be compact.

Former Representatives Matt Huffman (R-Lima) and Vernon Sykes (D-Akron) are co-chairs of the statewide ballot campaign.

Issue 2 (Anti-Monopoly Amendment): House Joint Resolution 4 (“H.J.R. 4”), passed by the Ohio General Assembly in late June, proposes to amend Article II, §1e of the Ohio Constitution to prohibit an initiated constitutional amendment that would grant a monopoly, oligopoly, or cartel, specify or determine a tax rate, or confer a commercial interest, right, or license to any person or nonpublic entity. It has been designated as Issue 2 by the Ohio Ballot Board.

Issue 2 does not bar future initiative efforts, but creates a second layer for initiatives deemed by the Ballot Board to conflict with the anti-monopoly provision. In such event, the Board would place two questions on the ballot, one asking whether the petitioner should be granted an exception to the anti-monopoly provision and the second describing the proposed constitutional amendment. Only if both questions are approved by the voters would the proposed constitutional amendment take effect.

Issue 2 also includes language specifically stating that if, on the November 3, 2015 ballot, voters approve a proposed amendment that conflicts with the anti-monopoly provisions in Issue 2 and creates a monopoly for the sale, distribution, or other use of a federal Schedule 1 controlled substance, that amendment shall not take effect.

In August, the Ohio Ballot Board approved ballot language and arguments for and against Issue 2.

Issue 3 (ResponsibleOhio): A proposal from Responsible Ohio, now Issue 3 on the November 2015 ballot, would allow persons aged 21 or older to use marijuana for personal or recreational purposes and to grow up to 4 plants for personal use. In addition, the amendments provides for 10 site-specific locations for the commercial growth of marijuana and retail sales of marijuana at

OMA Government Affairs Committee – Counsel Report
September 2, 2015
Page 3 of 10

approximately 1,100 locations throughout the state. The amendment also creates the Marijuana Control Commission as the regulatory entity over the industry.

The amendment would prohibit any state or local law, including zoning laws, from being applied to prohibit a marijuana growth, cultivation, or extraction facilities or retail stores or medical marijuana dispensaries in an area, unless the area is zoned exclusively residential on July 1, 2015 or as of the date that the application for a license for a growing, cultivating, extraction, retail or dispensing site is first filed.

Marijuana would be taxed under the plan at 15% on the gross revenue of each marijuana growth, cultivation, and extraction facility and marijuana product manufacturing facility. A tax rate of 5% would be applied to gross revenue of each retail marijuana store. Tax revenues are directed to go to a municipal and township government fund, a strong county fund, and the Marijuana Control Commission Fund.

In August, the Ohio Ballot Board approved ballot language for Issue 3, as well as arguments for and against the amendment, which will be published in newspapers statewide prior to Election Day.

ResponsibleOhio has now filed a lawsuit with the Ohio Supreme Court to block the Ballot Board's approved ballot language for Issue 3, saying that it was drafted to intentionally confuse voters and that it misstates certain provisions in the amendment, including overstating how much marijuana can be sold and failing to state that marijuana retail stores need local voter approval before opening.

Other Marijuana: A proposal from Better for Ohio was certified by the Attorney General's office as having a "fair and truthful" summary and by the Ballot Board as being a single issue. The amendment would allow for medical and recreational use of marijuana for persons 21 years of age or older. The proposal would allow a person to grow up to 8 marijuana plants and would create the Ohio Marijuana Control Commission as the regulating entity. The Better for Ohio plan provides for 40 licensed locations for Marijuana Growth, Cultivation and Extraction facilities.

Better for Ohio did not meet the July 1 deadline for submitting sufficient valid signatures for the November 2015 ballot.

Ohioans to End Prohibition's "Cannabis Control Amendment" was also certified by the Attorney General and the Ballot Board and missed the July 1 deadline for signatures. The group has indicated its intention to try to go forward in 2016. The goal of the "Cannabis Control Amendment" is to "end the prohibition of...Cannabis and control all of its personal, medical, noncommercial, industrial and agricultural forms, uses, and applications, including marijuana and industrial hemp." The amendment would allow those age 21 and over to grow up to 6 plans

and possess up to 100 grams of marijuana, and would allow caregivers of those using medical marijuana to grow up to 12 plants and possess up to 200 grams of marijuana.

Right to Work: Two right to work proposals were presented to the Ohio Constitutional Modernization Committee’s Coordinating Committee by Opportunity Ohio. The proposals would prohibit mandatory union membership at workplaces and would prohibit the use of public resources to assist a labor organization in collecting dues or service fees from the wages of public employees. The proposals appear to be stalled for now, as the Commission discusses its role in considering constitutional amendment proposals from the public.

Bottle Bill: A proposed amendment to require the Ohio General Assembly to enact laws to establish a 5-10 cent refundable deposit on all glass, metal and plastic containers sold at retail was certified by the Attorney General and the Ballot Board in October 2014. The proposals would allow consumers to return containers to receive cash back. It would also allow businesses to return containers, but stipulates that businesses must give 80 percent of the refund to the state to lower health and car insurance costs for residents. The group failed to gather sufficient valid signatures by July 1 and the amendment will not be on the November 2015 ballot.

III. Initiated Statute.

In addition to their work on Issue 3, ResponsibleOhio is also collecting signatures for an initiated statute. The “Fresh Start Act” has been certified by the Attorney General’s Office as having a “fair and truthful” summary and by the Ballot Board as being a single issue. ResponsibleOhio is collecting the 92,000 valid signatures needed to place the statute before the Ohio General Assembly for consideration.

If enacted, this measure would amend various sections of the Ohio Revised Code to allow persons convicted of certain drug offenses, conspiracy, attempt to commit an offense, complicity, possessing criminal tools, or corrupt activity to have the conviction expunged if the offense is no longer a crime in Ohio. The act would also amend Ohio’s public records laws to prohibit government entities from disclosing information about expunged convictions and would prohibit employers from asking applicants about these.

Valid signatures must be gathered by December 21, 2015 for the measure to go before the General Assembly in January 2016. If the legislature fails to act within 4 months, ResponsibleOhio can gather additional signatures and place the issue on the 2016 fall ballot.

IV. Pending Legislation (2015-2016).

H.B. 64 – Ohio FY2016-2017 Biennial Budget: Ohio’s two-year state budget was finalized by the General Assembly and signed (with line item veto messages) by Governor Kasich on June

OMA Government Affairs Committee – Counsel Report
September 2, 2015
Page 5 of 10

30, 2015. Attached to the Counsel Report is the memorandum prepared outlining various budget provisions of interest to the OMA. (*Please see attached*).

H.B. 194 -- Ohio Patent Troll Legislation: During the last legislative session we provided analysis of Ohio H.B. 573, a bill introduced by Representative Kristina Roegner (R-Hudson) to curb the extortionary practices of certain non-practicing patent owners pejoratively referred to as “patent trolls.” Generally, H.B. 194 would proscribe the “widespread sending of bad faith, objectively baseless” demand letters to “intended recipients” alleging patent infringement. The Bill also would empower the Ohio Attorney General to investigate and bring civil actions against violators.

Representative Roegner reintroduced legislation to curb these practices in H.B. 194. This bill has received one hearing in the House Judiciary Committee. Representative Roegner indicated that Senator Bill Seitz (R-Cincinnati) is working on companion legislation, but that bill has not yet been introduced.

We have participated as OMA’s counsel at three interested party meetings to discuss the proposed legislation. As a group, OMA is comprised of members who are not only the recipients of patent troll demand letters but also are patent owners and therefore, may have the need to enforce patents themselves. As such, we have worked with OMA’s legislative affairs director and representatives of OMA member Proctor & Gamble to turn the conversation from the original language in former H.B. 573 supported by interest groups comprised of predominantly non-patent owners such as the Ohio Bankers League and Ohio Retailers Association, towards an alternative bill that seeks to reduce unintended consequences impacting patent owners, among other issues.

As introduced, H.B. 194 is a substantial improvement over H.B. 573 and interim drafts that followed its introduction. H.B. 194 is relatively more narrowly tailored to the activities of true patent trolls. H.B. 194 also includes less ambiguity in its language and creates a generally less onerous compliance burden for Ohio manufacturers and other patent owners. The bill is highly similar in form and content to a draft proposed last term by Proctor & Gamble.

With the assistance of Senator Seitz, we were able to build support for these proposals at the February 11, 2015 interested party’s meeting, while also discouraging several creative, though ultimately problematic proposals presented by Representative Butler, such as setting up an Ohio administrative regime to review patent infringement demand letters. Senator Seitz was also helpful in our efforts to rebut several proposals presented by the Ohio Retailers and Ohio Bankers League.

At the most recent meeting on May 26, which was again attended by Representative Roegner and Chairmen Butler, the other interested parties raised a number of the points from the February 11

meeting. The Pharmaceutical lobby joined our responses in support of maintaining language in the bill to ease the compliance obligation of legitimate patent owners. These included maintaining H.B. 194's limitation on its scope to only the "wide spread" sending of patent infringement demand letters and the continued inclusion of a safe harbor provision.

One potential concern is that Representative Butler appeared to be interested in exploring ways to strengthen the bill against all parties other than the pharmaceutical industry. He pointedly asked for more data from interested parties who have the need to send patent demand letters so that the bill could be further revised.

Prior to the meeting on February 11, we also provide OMA with legal analysis to the effect that, as worded, even the alternative draft language would still be at risk of being interpreted by the courts as providing an inherent private right of action. We continue that opinion. If OMA's preference remains to prevent a private right of action, our recommendation is to push for inclusion of an express prohibition rather than simply removing language that would have expressly provided the private right of action. This may potentially be achievable given the strong concerns Senator Seitz raised with the ability of Ohio courts to interpret patent-related subject matter and his proposal to further empower the Ohio Attorney General to interpret that statute. Also, in responding to a question from Representative Cupp at the bill's introduction as to whether the bill would allow for a private right of action, Representative Roegner stated her belief that enforcement would be limited to the Attorney General, who could investigate a case and file civil action.

S.B. 171 – Uniform Interstate Depositions and Discovery Act: Senator Seitz (R-Cincinnati) has introduced Senate Bill 171, which would repeal current Ohio Revised Code section 2319.09 and replace it with the Uniform Interstate Depositions and Discovery Act. This model legislation from The National Conference of Commissioners on Uniform State Laws provides procedures for courts in one state to issue subpoenas for out-of-state depositions. Under the act, litigants may present the clerk of the court located in the state where discoverable materials are sought with a subpoena issued by a court in the trial state. The clerk will issue a subpoena for service on the person or entity indicated on the original subpoena. This will eliminate certain costs currently incurred, including the need for obtaining local counsel in the discovery state.

Thirty-five states and the U.S. Virgin Islands have already adopted the Act and four states, including Ohio, have introduced legislation to adopt. The Act is approved by the American Bar Association and suggested state legislation by the Council of State Governments. S.B. 171 has not yet been referred to a committee or scheduled for a first hearing.

V. Litigation Update.

OMA Government Affairs Committee – Counsel Report
September 2, 2015
Page 7 of 10

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

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

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

The purpose of the amicus brief was to support current Ohio law which holds that an insurer's duty to defend is broader than its duty to indemnify and to preserve the rights of policyholders to collect and retain amounts due them under the defense coverages of their policies – even in cases where the insurers ultimately are determined not to have a duty to indemnify. Unfortunately, the court of appeals denied the motion for leave to file an amicus brief. As a result, the amicus brief filed by the OMA and others will not be considered by the Court.

Oral argument was held on April 28, 2015. The court of appeals has not yet issued a decision.

Navistar, Inc. v. Levin, Sup. Ct. No. 2014-0140

The OMA filed an amicus brief in support of the taxpayer in *Navistar, Inc. v. Levin*, Sup. Ct. No. 2014-0140. The case involves the credit against the CAT for net operating loss carryforwards

contained in R.C. 5751.53. The statute provides a credit for deferred franchise tax assets net of any associated valuation reserve recorded on its books and records as of the last day of the taxpayer's taxable year ending in 2004 (the "amortizable amount"). Any taxpayer wishing to claim the credit had to file a report notifying the tax commissioner of its amortizable amount by June 30, 2006. The Tax Commissioner had until June 30, 2010, to audit the report any make any correction to it.

Navistar timely filed its report and claimed an amortizable amount based upon its books and records. However, in December 2007 it restated its financial statements for the years ending in 2003-2005. This restatement caused Navistar to increase its valuation reserve, causing its amortizable amount to be reduced to \$0. Upon audit, the Tax Commissioner reduced Navistar's credit accordingly. The BTA upheld the action and Navistar appealed to the Supreme Court.

On appeal, Navistar and OMA argued there is no authority for the Tax Commissioner to alter an otherwise correct amortizable amount due to events occurring after the date the report was due in 2006. Rather, that official's authority is limited to correcting mistakes existing as of the date of the report was filed. The Tax Commissioner argued that because the records were restated for FYE 2004, he could reduce the amortizable amount accordingly.

Oral argument was held on May 6. We were permitted to participate in oral argument, but due to the number of questions asked of Navistar's counsel, our time was limited. On August 18, 2015, the Court vacated the judgment and remanded the case.

(Please also see the attached overview and detailed analysis from OMA Tax Counsel Mark Engel on the Navistar decision.)

Linert v. Ford Motor Company, Sup.St. No. 2014-1940.

On August 17, 2015, the OMA joined an amicus brief with the National Association of Manufacturers, the Chamber of Commerce of the United States of America, the Ohio Chamber of Commerce and others in a product liability case that was appealed from the Seventh District Court of Appeals.

The decision of the Seventh District requires manufacturers selling products in Ohio to warn consumers, post-sale, of any known risk in using a product, even if the product is not defective. In its decision, the court of appeals interpreted R.C. 2307.76 in a way that is not only contrary to the plain language of the statute, but also to the substantial weight of authority from courts around the country that have adopted post-sale duties to warn.

In light of the court of appeals decision, manufacturers now have a disincentive against selling to Ohio consumers because any subsequent product improvement triggers a duty to warn every prior purchaser of the product, regardless of the likelihood or seriousness of the "risk" posed.

OMA Government Affairs Committee – Counsel Report
September 2, 2015
Page 9 of 10

Amici, including the OMA, argue that the Seventh District’s decision imposes an “innovation tax” in Ohio.

Briefing is ongoing. Plaintiff-Appellee’s merit brief is due on October 6, 2015.

VI. Ohio Constitutional Modernization Commission.

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

Created in 2011 by H.B. 188, the commission was scheduled to wrap up its work by July 1, 2021. However, during the 2015 budget process, the Ohio General Assembly shortened the timeline for the Commission’s work, moving the conclusion of the Commission up to January 1, 2018.

The Education Committee anticipates that no changes will be recommended to sections of the Constitution dealing with the sale of “educational or religious lands” or to the “thorough and efficient” standard. Lack of a quorum during the Committee’s July meeting prevented the panel from formally making the recommendation.

The Judicial Branch & Administration of Justice Committee continued discussions about the grand jury process. Senator Sandra Williams (D-Cleveland) addressed the Commission in July, speaking about her concerns with the current process and articulating specific concerns about lack of transparency and oversight. Some members of the Committee questioned whether Sen. Williams’ concerns could be addressed through legislation and whether the grand jury process needs a complete overhaul or targeted corrections. The committee will continue discussions on this matter in future meetings.



COLUMBUS | CLEVELAND
CINCINNATI-DAYTON
MARIETTA

BRICKER & ECKLER LLP
9277 Centre Pointe Drive
Suite 100
West Chester, OH 45069-4844
MAIN: 513.870.6700
FAX: 513.870.6699

www.bricker.com
info@bricker.com

Mark A. Engel
513.870.6565
mengel@bricker.com

Ohio Supreme Court Decides BTA Must Consider All Evidence Presented in Resolving Whether Any Error Existed in Computing NOL Credit Against the CAT

By Mark A. Engel, Esq.
Bricker & Eckler LLP

The Ohio Supreme Court issued a decision this week finding that the deadline for notifying the Tax Commissioner of the amount a taxpayer intended to claim as a credit against the commercial activity tax (“CAT”) for net operating losses (“NOLs”) accrued under the former franchise tax, did not preclude the tax commissioner from adjusting the amounts reflected in the notice. However, perhaps signaling an ultimate taxpayer win, because the Board of Tax Appeals (“BTA”) failed to determine whether in fact there was an error in the original notice, the Court vacated the BTA’s decision and remanded the case with instructions to make such a determination without conducting an additional hearing. In doing so, it pointed to extensive evidence submitted by the taxpayer in support of its position that was not discussed by the BTA. It also limited the evidence that may be considered on behalf of the Tax Commissioner *Navistar, Inc. v. Testa*, Slip Opinion 2015-3283, decided August 19, 2015.

The NOL Credit: In 2005, Ohio enacted legislation to phase out the corporation franchise and tangible personal property taxes and to replace them with the CAT. As part of the CAT, a credit was provided based on net operating losses incurred under the franchise tax. In order to claim the credit, taxpayers had to file a report by June 30, 2006, indicating the value of their Ohio NOLs net of any valuation allowance as of fiscal year ending in 2004.

Navistar filed the requisite report on time. However, at the time it was undergoing a restatement of its financial statements for fiscal year 2004 and notified the Tax Commissioner of that fact. Subsequently, it restated its financial statements. As part of the restatement, Navistar increased its valuation allowance for deferred taxes to 100 percent, which reduced the amount of its CAT credit to \$0. Upon audit, the Tax Commissioner exercised his authority to correct errors and reduced the amount of the credit to zero. Navistar appealed to the BTA, where it argued that the Tax Commissioner did not have the authority to change the amount of the credit because there was no error made in the original valuation allowance. Absent an error, the Tax Commissioner had no authority to change the amount of the credit.

The BTA Decision: At the BTA, Navistar introduced evidence from three different experts to the effect that its original calculation of the valuation

allowance complied with generally accepted accounting principles (“GAAP”) and was, therefore correct. The Tax Commissioner relied upon Navistar’s amended 10-K report, which contained a statement that it had not applied GAAP correctly. Navistar had also filed a lawsuit against its former accounting firm alleging fraud in the preparation of its financial statements and the Tax Commissioner submitted a copy of the Complaint as evidence in the case. Finally, the Tax Commissioner relied upon an expert who testified that based upon the 10-K filing and the contents of the Complaint, Navistar had not complied with GAAP in establishing its valuation allowance. Therefore, its credit report contained an error that could be corrected.

The BTA upheld the action of the Tax Commissioner. Without discussing the testimony of Navistar’s witnesses, the BTA concluded that the Tax Commissioner did have the authority to change the amount, and that based upon the 10-K filing Navistar’s original calculation was in error. However, while it admitted the Complaint into evidence, the BTA refused to find that it constituted a statement against interest and limited its use at the hearing. Navistar appealed that decision to the Supreme Court.

The Supreme Court Decision:The Supreme Court vacated the decision of the BTA. First, it agreed with the Tax Commissioner that under R.C. 5751.53, that official had the authority to revise the amount of the credit, but only if there was an error in the original calculation. It also agreed that the books and records used to compute the amount of the credit must be kept in accordance with GAAP.

Nevertheless, the Court found the BTA’s decision to be unreasonable and unlawful. The BTA specifically referred to the statement in Navistar’s 10-K report in finding that Navistar had failed to satisfy GAAP in computing the amount of the credit. However, the BTA failed to discuss the testimony of Navistar’s witnesses to the contrary. The Court therefore remanded the case to the BTA to “carefully consider and weigh all pertinent evidence” before determining whether Navistar’s original calculation complied with GAAP.

The Court also noted that while the Complaint had been submitted into evidence, the BTA had rejected the Tax Commissioner’s argument that the Complaint constituted a statement against interest. While the Complaint was admitted into evidence, the hearing examiner had strictly limited its use at the hearing. The ruling by the hearing examiner regarding the Complaint was not modified or reversed by the BTA; therefore, that ruling stood. Because the Tax Commissioner failed to file a cross-appeal contesting the ruling on the Complaint, he was deemed to waive his right to rely upon the Complaint.

The Court instructed the BTA to consider all the evidence in accordance with the Court’s opinion and determine, without further hearing, whether the valuation allowance originally reported by Navistar complied with GAAP. If it did, then the BTA must reverse the Tax

Commissioner’s final determination. If it finds the original calculation did not comply with GAAP, the BTA must affirm that final determination.

Comments: The Court clearly instructed the BTA to consider all the evidence on the matter of whether the valuation allowance complied with GAAP. What is interesting, however, is its holding that the Complaint may not be used as evidence in that determination. That holding will clearly limit the evidence in the record that is favorable to the Tax Commissioner’s position. Its expert relied in large part upon the Complaint in concluding that Navistar had not complied with GAAP. In the absence of independent evidence to the contrary, the BTA’s finding will largely depend upon the credibility of Navistar’s three expert witnesses. Their testimony was largely unrefuted and their qualifications were not seriously challenged.

The OMA filed an amicus brief with the Court. Much of the analysis set forth in the amicus brief found its way into the Court’s decision regarding the discussion of the law, as well as the characterization of the evidence introduced by Navistar and its importance in determining whether or not error in fact existed.



Bricker & Eckler
ATTORNEYS AT LAW

COLUMBUS | CLEVELAND
CINCINNATI-DAYTON
MARIETTA

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

www.bricker.com
info@bricker.com

MEMORANDUM

TO: Ohio Manufacturers' Association
Government Affairs Committee

FROM: Bricker & Eckler LLP

DATE: September 2, 2015

RE: House Bill 64 – State Budget Overview & Analysis

I. Introduction.

After months of committee hearings and discussions, Ohio Governor John Kasich has signed House Bill 64 into law. The state's FY2016-2017 biennial budget contains appropriation items for the next two fiscal years, as well as a number of policy items. While appropriation items went into effect immediately, most other policy items in the budget bill become effective on September 29, 2015.

Highlights of the \$71 billion budget bill include an additional 6.3% reduction in personal income tax rates. The bill also includes a 35 cent tax increase on cigarettes, bringing Ohio's per-pack rate to \$1.60. The school funding formula included in the bill builds from the current formula, although some of the guarantee that certain higher-wealth school districts would receive no reduction in funding was vetoed by the Governor.

The bill creates the Ohio 2020 Tax Study Commission, which will review various Ohio taxes, including a proposed severance tax. Work on the severance tax must conclude with a recommendation to the General Assembly by October 1, 2015. The Commission will also consider a flat income tax, whether the historic building rehabilitation tax credit should be changed to a grant program, as well as a review of various consumption taxes, CAT, and sales tax efforts in the overall tax policy review.

House Bill 64 includes a 5% annual pay raise for judges as well as county and township elected officials. The state's rainy day fund was also increased from the current maximum of 5% to 8.5% of the general revenue fund. For this budget, the new maximum is approximately \$3.1 billion.

II. Small Business Income Tax Reduction.

House Bill 64 includes a modification to the small business income tax starting in tax year 2015. The change increases the deduction to 75% of business income up to \$250,000 for tax year 2015 and a flat tax of 3% for

income above \$250,000. In 2016, the deduction increases from 75% to 100% of business income up to \$250,000.

Questions have been raised about the impact of the change for taxpayers for tax year 2015. Currently, small businesses use a tax-rate scale which may set a tax rate as low as .5% or as high as 5.3%. The 3% rate established by H.B. 64, then, may cause some small businesses to pay a higher rate on the remaining amount after the 75% deduction in 2015. The issue should be alleviated when the deduction increases to 100% of business income up to \$250,000 in 2016. However, legislative leaders in the House and Senate have indicated that if such an unintended error results from the H.B. 64 changes, the General Assembly will move swiftly to remedy the issue for small businesses.

III. Subrogation – *partial veto.*

An amendment was added by the Senate to repeal current law creating the Ohio Subrogation Rights Commission and establish, in Revised Code 2323.44, a procedure for the distribution of recoveries to an injured party and a subrogee in a tort action. During the Conference Committee process, the language was modified to reflect Indiana law on subrogation.

This change upends years of precedent in Ohio, upheld most recently by the Ohio Supreme Court in *Northern Buckeye Education Counsel Group Health Benefits Plan v. Lawson* (“*Lawson*”) (2004). In *Lawson*, the Court upheld longstanding precedent in applying the “make whole” doctrine as a “default rule” in addressing the rights of an injured party and a subrogee in a tort action, except where contract language exists to the contrary. In the case of a contractual agreement, an insurer is able to enforce its right of subrogation even if the injured party may not receive full compensation to cover their losses.

Provisions added to House Bill 64 make the rights of a subrogee subject to a number of statutory conditions. First, if less than the full value of the tort action is recovered, the subrogee’s claim is diminished in the same proportion as the injured party’s interest is diminished. This effectively allows the subrogee to recover only a proportional share of the recovery in a tort action.

The Conference Committee provision also stated that, regardless of recovery, any reasonable attorney’s fees contracted by the injured party and the expenses of procuring a recovery shall be shared on a pro rata basis by the injured party and subrogee. This provision would discourage controlling litigation costs and this kind of fee shifting is not typically seen in Ohio practice.

The bill also provided that a tort action and any settlement shall be controlled solely by the injured party.

Concerns were raised by the business community, insurance industry, and civil justice reform groups about the impact of this provision, particularly in light of Ohio’s longstanding case law precedent on the issue and the lack of discussion and vetting on the language included in the bill.

Following discussions with Senate President Keith Faber, who strongly supported the provisions included in the final version of the legislation, Governor Kasich issued a partial veto of the language contained in Revised Code 2323.44.

Among the items vetoed were the definitions of “injured party’s interest” and “subrogee’s interest” as well as language that would have allowed a subrogee’s interest to be diminished if less than the full value of the tort action is recovered for “any reason.” Other language remains in the bill that may result in diminished recovery for a subrogee.

The Governor also vetoed the provision related to cost-sharing and the provision stating that the tort action and any settlement shall be controlled solely by the injured party.

The remaining language in R.C. 2323.44 was not vetoed and remains problematic for business interests. Discussions about legislation to repeal this section are ongoing as are discussions about possible litigation strategy.

IV. Post-Traumatic Stress Disorder Benefits – *removed by Conference Committee.*

Language allowing a peace officer, firefighter or emergency medical worker diagnosed with post-traumatic stress disorder (“PTSD”) to receive injury compensation and medical benefits under the Ohio Worker’s Compensation law without suffering an accompanying physical injury was removed from H.B. 64 during the Conference Committee process and is no longer included in the legislation.

PTSD changes are also contained in Senate Bill 5, co-sponsored by Senator Tom Patton (R-Strongsville) and Senator Edna Brown (D-Toledo). That bill is currently pending in the Senate Finance Committee.

V. Utility and Energy Policy.

A. Wind Setback Exception.

Section 749.20 of House Bill 64 allows wind projects that have existing projects certified by the Ohio Power Citing Board to be grandfathered under the old setback requirements. This would allow wind turbines to be constructed in the same place as approved in their application before the Board under the previous minimum setback requirements. The provision would also

allow wind developers to amend existing approved projects to update the type and size of wind turbines without needing to obtain a new certificate.

An amendment added by the Conference Committee clarifies that an application that qualifies for the bill's exemption from the current wind-farm setback cannot be filed before the provision in House Bill 64 takes effect in order to qualify for the exemption. The bill also extends to 180 days the deadline for a person to file an application to qualify for the exemption in House Bill 64.

B. Tax Exemption for Renewable Generation Projects.

This provision extends by five years the deadlines for an owner or lessee of a qualified energy project to submit a property tax exemption application, submit a construction commencement application, begin construction, and place into service an energy facility using renewable resources to qualify for an ongoing real and tangible personal property tax exemption. This provision appears to be related to another provision, described below, repealing the tax on generation property.

Extending the deadline allows qualified energy projects placed into service between 2017 and 2021 to remit a payment in lieu of taxes ("PILOT") for an amount equivalent to approximately 20% of the tax liability. The revenue loss is permissive for counties, but school districts, municipalities, and townships must abide by their respective county's approval of the PILOT.

C. Grants for Large Users of Wind Energy.

A provision in House Bill 64 earmarks a portion of the tangible personal property tax from the production equipment property tax replacement fund to create grants for large users of wind generation. Payments will be made to municipal corporations where a user of a substantial amount of wind-generated electricity is located. The payment equals the amount of kilowatt-hour excise tax paid on the basis of wind-generated electricity received by the user. Municipalities are required to use the payments to provide grants, tax reductions, or other financial assistance to the user of the wind-generated electricity.

D. Repeals Tax on Generation Property – *vetoed*.

A provision was added to House Bill 64 to exempt electric company generation and "other" tangible personal property that is not transmission and distribution ("T&D") property or energy conversion equipment from property taxation. The exemption included non-qualified renewable generating resources, but tax treatment of rural electric companies' generation property was unchanged.

The provision also required the Tax Commissioner to annually calculate an increased assessment rate for electric company T&D property and energy conversion equipment. The current rate is 85% and each year the Commissioner must increase the rate by the percentage necessary to cover the revenue shortfall from the exemption for generation facilities equipment.

In response to concerns about whether this change would be revenue-neutral, or whether customers would see increased T&D rates, this repeal was vetoed by Governor Kasich. The veto message on this provision states that “there are unknown consequences of transferring local tax revenues from one taxing to a district. A larger and more thorough discussion of this issue is needed prior to the enactment of such a comprehensive change, and the Administration urges the legislature and stakeholders to work with it to draft a bill to achieve this goal in the fall.”

E. Reconcilable Riders to Collect Increased Tax - *vetoed*.

The Enrolled version of House Bill 64 authorized a utility to file a request for a reconcilable rider in lieu of revised rate schedules. An electric company seeking to recover costs incurred due to increased tax on T&D property may file a request with the Public Utilities Commission of Ohio for a reconcilable rider to permit full recovery of the amount of the increased tax payments.

This provision was vetoed by the Governor in connection with the veto of the repeal of the generation property tax described above.

VI. Commercial Activity Tax.

A new exclusion to the commercial activity tax (“CAT”) is included in House Bill 64 for certain taxable gross receipts of a manufacturer, supplier, or distributor of beauty, health, personal care, or aromatic products. The exception applies if the vendor is part of an integrated supply chain and has a business location in Ohio, the receipts are from sales to another vendor or retailer in that integrated supply chain, both vendors are on the same parcel or collection of parcels, and the supply chain vendors operate in a 400-700 acre, commonly owned area within Licking County and New Albany. The bill further prohibits a supply chain vendor from excluding receipts from sales to a retailer in the same supply chain and prohibits equipment sales from qualifying for the exclusion.

The provision applies retroactively to July 1, 2011 and is to be construed as “clarifying” the law – making it subject to existing statutes of limitations that impose a four-year limit on claiming CAT refunds or issuing CAT assessments.

The Senate initially provided for this exemption to apply more broadly (six counties would have qualified based on a population requirement in the Senate version) and retroactively to July

OMA Government Affairs Committee – State Budget Update
September 2, 2015
Page 6 of 6

1, 2005. The fiscal effect of the Senate version of the exemption was expected to be several millions of dollars per year, reduced from the CAT base. The final version of the exemption is expected to have a smaller revenue loss than the Senate version. CAT revenue is deposited into the General Revenue Fund, School District Tangible Property Tax Replacement Refund and the Local Government Tangible Property Tax Replacement Fund, so each of these funds will see some decrease as a result.

To: OMA Government Affairs Committee
From: Ryan Augsburger / Rob Brundrett
Re: Energy Public Policy Report
Date: September 2, 2015

Overview

The General Assembly completed work on the biennial state budget in time for the Governor to sign the bill into law by June 30. Governor Kasich made 44 line-item vetoes. Hundreds of permanent law changes were included in the budget as amendments. Some electric generation owners had won inclusion of a provision to exempt generation companies from tangible personal property tax (TPP) liability. Ultimately the controversial provision was stripped in the final hours of the budget proposal.

House and Senate members have been on summer recess in the months since and they are not expected to return for legislative session until October.

Governor Kasich Appoints Porter

Since April PUCO Commissioner Andre Porter has been serving as chair of the agency. Chairman Porter visited with members of the OMA Board of Directors on June 9. Jason Rafeld was appointed Chief of Staff of the PUCO in this same timeframe. Both posts are critical to Ohio's regulatory direction.

Electricity Rates and Regulation

Significant utility rate cases are pending at PUCO. Distribution utilities have filed cases proposing power purchase agreements (PPAs). The cases are highly controversial and have been reported in the press. See OMA white paper or OMA Energy Group testimony for more information. See August OMA testimony by Dr. Edward "Ned" Hill.

Generation Re-regulation

In the last month, pressure is building on regulators to approve the utility power purchase agreement proposals. In an abrupt about-face from long-standing support for deregulated generation, FirstEnergy CEO is now calling for the state to re-regulate generation. See included media stories.

FirstEnergy is attempting to obtain massive subsidies from customers for two of its largest power plants for 15 years in a case pending before the Public Utilities Commission of Ohio (PUCO). The OMA Energy Group has intervened in the case to oppose the FirstEnergy subsidies. It seems likely now that, if it fails at the PUCO, the company might seek a form of a bailout from the General Assembly.

Clean Power Plan / Federal Greenhouse Gas Regulations / 111(d)

US EPA issued a final rule in early August. The OMA filed comment together with the NAM and individually. Ohio EPA and the PUCO filed comment on behalf of the state as did the Ohio attorney general. The gist of the testimony: as proposed, 111(d) revisions are unworkable. Litigation on the rule is expected to delay effectiveness. If the provision goes into effect, states will need to adopt "state implementation plans" that will impose regulations on emissions to attain the federal goals. The OMA is planning a special panel on this topic at the Nov 19 Energy Committee meeting.

Natural Gas Infrastructure

The OMA has expressed support for the Rover Pipeline and Nexus Pipeline. Billions of dollars of pipeline investment are underway by several different developers. Manufacturers interested in learning more or communicating the importance of the projects may contact staff.

Transmission Charge Increase

Ratepayers within the AEP-Ohio service territory may have noticed a jump in on their electricity bills earlier this summer. The increase is attributed to a new rider called the Basic Transmission Cost Rider (BTCR) that went into effect on June 1, 2015.

While lawyers for the OMA Energy Group contested the new rider, it was ultimately approved by the PUCO. Since the implementation of the new rider in June, some members (specifically, AEP-Ohio GS-2 and GS-3 customers) have seen a significant increase in their transmission costs. See counsel's report. Communicate your effects to staff so we can better inform policymakers.

Energy Efficiency Legislation

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

SB 310 froze the alternative energy standards for two years and created a legislative study committee to assess the impacts of the standards. The study committee held their last meeting in July and will now fashion a report. The committee is co-chaired by Senator Troy Balderson and Representative Kristina Roegner. A report is due in September.

Manufactured Gas Plant Remediation Costs

No legislative activity evident. The OMA intervened in Duke Energy's gas distribution case before the PUCO case and is appealing the unfavorable decision. The Ohio Supreme Court is expected to rule on the merits later this year.

Polar Vortex *Pass-Through* Charges

Generation customers of First Energy Solutions (FES) were notified by the provider that they would be billed for a regulatory event associated with the polar vortex power shortages in January 2014. The one-time charge is outside the terms of the contract. If allowed by regulators, the charges would result in an unfavorable precedent for all customers. Several OMA members are working collectively to contest the charges. See counsel's report. Contact staff to learn more.

Energy

PJM Capacity Prices up 37%

PJM just completed its base residual auction for delivery year 2018/19. It is PJM's first auction under its new "Capacity Performance" rules. Prices in the Ohio region of PJM went up 37% to \$164.77/MW-day.

The auction procured 166,837 MW of capacity for delivery year 2018/19, giving the region a 19.8% reserve margin, well above the target of 15.7%.

The auction, which ran from August 10-14, also resulted in 3,500 MW of new capacity, most of it gas-fired. [RTO Insider](#) reports that UBS Global speculates that three of the combined cycle gas plants clearing the auction are plants proposed in Ohio: Advanced Power's 700-MW unit in Carroll County, Ohio; Clean Energy Future's 800-MW facility in Lordstown, Ohio; and the 550-MW NTE Energy unit in Middletown, Ohio. 8/25/2015

No-Cost Manufacturing Energy Assessments from University of Dayton Industrial Assessment Center

Since 1981, the University of Dayton Industrial Assessment Center (UD-IAC) has helped more than 900 facilities reduce energy costs and increase competitiveness by providing no-cost energy assessments to eligible manufacturers.

During these one-day assessments, a team of faculty and graduate students trained in industrial energy efficiency work with plant personnel to identify energy saving opportunities. Following the assessment, a customized report with detailed recommendations is developed and delivered within two to four weeks.

UD-IAC energy assessments have cost-effectively reduced annual utility costs for the most recent 25 participating manufacturers by about 13%. Qualifying facilities spend between \$100,000 and \$2.5 million on energy annually.

Contact the [UD-IAC](#), visit its [website](#), or contact OMA's energy engineering consultant, [John Seryak](#), for further information. 8/26/2015

"Stop Trying to Scare Ohioans"

Discussing the context of pending rate cases of FirstEnergy and AEP-Ohio with Columbus Business First reporter Tom Knox, Public Utilities Commission of Ohio (PUCO) chairman Andre Porter sent an unusually blunt message to the utilities: "Stop trying to scare Ohioans."

Both companies have asked the commission to require customers to subsidize operations of uneconomic power plants. FirstEnergy, in particular, has raised the specter of power failures should the commission not give it what it wants.

Knox [quotes the chairman](#) as saying Ohio should "stay the course." He said: "I think things are going to be fine here in the state of Ohio. I know that sometimes it seems as if there are folks who want to attempt to scare Ohioans, but that's not what we need to do. Let's stop attempting to scare Ohioans."

The [OMA Energy Group](#) opposes the two utilities' plans, yet aims for a future when the power companies are vibrant and innovative suppliers to manufacturing. 8/20/2015

Heads I Win, Tails You Lose

OSU economist Ned Hill, on behalf of the [OMA Energy Group](#), this week presented additional [testimony](#) on the FirstEnergy rate case pending before the Public Utilities Commission of Ohio (PUCO). In the case, FirstEnergy seeks to escape business risk, shifting that risk to customers, of operating two uneconomical generating plants.

Hill testified: "The Supplemental Stipulations are not in the public interest for two reasons. First, they adopt a scheme that will provide one certified retail electric supplier in Ohio with a competitive advantage in the Ohio market as its uneconomic generating plants will be subsidized by the Companies' ratepayers through approval of the Economic Stability Program and associated power purchase agreement (PPA).

Second, the Supplemental Stipulations and the PPA will deter entry into the power generation portion of the market by new competitors. Typically, if a market participant cannot compete in a competitive market, it will fail. Subsidizing an existing market participant in the hope that it may be able to compete at some point in the future is not in the public interest, nor is it good public policy. It will only deter entry and keep prices higher than they would be in a competitive market. The PPA can best be described as a coin-flip bet that FirstEnergy Corp. is making, one where it's "heads I win and tails you lose." 8/12/2015

PUCO Reports Long Term Forecast

On July 22, 2015, the Public Utilities Commission of Ohio (PUCO) released "Ohio Long Term Forecast of Energy Requirements." Under Ohio Revised Code, the PUCO is required to estimate state and regional energy needs over a five-, ten- and twenty-year period. The findings are then submitted in a report to the Governor's Office and General Assembly, identifying emerging trends related to energy supply and demand and the costs of energy to consumers, specifying anticipated energy needs.

[Here are highlights](#) from the report, summarized by OMA Connections Partner, Bricker & Eckler LLP. 8/13/2015

Clean Power Plan: Unprecedented Cost; Negligible Impact

The U.S. Environmental Protection Agency (EPA) this week released one of the most expensive and far-reaching rules in its history when it rolled out the [Clean Power Plan](#), designed to regulate carbon emissions from the electric power sector. The rule represents an unprecedented intrusion into affairs of the states that will increase costs for small businesses, manufacturers, and households while threatening electric reliability.

The OMA stands in opposition to this plan alongside business leaders from more than 170 organizations and trade associations in the Partnership for a Better Energy Future (PBEF). PBEF will continue to explore every possible remedy to make sure greenhouse gas (GHG) regulatory actions do not cost American jobs and hurt the U.S. economy.

The plan is expected to have a negligible impact on global GHG emissions, and may not reduce them at all, instead moving emissions to other countries that have not implemented similar restrictions, such as China and India.

The proposal includes numerous changes from the rule that was first proposed in June 2014. At the outset, however, it is clear that the numerous fundamental problems with rule not only remain, but have been exacerbated by the Obama administration's decision to make national emissions limits even more stringent. OMA, through PBEF, is committed to working through all available means to deflect the serious economic harms from this sweeping regulation. *8/4/2015*

The Partnership for a Better Energy Future is a coalition of stakeholders representing nearly every segment of the U.S. economy, unified in our support for responsible energy regulations. The Partnership's fundamental mission is to ensure the continued availability of reliable and affordable energy for American families and businesses.

Good Overview of Worrisome Proposed GHG Rules

The law firm of [Sidley Austin LLP](#) has compiled this [PowerPoint presentation](#) which provides an overview, timing, and elements of the landmark greenhouse emissions reduction plan, Clean Power Plan, proposed by U.S. EPA.

Detail includes a state by state graphic of the 2030 emission goal and a state specific illustration of the difference between the emission reduction target originally proposed and the higher final proposed goal. *8/6/2015*

Ohio Reacts Critically to Clean Power Plan

This week with the unveiling of the new Clean Power Plan 111(d) rules, reactions in Ohio from both the regulator and residential consumer advocate were critical.

While the state appears ready to gear up for multiple stakeholder meetings to fully digest the impacts of the new rules, [Ohio EPA director Craig Butler](#) stated, "I believe it is irresponsible to implement these rules until the courts decide if the U.S. EPA has the authority because, like we often see, changes driven by such rules are irreversible. Allowing the courts a full opportunity to review the rule will determine if the plan is reasonable, justified and consistent with congressional intent. Forcing states to rush forward with implementation deprives the courts this opportunity and will drive changes that are unrecoverable."

[Ohio Consumers' Counsel](#) spokesperson Dan Doron warned that the regulations have the potential to increase electricity rates for Ohioans, who are already paying higher rates than residential ratepayers in 32 other states.

U.S. EPA's Ohio specific fact sheet can be reviewed [here](#). *8/6/2015*

Electric Transmission Increases in AEP Service Territory - Check Your Bill

Ratepayers within the AEP-Ohio service territory may have noticed a jump in on their electricity bills earlier this summer. The increase is attributed to a new rider called the Basic Transmission Cost Rider (BTCR) that went into effect on June 1, 2015.

While lawyers for the OMA Energy Group contested the new rider, it was ultimately approved by the PUCO. Since the implementation of the new rider in June, some members (specifically, AEP-Ohio GS-2 and GS-3 customers) have seen a significant increase in their transmission costs.

OMA Energy Group chief counsel, [Kim Bojko](#) of Carpenter Lipps & Leland, encourages members to inspect your company's AEP-Ohio bills to determine impacts. [Read more about this](#) from Ms. Bojko.

Members who have been exposed to significant increases due to the BTCR are encouraged to contact the OMA's [Dan Noreen](#) or [Rob Brundrett](#) for more information about industry efforts to resolve these new charges. *8/6/2015*

FirstEnergy CEO Wants Generation Re-regulation

In an abrupt about-face from long-standing support for deregulated generation, FirstEnergy CEO Chuck Jones now is calling for the state to re-regulate generation.

Why? "I am trying to save the company," the Plain Dealer quotes Jones.

FirstEnergy is attempting to obtain massive subsidies from customers for two of its largest power plants for 15 years in a case pending before the Public Utilities Commission of Ohio (PUCO). The [OMA Energy Group](#) has intervened in the case to oppose the FirstEnergy subsidies.

It seems likely now that, if it fails at the PUCO, the company might seek a form of a bailout from the General Assembly.

Read more in the [Plain Dealer](#) and in the [Akron Beacon Journal](#). 7/30/2015

OMA Hosts Energy Forum for Findlay Area Manufacturers



OMA, OMA Connections Partner, Scioto Energy, and Findlay-Hancock Economic Development hosted a breakfast forum in Findlay this week to help manufacturers learn about electricity reliability, supply and cost.

Participating manufacturers heard an electricity reliability forecast from Kerry Stroup, Manager - Regulatory and Legislative Affairs, PJM Interconnections LLC, the power grid manager for Ohio and the region. He said that there is adequate electric supply in the state and reliability is under control.

Participants also heard energy management strategies from Susanne Buckley, Managing Partner, [Scioto Energy](#), and Ryan Augsburger, VP & Managing Director, OMA Public Policy Services, (shown), described [OMA's energy services](#) that help OMA members buy and manage energy. 7/21/2015

Energy Mandates Study Committee Wraps up Testimony

The [Energy Mandates Study Committee](#) wrapped up its hearings this week. The committee was charged with studying the costs and benefits of Ohio energy standards and make recommendations before the current freeze in the standards lifts at the end of 2016.

Members of the committee have until September 30 to deliver recommendations to Ohio legislative leaders. Committee leaders have not publicly indicated what recommendations the group might make to the full legislature.

Also in play, and expected to influence the recommendations, are the federal 111(d) Clean Power Plan rules scheduled to be finalized in August. U.S. EPA, under the authority of the Clean Air Act, proposed rules to reduce carbon pollution from existing electricity-generating power plants. The Clean Power Plan requires each state to develop a state-specific plan to achieve carbon reduction targets by 2030. Renewable energy and energy efficiency are tools that states can use to meet the standards, if they withstand legal challenges. 7/22/2015

New Study Says Electric Choice Model Outperforms Monopoly Model

A new study sponsored by the [COMPETE Coalition](#), "[Evolution of the Revolution: The Sustained Success of Retail Electricity Competition](#)," finds that states with retail electric competition are outperforming traditional monopoly states in both price and generation trends.

The study looked at nearly two decades of empirical data to determine that choice consumers benefit in terms of improved price, investment, and reliability.

Key findings include:

- From 1997 through 2014, prices in customer choice jurisdictions increased 4.5% less than inflation while prices in monopoly states increased 8.4% more than inflation.
- Electricity in monopoly states accounted for a larger share of the consumer cost of living in 2014 than in 1997, while electricity's share of the consumer pocketbook in customer choice jurisdictions was less in 2014 than in 1997.
- Generation in customer choice jurisdictions as a group outperformed that in monopoly states producing billions of dollars of new, more efficient generation with higher capacity factors than in monopoly states.

Here is the [news release](#) COMPETE Coalition put out this week. 7/14/2015

DP&L Offers Incentives for Combined Heat & Power Projects

DP&L offers incentives of \$0.08/kWh generated and \$100/kW of capacity for qualifying [combined heat and power \(CHP\)](#) projects. CHP efficiently produces electricity on-site while using the waste-heat from the generator to produce hot-water or steam. Manufacturers with a year-round hot-water or steam load that operate 3-shifts are the most likely candidates for CHP.

DP&L's CHP incentives are capped at 50% of total cost, or \$500,000, for systems 500 kW and smaller. Terms for larger systems are negotiable.

Unsure if your operation is a good candidate for CHP? The OMA has teamed with DP&L to offer a screening assessment at no cost to you. Complete this [short survey](#) to receive your free assessment. If the screening assessment looks good, DP&L will cost share up to \$10,000 for a CHP feasibility study. Contact OMA's consulting energy engineer [John Seryak](#) for more information. 7/14/2015

Ohio has \$11M for Low-Cost Energy Project Loans

The Ohio Development Services Agency will open a new round of funding for the Energy Loan Fund this week. The fund provides low-cost financing for energy efficiency and advanced energy projects to Ohio manufacturers and other entities. A total of \$11.25 million in funding is available for fiscal year 2016.

All applicants must submit a letter of intent in order to formally apply. Letters of intent will be accepted between July 15 and August 12, 2015 for this round of funding. Loan amounts range from \$250,000 to \$1,250,000. Applicants must attend the bidder's conference on August 26, 2015. Once an applicant has submitted a letter of intent, they will receive instruction on how to complete a formal application.

Guidelines and information about the application process can be found [here](#). Questions about applying for the current round of funding can be [emailed here](#). 7/16/2015

We're Talking Combustion Burner Efficiency

The OMA's [Energy Efficiency Peer Network](#) will meet via webinar on [Wednesday, July 15](#) from 10:00 - 11:00 a.m.

The topic of the meeting is combustion burner efficiency and controls. You'll hear from OMA member [Belden Brick](#) about efficiency projects in its combustion burner system, receive energy efficiency tips from experts at [Go Sustainable Energy](#), and we've invited a combustion process control expert from [ABB](#).

Please register for this webinar by sending an email to [Denise Locke](#) or register at [My OMA](#). Here's more info about OMA's [Energy Efficiency Peer Network](#). 7/2/2015

Join Us for *Electricity Reliability, Supply & Cost* in Findlay on July 21

The availability, reliability and affordability of electricity - now and into the future - are concerns for all Ohio manufacturers.

The OMA has partnered with Findlay-Hancock County Economic Development to bring an interesting and useful conversation about electricity reliability to manufacturers in Hancock County and surrounding areas.

Our keynote speaker is Kerry Stroup, Manager - Regulatory & Legislative Affairs, with PJM Interconnection, the electric grid manager for Ohio and the region.

Join us on [Tuesday, July 21](#) for this special no-charge breakfast meeting for manufacturers at the [Findlay Inn & Conference Center](#). Register at **(800) 662-4463** or [email us](#). [More details here](#). 6/22/2015

Regulation of Submeters in Front of PUCO

OMA Connections Partner, Bricker & Eckler LLP, reports that a recent case filed with the Public Utilities Commission of Ohio (PUCO), *Mark A. Whitt v. Nationwide Energy Partners, LLC*, is asking that submetering companies be regulated as a public utility or as an energy marketer. If the action is successful, its consequences could extend beyond the issue of submetering to possibly include the regulation of certain onsite distributed generation facilities.

Read more [from Bricker here](#). 6/17/2015

Severance Tax Increase Dead, For Now

Senate President Keith Faber (R – Celina) has been trying to broker a severance tax increase within the pending state operating budget, HB 64. He announced this week that it is not going to happen.

Instead, the House and Senate will create a "Legislative Task Force on Severance Tax Policy." It will be co-chaired by the Ways and Means Committee chairmen from both chambers – Senator Bob Peterson (R – Sabina) and Rep. Jeff McClain (R-Upper Sandusky). The task force will include both Democrats and Republicans from each chamber, as well as representatives of the oil and gas industry, which opposes tax increases. It has an October 1 deadline for reporting.

The task force will exist within the 2020 Tax Policy Study Commission, proposed by Speaker Cliff Rosenberger (R – Clarksville) to take a more thoughtful, longer range study of Ohio's system of taxation. 6/18/2015

New Energy Amendments in State Budget

The Senate made a number of revisions to state energy statutes in the budget bill this week.

Here are the subjects of the changes: wind setback exception, tax exemption for renewable generation projects, grants for large users of wind energy, repeals tax on generation property, and allowing a utility to file a reconcilable rider to collect increased taxes. 6/22/2015

Read more in [this memo](#) prepared by OMA energy counsel [Kim Bojko](#) of Carpenter Lipps & Leland. 6/18/2015

Whirlpool Breaks Ground on Wind Farm



OMA member Whirlpool Corp. in Findlay hosted a groundbreaking ceremony this week for its wind farm.

Two wind turbines will be operational late this year and are part of a \$7.4 million project estimated to offset about 22% of the plant's energy use. Ball Co. will construct three other wind turbines on the farm.

Congratulations Whirlpool and thank you for inviting OMA to this exciting event! 6/18/2015

PUCO Chair Talks Energy Policy with OMA Directors



The new chairman of the Public Utilities Commission of Ohio (PUCO), [Andre Porter](#), met with the OMA board of directors this week. He talked about his intentions for the agency, his management philosophy, his principles for decision-making, and a range of energy policy matters. He encouraged manufacturers to participate actively through the OMA in matters before the agency, and he noted the importance of the economic impacts of manufacturing on the state. 6/9/2015

FERC Approves PJM's Capacity Performance Proposal - Delayed Electric Capacity Auction Scheduled

The Federal Energy Regulatory Commission (FERC) [approved](#) this week a major restructuring of PJM's capacity markets. As a result, electricity generators could receive higher payments for capacity, but will face stiffer penalties for non-performance.

PJM's Base Residual Auction (BRA) for capacity will be held the week of August 10th, after being delayed since mid-May pending FERC's review of and decision on PJM's proposal.

PJM's controversial proposal, called Capacity Performance, stems from the failure of 40,000 MW of generating plants during the 2014 polar vortex. Opponents criticized the proposal, citing improved generator performance in later cold-snaps and the already handsome revenue generators receive from energy markets during peak periods.

The approval is expected to result in higher capacity prices for consumers, including manufacturers. Shares of electric generating companies Dynegy, NRG, and Exelon traded significantly higher on the news.

The [OMA Energy Group](#) was one of the few industrial representatives to [voice concerns](#) to PJM on its proposal. 6/11/2015

Ambassador Ron Kirk Visits OMA - Talks Nuclear Energy & Cavs Basketball



[Ambassador Ron Kirk](#), co-chair of the [Clean and Safe Energy Coalition](#), met with OMA president Eric Burkland this week to discuss nuclear energy and its benefits to the American economy and its manufacturing base. Kirk says he began to appreciate the benefits of nuclear power during his tenure as Trade Representative for President Obama, working with U.S. companies seeking market share around the world, particularly in developing companies. Kirk and Burkland also talked basketball; the former Dallas mayor, a Mavs fan, has gotten some religion from his Cleveland-born and -bred wife. Go Cavs! 6/10/2015

OMA Leads Point-of-Sale Incentive Program for Energy Efficient Parts

Manufacturers purchase high volumes of products every day from distributors which offer both energy efficient and energy inefficient versions of products like motors, gears, filters, V-belts, lubricants, on so on. While the energy savings for any one product can be low, the overall high volume of the products

purchased by manufacturers means there can be significant energy savings for the industrial sector as a whole.

OMA approached DP&L and AEP-Ohio with this in mind. Would the utilities be willing to provide incentives to distributors for selling energy-efficient products? Acquiring energy efficient products at the point-of-purchase is easy for manufacturers and boosts the overall number of energy-efficient products in use.

The first result of this collaboration was [recently announced](#), as DP&L and AEP-Ohio launched a pilot program to reduce the costs of energy efficient cogged V-belts purchased from [Allied Supply](#) in Dayton, Lima and Columbus and [Johnstone Supply](#) in Columbus.

We are actively seeking additional energy efficient products, purchased through distributors, that can be rebated at point-of-purchase as well as additional participating distributors. Contact OMA energy consultant [John Seryak](#) with your ideas. 6/3/2015

DP&L Nets \$1 Million for Customers through PJM Efficiency Bid

DP&L voluntarily bid in 21.9 MW of energy-efficiency capacity into PJM's [3rd Incremental Auction](#) for the 2015/16 delivery year. As a result, DP&L will pass through around \$1 million of the capacity payment to customers, offsetting some of the costs of operating energy-efficiency programs.

The auction was opened on February 23, 2015. Annual capacity resources cleared at \$163.20 /MW-day. A total of 3,301 MW were sold in the auction, with 25% coming from customer-sited energy-efficiency and demand-response resources throughout PJM.

Energy-efficiency and demand response are typically low-cost capacity resources, and thus help check capacity prices while creating revenue for manufacturers and other customers. PJM procures capacity through a Base Residual Auction (BRA) held 3 years prior to the delivery year, followed by three Incremental Auctions between the BRA and the delivery year. 6/3/2015

Ohio's Energy Mandates Continue to be Debated

The Energy Mandates Study Committee heard from several witnesses this week and announced plans for just one more meeting in July before the September 30 deadline to issue recommendations.

Witnesses from Dynegy, PJM Power Producers, and Calpine, a natural gas generator, all emphasized that capacity is adequate dispelling rumored reliability shortages.

The generator witnesses were cool toward a return to mandated energy standards for energy efficiency and renewables, and subsidies for traditional power

generating plants. Conversely, Ohio's Consumers Counsel recommended reinstatement of the energy efficiency standards to benefit consumers.

To view testimony, visit the Energy Mandates Study Committee [website](#). 6/4/2015

PUCO Decides in OMA Favor, Saving Duke Customers Tens of Millions

In 2014, Duke filed an application with the Public Utilities Commission of Ohio (PUCO) for permission to charge customers for program costs associated with Duke's energy efficiency and demand response rider (Rider EE/DR). The electric distribution utility sought from customers an incentive payment for surpassing its EE/DR benchmarks using banked savings.

On May 20, 2015, the PUCO issued a [Finding and Order](#) determining, among other things, that Duke may use its banked savings to reach EE/DR benchmarks, but *may not* use banked savings to obtain performance incentives from customers. In its ruling, the PUCO sided with the OMA, stating that "the Commission agrees with OMA and finds the Company (Duke) may only use the banked savings to reach its mandated benefit."

The PUCO determination prevents Duke from collecting tens of millions of dollars from customers without additional customer benefit.

Manufacturers make a difference by intervening in rates cases through the [OMA Energy Group](#). Contact OMA's [Ryan Augsburger](#) to learn more. 5/28/2015

Coal Plant Retirements Expected to Double under Clean Power Act

In its [most recent analysis](#), the U.S. Energy Information Agency (EIA) projects retirements of coal-fired electricity generation plants to more than double by 2040. About 90 GW of power are projected to be retired under the proposed regulations; approximately 40 GW have been projected to be shuttered without the regs.

The agency thinks the law would increase U.S. electricity rates by 4.9%. It foresees a carbon emission reduction of between 484 to 625 million metric tons by 2030.

On the law's effects on natural gas prices, EIA says: "The Clean Power Plan increases natural gas use significantly relative to baseline at the start of Clean Power Plan implementation, but this effect fades over time as renewables and efficiency programs increasingly become the dominant compliance strategies ... the Clean Power Plan itself does not significantly move natural gas prices with the exception of an initial impact expected during the first 2-3 years after the start of implementation." 5/26/2015

AEP Ohio Continuous Energy Improvement Program Offers Incentives

AEP Ohio is calling on manufacturers that use more than 3,000,000 kWh annually to consider participating in its [Continuous Energy Improvement \(CEI\) program](#). The CEI program offers an incentive of \$0.02/kWh saved for no-and-low cost energy reductions such as repairing compressed air leaks and fine tuning chiller set-points.

The program also provides tools, coaching, and resources to help manufacturers achieve energy savings through operations and maintenance improvements. For more information, contact AEP Ohio's [Michelle Cross](#) or OMA energy consultant [John Seryak](#). 5/27/2015

FirstEnergy Customers: PJM Capacity Payments Available for Energy-Efficiency Projects

While FirstEnergy has suspended its energy efficiency programs for 2015 and 2016, manufacturers in FirstEnergy service territory can bypass the utility to receive incentives for energy efficiency projects. PJM, the regional grid operator, offers payments for permanent reductions in energy use from efficiency projects through its capacity auctions. Projects are eligible if they permanently reduce electricity demand during summer daytime hours, such as lighting retrofits, chiller replacements, or air compressor upgrades.

Contact OMA energy consultant [John Seryak](#) to learn more about the PJM process, and to determine if your company's planned or recently completed energy efficiency project is eligible for PJM incentive payments. 5/27/2015

OMA Energy Group Elects New Leadership



Last week at its annual meeting, the OMA Energy Group elected Brad Belden of The Belden Brick Company as chair and Whirlpool Corporation's Bill Mast as vice chair.

Belden accepted the gavel from Barry McClelland who retired from Honda North America, Inc. A founding member of the OMA Energy Group, McClelland was elected to serve as director emeritus.

The OMA Energy Group was formed to provide manufacturers with a voice in critical Public Utilities

Commission of Ohio (PUCO) cases. OMA Energy Group members steer the OMA's legal intervention in PUCO rate cases and get first-hand updates and members-only case summaries.

[Learn more](#) about the OMA Energy Group, a buy-up opportunity for energy intense OMA members. 5/28/2015

Left, Brad Belden, Director, Support Services, The Belden Brick Co., and right, Bill Mast, Manager, Facilities Engineering, Whirlpool Corporation.

Whirlpool Briefs OMA Members on Wind Energy Project

This week, Mike Kaser, Director of Engineering and Technology, and John Rosenburg, Senior Manager of Construction and Sustainability, of Whirlpool Corporation's Findlay Division, the largest manufacturer of dishwashers in the world, briefed OMA Energy Committee members on a major wind energy project.

Two wind turbines were added to reduce the facility's energy costs and reduce its manufacturing carbon footprint (also, three other turbines were developed for neighboring Ball Corp.). Here's the [PowerPoint presentation](#). 5/21/2015

Energy Legislation

Prepared by: The Ohio Manufacturers' Association
Report created on September 1, 2015

- HB8** **OIL-GAS LAW** (HAGAN C) To revise provisions in the Oil and Gas Law governing unit operation, including requiring unit operation of land for which the Department of Transportation owns the mineral rights.
Current Status: 4/14/2015 - Senate Energy and Natural Resources, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-8>
- HB23** **OIL-GAS LEASE INCOME** (AMSTUTZ R) To use one-half of any income from oil and gas leases on state land to fund temporary income tax reductions, to modify the law governing the use of new Ohio use tax collections, and to require the Director of Budget and Management to recommend whether or not income tax rates should be permanently reduced.
Current Status: 6/3/2015 - Referred to Committee Senate Ways and Means
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-23>
- HB64** **OPERATING BUDGET** (SMITH R) To make operating appropriations for the biennium beginning July 1, 2015, and ending June 30, 2017, and to provide authorization and conditions for the operation of state programs.
Current Status: 6/30/2015 - **SIGNED BY GOVERNOR**; Eff. 7/1/15
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-64>
- HB72** **ENERGY IMPROVEMENT DISTRICTS** (CONDITT M) To authorize port authorities to create energy special improvement districts for the purpose of developing and implementing plans for special energy improvement projects and to alter the law governing such districts that are governed by a nonprofit corporation.
Current Status: 5/6/2015 - **BILL AMENDED**, House Public Utilities, (Fourth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-72>
- HB83** **OIL-GAS ROYALTY STATEMENT** (CERA J) To require the owner of an oil or gas well to provide a royalty statement to the holder of the royalty interest when the owner makes payment to the holder.
Current Status: 3/10/2015 - House Energy and Natural Resources, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-83>
- HB122** **PUBLIC UTILITIES COMMISSION MEMBERSHIP** (LELAND D) To require that each major political party be represented on the Public Utilities Commission, to specify that not more than three commissioners may belong to or be affiliated with the same major political party, and to require that Public Utilities Commission Nominating Council lists of nominees include individuals who, if selected, ensure that each major political party is represented on the Commission.
Current Status: 3/24/2015 - Referred to Committee House Government Accountability and Oversight

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-122>

- HB162 SEVERANCE TAX RATES (CERA J)** To change the basis, rates, and revenue distribution of the severance tax on oil and gas, to create a grant program to encourage compressed natural gas as a motor vehicle fuel, to authorize an income tax credit for landowners holding an oil or gas royalty interest, and to exclude some oil and gas sale receipts from the commercial activity tax base.
Current Status: 5/12/2015 - House Ways and Means, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-162>
- HB176 GAS-FUEL CONVERSION PROGRAM (HALL D, O'BRIEN S)** To create the Gaseous Fuel Vehicle Conversion Program, to allow a credit against the income or commercial activity tax for the purchase or conversion of an alternative fuel vehicle, to reduce the amount of sales tax due on the purchase or lease of a qualifying electric vehicle by up to \$500, to apply the motor fuel tax to the distribution or sale of compressed natural gas, to authorize a temporary, partial motor fuel tax exemption for sales of compressed natural gas used as motor fuel, and to make an appropriation.
Current Status: 6/23/2015 - **REPORTED OUT AS AMENDED**, House Ways and Means, (Fourth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-176>
- HB190 WIND FARM SETBACKS-COUNTY (BURKLEY T, BROWN T)** To permit counties to adopt resolutions establishing an alternative setback for wind farms and to extend by five years the deadlines for obtaining the qualified energy project tax exemption.
Current Status: 5/27/2015 - House Public Utilities, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-190>
- HB214 PUBLIC IMPROVEMENT-PIPING MATERIAL (THOMPSON A)** To restrict when a public authority may preference a particular type of piping material for certain public improvements.
Current Status: 6/9/2015 - House Energy and Natural Resources, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-214>
- HCR7 TAX EXEMPT MUNICIPAL BONDS (SPRAGUE R)** To urge the President and the Congress of the United States to preserve the tax-exempt status of municipal bonds.
Current Status: 6/16/2015 - **REPORTED OUT**, House Local Government, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HCR-7>
- HCR9 SUSTAINABLE ENERGY-ABUNDANCE PLAN (BAKER N)** To establish a sustainable energy-abundance plan for Ohio to meet future Ohio energy needs with affordable, abundant, and environmentally friendly energy.
Current Status: 6/17/2015 - **ADOPTED BY SENATE**; Vote 32-1
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HCR-9>

- SB46** **LAKE ERIE DRILLING BAN (SKINDELL M)** To ban the taking or removal of oil or natural gas from and under the bed of Lake Erie.
Current Status: 2/18/2015 - Referred to Committee Senate Energy and Natural Resources
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-46>
- SB47** **DEEP WELL BRINE INJECTION PROHIBITION (SKINDELL M)** To prohibit land application and deep well injection of brine, to prohibit the conversion of wells, and to eliminate the injection fee that is levied under the Oil and Gas Law.
Current Status: 2/18/2015 - Referred to Committee Senate Energy and Natural Resources
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-47>
- SB58** **CONDITIONAL SEWAGE CONNECTION (PETERSON B)** To authorize a property owner whose property is served by a household sewage treatment system to elect not to connect to a private sewerage system, a county sewer, or a regional sewerage system under specified conditions.
Current Status: 3/4/2015 - Referred to Committee Senate Energy and Natural Resources
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-58>
- SB100** **SALES TAX HOLIDAY-ENERGY STAR (BROWN E)** To provide a three-day sales tax "holiday" each April during which sales of qualifying Energy Star products are exempt from sales and use taxes.
Current Status: 3/4/2015 - Referred to Committee Senate Ways and Means
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-100>
- SB120** **OIL-GAS LAW REVISION (SCHIAVONI J)** To revise enforcement of the Oil and Gas Law, including increasing criminal penalties and requiring revocation of permits for violations of that Law relating to improper disposal of brine.
Current Status: 3/10/2015 - Referred to Committee Senate Energy and Natural Resources
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-120>
- SB164** **UTILITY SMART METER CONSENT (JORDAN K)** To require electric distribution utilities to obtain a customer's consent prior to installing a smart meter on the customer's property
Current Status: 5/27/2015 - Referred to Committee Senate Public Utilities
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-164>
- SB166** **HORIZONTAL WELL EMERGENCY PLAN (GENTILE L)** To require the owner of a horizontal well to develop and implement an emergency response plan for the purpose of responding to emergencies.
Current Status: 5/27/2015 - Referred to Committee Senate Energy and Natural Resources
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-166>

SB185 **SPECIAL IMPROVEMENT DISTRICTS** (SEITZ B) To revise the law governing special improvement districts created for the purpose of developing and implementing plans for special energy improvement projects.

Current Status: 6/23/2015 - Senate Energy and Natural Resources, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-185>

SCR6 **EXPORT-CRUDE OIL** (BALDERSON T) The urge the U.S. Congress to lift the prohibition on the export of crude oil from the United States.

Current Status: 6/23/2015 - Senate Energy and Natural Resources, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SCR-6>

FirstEnergy wants Ohio to end deregulation, return to state-controlled rates

John Funk, The Plain Dealer By John Funk, The Plain Dealer

Follow on Twitter

on July 28, 2015 at 5:11 PM, updated July 29, 2015 at 2:27 PM

I am trying to save a company.

Sammis is FirstEnergy's last Ohio coal-fired plant and its closing could force the company to build more long-distance transmission lines -- paid for by customers -- to bring power here from Pennsylvania and other states. [Associated Press file](#)

AKRON -- FirstEnergy Corp. wants Ohio to re-regulate the electric utility industry, hoping to end an era the company itself fought for just seven years ago, in which electricity rates were set by wholesale markets without interference from the state.

"I would do it in a heartbeat," said Chuck Jones, CEO since January, in an interview with The Plain Dealer's editorial board. "I think it makes sense. I am trying to save a company."

Jones said FirstEnergy's future is at risk if it cannot convince the state's Public Utilities Commission to force ratepayers to cover the full cost of electricity from two of its huge coal and nuclear plants, even if other sources of electricity, such as natural gas, would be cheaper for consumers.

At the time of the last big battle over deregulation, in 2008, the company seemed likely to prosper because its coal-fired plants were among the cheapest sources of electricity in the state.

Since then, the development of horizontally drilled and hydraulic fractured gas wells has helped push down the price of a thousand cubic feet of natural

gas, from more than \$10 in the spring of 2008 to about \$2.80 today. FirstEnergy's stock price tumbled from a high of more than \$82 on June 1, 2008, to \$32.80 at the end of trading on Tuesday.

Jones said the company is not currently working with any lawmakers to write a re-regulation bill, but added that the first step toward returning to regulation is for the Public Utilities Commission to approve the company's pending rate case.

That case includes a 15-year power purchase agreement to have FirstEnergy's local distribution companies Ohio Edison, the Illuminating Co. and Toledo Edison buy all of the power generated by the Davis-Besse nuclear plant and the coal-fired H.R. Sammis plant, at whatever it cost to generate.

Those generating costs are currently higher than the wholesale price of power on the grid, where gas-fired power plants are the low-cost producers. The company admits the deal would cost customers money in the first three years but argues that over the 15-year lifetime of the contracts, it would save about \$2 billion because natural gas won't remain at today's rock bottom prices.

Critics of the plan, including the Ohio Consumers Counsel and the Northeast Ohio Public Utilities Council, or NOPEC, argue the deal would cost customers an extra \$3 billion.

However long-term prices play out, the plan would ensure that the company would not lose money by operating the plants. In filings before the PUCO, the company's experts have argued that without the special power purchase contract the company may be forced to close them.

Sammis is the company's last Ohio coal-fired plant, said Jones, and its closing would force the company to build more long-distance transmission lines -- paid for by customers -- to bring power here from Pennsylvania and other states.

Jones said he has talked to Gov. John Kasich about the company's current situation. "We talked very frankly about the the kind of tenuous position FirstEnergy is in and he asked me four times what can they do to help.

"My answer four times was it's not your problem. It's my problem. The only thing I will ever ask you for is a fair chance to tell our story, a fair chance to have our case heard. And if we can't do it in a convincing manner, then shame on us.

"I am not asking the state for anything," he said.

But, apart from the rate-settting case, the company did ask for something from the state just a year ago.

It convinced legislators to remove the state mandate, in place since 2009, that forced power companies to help their customers use less power annually by buying energy efficiency technologies, and a parallel rule requiring power companies to sell an increasing percentage of "green power" annually.

Senate Bill 310, which Kasich signed into law in June 2014, froze those mandates for two years while lawmakers decided what to do next.

The chairman of the special committee studying the issue recently said it does not want to permanently freeze the mandates.

Jones said the energy efficiency programs FirstEnergy was forced to put in place were paid for by customers through higher rates, but benefited only those companies and consumers who could afford to buy new energy efficient products -- everything from new production line motors to new home appliances.

He said another way has to be developed to pay for energy efficiency programs, but did not offer any specific plan.

He said FirstEnergy is not opposed to renewable energy but believes that it must be "feathered in" slowly because wind and solar power production is not constant and therefore cannot be counted on.

And building solar arrays on buildings and homes is the least efficient way to add solar, he said.

"If you want solar energy the most efficient way to get solar energy is to have the utility build it for you," he said. "And build it in 200-300-400 megawatt solar farms."

A regulated power company could do that, Jones said, because it could add the costs to its rate base, just as the industry did for the first 85 years of its existence.

© 2015 cleveland.com. All rights reserved.

FirstEnergy CEO says it's time to get conversation rolling about ending deregulation

Chuck Jones focuses on pending rate case, avoiding consolidation of electric utility

By Betty Lin-Fisher
Beacon Journal business writer

Published: July 29, 2015 - 07:41 PM | Updated: July 30, 2015 - 07:36 AM

FirstEnergy Corp.'s new chief executive officer thinks it's time to have conversations about ending deregulation of the electric utility industry in Ohio, a move that some may argue is an about-face from the company's stance in 2008. He also is making it a priority to ensure that the company doesn't become a target for consolidation in the industry.

Chuck Jones, who took over as CEO of the Akron-based electric utility in January, said it's a different time now than the last time deregulation was at the forefront. In an interview with the Beacon Journal's editorial board, Jones also said he did not feel the company was changing its tune, but that the company adjusted after the law was changed.

Jones said FirstEnergy is not working with any lawmakers or seeking re-regulation, but "I'm in favor of causing people to have the conversation.

"We are not doing anything active to push or cajole [for re-regulation]," Jones said. "I think at some point in time, regulation worked for 85 years and in time, I think it's probably a better way to do this business."

The company is first focused on getting its pending rate case approved by the Public Utilities Commission.

Its request before the PUCO would allow continued operation of the two higher-cost plants, although less expensive energy may be available today on the open market.

The company says it cannot afford to keep the two plants operating without additional customer support.

Opponents say the proposal will cost customers \$3.1 billion over 15 years, while the company says it will save customers \$2.1 billion.

Jones said he believes the company's plan protects consumers and the company, but "at the end of the day, we have to respect whatever is decided."

When asked whether the company would be in financial straits or whether FirstEnergy's support of jobs and events in Akron would change if the PUCO rules against the plan, Jones said, "I'm committed to trying to maintain that support. Obviously, one decision we made is with our headquarters," referring to the decision this spring to sign a new 10-year lease to keep FirstEnergy's headquarters in downtown Akron.

"I care about this company, I care about the city of Akron. When I was a kid, I rode my bike around downtown Akron," he said.

However, Jones said the bigger risk, about which he has been transparent with employees, is with consolidation in the industry.

"At \$32 a share or \$33 a share and the balance sheet that we have and Moody's and S&P both saying, 'We're concerned about your credit rating,' there's a much bigger risk than 'Is FirstEnergy going to remain committed?' The bigger risk is 'Is FirstEnergy going to remain FirstEnergy.'"

Jones said he has set seven priorities for himself and the company, the first two being "keep it FirstEnergy" and "keep it in Akron, Ohio." The other priorities include improving the company's financials, preserving its assets, and making investments to help the company grow.

Betty Lin-Fisher can be reached at 330-996-3724 or blinfisher@thebeaconjournal.com. Follow her @blinfisherABJ on Twitter or www.facebook.com/BettyLinFisherABJ and see all her stories at www.ohio.com/betty.

Find this article at:

<http://www.ohio.com/news/local/firstenergy-ceo-says-it-s-time-to-get-conversation-rolling-about-ending-deregulation-1.611947>

C R A I N ' S

Cleveland Business

Originally Published: August 21, 2015 8:26 AM Modified: August 21, 2015 1:04 PM
ENERGY GUEST COLUMN -- ANDREW THOMAS

FirstEnergy's redistributive coalition strategy and the exploitation of rational ignorance



Andrew Thomas is Executive in Residence at the Energy Policy Center of the Levin College of Urban Affairs at Cleveland State University and also of counsel to the law firm Meyers, Roman, Friedberg & Lewis.

The Public Utility Commission of Ohio is finally set to hear evidence later this month on FirstEnergy Corp.'s rate case, also known as its Electric Stability Plan (ESP). The rate case, number 14-1297-EL-SSO on the PUCO docket and originally filed on Aug. 4, 2014, will cover the period from June 1, 2016 to May 31, 2019.

The matter has been delayed, among other reasons, by multiple "supplemental stipulations" filed by FirstEnergy, each of which make new arguments in support of the ESP.

This ESP has been controversial. The reason is because FirstEnergy, as part of its plan, has asked the PUCO to pass a fee through to its ratepayers to support its subsidiary's struggling coal and nuclear generation. The subsidy would be supported by all of FirstEnergy's Ohio distribution customers, regardless of whether they acquire their generation from FirstEnergy's subsidiary. The subsidy would be assessed through a rider that is based upon a power purchase agreement (PPA), pursuant to which the ratepayers would guarantee for 15 years a price for the electricity generated, regardless of market conditions.

I won't repeat here my arguments for why this is bad idea. If you are interested, you can read a [blog](#) I wrote on this topic in January.

What I want to focus on now is the tactic FirstEnergy has used to assimilate support for its ESP. In my January blog, I noted that FirstEnergy had assembled what Edward "Ned" Hill, the then-dean of Cleveland State University's Maxine Goodman Levin College of Urban Affairs, called a "redistributive coalition."

A redistributive coalition, according to Professor Hill, exists when a small group of stakeholders band together to seek mutually favorable policy treatment at the expense of the public at large. Typically, the coalition incurs little cost in coordinating its efforts. However the public, being heterogeneous and widely dispersed, incurs great cost and difficulty in organizing a response.

FirstEnergy was able to induce companies to support its ESP by including special rates or programs for the coalition members — with the costs therefore borne by the ratepayers. In his original testimony, Hill pointed that the redistributive coalition was assembled to present to the commission (and the public) the appearance of not only broad support for the ESP, but also a broad range of benefits that would flow to varying classes of customers, including those with low income. However, Hill demonstrated that the benefits would only flow to the members of the coalition — a very small group.

FirstEnergy responded to this testimony by adding new members to the coalition through a series of supplemental stipulations. But nothing changed about the fundamental nature of FirstEnergy's stipulation. It remains a carefully crafted coalition designed to fool the public into thinking it is representative of the public interest.

Hill's Aug. 10 testimony on behalf of the Ohio Manufacturer's Association Energy Group speaks to this ploy: "Here, (FirstEnergy) has assembled a coalition to promote a policy that benefits (its) affiliate, First Energy Solutions and the other coalition members . . . The large heterogeneous group that has to pay for the majority of this proposed policy . . . consists of the remaining commercial, industrial and residential ratepayers of Northern Ohio."

But what really caught my attention in Hill's testimony was his discussion of another concept that FirstEnergy cynically exploits: "rational ignorance." Rational ignorance is the term used to describe reasonable disengagement by a public unable to digest complex technical arguments set forth by more knowledgeable industry experts.

In this context, Hill noted that FirstEnergy looks to exploit the general public's inability to understand the nuance of the coalition support. On its face, the coalition seems to be asking for policy that the public should support — things such as price breaks for the poor, energy efficiency programs for small businesses, and so forth.

But under close examination, it turns out that the programs are narrowly crafted to help only those in the coalition. Why, for instance, would we only support the city of Akron and no other urban areas in northern Ohio? And why only support the members of the Council of Small Enterprise and not other small businesses?

FirstEnergy is hardly the first energy company to try to exploit rational ignorance. In fact, this is done all the time in the energy business. How is it, for instance, that we hear industry experts opine that nuclear energy is both the cheapest and most expensive power being generated today in America? It all depends on the assumptions you make in making the calculations. The general public has no idea what to make of this.

Utilities AEP and Duke also sought PPAs. Yet neither sought to assemble redistributive coalitions for PPAs to try to fool or confuse the public. But then again, they were unsuccessful in their applications.

It is likely that the PUCO will find these circumstances no different, notwithstanding the cynical strategy deployed by FirstEnergy in assembling its redistributive coalition. But one thing that FirstEnergy learned from its war on the energy efficiency mandate is that perseverance works. If FirstEnergy is denied the PPA, it will be back with another strategy.

FirstEnergy has an argument for the PPA that may have merit: without the PPA, the plants may close, and that may lead to problems with grid reliability in Ohio. I doubt the evidence will support this, but this is the case that the PUCO needs to carefully consider, not the redistributive coalition strategy. In the end, the PUCO is the public's primary defense against rational ignorance.



1317 F Street NW
Suite 600
Washington, DC 20004
Phone: 202-745-6331
Fax: 202-783-0329
www.competecoalition.com

For Immediate Release
July 13, 2015

Contact: Alexandra Meredith
212-446-1887

Empirical Evidence Shows Consumers Better Off With Customer Choice in Electricity

Nearly 20 years of Factual Data Demonstrate Choice Customers Benefit from Improved Price, Investment and Reliability

WASHINGTON, D.C. – Nearly two decades of empirical data allow for an objective review of the performance of competitive electricity choice markets versus the traditional monopoly model, and the facts show that choice consumers benefit in terms of improved price, investment and reliability, a new study sponsored by the COMPETE Coalition concludes.

“In a compelling example of what Justice Louis Brandeis termed states serving as laboratories of democracy, for nearly two decades, two retail electricity models, choice and monopoly, have operated in parallel allowing reliable comparison of the two models on key indicators,” said COMPETE Counsel William Massey. “The data demonstrate that customer choice jurisdictions that steadily adapted and expanded retail choice out-perform, or at least compare favorably with, the states that have so far rejected broad-based customer market access.”

The study, “[Evolution of the Revolution: The Sustained Success of Retail Electricity Competition](#),” found empirical data for key indicators demonstrate that the retail electric choice revolution has evolved successfully with consumers increasingly embracing competition and customer choice jurisdictions outperforming monopoly states in both price and generation trends. In particular:

- From 1997 through 2014, prices in customer choice jurisdictions increased 4.5% less than inflation while prices in monopoly states increased 8.4% more than inflation. Electricity in monopoly states accounted for a larger share of the consumer cost of living in 2014 than in 1997, while electricity’s share of the consumer pocketbook in customer choice jurisdictions was less in 2014 than in 1997.
- From 2003-2013, accounts served by competitive suppliers increased 524% for commercial and industrial (C&I) customers and 636% for residential customers.
- From 2003-2014, electricity demand served by competitive suppliers surged even during a period of flat growth in consumption: 181% for C&I and 673% for residential.
- Generation in customer choice jurisdictions as a group outperformed that in monopoly states producing billions of dollars of new, more efficient generation with higher capacity factors than in monopoly states.

The study’s authors are Philip O’Connor, president of PROactive Strategies Inc. and former chairman of the Illinois Commerce Commission, and Erin O’Connell-Diaz, president of FutureFWD Inc. and former commissioner with the Illinois Commerce Commission.

“The empirical data demolish the unsupported claims of market critics in terms of price, investment and reliability,” said O’Connor. “There has been sustained growth of customer choice both in numbers of accounts and electric load served by competitive providers. There has been substantial investment in generation and favorable generation performance trends in customer choice jurisdictions. And price trends under customer choice have been more favorable to customers than in monopoly states.”

“Given the sustained, demonstrable success of customer choice both in price trends and in generation investment and performance, the terms of the debate should shift to how retail customer choice provides a better platform for addressing innovation, accommodating environmental goals, allocating risk, and responsiveness to fast changing economic, financial and technology conditions,” said O’Connell-Diaz.

The study is being released in conjunction with the summer meeting of the National Association of Regulatory Utility Commissioners, where the study’s academic approach and factual conclusions were welcomed by key state utility regulators.

“The data on price performance in customer choice jurisdictions are among the most compelling findings of this paper,” said Brien Sheahan, Chairman of the Illinois Commerce Commission. “Over the past nearly two decades, electricity prices in customer choice jurisdictions increased 4.5% less than inflation while prices in monopoly states increased 8.4% more than inflation. The numbers truly speak for themselves when you take into account the impact of electricity prices on consumer cost of living. Electricity competition has proven to be quite beneficial to consumers and economic competitiveness here in Illinois and in other states.”

“It has been nearly two decades with workably competitive electricity markets in 13 states and the District of Columbia, and we can no longer ignore the facts. Customer choice works for electricity consumers and businesses, helping to drive down prices and attract billions of dollars of investment in new, more efficient generation,” said Robert Powelson, Commissioner and former Chairman of the Pennsylvania Public Utility Commission. “I am encouraged by the findings of this paper, which are certainly consistent with our experience with competition here in Pennsylvania, and pleased that the facts speak for themselves. In some service territories across Pennsylvania, customers are paying less for power than they did prior to electric restructuring. Coupled with locally sourced Marcellus gas, Pennsylvania is poised to be an economic powerhouse for job creation.”

The study can be accessed at www.competecoalition.com.

#

ABOUT COMPETE

The **COMPETE** Coalition is more than 780 electricity stakeholders, including customers, suppliers, traditional and clean energy generators, transmission owners, trade associations, technology innovators, environmental organizations and economic development corporations – all of whom support well-structured competitive electricity markets for the benefit of our country. For more information, visit www.competecoalition.com.



Energy Mandates Study Committee

About The Committee

Created by Senate Bill 310 of the 130th General Assembly, the Energy Mandates Study Committee will hold hearings to study Ohio's renewable energy, energy efficiency, and peak demand reduction mandates. Senate Bill 310 instructs the committee to produce a report with recommendations on legislative action due September 30, 2015.

Meet The Members

Senate Bill 310 states that the committee shall be made up of 13 members. 6 of these are members of the Ohio House of Representatives, and 6 are members of the Ohio Senate. The 13th member of the Committee is the Chairman of the Public Utilities Commission of Ohio.

Committee Members

Kristina Roegner - Co-Chair
Ohio House of Representatives

Ron Amstutz
Ohio House of Representatives

Louis W. Blessing, III
Ohio House of Representatives

Jack Cera
Ohio House of Representatives

Christina Hagan
Ohio House of Representatives

Mike Stinziano
Ohio House of Representatives

Troy Balderson - Co-Chair
Ohio Senate

Capri Cafaro
Ohio Senate

Cliff Hite
Ohio Senate

Bob Peterson
Ohio Senate

Bill Seitz
Ohio Senate

Sandra R. Williams
Ohio Senate

Andre T. Porter
Public Utilities Commission of Ohio

WITNESS TESTIMONY

11.24.14 Chairman Johnson

Chairman, Ohio Public Utilities Commission

12.8.14 Chairman Johnson

Chairman, Ohio Public Utilities Commission

2.5.15 Commissioner Haque

Commissioner, Ohio Public Utilities Commission

2.5.15 Director Butler

Director, Ohio Environmental Protection Agency

3.18.15 Andrew Ott

Executive Vice President, Markets for PJM

4.16.15 Combined Heat and Power

Patrick Smith, Vice President, IGS Generation

Greg Collins, President, Energy Systems Group

Bala Naidu, Technology and Strategy Leader, General Electric

Steve Giles, Hull and Associates

4.16.15 Stephen Bennett

Ohio Vice-Chair of the Retail Energy Supply Association (RESA)

4.16.15 Joseph Bowring

Independent Market Monitor for PJM

4.16.15 Sean Gallagher

Vice President of State Affairs Solar Energy Industries Association (SEIA)

5.7.15 Charles Goldman

Division Director and Staff Scientist Electricity Markets and Policy Group:

Lawrence Berkeley National Laboratory

5.7.15 Gary Swanson

Energy Management Solutions, Inc.

6.1.15 Tom Vinson

American Wind Energy Association

6.1.15 Glen Thomas

President, PJM Power Providers Group

6.1.15 Bruce Weston

Ohio Consumers' Counsel

6.1.15 Joe Kerecman

Director of Government and Regulatory Affairs for Calpine Corporation

6.1.15 Dean Ellis

Vice President - Regulatory Affairs, Dynegy

7.20.15 Dr. Ryan Yonk

Utah State University

7.20.15 Greg Lawson

Statehouse Liaison, The Buckeye Institute for Public Policy Solutions

TO: OMA Government Affairs Committee
FROM: Ryan Augsburger / Rob Brundrett
RE: Environment Public Policy Report
DATE: September 2, 2015

Overview

The General Assembly has been absent from Columbus since July after passing the state budget. Environmental legislation and rule making continues to be a slow moving endeavor. Federal environmental regulations continue to dominate the environmental landscape. The administration recently released its final Clean Power Plan rules and will be issuing its final ozone regulation later this fall. The OMA is engaged in a full campaign to battle the severity of the final ozone regulation.

General Assembly News and Legislation

House Bill 64 – State Budget Bill

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

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

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

Two OMA amendments were included in the House version of bill that would exempt slag from the definition of industrial waste, and the second amendment would exempt clay and shale structural products from solid waste and industrial waste statutes. The clay and shale amendment survived the budget process. The slag amendment was removed at the last minute with a guarantee from the agency that they would work quickly to find a solution suitable for the industry.

Regulations

Ozone – U.S. EPA

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

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

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

The OMA and Ohio EPA submitted comments opposing such a change.

The OMA has been working with NAM on a campaign to pressure the White House on the ozone rules. The OMA has been leading the coordination and media efforts to bring attention to the issue in and Ohio and is identifying key democrats, elected officials, union leaders, and businesses who have all been weighing in at the federal level letting officials know the detrimental impact these regulations would have in Ohio. The Final rule is expected to be filed in October.

U.S. EPA 111(d)

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

The rule proposes a national reduction in power plant carbon emissions by 2030, from a base year of 2012. This means a 37% reduction for Ohio.

EPA revised the building block model in response to legal uncertainties. The new "building blocks" are: reducing the carbon intensity of electricity generation by improving the heat rate of existing coal-fired power plants; substituting increased electricity generation from lower-emitting existing natural gas plants for reduced generation from higher-emitting coal-fired plants; and substituting increased electricity generation from renewable energy sources.

The timetable for implementing these vast rules is aggressive: States will be required to submit a final plan, or an initial submittal with an extension request, by September 6, 2016.

Electronic Reporting and Recordkeeping Requirements for New Source Performance Standards

The OMA filed comments on U.S. EPA's Proposed "Electronic Reporting and Recordkeeping Requirements for New Source Performance Standards." The proposal would mandate that certain information be submitted via U.S. EPA's "Compliance and Emissions Data Reporting Interface," accessed through U.S. EPA's Central Data Exchange.

The proposed new reporting format, and the filing dictates tied to it, duplicate and conflict with existing electronic reporting under the NSPS program. The proposed new reporting dictates are in addition to, not in lieu of, existing federally enforceable state permit terms that implement the same underlying NSPA reporting provisions.

Asbestos Labeling

On May 8, the OMA requested Ohio EPA clarification regarding the recent change in the Occupational Safety & Health Administration (OSHA) requirements for labeling asbestos waste containers. Sign changes are required effective June 1, 2015.

On May 21, Ohio EPA director Craig Butler responded to the OMA that the new OSHA requirements can flow through the current state administrative code. So, there will be no dual requirement in the state.

The director said he's directed his staff to create new Standard Operating Guidance on the matter to document this helpful and timely decision.

Beneficial Use

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

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

Earlier this year Ohio EPA released the long anticipated draft beneficial use rules for public comment. The rules cover: foundry sands; material resulting from treatment of water supply for drinking or industrial purposes that are a solid waste, industrial waste, or other waste; wastes used as fuel or ingredient in a combustion unit; and dredged materials. Noticeably absent was any rule regarding slag.

The agency continues to work on the proposal.

Universal Waste

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

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

Most recently the group sent clarifying information to the agency describing the different types of wastes that are expected to be covered under the rule change. The agency is planning a fall ESO considering three types of new universal wastes including paint.

Water Nutrient Work Group

Ohio EPA has been working on reducing the amount of nutrients that enter Ohio’s waterways. The OMA has two members on the working group Ohio EPA created to review the issue. The group submitted final comments to Ohio EPA and is awaiting Ohio EPA’s rule draft in response to the group’s findings.

Other Notes

Ohio Supreme Court Decision Invalidates TMDLs

On March 24, 2015, the Ohio Supreme Court, in a 5-2 vote, issued a decision invalidating a phosphorus limit that was imposed on a Fairfield County wastewater treatment plant. The decision in *Fairfield Cty. Bd. Of Commrs. v. Nally*, provides that the Ohio EPA must adhere to Ohio’s statutory rulemaking procedure prior to establishing pollutant limits for a body of water.

In his concurring opinion, Justice Terrence O'Donnell provided that the "decision is far-reaching in that Ohio EPA has issued 1,761 TMDLs* for watercourses throughout Ohio, including 132 TMDLs for phosphorus alone," none of which have been promulgated through the R.C. 119 administrative process. "[T]hus the majority's decision invalidates all of them, leaving the enforceability of numerous permits in question."

*The total maximum daily load (TMDL) establishes the maximum amount of a pollutant that may be discharged for certain bodies of water without causing the receiving body of water to violate water-quality standards.

Corps Ordered to Dredge

The U.S. Army Corps of Engineers was ordered by a federal judge to complete all the dredging required of it as authorized by Congress. At issue was the dredging of the Cuyahoga River, specifically the final mile of the river channel that "connects Cleveland's ArcelorMittal steel plant to the world." The Corps refused to dredge that mile and dispose of dredge material in a confined waste facility, instead of open dumping into the lake.

Ohio EPA director Craig Butler led the charge against the Corps, and points out that Congress appropriated almost \$8 million, and that the highest bid for dredging received by the Corps is only \$4 million. The Corps has the funding to dredge the entire channel, and dispose of its dredge materials appropriately in the confined waste facility.

Another example of an out-of-control federal agency undermining the U.S. economy.

Bottle Bill Amendment

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

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

Unlike previous so-called bottle bills, where the goal was to encourage recycling and increase reusable feedstock, 80% of the refunded deposits are directed to be used to reduce health and car insurance costs of Ohio residents. There are no specific details of how this would be accomplished. The amendment did not make the fall ballot.

Midwest Environmental Compliance Conference

OMA and its counterpart associations in the Midwest are hosting the Midwest Environmental Compliance Conference on October 29-30 in Chicago with support from the U.S. EPA and state EPAs.

This event for Region 5 is intended to respond to the increasingly difficult task of environmental compliance, permitting, and enforcement issues that impact Midwest facilities.

New Statewide Ohio Ad Spot Warns of Costly EPA Ozone Regulation

Washington, D.C., August 25, 2015 – A statewide Ohio television [spot](#) launched today by the National Association of Manufacturers (NAM) highlights the costly economic impact the state will feel from the Obama Administration’s proposed ozone regulation.



“Ohio has long been a leader in balancing economic growth with environmental stewardship,” said NAM President and CEO Jay Timmons. “For the past three decades, a strong coalition of business and community leaders have worked together to secure real clean air progress. The aim of this ad is to help draw attention to new, costly mandates from Washington that threaten to undermine these state efforts. Rather than Washington punishing states like Ohio, the Obama Administration should look to them for leadership on how to attain progress while growing the economy.”

The Ohio ad buy follows two recent national television spots and a state campaign in Colorado as part of the NAM’s growing effort to put the spotlight directly on the Obama Administration’s ozone proposal.

In Ohio, the EPA’s proposal to lower the current 75 parts per billion (ppb) ozone standard to a range between 65 ppb and 70 ppb could hit the state hard, with \$23 billion in lost GDP and the equivalent of nearly 23,000 jobs lost per year, according to an NAM-commissioned study by National Economic Research Associates (NERA) Economic Consulting. Nationally, the proposal could be the most expensive regulation in U.S. history, costing the economy \$140 billion per year in lost GDP with a compliance price tag of \$1.8 trillion from 2017 to 2040.

For more information about this campaign, visit our website at www.nam.org/ozone.

-NAM-

The National Association of Manufacturers (NAM) is the largest manufacturing association in the United States, representing small and large manufacturers in every industrial sector and in all 50 states. Manufacturing employs more than 12 million men and women, contributes \$2.09 trillion to the U.S. economy annually, has the largest economic impact of any major sector and accounts for more than three-quarters of private-sector research and development. The NAM is the powerful voice of the manufacturing community and the leading advocate for a policy agenda that helps manufacturers compete in the global economy and create jobs across the United States. For more information about the National Association of Manufacturers or to follow us on Shopfloor, Twitter and Facebook, please visit www.nam.org.

733 10th St. NW, Suite 700 • Washington, DC 20001 • (202) 637-3000

1.0 KEY FINDINGS

- The Obama Administration and the U.S. Environmental Protection Agency (EPA) are currently considering a plan to dramatically tighten federal ozone limits to an unprecedented 65 to 70 ppb. If implemented, this plan would cause significant damage to Ohio's economy.
- The very industries that buoyed Ohio's economy through the economic downturn, manufacturing, energy, and construction, will be targeted by this regulation.
- Today, most of Ohio is meeting the 2008 standard, with the counties surrounding Cincinnati, Columbus, and Cleveland classified as being in "marginal nonattainment." Under this classification, the EPA will not impose penalties or new planning requirements.
- By lowering the National Ambient Air Quality Standard from 75 parts per billion (ppb) into the 65 to 70 ppb range, the EPA would cause at least 34 counties in Ohio to be in violation of federal law. These are some of Ohio's most populated counties, concentrated around the Cleveland and Cincinnati metropolitan areas, but a number of Ohio's rural counties may be dragged into nonattainment as well.
- The vast majority of Ohio's economy, population, and workforce could be caught in the net of ozone nonattainment under the EPA's proposed range. The 34 impacted counties represent 84 percent of the state's GDP, 80 percent of the state's workforce, and 77 percent of the state's population.
- Ohio's manufacturers will be especially hard hit by the new ozone regulation. The manufacturing sector employs 16 percent of Ohio's workforce, making it the largest sector by employment in the entire state.
- Ohio's construction industry would be another casualty of this regulation, because counties designated as being in "nonattainment" may be forced to institute construction bans.
- The new proposed ground-level ozone rules being considered in Washington have provoked a bipartisan backlash in Ohio.
- In interviews with the Center for Regulatory Solutions (CRS), in letters to the Obama Administration, and in other public comments, a broad cross-section of elected officials, business owners, and regulatory experts expressed their frustration that the EPA is ignoring the substantial progress Ohio has already made to clean its air.

- In order to combat ground-level ozone, in the 1990s Ohio created the E-Check program to monitor vehicle emissions in the counties around Cleveland and order those vehicles in violation to be repaired. It is estimated that in its first 10 years the program reduced 18.8 tons of vehicle emissions per day.
- Ohio's substantial efforts to improve its air quality are perhaps best summarized by Lt. Governor Mary Taylor, who said "Ohio is in the process of implementing dozens of massive new regulations put in place by [EPA] over the past several years ... Taken together, these regulations impose billions of dollars in new costs. They will also drive major reductions in the emissions that cause ozone, making a new NAAQS even less necessary."
- The state's power plants will face the dual challenge of more expensive inputs (as this rule will confer costs on energy production) and expenses associated with its own compliance (ie. the purchase of selective catalytic reduction to control NOx) – the end result of this "tax" on industry – is higher residential and industrial energy costs.

Cleveland Impacts

- Under the proposed range for the EPA's new ozone National Ambient Air Quality Standards (NAAQS), an eight county region stretching from Ashtabula County to Lorain County would be classified in nonattainment.
- The eight counties that surround Cleveland account for 30 percent (\$177.2 billion) of state GDP and nearly 30 percent of the state's workforce (1.7 million individuals).
- The economic burdens from this regulation will hit the hardest in Ashtabula and Lorain Counties where the manufacturing sector represents the largest sector of their economies (15 and 14 percent, respectively).
- Five of the eight Cleveland-area counties already suffer from high levels of poverty, ranging from 14.6 to 19.2 percent.
- All of the relatively non-invasive measures (like the E-Check program) have already been undertaken in Cleveland, and in pursuit of attainment, Ohio will have to apply methods that will curtail its economic growth.

Cincinnati Impacts

- In the Cincinnati metro area the entirety of Butler, Claremont, Hamilton, and Warren counties would be thrust into nonattainment. This region generates \$92.8 billion or 16 percent of Ohio's GDP and employs almost 15 percent of its workforce.
- The new ozone standard would be punishing counties that, like Hamilton County, have substantially decreased their ozone levels, and would continue to see improvements as the 2008 standard is enforced.

Survey

- A recent survey commissioned by the National Association of Manufacturers (NAM) finds that voters in Ohio overwhelmingly have a high opinion of the quality and cleanliness of their local air. According to the survey, nearly two-thirds (65 percent) of Ohio voters rate their local air quality as "Excellent" or "Good."
- Most Ohio voters (55 percent) oppose any additional environmental regulations on businesses, believing these would have negative impacts on the economy through higher taxes (78 percent), higher prices (80 percent), and making it harder to start or grow businesses (69 percent).
- By a wide margin, Ohioans think the bigger problem for their local area is "less economic growth and job opportunities caused by regulations" (73 percent) rather than "lower air quality caused by pollution" (16 percent).
- Fewer than two-in-five Ohioans (35 percent) think that the federal government should implement stricter environmental regulations on businesses operating in their local area.

2.0 EXECUTIVE SUMMARY

The Obama Administration and the U.S. Environmental Protection Agency (EPA) are currently considering a plan to dramatically tighten federal ozone limits to an unprecedented 65 to 70 ppb. If implemented, this plan would cause significant damage to Ohio's economy, just as the state is putting the Great Recession in its rear-view mirror. The very industries that buoyed Ohio's economy through the economic downturn, manufacturing, energy, and construction, will be targeted by this regulation-causing job loss, slowed economic growth, less tax revenue for the state, and an incentive for manufacturers to move elsewhere.

The proposed regulations would also limit the state's access to federal highway funding, which means Ohioans may face more frequent traffic jams – especially in the Cleveland and Cincinnati metro areas. Furthermore, public opinion research shows a strong majority of Ohioans believe their air quality is already well above average, and significant majorities across the state oppose any plan that would cost the state thousands of jobs and billions in lost economic activity for no, or very little, environmental benefit in return.

For these reasons, Ohio businesses, labor unions, local officials, and state officials have come together to speak out against Washington's ozone agenda.

"After the great strides we have made in the region on improving air quality, the proposed new EPA standards will serve as an antidevelopment punishment...By moving the goalposts on ozone, we are afraid that the EPA's plan will chase away [manufacturing] jobs, stifle future development and push the region back to low income status."

Tracy Drake

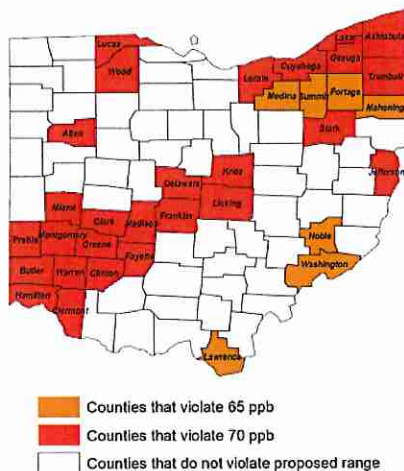
President, Eastern Ohio Development Alliance,
August 2015 interview with CRS

Washington's Ozone Agenda Hits Ohio Especially Hard

By lowering the National Ambient Air Quality Standard from 75 parts per billion (ppb) into the 65 to 70 ppb range, the EPA would cause, with a single action, at least 34 counties in Ohio to be in violation of federal law. These are some of Ohio's most populated counties, concentrated around the Cleveland and Cincinnati metropolitan areas, but a number of Ohio's rural counties may be dragged into nonattainment as well. Together, these 34 counties are home to 77 percent of the state's population, 84 percent of Ohio's GDP, and 80 percent of state employment.

Violation of the proposed ground-level ozone standards will trigger a process that effectively hands over to the EPA significant control over permitting and planning programs that currently reside within the purview of state and local authorities in these counties. Opening new manufacturing facilities, expanding existing businesses, and upgrading the state's road network – among many other high-priority public and private investments in the Ohio state economy – are threatened by the EPA's ultra-low cap on ozone-forming emissions. Even worse, the EPA's role in micromanaging Ohio's economy could be permanent if Ohio can't reach attainment. Some scientists and planners believe the new standards being contemplated by Washington are so low, they may actually be technologically unfeasible.

THIRTY-FOUR COUNTIES IN OHIO WOULD BE IN NON-ATTAINMENT IF EPA LOWERS OZONE NAAQS TO 65 PPB; TOGETHER THEY ACCOUNT FOR 84% OF OHIO'S GDP.

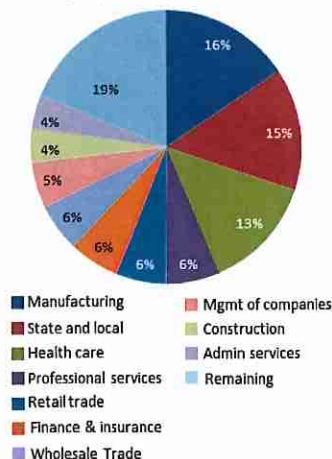


The 34 counties represent the following:

- \$493.9 billion or 84% of the state's GDP
- 5.3 million or 80% of the state's employment
- \$268.5 billion or 84% of total employment compensation in the state
- Approximately 77% of the state's population

Non-Attainment Counties	2014 GDP Estimate (Bn \$)	2013 Employment Estimate
Allen	6.2	64,385
Ashtabula	6.1	45,492
Butler	21.7	188,335
Clark	6.6	64,164
Clermont	11.7	86,507
Clinton	1.6	21,006
Cuyahoga	77.9	903,449
Delaware	11.4	128,152
Fayette	1.0	16,765
Franklin	74.3	882,855
Geauga	5.8	51,887
Greene	8.0	99,123
Hamilton	46.7	608,746
Jefferson	2.1	27,517
Knox	2.1	29,875
Lake	14.2	119,412
Lawrence	2.4	18,405
Licking	10.2	72,580
Lorain	18.8	127,309
Lucas	23.2	258,612
Madison	2.6	20,645
Mahoning	8.2	131,266
Medina	10.9	84,463
Miami	5.0	52,686
Montgomery	25.9	304,599
Noble	0.4	5,272
Portage	10.0	76,326
Preble	0.9	14,957
Stark	15.2	209,281
Summit	33.5	331,215
Trumbull	7.2	91,714
Warren	12.8	109,266
Washington	2.4	32,443
Wood	6.9	77,814
Total	493.9	5,356,523
Ohio	584.7	6,663,005

Employment by Sector



Democrats, Republicans, and Businesses Speak Out

The new proposed ground-level ozone rules being considered in Washington have provoked a bipartisan backlash in Ohio. In interviews with the Center for Regulatory Solutions (CRS), in letters to the Obama Administration, and in other public comments, a broad cross-section of elected officials, business owners and regulatory experts expressed their frustration that the EPA is ignoring the substantial progress Ohio has already made to clean its air.

“Ohio has made tremendous strides in clean air technology,” wrote State Representative Jack Cera (D) in a **letter** to the EPA. “The state’s manufacturers are strong believers in sustainable practices,” he continued, adding, “I strongly believe environmental policies must be flexible” to account for regional variances. “We do not believe that environmental protection and economic development are mutually exclusive,” Lt. Governor Mary Taylor wrote in a **letter** calling upon the EPA to re-examine the science underlying their new proposed standard. “The current standard is helping improve the quality of our air, and any further reduction is unjustified.”

In an interview with CRS, the Tri-State Building Trades Unions warned that the new rule would “result in lower economic growth, more job losses and an even lower standard of living” in Ohio and other Appalachian states. In a separate interview, a Zanesville, Ohio professional said that the new regulation would cause unemployment to “sky rocket” and implored the EPA to “leave the regulations alone.” Meanwhile, the Cincinnati USA Regional Chamber, which represents more than 4,000 businesses, urged the EPA to allow the 2008 ozone standards to be fully implemented before lowering the standard that they said may never be necessary. In **comments** to the EPA they wrote: “The manufacturing sector is a critical component to the Cincinnati region’s economy and would be directly impacted by this change,” adding that the regulations would be “detrimental to the Cincinnati economy” and would kill jobs.

“The overall impact of these far reaching regulations will result in lower economic growth, more job losses and an even lower standard of living to the Appalachian communities of the three state region that we represent.”

Mark Johnson

Business Manager,
Tri-State Building Trades Unions
August 2015 interview with CRS

Rural Ohio is also worried. The lower range of the standard is “so stringent that all 34 monitors in the state, including those used for background data in rural Ohio would violate the standard,” Governor John Kasich wrote in a letter to the EPA in 2011, when the EPA first proposed lower standards. Ohio’s ozone levels are inflated by background ozone blown in from **Canada**, which deals many Ohio communities a bad hand in terms of how much economic activity they could support under stricter regulations. The levels the EPA is contemplating are so low that many **national parks**, like the iconic Yosemite National Park and the Grand Canyon, would be in nonattainment.

Construction Bans, Delayed Road Projects

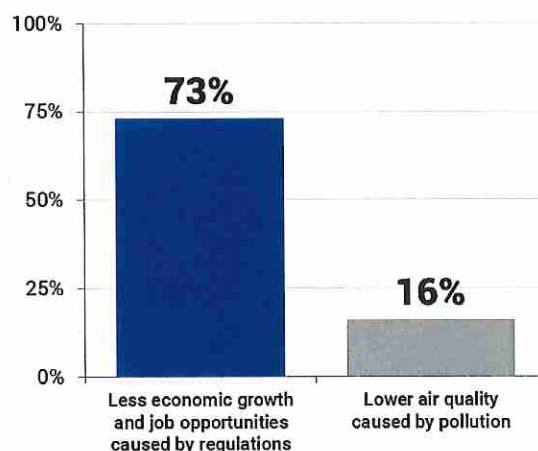
Local and national groups representing **cities, counties, transportation departments, agricultural agencies, state-level environmental regulators, labor unions, construction companies, energy producers, manufacturers**, and many other stakeholders have all sounded the alarm over Washington's ozone plans. In their view, the EPA is ignoring that very few cost-effective strategies are available to reduce remaining ozone-forming emissions, following four decades of huge private and public investments across all levels of government to solve the problem. In fact, the EPA has acknowledged that, in order to comply with a 65 parts per billion standard, 40 percent of reductions must come from "**unknown controls**" that don't currently exist. Therefore, in comments to the Obama Administration, these stakeholders have warned that states may be forced to adopt much harsher measures, including:

- Construction bans
- Limits or bans on business expansions
- Delays in highway and road projects
- Denials of highway and road projects
- Measures to discourage driving, including the adoption of "no drive" days
- New restrictions on energy production

If a location is out of attainment under the proposed regulation, a provision called "transportation conformity" could withhold federal highway dollars from Ohio. While the EPA argues they wouldn't impose these funding restrictions, they have – in **Atlanta, Georgia** – at the behest of environmental groups. Ohioans are worried that the same fate could befall their transportation improvement projects. In an interview with CRS, the Affiliated Construction Trades Ohio Foundation (ACT Ohio) warned that the EPA could "halt federal funding for Ohio's highway, transit or infrastructure development initiatives." In the

OHIO OPINION POLL

What do you see as the bigger problem for your local area?



Source: NAM Ohio opinion poll, August 2015

Cincinnati area specifically, the EPA could halt the Brent Spence Bridge/I-75 Corridor project, the Western Hills Viaduct, and the interchange at Interstate 71 and Martin Luther King Drive, **according** to the Cincinnati USA Regional Chamber.

Experience shows cars and trucks that spend more time on the road stuck in traffic jams will **produce more emissions** – including those that contribute to ozone – than vehicles traveling to their destinations at or near the speed limit. Therefore, by making traffic worse in Ohio, the EPA’s ozone proposal is not just economically destructive – it is self-defeating.

Voters Wary of Federal Overreach

Recent public opinion research suggests strong opposition to the EPA’s plans in Ohio. A statewide public opinion poll, commissioned by the National Association of Manufacturers, found nearly two-thirds (65 percent) of Ohio voters rate their local air quality as “Excellent” or “Good.” By a wide margin, Ohioans think that a bigger problem for their local area is “less economic growth and job opportunities caused by regulations” (73 percent) rather than “lower air quality caused by pollution” (16 percent). Only a third (34 percent) of Ohio voters think that new environmental regulations on local businesses would actually make the local air quality better.

Conclusion

The results of this report show that Washington’s plan to dramatically tighten the federal ozone standard – a plan which could be finalized by Oct. 1 or sooner – poses an urgent threat to Ohio’s economy, Ohio’s employers, and Ohio’s workers. It also serves as a call to action for citizens, public officials, business owners, and industry groups to demand the federal ozone standard remains at the current 75 ppb level – a standard that itself was only imposed in 2008, and which the EPA only began implementing this year.



THE CITY OF
CANTON
WILLIAM J. HEALY II, MAYOR

July 27, 2015

Mr. Brian Deese
Assistant to the President and Senior Advisor
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear Mr. Deese:

The City of Canton is located in Stark County, Ohio, which currently has an ozone level of 76 parts per billion. That is already just barely above the current target set by the Environmental Protection Agency just a few years ago. I understand the U.S. EPA is proposing that this standard be made much more stringent, suggesting that it be lowered all the way down to 65 parts per billion.

For Canton, Ohio, that could have devastating economic consequences. As Mayor of Canton, I am very concerned about what the new EPA rule would mean for our residents and businesses here in Stark County. I have been informed that at least one estimate suggests that the cost of achieving these new standards could be as much as \$2,000 each year for every person in our city. All told, estimates of this rule's annual cost to the United States are as high as \$140 billion annually. That is a staggering cost – more than any other regulation ever, from what I understand.

As past president of the Ohio Municipal League, I know that this rule will be a real burden not just for Canton, but also for all of the other cities and towns across our state. We may be innovative and resilient Midwesterners, but we do not have the ability to suddenly achieve the new allowable ozone level without considerable expense.

We are fighting hard to grow our economy and create jobs while caring for the environment, but this new rule could make it very difficult for us to meet those goals. I hope that the Obama Administration will carefully consider the negative consequences of the EPA's proposed ozone regulation on communities like Canton.

Sincerely,

William J. Healy II
Mayor, City of Canton

cc: Gina McCarthy, Environmental Protection Agency
Valerie Jarrett, Environmental Protection Agency
Jeremy Hekhuis, Sherrod Brown's Office
Pam Thiessen, Senator Rob Portman's Office
Patrick Velliky, Representative Renacci's Office





August 18, 2015

The Honorable William J. Healy II
Mayor, The City of Canton
Canton City Hall
218 Cleveland Avenue S.W.
Canton, OH 44702

Dear Mayor Healy:

As members of Ohio's manufacturing community, we want to tell you how much we appreciate you writing to the White House to share your concerns about the Environmental Protection Agency's proposed reduction to national ground-level ozone standards. We have seen a copy of your letter to the White House and we congratulate you on it. We appreciate that you understand and share the concerns of area manufacturers.

Ohio and the rest of the country are making great progress towards national adherence to the 75 ppb standard, which was only set in 2008. The State of Ohio has been achieving progressively cleaner air for more than 30 years. Continued vigorous pursuit of state compliance with the current standard will continue our air quality progress while we continue our economic growth.

The proposed standard is projected to be the most costly regulation in U.S. history. As you pointed out in your letter, the cost of compliance would make the goals of growing the local economy, creating jobs, and caring for the environment very difficult.

Again, we thank you for listening to the concerns of Ohio manufacturers and expressing those concerns to the proper authorities in Washington. Thank you so much for speaking out.

Sincerely,

Eric Burkland
Ohio Manufacturers' Assoc.

Bradley H. Belden
The Belden Brick Co.

Emil Alecusan
Brewster Cheese

Thomas T. Fischer
Crown Holdings, Inc.

Elizabeth Evans
Republic Steel



OVERVIEW OF THE CLEAN POWER PLAN

CUTTING CARBON POLLUTION FROM POWER PLANTS

On August 3, President Obama and EPA announced the Clean Power Plan – a historic and important step in reducing carbon pollution from power plants that takes real action on climate change. Shaped by years of unprecedented outreach and public engagement, the final Clean Power Plan is fair, flexible and designed to strengthen the fast-growing trend toward cleaner and lower-polluting American energy. With strong but achievable standards for power plants, and customized goals for states to cut the carbon pollution that is driving climate change, the Clean Power Plan provides national consistency, accountability and a level playing field while reflecting each state’s energy mix. It also shows the world that the United States is committed to leading global efforts to address climate change.

WHAT IS THE CLEAN POWER PLAN?

- The Clean Power Plan will reduce carbon pollution from power plants, the nation’s largest source, while maintaining energy reliability and affordability. Also on August 3, EPA issued final Carbon Pollution Standards for new, modified, and reconstructed power plants, and proposed a Federal Plan and model rule to assist states in implementing the Clean Power Plan.
- These are the first-ever national standards that address carbon pollution from power plants.
- The Clean Power Plan cuts significant amounts of power plant carbon pollution and the pollutants that cause the soot and smog that harm health, while advancing clean energy innovation, development and deployment, and laying the foundation for the long-term strategy needed to tackle the threat of climate change. By providing states and utilities ample flexibility and the time needed to achieve these pollution cuts, the Clean Power Plan offers the power sector the ability to optimize pollution reductions while maintaining a reliable and affordable supply of electricity for ratepayers and businesses.
- Fossil fuels will continue to be a critical component of America’s energy future. The Clean Power Plan simply makes sure that fossil fuel-fired power plants will operate more cleanly and efficiently, while expanding the capacity for zero- and low-emitting power sources.

- The final rule is the result of unprecedented outreach to states, tribes, utilities, stakeholders and the public, including more than 4.3 million comments EPA received on the proposed rule. The final Clean Power Plan reflects that input, and gives states and utilities time to preserve ample, reliable and affordable power for all Americans.

WHY WE NEED THE CLEAN POWER PLAN

- In 2009, EPA determined that greenhouse gas pollution threatens Americans' health and welfare by leading to long-lasting changes in our climate that can have a range of negative effects on human health and the environment. Carbon dioxide (CO₂) is the most prevalent greenhouse gas pollutant, accounting for nearly three-quarters of global greenhouse gas emissions and 82 percent of U.S. greenhouse gas emissions.
- Climate change is one of the greatest environmental and public health challenges we face. Climate impacts affect all Americans' lives – from stronger storms to longer droughts and increased insurance premiums, food prices and allergy seasons.
- 2014 was the hottest year in recorded history, and 14 of the 15 warmest years on record have all occurred in the first 15 years of this century. Recorded temperatures in the first half of 2015 were also warmer than normal.
- Overwhelmingly, the best scientists in the world, relying on troves of data and millions of measurements collected over the course of decades on land, in air and water, at sea and from space, are telling us that our activities are causing climate change.
- The most vulnerable among us – including children, older adults, people with heart or lung disease and people living in poverty – may be most at risk from the impacts of climate change.
- Fossil fuel-fired power plants are by far the largest source of U.S. CO₂ emissions, making up 31 percent of U.S. total greenhouse gas emissions.
- Taking action now is critical. Reducing CO₂ emissions from power plants, and driving investment in clean energy technologies strategies that do so, is an essential step in lessening the impacts of climate change and providing a more certain future for our health, our environment, and future generations.

BENEFITS OF IMPLEMENTING THE CLEAN POWER PLAN

- The transition to clean energy is happening faster than anticipated. This means carbon and air pollution are already decreasing, improving public health each and every year.
- The Clean Power Plan accelerates this momentum, putting us on pace to cut this dangerous pollution to historically low levels in the future.
- When the Clean Power Plan is fully in place in 2030, carbon pollution from the power sector will be 32 percent below 2005 levels, securing progress and making sure it continues.

- The transition to cleaner sources of energy will better protect Americans from other harmful air pollution, too. By 2030, emissions of sulfur dioxide from power plants will be 90 percent lower compared to 2005 levels, and emissions of nitrogen oxides will be 72 percent lower. Because these pollutants can create dangerous soot and smog, the historically low levels mean we will avoid thousands of premature deaths and have thousands fewer asthma attacks and hospitalizations in 2030 and every year beyond.
- Within this larger context, the Clean Power Plan itself is projected to contribute significant pollution reductions, resulting in important benefits, including:
 - Climate benefits of \$20 billion
 - Health benefits of \$14-\$34 billion
 - Net benefits of \$26-\$45 billion
- Because carbon pollution comes packaged with other dangerous air pollutants, the Clean Power Plan will also protect public health, avoiding each year:
 - 3,600 premature deaths
 - 1,700 heart attacks
 - 90,000 asthma attacks
 - 300,000 missed work days and school days

HOW THE CLEAN POWER PLAN WORKS

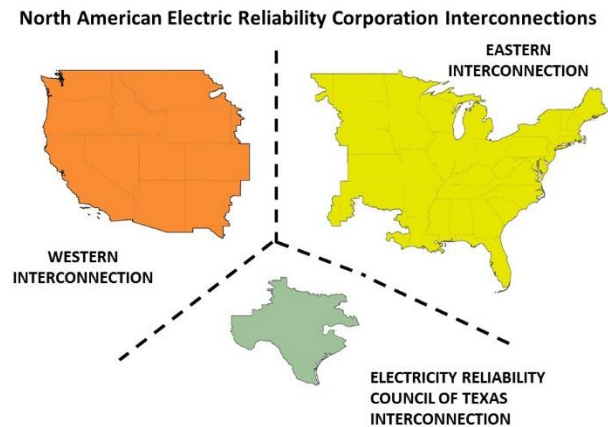
- The Clean Air Act – under section 111(d) – creates a partnership between EPA, states, tribes and U.S. territories – with EPA setting a goal and states and tribes choosing how they will meet it.
- The final Clean Power Plan follows that approach. EPA is establishing interim and final carbon dioxide (CO₂) emission performance rates for two subcategories of fossil fuel-fired electric generating units (EGUs):
 - Fossil fuel-fired electric steam generating units (generally, coal- and oil-fired power plants)
 - Natural gas-fired combined cycle generating units
- To maximize the range of choices available to states in implementing the standards and to utilities in meeting them, EPA is establishing interim and final statewide goals in three forms:
 - A rate-based state goal measured in pounds per megawatt hour (lb/MWh);

- A mass-based state goal measured in total short tons of CO₂;
- A mass-based state goal with a new source complement measured in total short tons of CO₂.
- States then develop and implement plans that ensure that the power plants in their state – either individually, together or in combination with other measures – achieve the interim CO₂ emissions performance rates over the period of 2022 to 2029 and the final CO₂ emission performance rates, rate-based goals or mass-based goals by 2030.
- These final guidelines are consistent with the law and align with the approach that Congress and EPA have always taken to regulate emissions from this and all other industrial sectors – setting source-level, source category-wide standards that sources can meet through a variety of technologies and measures.

HOW EPA DETERMINED EMISSION PERFORMANCE RATES

- Under section 111(d) of the Clean Air Act, EPA determines the best system of emissions reduction (BSER) that has been demonstrated for a particular pollutant and a particular group of sources by examining technologies and measures already being used.
- Consistent with previous BSER determinations in 111(d) rulemakings, the agency considered the types of strategies, technologies and measures that states and utilities are already using to reduce CO₂ from fossil fuel-fired power plants.
- In the final Clean Power Plan, EPA determined that BSER consists of three building blocks:
 - **Building Block 1** - reducing the carbon intensity of electricity generation by improving the heat rate of existing coal-fired power plants.
 - **Building Block 2** -substituting increased electricity generation from lower-emitting existing natural gas plants for reduced generation from higher-emitting coal-fired power plants.
 - **Building Block 3** - substituting increased electricity generation from new zero-emitting renewable energy sources (like wind and solar) for reduced generation from existing coal-fired power plants.
- In determining the BSER, EPA considered the ranges of reductions that can be achieved at coal, oil and gas plants at a reasonable cost by application of each building block, taking into account how quickly and to what extent the measures encompassed by the building blocks could be used to reduce emissions.

- In assessing the BSER, EPA recognized that power plants operate through broad interconnected regional grids that determine the generation and distribution of power, and thus the agency based its analysis on the three established regional electricity interconnects: the Western interconnection, the Eastern interconnection and the Electricity Reliability Council of Texas interconnection.



- EPA applied the building blocks to all of the coal plants and all of the natural gas power plants in each region to produce regional emission performance rates for each category.
- From the three resulting regional coal plant rates, and the three regional natural gas power plant rates, EPA chose the most readily achievable rate for each category to arrive at equitable CO₂ emission performance rates for the country that represent the best system of emission reductions.
- The same CO₂ emission performance rates were then applied to all affected sources in each state to arrive at individual statewide rate-based and mass-based goals. Each state has a different goal based upon its own particular mix of affected sources.
- The agency is setting emission performance standards for tribes with affected EGUs— Navajo, Fort Mojave, and Ute (Uintah and Ouray). At this time, EPA is not setting CO₂ emission performance goals for Alaska, Hawaii, Guam or Puerto Rico so that the agency can continue to collect data that can form the basis of standards for power plants there in the future.

STATE PLANS

- The final Clean Power Plan provides guidelines for the development, submittal and implementation of state plans that establish standards of performance or other measures for affected EGUs in order to implement the interim and final CO₂ emission performance rates.
- States must develop and implement plans that ensure the power plants in their state – either individually, together, or in combination with other measures – achieve the equivalent, in terms of either or rate or mass, of the interim CO₂ performance rates between 2022 and 2029, and the final CO₂ emission performance rates for their state by 2030.
- States may choose between two plan types to meet their goals:

- **Emission standards plan**– includes source-specific requirements ensuring all affected power plants within the state meet their required emissions performance rates or state-specific rate-based or mass-based goal.
 - **State measures plan**– includes a mixture of measures implemented by the state, such as renewable energy standards and programs to improve residential energy efficiency that are not included as federally enforceable components of the plan. The plan may also include federally enforceable source-specific requirements. The state measures, alone or in conjunction with federally enforceable requirements, must result in affected power plants meeting the state’s mass-based goal. The plan must also include a backstop of federally enforceable standards on affected power plants that fully meet the emission guidelines and that would be triggered if the state measures fail to result in the affected plants achieving the required emissions reductions on schedule. States may use the final model rule, which EPA proposed on August 3, for their backstop.
- In developing its plan, each state will have the flexibility to select the measures it prefers in order to achieve the CO₂ emission performance rates for its affected plants or meet the equivalent statewide rate- or mass-based CO₂ goal. States will also have the ability to shape their own emissions reduction pathways over the 2022-29 period.
 - The final rule also gives states the option to work with other states on multi-state approaches, including emissions trading, that allow their power plants to integrate their interconnected operations within their operating systems and their opportunities to address carbon pollution.
 - The flexibility of the rule allows states to reduce costs to consumers, minimize stranded assets and spur private investments in renewable energy and energy efficiency technologies and businesses.
 - States can tailor their plans to meet their respective energy, environmental and economic needs and goals, and those of their local communities by:
 - relying on a diverse set of energy resources;
 - protecting electric system reliability;
 - providing affordable electricity; and
 - recognizing investments that states and power companies are already making.

EMISSIONS TRADING

- One cost-effective way that states can meet their goals is emissions trading, through which affected power plants may meet their emission standards via emission rate credits (for a rate-based standard) or allowances (for a mass-based standard).

- Trading is a proven approach to address pollution and provides states and affected plants with another mechanism to achieve their emission standards. Emission trading is a market-based policy tool that creates a financial incentive to reduce emissions where the costs of doing so are the lowest and clean energy investment enjoys the highest leverage.
- Market-based approaches are generally recognized as having the following benefits:
 - Reduce the cost of compliance
 - Create incentives for early reduction
 - Create incentives for emission reductions beyond those required
 - Promote innovation, and
 - Increase flexibility and ensure reliability
- In addition to including mass-based state goals to clear the path for mass-based trading plans, the final rule gives states the opportunity to design state rate-based or mass-based plans that will make their units “trading ready,” allowing individual power plants to use out-of-state reductions – in the form of credits or allowances, depending on the plan type – to achieve required CO₂ reductions, without the need for up-front interstate agreements.
- EPA is committed to supporting states in the tracking of emissions, as well as tracking allowances and credits, to help implement multi-state trading or other approaches.

RELIABILITY ASSURANCE

- The final rule has several features that reflect EPA’s commitment to ensuring that compliance with the final rule does not interfere with the industry’s ability to maintain the reliability of the nation’s electricity supply:
 - A long compliance period, and phased-in reduction requirements, providing sufficient time and flexibility for the planning and investment needed to maintain system reliability.
 - A basic design that allows states and affected EGUs flexibility to include a large variety of approaches and measures to achieve the environmental goals in a way that is tailored to each state’s and utility’s energy resources and policies, including trading within and between states, and other multi-state approaches that support electric system reliability.
 - A requirement that each state demonstrate in its final plan that it has considered reliability issues in developing its plan.
 - A mechanism for a state to seek a revision to its plan in case unanticipated or significant reliability challenges arise.

- A reliability safety valve to address situations where, in the wake of an unanticipated event or other extraordinary circumstances, an affected power plant must provide reliability-critical generation notwithstanding CO₂ emissions constraints that would otherwise apply.
- In addition to the measures outlined in the rule EPA, the Department of Energy (DOE) and the Federal Energy Regulatory Commission (FERC) are coordinating efforts to monitor the implementation of the final rule to help preserve continued reliable electricity generation and transmission.

STATE PLAN TIMING

- States will be required to submit a final plan, or an initial submittal with an extension request, by September 6, 2016.
- Final complete state plans must be submitted no later than September 6, 2018.
- The final rule provides 15 years for full implementation of all emission reduction measures, with incremental steps for planning and demonstration that will ensure progress is being made in achieving CO₂ emission reductions.
- Each state plan must include provisions that will allow the state to demonstrate that the plan is making progress toward meeting the 2030 goal. The Clean Power Plan offers several options for states to show their progress for meeting interim CO₂ emission performance rates or state CO₂ emission interim step goals.
- In addition to offering three multi-year “step down” goals within the interim period, the final rule also allows states to apply measures in a gradual way that they determine is the most cost-effective and feasible.
- During the interim period states are required periodically to compare emission levels achieved by their affected power plants with emission levels projected in the state plan and report results to EPA.

HELPING COMMUNITIES BENEFIT FROM CLEAN ENERGY

- The Clean Power Plan gives states the opportunity to ensure that communities share in the benefits of a clean energy economy, including energy efficiency and renewable energy.
- EPA is creating a Clean Energy Incentive Program (CEIP) to reward early investments in wind and solar generation, as well as demand-side energy efficiency programs implemented in low-income communities, that deliver results during 2020 and/or 2021.
- Through this program, EPA intends to make allowances or emission rate credits (ERCs) available to states that incentivize these investments. EPA is providing additional incentives to encourage energy efficiency investments in low-income communities.

COMMUNITY INVOLVEMENT AND ENVIRONMENTAL JUSTICE

- The final rule reflects two years of unprecedented outreach and engagement with stakeholders and the public, and incorporates changes directly responsive to stakeholders' critical concerns and priorities.
- Public engagement was essential throughout the development of the Clean Power Plan, and EPA will continue to engage with communities and the public now that the rule is final.
- To ensure opportunities for communities – particularly low-income communities, minority communities and tribal communities – to continue to participate in decision making, EPA is requiring that states demonstrate how they are actively engaging with communities as part of their public participation process in the formulation of state plans.
- The requirement for meaningful engagement within state plans will provide an avenue for all communities to both hear from the state about strategies that might work best to tackle climate pollution, and to provide input on where possible impacts to low-income communities, minority communities, and tribal communities could occur along with strategies to mitigate those impacts.
- The final rule includes information on communities living near power plants, and EPA will provide additional information to facilitate engagement between communities and states as implementation of the Clean Power Plan moves forward. For example, the agency will provide guidance on strategies states can use to meaningfully engage with communities, along with other resources and information, on a portal web page the agency will develop for communities' use.
- As implementation of the Clean Power Plan goes forward, the agency will conduct air quality evaluations to determine impacts that state plans may have on vulnerable communities. EPA encourages states to conduct analyses to help states, communities and utilities understand the potential localized and community impacts of state plans.
- To help with these analyses, EPA will ensure emissions data is available and easily accessed through the Clean Power Plan Communities Portal web page. The agency also will provide demographic information and other data, along with examples analyses that states have conducted to assess the impact of other rules.

Clean Power Plan: State at a Glance

Ohio

In the final Clean Power Plan (CPP), EPA is establishing interim and final carbon dioxide emission performance rates for the two types of electric generating units - steam electric and natural gas fired power plants - under Section 111(d) of the Clean Air Act. The CPP also establishes state-specific interim and final goals for each state, based on these limits and each state's mix of power plants. The goals are expressed in two ways—rate-based and mass-based— either of which can be used by the state in its plan. States that choose a mass-based goal must assure that carbon pollution reductions from existing units achieved under the Clean Power Plan do not lead to increases in emissions from new sources. EPA is offering an option to simplify this requirement for states developing plans to achieve mass-based goals. If a state chooses this route, its state planning requirements are streamlined, avoiding the need to meet additional plan requirements and include additional elements.

EPA has a "goal visualizer" tool on the web at www.epa.gov/cleanpowerplanttoolbox that walks through the exact calculations for Ohio.

Ohio's Interim (2022-2029) and Final Goals (2030)

OHIO			
	CO ₂ Rate (lbs/Net MWh)	CO ₂ Emissions (short tons)	
2012 Historic ¹	1,900	102,239,220	
2020 Projections (without CPP)	1,742	103,946,835	
	Rate-based Goal	Mass-based Goal (annual average CO ₂ emissions in short tons)	Mass Goal (Existing) & New Source Complement
Interim Period 2022-2029	1,383	82,526,513	83,476,510
Interim Step 1 Period 2022-2024 ²	1,501	88,512,313	88,902,150
Interim Step 2 Period 2025-2027 ³	1,353	80,704,944	82,020,069
Interim Step 3 Period 2028-2029 ⁴	1,252	76,280,168	77,522,714
Final Goal 2030 and Beyond	1,190	73,769,806	74,607,975

1. EPA made some targeted baseline adjustments at the state level to address commenter concerns about the representativeness of baseline-year data. These are highlighted in the CO₂ Emission Performance Rate and Goal Computation TSD.

2, 3, 4. Note that states may elect to set their own milestones for Interim Step Periods 1, 2, and 3 as long as they meet the interim and final goals articulated in the emission guidelines. In its state plan, the state must define its interim step milestones and demonstrate how it will achieve these milestones, as well as the interim goal and final goal. See section VIII.B of the final rule preamble for more information.

The final Clean Power Plan goals for Ohio look different from the proposed goals – the 2030 goal looks more stringent, and the interim goal looks more stringent.

States' goals fall in a narrower band, reflecting a more consistent approach among sources and states.

At final, all state goals fall in a range between 771 pounds per megawatt-hour (states that have only natural gas plants) to 1,305 pounds per megawatt-hour (states that only have coal/oil plants). A state's goal is based on how many of each of the two types of plants are in the state.

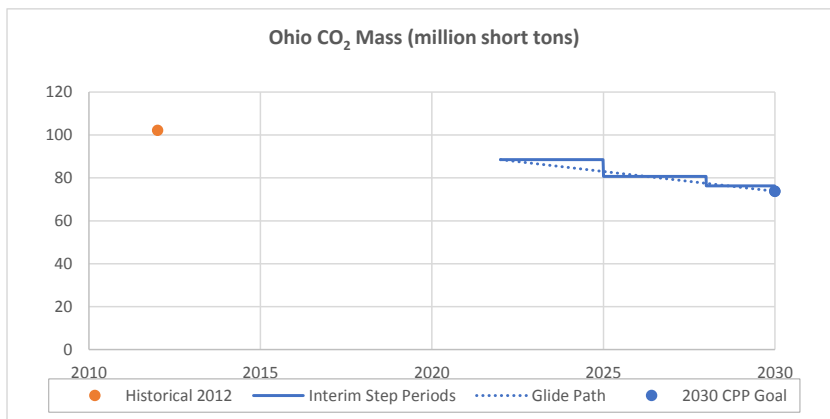
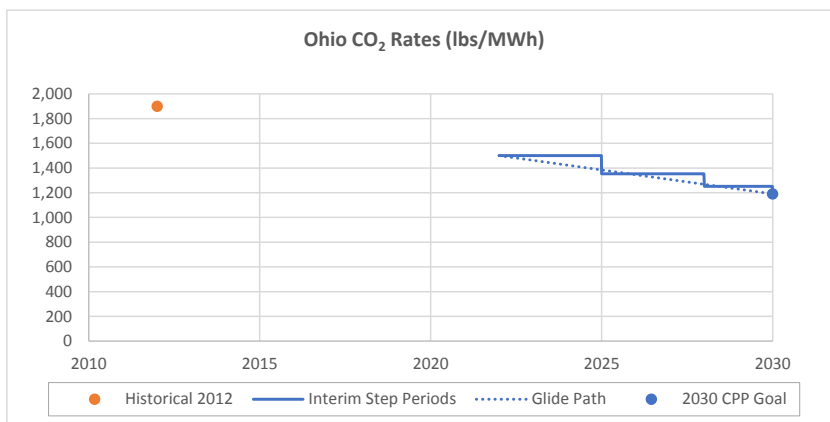
The goals are much closer together than at proposal. Compared to proposal, the highest (least stringent) goals got tighter, and the lowest (most stringent) goals got looser.

- o Ohio's 2030 goal is 1,190 pounds per megawatt-hour. That's in the middle of this range, meaning Ohio has one of the moderate state goals, compared to other state goals in the final Clean Power Plan.
- o Ohio's step 1 interim goal of 1,501 pounds per megawatt-hour reflects changes EPA made to provide a smoother glide path and less of a "cliff" at the beginning of the program.

The 2012 baseline for Ohio was adjusted to be more representative, based on information that came in during the comment period.

Pathway to 2030: While EPA’s projections show Ohio and its power plants will need to continue to work to reduce CO₂ emissions and take additional action to reach its goal in 2030, these rates – and that state goal – are reasonable and achievable because no plant and no state has to meet them alone or all at once. They are designed to be met as part of the grid and over time. In fact, the rates themselves, and Ohio’s goal, reflect the inherent flexibility in the way the power system operates and the variety of ways in which the electricity system can deliver a broad range of opportunities for compliance for power plants and states. EPA made improvements in the final rule specifically for the purpose of ensuring that states and power plants could rely on the electricity system’s inherent flexibility and the changes already under way in the power sector to find affordable pathways to compliance.

- o **Flexibility in state plans and easier access to trading programs.** States can use EPA’s model trading rules or write their own plan that includes trading with other “trading-ready” states, whether they are using a mass- or rate-based plan.
- o **Clean Energy Incentive Program available for early investments.** This program supports renewable energy projects – and energy efficiency in low-income communities – in 2020 and 2021.
- o **The period for mandatory reductions begins in 2022, and there is a smoother glide path to 2030.** The glide path gradually “steps” down the amount of carbon pollution. Note that states may elect to set their own milestones for interim step periods 1, 2 and 3 as long as they meet the interim goal overall or “on average” over the course of the interim period, and meet the final goals, established in the emission guidelines. To accomplish this, in its state plan, the state must define its interim step milestones and demonstrate how it will achieve these milestones, as well as the overall interim, and final, goals.
- o **Energy efficiency available for compliance.** Demand-side EE is an important, proven strategy that states and utilities are already widely using, and that can substantially and cost-effectively lower CO₂ emissions from the power sector. EPA anticipates that, thanks to their low costs and large potential in every state and region, demand-side EE programs will be a significant component of state compliance plans under the Clean Power Plan. The CPP’s flexible compliance options allow states to fully deploy EE to help meet their state goals.



Regional Point of Contact for Questions:

Alexis Cain / EPA Region 5

312-886-7018

cain.alexis@epa.gov

Updated 8/3/2015 5:15 PM

Clean Power Plan Timeline

15 Years

- January 1, 2030 - CO₂ Emission Goals met

Summer
2015

- August 3, 2015 - Final Clean Power Plan

1 Year

- September 6, 2016 - States submit initial state plan

3 Years

- September 6, 2018 - States submit final state plan

7 Years

- January 1, 2022 - Compliance period begins

Environment

Ohioans More Concerned about Economy than Air Quality

According to a [poll released](#) by the OMA and the National Association of Manufacturers (NAM), 65% of Ohioans rate their air quality as excellent or good, and 73% consider the declined economic growth and job opportunities caused by regulations as a greater problem for their hometown than air quality.

The [poll of 600 registered voters](#) was conducted to gauge public opinion in Ohio as the federal government considers the U.S. EPA's proposed ozone rule. If implemented, this standard could be the costliest regulation in our nation's history, with an annual price tag of \$140 billion in lost GDP. Ohio is projected to lose \$23 billion in GDP from 2017 to 2040 and the equivalent of 23,000 jobs per year as a result of proposed stricter standards.

The final rule is expected this October. You can easily tell your elected officials how you feel about it [here](#). 8/26/2015

GM Toledo Transmission and Three Honda Plants Win Gold-Level EPA Awards

Ohio EPA Director Craig Butler this month presented the General Motors Toledo Transmission plant and the Honda Marysville, East Liberty, and Anna plants with the agency's highest award for environmental stewardship, the Encouraging Environmental Excellence (E3) program Gold-level Award.

GM's Toledo Transmission plant manufactures automatic transmissions for GM's light duty trucks, sport utility vehicles, cross-over vehicles and cars. The plant is a landfill-free facility and hosts Ohio's largest rooftop solar array. The plant's environmentally beneficial activities, including using renewable landfill gas to power 19% of the facility's energy needs, are summarized by Ohio EPA [here](#) and on GM's [website](#).

Honda was recognized for: Achieving zero waste to landfill status by sending more than 94% of manufacturing waste materials to recycling during 2013, 2014 and 2015; producing "free" electricity with a hydropower system that generates approximately 50,000 kWh per year from water flowing from a roof-mounted cooling tower to a floor level sump; and using next generation e-coat material to reduce the generation of Volatile Organic Compounds by approximately 40%. Read more about Honda's environmental sustainability initiatives [here](#).

Ohio EPA's E3 program acknowledges Ohio businesses and other organizations for completing environmentally beneficial activities and serves as an incentive to commit to ongoing environmental stewardship. The program has three levels: Achievement, Silver and Gold. Learn more [here](#). 8/18/2015

State by State GHG Reductions Required under Clean Power Plan

The Industrial Energy Users of America has put together a [handy chart](#) that lays out the Clean Power Plan's mandated carbon reductions for each state from the 2012 baseline to 2030.

Here is [Ohio "at a glance"](#) from the U.S. EPA. 8/19/2015

Thanks to Canton Mayor for Opposing Ozone Proposal

Earlier this month, Canton Mayor William Healy sent a [letter](#) to the White House outlining his concerns with the new proposed ozone standards, which call for a reduction in ground-level ozone to 65 parts-per-billion (ppb) from the current 75 ppb standard.

This week the OMA and a number of OMA-member companies in the Canton area sent the mayor this [thank you note](#) for raising his concerns about the proposed ozone standards on Canton residents and businesses. 8/20/2015

EPA Administrator McCarthy Talks New Clean Power Plan

The [Policy Resolution Group](#) has [here captured](#) an August 11 discussion with U.S. EPA Administrator Gina McCarthy in her first public comments about the issue since the details of the landmark Clean Power Plan were released on August 3.

One of the stated concerns of Ohio EPA Director Craig Butler is the legality of the proposal. To that question, McCarthy reportedly made this statement: "It is legally solid. Yes, debates will exist, but it will "stand the test of time in the courts." A final rule is a "pretty solid obligation" All of these steps have been litigated and we will be on solid ground in a new administration and moving forward." 8/13/2015

Democratic Mayor Healy Speaks Out on Ozone

Canton Mayor William Healy has written a [letter](#) to the White House outlining his concerns with the costs associated with the new proposed ozone standards. The OMA thanks Mayor Healy for his support in this effort to stop the ratcheting down of the current ozone standards. 8/13/2015

Rep. Ryan Opposes Federal Ozone Proposal

Last week Congressman Tim Ryan (D-Niles) signed onto a [letter](#) with many of his House colleagues addressed to U.S. EPA Administrator Gina McCarthy outlining his concerns with the new proposed ozone standards, which call for a reduction in ground-level ozone to 65 parts-per-billion (ppb) before the current 75 ppb standard is even achieved.

This week the OMA and a number of member companies in Rep. Ryan's district sent him this [thank you note](#) for taking the time to learn and consider the impacts that the proposed ozone standards could have on Ohio and on his manufacturing-dense [13th congressional district](#).

Thank you Representative Ryan! 8/6/2015

Water Pollution Control Project Funding Assistance Available

Ohio EPA is calling for project nominations to receive assistance from the Ohio Water Pollution Control Loan Fund (WPCLF) in 2016. WPCLF funding levels remain high, and depending on demand, Ohio EPA could make up to \$1 billion available in 2016 for important water pollution control projects. Learn more [here](#). 8/3/2015

Stop the Ozone Rule

The National Association of Manufacturers (NAM) this week launched a national ad campaign aiming to "to galvanize the public, persuade elected officials and convince the White House the ozone rule is unworkable, unwise and unnecessary."

If it goes into effect, the new ozone regulation would be the costliest federal regulation ever issued, costing Ohio \$22 billion in gross state product loss from 2017 to 2040, or the equivalent of 23,000 lost jobs, according to a NAM/OMA study.

Watch the ad, and take action on the NAM site, [here](#), or use the email tools at OMA's [Manufacturing Advocacy Center](#) to communicate with your elected officials. 7/28/2015

Ohio's Representatives Let EPA Know How They Feel About the Proposed Ozone Standards

This week Congressmen Bob Latta (R-Ohio) and Gene Green (D-Texas) along with many of their colleagues in the House of Representatives sent [this letter](#) to U.S. EPA Administrator Gina McCarthy outlining their concerns with the new proposed ozone standards prior to the current standards being fully implemented.

The bipartisan letter was signed by the majority of Ohio Congressional Republicans and Ohio Democrat Congressman Tim Ryan. The OMA thanks these representatives for their support in this effort to stop the ratcheting down of the current ozone standards. 7/30/2015

Final GHG Rule Coming Monday?

The latest intelligence coming out of U.S. EPA is that the final greenhouse gas (GHG) rules will be made public this coming Monday, August 3.

There has been a great deal of speculation about how EPA will respond to the massive amount of feedback it has received concerning technical, legal, cost, and timing problems with the proposed "Clean Power Act."

This [document](#) was briefly posted on the EPA website, then removed. It shows a stretched out process for state plan development and compliance. 7/29/2015

Registration Open for Midwest Environmental Compliance Conference - Oct. 29-30



OMA and its counterpart associations in the Midwest are hosting the Midwest Environmental Compliance Conference on October 29-30 in Chicago with support from the U.S. EPA and state EPAs.

This event for Region 5 is intended to respond to the increasingly difficult task of environmental compliance, permitting, and enforcement issues that impact Midwest facilities.

Here is the [agenda](#) and you can learn more and register [here](#). Please code registration code "OMA" to receive the discount for regulated entities. 7/24/2015

Ohio EPA Announces E3 Program Silver Award Winners

Ohio EPA has awarded these [eight environmentally innovative organizations](#) with this year's Encouraging Environmental Excellence (E3) Silver awards. The E3 program recognizes organizations committed to environmental excellence.

The program provides three recognition levels, Bronze, Silver, and Gold, as well as an Achievement level. Silver award recipients have demonstrated a commitment to go beyond regulatory compliance, have integrated outstanding environmental management into their core business functions and have developed aggressive performance goals, including a process to communicate the company's environmental progress to its community.

Ohio EPA has revised its E3 program to encourage more applicants, clarify and simplify the application instructions, and expand the eligible applicants. Silver and Gold level applications are due August 28. Learn more [here](#) and/or attend a [webinar](#) on August 5. 7/14/2015

Manufacturer Voices Public Opposition to Federal Ozone Proposal

This week, Tracie J. Sanchez, the president of OMA member, Lima Pallet Co., delivered this [letter](#) to her hometown newspaper to voice legitimate concern about a proposal by the U.S. Environmental Protection Agency to reduce the current regulation for ground-level ozone from 75 parts-per-billion (ppb) to 65 ppb.

She said, "Ozone levels in Ohio's 88 counties currently range from a high of 81 ppb to a low of 66 ppb. Allen County's level stands at 73 ppb and is therefore in "attainment" with federal regulations. If the proposed new federal EPA regulation is approved, all 88 Ohio counties would tumble into "non-attainment" status. Every last one of them.

"To me, this proposal goes well beyond "drastic" and all the way to "ridiculous." If approved, the new ozone regulation would be the costliest federal regulation ever issued. A study by the National Association of Manufacturers showed it would cost Ohio \$22 billion in gross state product loss from 2017 to 2040, or the equivalent of 23,000 lost jobs."

OMA members can easily email their members of Congress [right here](#). 7/16/2015

U.S. Supreme Court Reverses Utility Emissions Rule

OMA Connections Partner, Dinsmore, [reported](#) that this week the U.S. Supreme Court ruled that EPA unreasonably interpreted the Clean Air Act (CAA) when the agency failed to consider cost in determining whether regulation of air toxics from power plants was appropriate and necessary.

According to Dinsmore, "The rule, commonly referred to as the Mercury and Air Toxics Standards (MATS), was finalized in 2012 to require coal- and oil-fired power plants to reduce emissions of mercury and other air toxics. ... Writing for the majority, Justice Scalia explained that the CAA treats power plants differently from other sources for regulation of hazardous air pollutants by requiring EPA to first determine that regulation was "appropriate and necessary." EPA determined that regulation of hazardous air pollutants was appropriate and necessary but specifically did not consider costs in the determination.

"The Supreme Court found that EPA is required to consider cost as a relevant factor in the appropriate and necessary determination. ...The Court further rejected EPA's claim that the CAA makes cost irrelevant to the initial decision to regulate other sources under Section 112, pointing out that Congress crafted a separate provision in Section 112 specifically to address power plants.

"The Court specifically stated that EPA "must consider cost - including, most importantly, cost of compliance - before deciding whether regulation is appropriate and necessary." The Court, however, left to EPA the discretion "within the limits of reasonable interpretation" to decide how to account for cost." 6/30/2015

Clay & Shale Products Get Regulatory Relief in Conference Committee

Early Wednesday morning this week Ohio's brick and tile manufacturers let out a collective huzzah. Ten years and one veto later, the General Assembly, via the state budget bill's conference committee, included an [amendment](#) in the state budget that solves a longstanding issue between the clay and shale products manufacturing industry and Ohio EPA. The amendment clarifies that "off spec" Ohio brick and tile products are not subject to certain solid waste and water regulations that may result in costly disposal requirements.

This is a big win for the industry and brings much needed relief in the regulations governing it. 6/25/2015

Ohio Officials Oppose Federal Ozone Proposal

As U.S. EPA is poised to tighten ozone emissions that would threaten attainment for Ohio, a growing number of officials are weighing-in to protect Ohio's economy.

Congressman Bob Latta (R-Bowling Green) [issued a statement](#) condemning the ozone proposals.

Rep. Jack Cera (D-Bellaire) sent [this letter](#) of opposition to White House official, Brian Deese, Assistant to the President and Senior Advisor; Rep. Martin Sweeney (D-Cleveland) also filed [a letter](#) of concern with Deese.

Lima Mayor David Berger submitted this [letter](#) to White House officials expressing caution for the proposals.

OMA members can use the [easy email tool](#) at the OMA Manufacturing Advocacy Center to communicate concerns to their elected officials. OMA and the National Association of Manufacturers oppose the proposed reduction in ground level ozone. Read more about [why](#). 6/17/2015

OMA Committee Discusses Air Issues with Ohio EPA



This week the OMA Environment Committee heard an extensive [presentation](#) from Bob Hondanbosi, Ohio EPA chief of the Division of Air Pollution Control. He covered federal regulatory proposals including ozone reduction and the Clean Power Plan, as well as updates on statewide policies.

Members also were treated to a presentation from [Ohio EPA E3 Silver Award winner MillerCoors](#) about its sustainability project.

OMA Submits Comments on Duplicative Reporting Proposal

This week the OMA filed [comments](#) on U.S. EPA's Proposed "Electronic Reporting and Recordkeeping Requirements for New Source Performance Standards." The proposal would mandate that certain information be submitted via U.S. EPA's "Compliance and Emissions Data Reporting Interface," accessed through U.S. EPA's Central Data Exchange.

The proposed new reporting format, and the filing dictates tied to it, duplicate and conflict with existing electronic reporting under the NSPS program. The proposed new reporting dictates are in addition to, not in lieu of, existing federally enforceable state permit terms that implement the same underlying NSPS reporting provisions. 6/18/2015

U.S. EPA Takes Final Action Regarding Startup, Shutdown, and Malfunction Air Regulations

OMA Connections Partner, Jones Day, reports that on May 22, 2015, the U.S. Environmental Protection Agency (EPA) took a [final action](#) on a petition filed by the Sierra Club that will require revision of existing air regulations governing emissions during periods of startup, shutdown, and malfunction (SSM) in [36 states and the District of Columbia](#), including Ohio.

Those states are required to submit revisions to their state implementation plans (SIPs) that meet the requirements of a newly restated EPA SSM policy included in the final action no later than November 22, 2016.

[Read more](#) from Jones Day. 6/4/2015

Manufacturing Dead Last in Public Perception on Sustainability

A recent poll of public perception on corporate commitment to sustainability shows manufacturing ranking dead last in its reputation for sustainability. Ahead of manufacturing are: agriculture, energy, food and beverage, health care and pharmaceuticals, consumer staples, financial and professional services, consumer durables, building and construction, transportation and leisure services.

The survey, [Sense & Sustainability](#), was conducted by Harris Poll for G&S Business Communications. 6/4/2015

Ohio EPA Responds Favorably, Quickly to OMA Request on Asbestos Waste

On May 8, the OMA requested Ohio EPA clarification regarding the recent change in the Occupational Safety & Health Administration (OSHA) requirements for labeling asbestos waste containers. Sign changes are required effective June 1, 2015.

On May 21, Ohio EPA director Craig Butler [responded to the OMA](#) that the new OSHA requirements can flow through the current state administrative code. So, there will be no dual requirement in the state.

The director said he's directed his staff to create new Standard Operating Guidance on the matter to document this helpful and timely decision. *5/28/2015*

OMA Asks Ohio EPA for Guidance on Asbestos Labeling

New OSHA asbestos labeling requirements conflict with current Ohio EPA requirements under the Ohio Administrative Code, causing the potential for a duplicative and confusing regulating scheme at both the state and federal level.

OMA [requested](#) that Ohio EPA Director [Craig Butler](#) issue guidance on the matter; OMA recommended that meeting the new labeling requirements under OSHA (and U.S. DOT) would be considered by Ohio EPA to be equivalent to, and in compliance with, the labeling requirements in the Ohio Administrative Code *5/14/2015*

Ohio EPA Goal is One-Stop Service

Ohio EPA has posted its Strategy to Improve Services recorded webinar and PowerPoint slides on its [website](#) under the 'Training Tab' and on [Ohio EPA's YouTube](#) web link. *5/13/2015*

Ohio EPA Seeks Comment on Regulation of Nitrogen Oxides

The Ohio Division of Air Pollution Control (DAPC) is seeking stakeholder input on Chapter 3745-110 of the Ohio Administrative Code (OAC). This establishes requirements for emissions of nitrogen oxides (NOx) from very large, large, mid-size, and small boilers, stationary combustion turbines, or stationary internal combustion engines as defined in OAC rule 3745-110-01, or from boilers located at a facility that emits or has the potential to emit a total of more than one hundred tons per year of NOx emissions from all sources at that facility.

NOx is a precursor compound which, along with volatile organic compounds (VOCs), can form ozone. Ozone is one of the compounds of interest for which a National Ambient Air Quality Standard (NAAQS) has been established under the Clean Air Act.

Comments are due June 9, 2015. Contact [Paul Braun](#), DAPC at (614) 644-3734. Click [here](#) to access more information. *5/13/2015*

Sound Off on Air Pollution Rules

The Division of Air Pollution Control (DAPC) is seeking stakeholder input on the general provisions rules. These include such things as: the authority of the director of Ohio EPA to request the collection and submission of emission information, the measurement of emissions of air contaminants, the requirements for the determination of a "de minimis" source of air pollution, the requirements in the event of equipment shut down caused by malfunction or maintenance, air pollution nuisances, and other administrative rules.

Comments are due June 12, 2015, and Ohio EPA will hold a public hearing June 12, 2015. Contact [Paul Braun](#), DAPC at (614) 644-3734. Click [here](#) to access more detailed information. *5/13/2015*

Environment Legislation
Prepared by: The Ohio Manufacturers' Association
Report created on September 1, 2015

- HB61** **LAKE ERIE FERTILIZER-DREDGING** (BUCHY J, HALL D) To generally prohibit the application of fertilizer or manure in Lake Erie's western basin on frozen ground or saturated soil and during certain weather conditions, and to prohibit a person, beginning July 1, 2020, from depositing dredged material in Ohio's portion of Lake Erie and its direct tributaries.
Current Status: 3/17/2015 - Referred to Committee Senate Agriculture
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-61>
- HB64** **OPERATING BUDGET** (SMITH R) To make operating appropriations for the biennium beginning July 1, 2015, and ending June 30, 2017, and to provide authorization and conditions for the operation of state programs.
Current Status: 6/30/2015 - **SIGNED BY GOVERNOR**; Eff. 7/1/15
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-64>
- HB101** **HAB MITIGATION** (HALL D) To establish requirements governing the training of employees of publicly owned treatment works and public water systems to monitor and test for harmful algae, the development of emergency plans by certain public water systems to respond to harmful algal blooms, and the development of an early warning system for harmful algal blooms.
Current Status: 3/24/2015 - House Agriculture and Rural Development, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-101>
- HB214** **PUBLIC IMPROVEMENT-PIPING MATERIAL** (THOMPSON A) To restrict when a public authority may preference a particular type of piping material for certain public improvements.
Current Status: 6/9/2015 - House Energy and Natural Resources, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-214>
- HCR11** **GOVERNOR-WATER QUALITY EFFORTS** (HALL D) To commend Governor John Kasich on his efforts to improve the water quality of Lake Erie and to affirm the Governor's ability to form an interstate compact with other states in furtherance of this objective.
Current Status: 5/12/2015 - **REPORTED OUT**, House Agriculture and Rural Development, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HCR-11>
- SB1** **GREAT LAKES-HARMFUL ALGAE** (GARDNER R, PETERSON B) To transfer the administration and enforcement of the Agricultural Pollution Abatement Program from the Department of Natural Resources to the Department of Agriculture.
Current Status: 4/2/2015 - **SIGNED BY GOVERNOR**; eff. 7/3/2015
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-1>
- SB16** **WATERSHEDS-FERTILIZER APPLICATION** (BROWN E) To require applicators of

fertilizer or manure to comply with specified requirements and to authorize the Director of Environmental Protection to study and calculate nutrient loading to Ohio watersheds from point and nonpoint sources.

Current Status: 2/10/2015 - Senate Agriculture, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-16>

SB46 LAKE ERIE DRILLING BAN (SKINDELL M) To ban the taking or removal of oil or natural gas from and under the bed of Lake Erie.

Current Status: 2/18/2015 - Referred to Committee Senate Energy and Natural Resources

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-46>

SB47 DEEP WELL BRINE INJECTION PROHIBITION (SKINDELL M) To prohibit land application and deep well injection of brine, to prohibit the conversion of wells, and to eliminate the injection fee that is levied under the Oil and Gas Law.

Current Status: 2/18/2015 - Referred to Committee Senate Energy and Natural Resources

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-47>

SB114 MICROCYSTIN LEVELS-PUBLIC WATER (SKINDELL M) To establish requirements and procedures pertaining to levels of microcystin in public water systems.

Current Status: 3/10/2015 - Referred to Committee Senate Health and Human Services

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-114>

SB150 MOTOR FUEL DISPOSAL (HITE C) To create a qualified immunity for the dispensing of incompatible motor fuel.

Current Status: 6/24/2015 - Senate Civil Justice, (Second Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-150>

To: OMA Government Affairs Committee
From: Ryan Augsburger / Rob Brundrett
Re: Human Resources Update
Date: September 2, 2015

Overview

Unemployment insurance tax rates remain a hot topic for employers. As other states solve their debt issues, Ohio continues to only pay down the interest on the debt. Without paying off the principle, FUTA tax rates will continue to increase. The House and Senate continue to have internal discussions on how best to address the issue. A fix was not included in the state budget that was passed earlier this summer.

General Assembly News and Legislation

House Bill 64

The state budget appropriated dollars to pay the interest on Ohio's unemployment compensation debt to the federal government.

Unemployment Compensation Tax Changes

Last year the House created legislative study committee that traveled the state to hold hearings about eliminating Ohio's nearly \$1.3 billion debt to the federal unemployment loan fund.

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

No official report was ever made public regarding the hearings or on potential fixes. There has been discussion that the House of Representatives would like to tackle this issue in the next year. However no official bill has been introduced to date. The OMA is leading several other major business organizations retaining experts to provide the General Assembly with best practice legislation to improve Ohio's system.

Human Resources

NAM Files Comments Opposing "Blacklisting Rule"

This week the National Association of Manufacturers (NAM) filed [comments](#) on the President Obama's "Fair Pay and Safe Workplaces" Proposed Rule and Guidance (aka the "Blacklisting" Rule).

This proposal would require federal contractors to report all alleged labor violations of 14 federal labor laws and state equivalents. These allegations could be taken into account prior to a contractor receiving an award.

NAM strongly opposes the initiative and its comments focus on the illegalities, impracticability and flawed economic analysis. 8/26/2015

NLRB Decision Broadens Definition of Joint-employer

This week, the National Labor Relations Board (NLRB) issued its [long-awaited decision](#) in the *Browning-Ferris* case. National Association of Manufacturers (NAM) Vice President of Human Resources Policy, Joe Trauger, wrote, "As expected, the decision broadens the definition of a joint-employer under the National Labor Relations Act (NLRA) and sets aside decades of practice and precedent. Traditionally, the joint-employer standard required both employers to exert direct control over the employees. Under the new interpretation, even indirect control over the terms and conditions of employment triggers a joint-employer designation."

In NAM's press statement, Senior Vice President and General Counsel Linda Kelly said: "Today's decision is a loss for manufacturers, employers and employees who have become targets of the NLRB's aggressive agenda. The joint employer definition has worked for more than three decades with no split in the circuits on this standard and no evidence that workers have been denied their rights because of this standard. The decision to overturn is nothing more than political maneuvering aimed at disarming manufacturers and job creators throughout the United States. The NLRB's actions challenge the way manufacturers are able to work in the United States, and we will continue to advocate and fight for manufacturers on this issue, including through further legal action."

The NAM had filed an [amicus brief](#) in the case. 8/27/2015

Comment on Proposed Overtime Pay Changes

The Department of Labor (DOL) is currently accepting comments on a newly proposed rule updating regulations governing overtime pay under the Fair Labor Standards Act (FLSA). The comment period closes on September 4.

Under the FLSA, there is a two-part test in order to exempt an employee from overtime pay eligibility. First, the employee has to earn over a certain amount per week/year; and second, the employee has to hold a position that falls within what is known as a "white collar" exemption where the employee performs duties that are executive, administrative, or professional in nature. This second qualification is known as the "duties test."

The proposed rule seeks to increase the salary threshold from \$455/week (\$23,660 annually) to \$970/week (\$50,440 annually), and the highly compensated employee salary level is also increased from \$100,000/year to \$122,148/year. The proposal also seeks to establish a mechanism for salary thresholds to be adjusted automatically as a function of inflation or other mechanism.

The National Association of Manufacturers offers [instructions on how to submit comments and a sample comment template](#). 8/27/2015

Interns Available to Central Ohio Manufacturers

The Ohio Department of Higher Education Ohio Means Internships and Co-ops (OMIC) program is funding student internships in advanced manufacturing.

There are 30 co-located and 50 regular internships for participating Ohio Technical Center, community college, and university students to work closely with central Ohio manufacturers on projects related to advanced and lightweight materials and other related areas.

This [web page](#) has more information, including participating institutions. 8/27/2015

Know the ACA Information Reporting Requirements

The Affordable Care Act (ACA) requires insurers, self-insuring employers, and other parties that provide minimum essential health coverage to report information on this coverage to the Internal Revenue

Service (IRS) and to covered individuals (referred to as "section 6055 reporting").

Large employers (generally those with 50 or more full-time employees) are also required to report information to the IRS and to their employees about their compliance with the employer shared responsibility ("pay or play") provisions and the health care coverage they have offered (referred to as "section 6056 reporting").

While information regarding this ACA requirement is plentiful, concise guidance on what to do and when to do it is much more scarce. OMA's health care partner, [One Source Advisors](#), has created two pieces that will help narrow the focus so that members can fulfill their reporting requirements in the most efficient manner possible: [Top 5 ACA Reporting Mistakes](#) and [Large Employer Reporting Checklist](#) (keep in mind that 'large' generally means 50 or more full-time employees).

Should you have any questions, please contact [Cheri Gillfillan](#), President, One Source Advisors, at (866) 270-2441 ext. 104 or [Stacie Hoover](#), Vice President, One Source Advisors, at ext. 105. 8/18/2015

Building a Manufacturing Career Message

From the Ohio Department of Higher Education: "Ohio manufacturers collectively have identified an initial barrier on the road to a qualified workforce - the lack of a well-publicized, concise message about the depth and breadth of manufacturing careers in the state.

Thousands of hours have been invested by Ohio manufacturers into the never-ending quest for a quality workforce through the donation of equipment, collaboration on an education program, speaking in a classroom, attending a job or career fair, or offering internship opportunities to students and teachers. As a result of that effort, one consistent message has emerged - you cannot simply "build it and they will come."

The department and partners invite manufacturers to participate in a meeting in Columbus on Monday, September 14 from 12:30 to 3:30 p.m. to discuss a vision for launching a marketing strategy aimed at moving Ohioans into manufacturing careers.

Register [here](#). 8/13/2015

What NLRB Looks for in Your Employee Handbook

OMA Connections Partner, Bricker & Eckler LLP, reports that the National Labor Relations Board (NLRB) has actively expanded its focus and enforcement efforts into the area of employee handbooks and other employment policies it perceives as infringing on employees' rights.

Non-union employers may be wondering, "What does the NLRB have to do with me?" The NLRB has jurisdiction over nearly every employer, not just those with a union or facing a union organizing campaign.

Earlier this year, the NLRB issued a 30-page memorandum containing examples and guidance on what it views as lawful and unlawful handbook policies.

Bricker summarizes the [key takeaways](#) here. 8/4/2015

Are they Employees or Independent Contractors? New DOL Interpretation

OMA Connections Partner, Bricker & Eckler LLP, reported that in response to what the Department of Labor (DOL) says is the increased misclassification of employees as independent contractors, it has issued its interpretation of how the Fair Labor Standards Act's (FLSA) definition of "employ" guides the determination of whether a worker is an employee or an independent contractor.

The DOL says that, when viewed with the expansive definition of "employ" under the FLSA, most workers are employees under the "economic realities" test. The ultimate question is whether the worker is economically dependent on the employer or in business for himself or herself.

Here's a link to the DOL [Administrator's Interpretation](#), issued July 15, 2015, which is a new interpretation of when a person is properly classified as an independent contractor or an employee under the FLSA.

Bricker provides more [guidance here](#). 7/20/2015

Minding the Manufacturing Gender Gap

The Manufacturing Institute this week released a [study](#) on the manufacturing gender gap and how manufacturing can attract its fair share of talented women.

The report finds: "Women constitute manufacturing's largest pool of untapped talent in the United States. They comprise just over one-fourth (27 percent) of manufacturing employees even though women make

up nearly half (47 percent) of the total U.S. labor force. Women are underrepresented in nearly every manufacturing sector in the U.S. They are seldom seen, relatively speaking, in top-level boxes on organizational charts, lagging behind the proportion of women in leadership at other types of companies."

"The good news is many manufacturers are turning the tables and making a more concerted effort to get women on board. This study seeks to tell some of their stories, highlighting leading practices, model employers, relevant statistics and meaningful survey findings. It represents both the collective perspective of women in manufacturing, as well as the voice of manufacturing leaders, and is intended to inform the strategies manufacturing leaders are using to increase the number of women among their ranks and to tap into their full power and potential to improve the United States' manufacturing sector's ability to compete worldwide," says the institute. 7/22/2015

Employer Implications of "Same-Sex Marriage" Supreme Court Decision

On June 26, the U.S. Supreme Court issued its decision in [Obergefell v. Hodges](#), declaring that the fundamental right to marriage, which is protected by the Fourteenth Amendment, applies with equal force to same-sex couples. The Obergefell opinion makes it clear that in the eyes of the law, there is no longer a distinction between "marriage" and "same-sex marriage."

OMA Connections Partner, Bricker & Eckler LLP, advises employers, particularly with operations in those states that previously banned same-sex marriages, to review their policies, practices and benefit plans.

To this end, Bricker [here summarized implications for employers](#), including FMLA policies, benefit plans, health and welfare plans, state tax issues, and qualified plan documents. 7/6/2015

Prepare to Comply with Upcoming ACA Requirements

OMA Connections Partner, Dinsmore, [writes](#), "At the end of last month, a six-justice majority of the Supreme Court in *King v. Burwell* rejected a proposed interpretation of the ACA that would have prohibited the provision of tax subsidies to individuals in a majority of states and may have resulted in a death spiral for the ACA.

"That opinion, authored by Chief Justice Roberts, should signal the ACA is here to stay and the wait to see approach is no longer a viable option. In fact, if employers wait much longer to ensure they are in

compliance, they may face steep tax penalties in 2016."

Dinsmore's guidance to employers: "The ACA's initial transition periods are coming to a close, and there are a number of important deadlines that loom on the horizon. To highlight two of those deadlines, employers must begin, if they have not already, to prepare for the employer shared responsibility reporting requirements that apply to coverage provided to employees in 2015 and that must be included with the employers' 2016 tax returns. Employers should also consider whether they will be impacted by the ACA's excise tax on "Cadillac plans," high-end health plans that provide generous benefits with low deductibles and minimal cost-sharing, which is slated to go into effect in 2018." 7/7/2015

Gov.'s Plans for Workforce

On June 30th, Governor Kasich signed [Executive Order 2015-08K](#), continuing the work of the Governor's Office of Workforce Transformation and reauthorizing the Governor's Executive Workforce Board. This is the structure under which the administration manages its workforce systems and programs.

How the governor planned for education and workforce in the [2016-17 budget](#) is summarized in several fact sheets produced by the administration: [Continued Support for K-12 Education](#); [Higher Education Affordability](#); and [Human Services Innovation](#). 7/6/2015

Proposed Overtime Rule Released

This week, the Department of Labor (DOL) released the much anticipated new overtime [regulations](#), updating the salary and compensation levels needed for white collar workers to be exempt. DOL has established this [webpage](#) with information regarding the proposal.

Joe Trauger, National Association of Manufacturers (NAM) Vice President of Human Resource Policy, reports the main points, thus far, include:

- The salary threshold increases from \$455/week (\$23,660 per year) to \$970 per week (\$50,400 per year)
- The salary threshold will be adjusted automatically annually either through a fixed percentile or the Consumer Price Index for all Urban Consumers (CPI-U). The DOL is accepting feedback about what methodology should be used.

- There is currently no change to the “duties” test; however, the DOL is also seeking comment on potential changes to it.

The regulation has a 60-day comment period. The NAM is likely to request an extension in order to fully analyze the proposed impacts to manufacturers.

[Here's an analysis](#) from OMA Connections Partner, Dinsmore, and [one from OMA counsel](#), Bricker & Eckler LLP. 6/30/2015

Reminder: New FMLA Forms Available

Employers subject to the Family and Medical Leave Act (FMLA) must be careful to avoid receiving an employee's genetic information in documents certifying a need for leave. The U.S. Department of Labor (DOL) recently updated its FMLA notice and certification forms, which expired in February, to include language aimed at preventing the inadvertent disclosure of such genetic information.

The new model forms are available [here](#).

[Here is](#) additional important guidance from OMA Connections Partner, Bricker & Eckler LLP. 7/1/2015

DOL Publishes New Model FMLA Forms

OMA Connections Partner, [Bricker & Eckler LLP](#), reports that the U.S. Department of Labor (DOL) has updated its model Family and Medical Leave Act (FMLA) notice and certification forms.

In order to help safeguard employers against inadvertent violations of the Genetic Information Nondiscrimination Act of 2008 (GINA), the forms now specifically: (1) obligate employers to maintain confidentiality with regard to an individual's genetic testing, and (2) prohibit health care providers from providing information about genetic tests, genetic services or the manifestation of disease or disorder in the individual's family members.

Notably, the GINA reference provided on the new DOL forms does not match the GINA language [previously suggested](#) by the Equal Employment Opportunity Commission (EEOC). Until this discrepancy is resolved, employers taking a conservative approach should continue to include the EEOC's GINA language on their medical certification forms.

According to Bricker, employers should update their FMLA forms immediately. The DOL's new forms are [available here](#). 6/15/2015

Colorado Court Upholds Termination of Employee with Positive Marijuana Test

OMA Connections Partner, Bricker & Eckler LLP, reports the outcome of an eagerly awaited [decision from Colorado's highest court](#) involving a quadriplegic who used marijuana off-duty and who was terminated when he tested positive in a random screen. At court, his attorneys argued that Colorado's Lawful Off-Duty Activities statute protected his use and prevented management action.

In the unanimous decision, the court upheld the company's right to terminate the employee, holding that although marijuana use is legalized in the state, it is still prohibited under federal law, and, as such, the off-duty statute does not protect the activity.

This Colorado decision confirms an employer's right to take action against those who test positive, but it does not answer the many questions employers will still wrestle with, including whether medical-marijuana users are protected by state disability-discrimination laws, what the impact will be on workers' compensation claims, and how the courts will reconcile the apparent pre-emptive effect that the federal ban on marijuana has over state laws.

In states where medical marijuana is legal, employers' health plans or their workers' compensation policies have been required to pay for the cost of treatment, and unemployment decisions have supported the payment of benefits to employees terminated for testing positive.

In sum, there are more questions than answers. Employers with multi-state operations should be particularly mindful that their human resources staff and counsel be aware of state laws' effects on handbook policies, managing the workforce, and dealing with claims or lawsuits.

For more information and assistance on workplace management issues, please contact [Joëlle Khouzam](#) at Bricker & Eckler, (614) 227-2311.

OSHA Guidance on Restroom Access for Workers

OMA Connections Partner, Bricker & Eckler LLP, reported that on June 1, the Occupational Safety and Health Administration (OSHA) published "[A Guide to Restroom Access for Transgender Workers](#)," which was developed at the request of the National Center for Transgender Equality.

The guide includes a description of best practices and also makes employers aware of federal, state and local laws that affirm the core principle of providing

employees with access to restroom facilities based on gender identification.

The core belief underlying [OSHA's guidance](#) is that all employees should be permitted to use the facilities that correspond with their gender identities. 6/8/2015

Plan Sponsors Must Pay Health Plan Fee by July 31

OMA Connections Partner, McGladrey, reminds affected employers that the patient-centered outcomes research (PCOR) fee on health plans for plan years ending in 2014 is due by July 31, 2015.

The plan sponsor must pay the fee if the health plan is self-insured, whereas the insurance company pays the fee for insured plans. The fee applies to all types of employers.

The fee is based on the average number of employees, spouses and dependents covered by the plan and is \$2.08 per covered person. PCOR fees are reported on Form 720, Quarterly Federal Excise Tax Return, which must be filed each year by July 31. Read [more](#). 6/11/2015

NLRB "Ambush Elections" Rule Upheld by Texas Court

OMA Connections Partner, Roetzel, [tells us](#) that the National Labor Relations Board (NLRB) "ambush elections" took a major step to permanency on Monday, June 1, 2015 when the U.S. District Court for the Western District of Texas tossed out a lawsuit from business groups challenging the legitimacy of the new election rule. One other lawsuit remains pending in the D.C. District Court.

Changes to union election laws that went into effect in mid-April made it easier for unions to organize employees by decreasing the amount of time between the filing of a petition for a union election and when the election is held.

Here is a [review of the changes](#) previously prepared by Roetzel attorneys. This document helps guide companies through the complex changes in union election law as well as identifies proactive steps companies can take to remain union-free. 6/2/2015

Proposed Blacklisting Regulations Would Affect Manufacturers

National Association of Manufacturers (NAM) Vice President of Human Resources Policy, Joe Trauger, reported that this week the Department of Labor and the Federal Acquisition Regulation Council released their proposed regulations to implement the

"Fair Pay and Safe Workplaces" executive order, which was signed by President Obama last summer.

According to Trauger, "The order sanctions a practice known as "blacklisting" companies from federal contracts due to even minor infractions of complex labor laws, such as the Fair Labor Standards Act.

"The order also created the position of a labor compliance officer charged with awarding and overseeing contracts in conjunction with the agency's procurement officer within each federal agency. As political appointees, these officers could inject politics into the procurement process.

"These proposed regulations will impose significant reporting and paperwork burdens on all prime and subcontractors that provide goods and/or services to the federal government.

"The National Association of Manufacturers is pursuing all options to prevent this blacklisting program from going into effect. We will develop extensive comments on the proposed rules ..." 5/28/2015

How to Deal with the Coming Marijuana Ballot Issues?

House Speaker Cliff Rosenberger (R- Clarksville) this week told reporters that the body will soon tackle issues related to marijuana ballot issues that look to be headed to the fall ballot in Ohio.

Polls show high support among Ohioans for legalization of marijuana both for medical and recreational uses. Opportunists look to seize this public support to create marijuana cartels via the Ohio constitution. Several groups are circulating petitions to get on the 2015 general election ballot.

Speaker Rosenberger is quoted as saying: "I think you'll see us start acting here soon. I also expect to see movement to look at how we can also make it a little more tough to amend the constitution of the state...There needs to be a high threshold to change the constitution. In this case, I mean I got a real problem with people...trying to create a monopoly with our constitution."

The OMA supports the Speaker's call for raising the threshold. It is unlikely, though, that this can be accomplished in time for this November election.

Last week Secretary of State Jon Husted told reporters: "This is at least the fifth particular proposal we have and they're passing across the country. You're seeing the trends in Ohio shift in terms of public opinion on this and, as much as I don't support any of these particular proposals, I don't think we

should be naive and pretend like we can stick our heads in the sand and avoid this conversation.” He called for a public debate in the legislature to get the issues out in the open. *5/20/2015*

Protecting Your Company in Face of Marijuana Legislation

OMA Connections Partner, Working Partners®, recently held a webinar, “Marijuana Legalization and its Impact on Business Operations.”

For those who were unable to view it live, the webinar can be [watched here](#) (registration required).

May 29 is the next enrollment deadline for the Bureau of Workers' Compensation Drug-Free Safety Program (DFSP). With the probability that Ohioans will be voting on marijuana legalization this November, Working Partners advises employers to take advantage of the DFSP rebate and grant, and implement a sound program now.

[Contact Working Partners](#) for more information. *5/20/2015*

Human Resources, Health Care & Employment Law Legislation

Prepared by: The Ohio Manufacturers' Association

Report created on September 1, 2015

- HB64** **OPERATING BUDGET** (SMITH R) To make operating appropriations for the biennium beginning July 1, 2015, and ending June 30, 2017, and to provide authorization and conditions for the operation of state programs.
Current Status: 6/30/2015 - **SIGNED BY GOVERNOR**; Eff. 7/1/15
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-64>
- SB25** **MINIMUM WAGE** (YUKO K) To raise the minimum wage; to raise the salary threshold above which certain employees are exempt from the overtime law; and to create a uniform standard to determine whether an individual performing services for an employer is an employee of that employer.
Current Status: 6/24/2015 - Senate Transportation, Commerce and Labor, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-25>
- SB137** **OHIO HEALTH CARE PLAN** (SKINDELL M, TAVARES C) To establish and operate the Ohio Health Care Plan to provide universal health care coverage to all Ohio residents.
Current Status: 4/14/2015 - Referred to Committee Senate Insurance
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-137>
- SB180** **ANTI DISCRIMINATION-EMPLOYMENT** (UECKER J) To prohibit an employer from discharging or otherwise discriminating against a person who exercises a constitutional or statutory right within the person's private real property or motor vehicle.
Current Status: 6/24/2015 - Senate Civil Justice, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-180>

TO: OMA Government Affairs Committee
FROM: Ryan Augsburger / Rob Brundrett
RE: Safety and Workers' Compensation Report
DATE: September 2, 2015

Overview

The General Assembly wrapped up the budget process this summer. The OMA was successful in working with the House of Representatives to ensure that PTSD did not become part of the final budget bill. There will be more issues regarding workers' compensation in the fall.

Legislation and Rules

Senate Bill 5 – mental / mental

State Senators Tom Patton (R-Strongsville) and Edna Brown (D-Toledo) have introduced Senate Bill 5. The bill would allow emergency first responders to receive workers' compensation benefits for PTSD even if they do not have an accompanying physical work injury. This would go against how Ohio's workers' comp system has historically operated.

“Mental/mental,” as the provision is called, would go against the workers' compensation principle that benefits must be tied to a compensable physical illness or injury. The measure would increase complexity and cost for public employers and allow certain employees to receive benefits not available to others. It also would be a terrible precedent facing private sector employers.

This would be a major change for public employers and possibly private employers in the future. The Senate passed a similar measure three times last year, only to be rebuffed by the House on each occasion.

The Senate heard powerful testimony from Administrator Buehrer but nonetheless passed the bill out of committee with only one no vote (Uecker). However the bill was referred to Senate Finance because of the price tag and has had several hearings, and one interested party meeting.

The Senate has continued to have hearings on this bill in the Finance Committee. There was an amendment floating around that would have opened the bill up to private employers. The Senate continues to seriously consider the bill for movement this General Assembly.

Senate Bill 27 / House Bill 292 – firefighter cancer

Senator Tom Patton (R-Strongsville) and Representative Christina Hagan have introduced companion bills that would assume a firefighter with certain types of defined cancers contracted those cancers within their working conditions. The bills are limited strictly to firefighters.

House Bill 51 – IC budget

The Industrial Commission budget was introduced with no real policy changes. The bill passed right before summer recess.

House Bill 52 – BWC budget

The BWC budget was introduced with minimal policy changes, following the same path the Kasich Administration paved with earlier versions of the budget. Perhaps the most noteworthy change in the bill would give the BWC authority to use funds from its current net position to cover the unfunded liabilities of the Disabled Workers Relief Fund I (DWRF I). The OMA submitted support testimony in both the House and Senate. There was some concern that the budget might get drawn into the Senate Bill 5 discussions. However the bill passed at the budget deadline.

HB 205 – Private Insurance

Rep. Mike Henne introduced HB 205 which would allow employers with more than 1,000 employees, as well as workers' compensation groups managed by third party administrators to purchase workers' compensation coverage in the private market. The bill is not expected to move, but is expected to have several hearings.

HB 206 – Industrial Commission Statistics

Rep. Henne introduced HB 206 which requires the Industrial Commission to compile and maintain statistics on workers' compensation hearing decisions and hearing officers. The IC is adamant this is problematic and is searching for allies to fight Rep. Henne on the bill.

HB 207 – Subrogation

Reps. Henne and Robert McColley introduced HB 207 which would insulate employers from the cost of a claim during litigation when there is third party involvement.

BWC Agency Notes

Pilot Program

Ohio Bureau of Workers' Compensation (BWC) Administrator/CEO announced a program to reduce delays in the treatment of Ohioans injured on the job. The Enhanced Care Program, developed by BWC in coordination with its partners in the business, labor and medical communities, will give physicians increased flexibility in the treatment of injured workers, returning them to their jobs more quickly and saving employers money in the process. The program began July 1, with a pilot in 16 northeast Ohio counties.

The program will initially target reducing obstacles that either delay or fragment care to injured workers who sustain a knee injury at work and live in one of the 16 pilot counties. Northeast Ohio was selected due to the number of high-quality health-care providers and systems in the area.

Under the program, participating physicians will be expected to serve as the primary point of care for injured workers. They'll establish a comprehensive care plan and coordinate with specialists and primary-care physicians to manage the claim holistically with a goal of facilitating a faster, safer return to work.

In exchange, physicians will be granted the flexibility to treat with assurance of payment instead of having to wait for approvals and adjudications, which cause delays. They will also be eligible for a 15% incentive payment over BWC's current fee schedule for certain services.

BWC will also provide employers with a 50% credit on eligible claims in the Enhanced Care Program.

The program is expected to run as a pilot between 6-12 months and if it proves successful in improving return-to-work outcomes and lowering claims costs, BWC will work with its partners to expand it.

OMA is one of the organizations that promoted the creation of the program and participated in its design.

Ballot Issues

Marijuana Ballot Issue

Ohio Secretary of State Jon Husted certified that ResponsibleOhio, the organization seeking to place a constitutional amendment on the November 2015 ballot that will legalize marijuana for recreational and medical use in Ohio, collected a sufficient number of additional signatures to cure the previously reported shortfall.

In total, 320,267 valid signatures have been collected, whereas 305,591 signatures were needed to secure a place on the ballot.

Having met the constitutional and legal requirements, the issue will appear on the November 3 general election ballot.

The OMA Board of Directors voted to oppose the issue. The OMA has joined with other groups in a campaign to defeat the ballot measure.



June 17, 2015

The Honorable Keith Faber
President, Ohio Senate
Ohio Statehouse
Columbus, Ohio 43215

The Honorable Scott Oelslager
Chair, Senate Finance Committee
Ohio Statehouse
Columbus, Ohio 43215

Dear President Faber and Chairman Oelslager:

The above organizations, on behalf of our members, write in opposition to sections 4123.01 and 4123.86 in the Main Operating Budget FY2016-FY2017 (Sub. H.B. 64) which would allow peace officers, firefighters, and emergency medical workers to become eligible for workers' compensation benefits for the condition of post-traumatic stress disorder (PTSD) without the requirement that a compensable physical injury must precede and cause the psychological condition.

This initiative is a drastic departure from current statute which prohibits workers' compensation claims for purely mental conditions. Given the proposed changes, we have multiple concerns, which include, the costs forced upon the Bureau of Workers' Compensation (BWC) and employers, as well as, the propensity for various fairness and equal protection arguments.

First, we are concerned about the costs to the public employers, and ultimately, all employers. When a fundamental parameter of the workers' compensation system, such as the physical injury requirement is compromised, the potential for future liabilities to the program are endless, and the result will be increased workers' compensation costs for both public and private employers. The BWC testified before multiple Senate committees that this bill could nearly double public employer premiums. These increased costs could affect our public employers' abilities to provide essential public safety functions.

Next, the language of the proposed bill leaves employers vulnerable to equal protections arguments. We are concerned about the precedent of including only a narrow subset of workers, and how this could eventually be expanded to Ohio's workforce as a whole. If we erode the physical injury requirement for peace officers, firefighters, and emergency medical workers, it will be difficult to justify not including other professionals who seek equal treatment.

We are also concerned about singling out PTSD as the only compensable psychological condition. Selecting one psychological condition to the exclusion of all others—much like selecting only a few occupations—will undoubtedly provoke equal protection challenges in Ohio's courts.

We believe this is not the proper time for the proposed change because other avenues exist that offer solutions to this problem without exposing the BWC, and ultimately the business community, to future, uncertain liabilities. Some of these solutions include: the healthcare system, Employee Assistance Programs, or collective bargaining.

For these reasons, the above organizations ask you to remove these sections from the Main Operating Budget. Thank you for your consideration of our concerns.

cc: Ohio Senate
Ohio House of Representatives



Representative Michael E. Henne
Ohio House District 40

Representative Wes Retherford
Ohio House District 51

HB 205: Workers Compensation Large Group Alternative
Sponsor Testimony before the House Insurance Committee on 6/9/2015

I am an Independent Insurance Agent which means I represent multiple companies and can offer my clients a variety of options. If a client is not happy with how they are treated by a company, I can look to another carrier for coverage or, God forbid, the client can look at other companies I do not represent. There are internet agencies which boast they search hundreds of life insurance companies to match the client's characteristics to the right company's underwriting. There are many health insurance companies with multiple plans available for Ohio consumers (at least for the time being) and if they don't meet your needs there is always the exchange. There are options for every type of insurance in the state of Ohio with the exception of workers compensation, in most cases.

Ohio's Bureau of Workers' Compensation (BWC) is how Ohio employers protect their employees from losses due from work related injuries. It is an insurance policy. Administrator Buehrer has done a great job of making BWC work better for both employees and employers but not every shoe fits every foot and not every insurance company is the best option for every employer.

HB 205 will give a couple more options for employers with regard to their employee's work related injuries with two additional choices.

First, Ohio employers can now self insure if they are large enough and can meet some standards, which can be quite stringent. This bill will align those standards more with the Multiple Employer Welfare Arrangements (MEWA) as well as reduce the number of required employees from 500 to 300 employees. The bureau will still need to protect the fund so they will still have final say as to the financial requirements but this should give some employees an additional option by self-insuring their workers' compensation.

Second, many employers participate in BWC group rating programs. These groups are administered by several TPAs across the state through many different sponsoring groups, such as NFIB, OMA, PIAA and Chamber of Commerce. This bill would allow groups ... or employers with a minimum of 1,000 employees to secure workers' compensation coverage from a carrier other than BWC.



Representative Michael E. Henne
Ohio House District 40

Representative Wes Retherford
Ohio House District 51

Trade organizations provide a valuable service for their member businesses around the state. Not only do these trade associations give their member businesses a collective voice but they also provide many financial benefits such as group purchasing of health insurance or even discounts on their home and auto insurance. This bill might just give them another benefit to offer their members. It's totally permissive, so if an organization does not want to get involved in the program or if the insurance companies' offers are unattractive, they can just continue offering their group workers' comp plans to the members with a good loss experience but just maybe they can offer something so much better.

Just as trade organizations can choose to participate or not, the insurance carriers can choose to compete for this workers compensation business. Working through trade organizations can pose its own challenges and may require developing a specialty product. Some carrier will choose to participate in this market while some will be comfortable with the status quo.

The goal of this legislation is not to shut down BWC but to provide additional options for employers who may need or desire something different. Once again, Administrator Buehrer has made some valuable improvements to BWC, but BWC may not be the best option for every employer.



Representative Michael E. Henne
Ohio House District 40

HB 206: Industrial Commission Statistics
Sponsor Testimony before the House Insurance Committee on 6/9/2015

Whether you are a sports team, a sales office, a law office or a government sponsored entity, you need the ability to analyze the performance of the individuals, departments, regions, or any number of divisions of your organization. An important piece of any analysis is comparing the numbers, but before you can do that you must collect and compile those numbers.

Employers might feel they will always lose if they take a claim to the Industrial Commission while employee groups may feel they never get a fair shake from a particular IC officer. Are they right? Maybe. Are there particular officers or regions which have a bias one way or another? Maybe. The only way to get to feel if there is a problem which may need to be addressed is to compile and analyze the data.

It is true that every case is different and cases are determined on the individual merits, but there is also things we can learn by looking at decisions on an aggregate basis. Just as auto claims are determined by the individual circumstances, we can still learn about people's driving habits, road/traffic hazards or vehicle performance if we look at all the claims as a whole. The insurance industry is based upon the compilation and analysis of data to better predict future losses.

This bill is simple. It just requires the Industrial Commission to track the results of their hearing officers and their regional offices and report these results to the legislature. As asked before, are there things we can learn from analyzing results? Not until we collect and compile the data and see what we have.



Representative Michael E. Henne
Ohio House District 40

HB 207: Third Party Subrogation
Sponsor Testimony before the House Insurance Committee on 6/9/2015

Your employee is sitting at a red light, eyes forward, hands at 2 and 10, just doing everything right. The light turns green and he proceeds into the intersection only to be t-boned by someone who wasn't paying attention and ran the light. The other driver has insurance, (you have uninsured motorist coverage just in case he didn't) yet this incident may cost your company dearly.

It is the responsibility of every employer to provide a safe work environment for their employees. If an employee is injured, the employer is responsible for the damages. Because your employee is operating within the scope of his employment this incident needs to be reported to BWC and could have devastating consequences. This claim may get you kicked out of your group rating program and that causes your premiums to immediately double. In addition, this may cause a rate surcharge and cause your premiums to increase multiple more times. All for a claim in which you and your employee did nothing wrong and there is adequate insurance by the liable party to pay the claim.

An employer can do everything possible to create a safe work place yet there are circumstances beyond their control. There are cases in which another party is negligent, legally liable for the damages and financial responsible but since the employee is injured within the scope of his employment the employer must file the claim under his/her Workers' Compensation Insurance policy which in Ohio is BWC.

Basically speaking, workers' compensation rates employers pay are determined by the class of employee, the company's loss experience and the size of the number of employees. Since larger employers can spread their exposure among a larger pool, they are eligible for larger discounts. To afford these discounts to smaller employers and help even the playing field, employers are permitted to "group" together. The administrators of these groups want to maximize the credits for the group so they are selective to who they invite to join. Each year employers complete an AC-3 which allows the administrators to check the employer's experience and only invite the ones with good experience to join the group.

HB 207 will mutualize a 3rd party surrogates claims and pays it out of surplus. Rather than face this potentially devastating scenario, employees injured from an auto accident where another party is liable and has the financial means to be responsible will not be charged to the employer's experience but paid out of a mutualized account.

Contact Information

77 S. High Street
Columbus, Ohio 43215-6111
(614) 466-3760
Email: Rep81@ohiohouse.gov



Committees

Ways & Means
Judiciary
Government Accountability & Oversight

ROBERT MCCOLLEY

State Representative, 81st House District

H.B. 207 – SPONSOR TESTIMONY – 131st General Assembly

House Insurance Committee

Tuesday, June 9, 2015

Chairman Hackett, Ranking Member Bishoff and members of the House Insurance Committee, thank you for the opportunity to give testimony in favor of H.B. 207. I believe one of the jobs we have as legislators is to correct inequities that we find in existing law. I can tell you with full confidence that H.B. 207 corrects a major equitable problem we have in our existing Workers' Compensation law, an inequity that results in Ohio's small businesses basically being held at fault for accidents that were not their fault or the fault of their employees.

Under any other circumstance, if you were in a traffic accident that was not your fault, but was the fault of the other driver involved in the accident, the other driver's insurance would pay the damages resulting to your vehicle, your paycheck, your body, and your overall pain and suffering. However, an unfair exception to this rule exists in Ohio's Workers' Compensation Law. While it is true that under our laws an employer is liable for the acts of its employees, this general rule is extended beyond its equitable reach under Ohio's Workers' Compensation laws in that Ohio's employers are essentially liable for the acts of others that happen to their employees, regardless of fault. This simply is not right and H.B. 207 would correct this inequity, while preserving the ability of the injured employee to obtain adequate medical treatment, lost wages, and other damages.

Because Ohio law designates the Bureau of Workers Compensation as the primary insurer for employees' claims that arise in the line of duty, the employers' premiums currently rise by approximately 50% with any claim made against the employers, regardless of fault of the employers or the employers' employees. This is as a result of employers being removed from any group rates that they may be a part of. H.B. 207 would fix this problem by allowing claims that are the fault of a third party to be paid out of a surplus fund that will be maintained by the Bureau of Workers' Compensation, instead of being charged to the employer's policy. Payments out of the surplus fund will allow employees to be made whole, while still preserving the ability of employers to continue paying the group rates for their workers' compensation premiums. H.B. 207 would also provide an incentive for the Bureau of Workers' Compensation to aggressively pursue claims in which it has been subrogated to the rights of the insured employer. This bill will make Ohio Workers' Compensation law more equitable and fair, which will be extremely helpful for small businesses throughout the Buckeye State.

www.ohiohouse.gov

77 South High Street, Columbus, Ohio 43215-6111

I respectfully urge passage of H.B. 207 and I would be happy to answer any questions at this time.

Respectfully submitted,

A handwritten signature in black ink that reads "Rob McColley". The signature is written in a cursive, flowing style.

Representative Rob McColley



Safety & Workers' Compensation

Drug-free Program Assistance for Employers in Allen, Auglaize, Hardin & Marion Cos.

OMA Connections Partner, Working Partners®, is working with county Mental Health & Recovery Services Boards in select counties to provide drug-free workforce programs for employers.

Support includes: 1) Classroom course and individual consultation to develop a company-specific and legally-sound drug-free workplace policy and program; 2) Community-based assistance for prospective and current employees who are dealing with substance abuse issues; 3) Access to discounted drug-testing, employee education, supervisor training and on-going technical assistance; and 4) Assistance with applying for BWC's Drug-Free Safety Program and SafetyGrants.

Sessions start in September and October. To learn more and to apply for scholarship funding for the program, contact [Regina Bond](#) at Working Partners, (614) 337-8200. *8/21/2015*

BWC Reminder: Payroll and Payments Due August 31

The Bureau of Workers' Compensation (BWC) reminds employers to submit final retrospective payroll reports for January 1 to June 30, 2015, by August 31. Upon submission, BWC will provide a transition credit equal to the premium due.

The first invoices under the new prospective billing system were issued in late July, and are due August 31.

If you have questions about this, contact OMA's [Brian Jackson](#). *8/18/2015*

BWC Seeking Your Safety Innovations

BWC is seeking employers who developed or implemented an innovative solution to an occupational safety or health issue for the next Safety Innovations Competition.

Private, public and self-insuring employers in Ohio are invited to apply for the competition, which showcases successful innovations and helps other Ohio employers in their safety efforts by inspiring more innovative solutions.

The first round of judging starts in October. Finalists will compete for cash awards of \$1,000 to

\$6,000 during the Ohio Safety Congress & Expo 2016, which will be held March 9 to 11, 2016, at the Greater Columbus Convention Center.

The deadline to apply for the Safety Innovations Competition is September 30. [Learn more here](#). *8/18/2015*

OSHA Updates National Emphasis Program on Amputations

OSHA has issued an updated [National Emphasis Program \(NEP\) on Amputations](#). The NEP is targeted to industries with high numbers and rates of amputations. OSHA is using current enforcement data and Bureau of Labor Statistics (BLS) injury data to assist with site selection targeting.

According to the most recent BLS data, 2,000 workers suffered amputations in 2013. The rate of amputations in the manufacturing sector was more than twice that of all private industry.

This updated directive applies to general industry workplaces in which any machinery or equipment likely to cause amputations are present. Inspections will include an evaluation of employee exposures during operations such as: clearing jams; cleaning, oiling or greasing machines or machine pans; and locking out machinery to prevent accidental start-up. *8/18/2015*

OSHA Proposes New Beryllium Rule to Reduce Exposure

On August 7, OSHA issued a [proposed rule](#) to dramatically lower workplace exposure to beryllium, a widely used material that can cause lung diseases. The proposal would reduce allowable exposure levels by 90% and add other protections.

Comments on the proposed rule will be accepted until November 5, 2015 at this [website](#). More information is available [here](#). *8/18/2015*

Building a Manufacturing Career Message

From the Ohio Department of Higher Education: "Ohio manufacturers collectively have identified an initial barrier on the road to a qualified workforce - the lack of a well-publicized, concise message about the depth and breadth of manufacturing careers in the state.

Thousands of hours have been invested by Ohio manufacturers into the never-ending quest for a quality workforce through the donation of equipment, collaboration on an education program, speaking in a classroom, attending a job or career fair, or offering internship opportunities to students and teachers. As a result of that effort, one consistent message has emerged - you cannot simply "build it and they will come."

The department and partners invite manufacturers to participate in a meeting in Columbus on Monday, September 14 from 12:30 to 3:30 p.m. to discuss a vision for launching a marketing strategy aimed at moving Ohioans into manufacturing careers.

Register [here](#). 8/13/2015

Updated Guide to OSHA Training Requirements Available

OSHA has posted a fully updated version of its guide to all agency training requirements to help employers, safety and health professionals, training directors and others comply with the law and keep workers safe. [Training Requirements in OSHA Standards](#) organizes the training requirements into five categories: General Industry, Maritime, Construction, Agriculture and Federal Employee Programs. 8/3/2015

OSHA Defying Courts?

The Occupational Safety and Health Administration (OSHA) this week issued a [Notice of Proposed Rulemaking](#) that, it says, "clarifies an employer's continuing obligation to make and maintain an accurate record of each recordable injury and illness throughout the five-year period during which the employer is required to keep the records."

NAM's Joe Trauger tells us that, by proposing this time period, OSHA "essentially defies the U.S. Circuit Court of Appeals for the D.C. Circuit's decision in the 2012 case [AKM LLC v. Sectary of Labor \(Volks II\)](#)."

Imagine that from this OSHA. More to come. 7/29/2015

BWC Announces Safety Innovations Competition

The Ohio Bureau of Workers' Compensation (BWC) announces the fifth annual [Safety Innovations Competition](#).

BWC invites all Ohio employers (including self-insuring) to share their innovations that have reduced

safety, ergonomic and occupational health risks for their employees. Innovations can be related to equipment, machinery, processes, procedures, adaptation and new creations.

Submit an application to compete for cash awards. Winners will be announced at the 2016 Ohio Safety Congress & Expo (OSC16) on March 8 to 11, 2016, at the Greater Columbus Convention Center. There will be five finalists earning cash awards ranging from \$1,500 to \$6,000. Back by popular demand is the People's Choice award offering \$1,000 cash award.

Entries must be submitted by September 30, 2015. Learn [more here](#). 7/20/2015

OMA's Dennis Davis Retires



Denny Davis, Managing Director, OMA Workers' Compensation Services, has anchored the workers' compensation underwriting and analysis work of the OMA for more than 25 years. He retires today, Friday, July 17.

Many, many OMA members have worked with Denny through the years to understand their workers' compensation premium calculations and product choices.

Denny has been an OMA staff member since 2002 when OMA created its wholly-owned workers' compensation services third party administration operation.

Prior to the OMA, Denny worked on behalf of OMA's members briefly for Sheakley, and before that, Denny worked at R. E. Harrington, where he played a key role in establishing the state's first group experience rating groups and safety committee on behalf of OMA members.

With a lump in our throats, staff say congratulations and best wishes always, Denny! If you're so inclined, drop [Denny](#) a note today. 7/17/2015

Thinking of Buying an Existing Business? Know this!

When a business owner purchases all or part of another existing business the purchaser (or successor) inherits the workers' compensation rate and liability of the business it has acquired.

That's because the Bureau of Workers' Compensation (BWC) combines the workers' compensation history (also known as the experience) of the acquired business with the purchaser's experience to determine the premium rate it charges to the purchaser.

This transfer of experience can have a major impact on the purchaser's current and future BWC premium rates. It can also jeopardize a purchaser's ability to participate in certain BWC employer programs.

To help business successors avoid unpleasant surprises, the BWC, at the request of the acquiring business, will provide limited information about the business being acquired. To facilitate these requests, use the BWC [Request for Business Transfer Information](#) (AC-4) form.

Visit BWC's [successorship liability page](#) for more information, or [email the BWC](#) or contact OMA's [Brian Jackson](#), or contact your local BWC customer service office. 7/16/2015

BWC's New Billing System is Now in Place

The Bureau of Workers' Compensation (BWC) has made the transition to prospective billing of premium.

Don't forget to submit your payroll reports for January 1 to June 30, 2015 by August 31 to receive the transition credit equal to your premium for that time period.

The first invoices under the new billing system will be issued August 1 and due August 31. [Here's more](#) from the BWC. 7/3/2015

How Can OSHA's On-site Consultation Program Help?

OSHA's On-site Consultation Program offers free and confidential occupational safety and health advice to small and medium-sized businesses, with priority given to high-hazard worksites.

The services are separate from enforcement and do not result in penalties or citations. Consultants work with employers to identify workplace hazards, provide advice on compliance with OSHA standards, and assist in establishing injury and illness prevention programs.

The Ohio Bureau of Workers' Compensation administers the OSHA On-Site Consultation program in Ohio, through a grant from OSHA. Ohio employers who wish to address and improve safety and wellness in their workplaces can learn more by calling 1-800-OHIO-BWC (1-800-644-6292). [Here's more information](#) from OSHA. 7/2/2015

House Stymies PTSD

Two weeks after the Senate amended posttraumatic stress disorder (PTSD) provisions into HB 64, the state budget, House members of the bill's conference committee [removed](#) them.

The proposed legislation would have allowed emergency first responders who are diagnosed with PTSD, under certain eligibility criteria, to receive compensation and medical benefits under Ohio's workers' compensation law for up to one year, regardless of whether there was an accompanying physical injury.

While this is a victory for the business community, [Senate Bill 5](#), the original vehicle for the PTSD language, is not dead in the Senate. 6/25/2015

BWC Pilot Program Targets Improved Quality and Coordination of Care

Ohio Bureau of Workers' Compensation (BWC) Administrator/CEO Steve Buehrer this week [announced a program](#) to reduce delays in the treatment of Ohioans injured on the job. The Enhanced Care Program, developed by BWC in coordination with its partners in the business, labor and medical communities, will give physicians increased flexibility in the treatment of injured workers, returning them to their jobs more quickly and saving employers money in the process. The program will begin July 1, with a pilot in 16* northeast Ohio counties.

The program will initially target reducing obstacles that either delay or fragment care to injured workers who sustain a knee injury at work and live in one of the 16 pilot counties. Northeast Ohio was selected due to the number of high-quality health-care providers and systems in the area.

Under the program, participating physicians will be expected to serve as the primary point of care for

injured workers. They'll establish a comprehensive care plan and coordinate with specialists and primary-care physicians to manage the claim holistically with a goal of facilitating a faster, safer return to work.

In exchange, physicians will be granted the flexibility to treat with assurance of payment instead of having to wait for approvals and adjudications, which cause delays. They will also be eligible for a 15% incentive payment over BWC's current fee schedule for certain services.

BWC will also provide employers with a 50% credit on eligible claims in the Enhanced Care Program.

The program is expected to run as a pilot between 6-12 months and if it proves successful in improving return-to-work outcomes and lowering claims costs, BWC will work with its partners to expand it.

OMA is one of the organizations that [promoted](#) the creation of the program and participated in its design. 6/22/2015

**Counties included in the program are Ashtabula, Carroll, Columbiana, Cuyahoga, Geauga, Holmes, Lake, Lorain, Mahoning, Medina, Portage, Stark, Summit, Trumbull, Tuscarawas and Wayne.*

Hot Weather Safety App & Advice

OSHA worked with the National Weather Service to develop a [smartphone heat safety app](#) that allows users to calculate risk levels at a worksite and learn the protective measures needed to prevent heat illness. The app will let you know instantly if you are in a high risk zone due to heat and humidity and precautions that need to be taken to prevent heat-related illness.

Visit OSHA's [Heat Illness Prevention page](#) for more information. 6/17/2015

Update on Chemical Plant Safety

A working group of federal agencies that was formed as a result of President Obama's Executive Order in August 2013 to prevent chemical plant disasters has issued a new [fact sheet](#) on progress made to improve the safety and security of U.S. chemical facilities.

More info is on [OSHA's website](#). 6/17/2015

BWC Moving to ICD 10 Medical Coding System in October

The Bureau of Workers' Compensation (BWC) is moving off the 30-year old, outdated medical coding system of ICD 9 to the new, more clinically helpful ICD 10 in October of this year.

The BWC has put together a [fact sheet](#) on the conversion.

[Learn more](#) about ICD 10. 6/17/2015

Senate Tinkers with PTSD Provision in Budget Bill

This week the Senate amended the posttraumatic stress disorder (PTSD) provisions inserted last week into the state budget bill, HB 64.

The original provision would allow emergency first responders who are diagnosed with PTSD, under certain eligibility criteria, to receive compensation and medical benefits under Ohio's Workers' Compensation Law for up to one year, regardless of whether there was an accompanying physical injury.

The [amendment](#) inserted this week prohibits first responders from receiving both workers' compensation benefits for PTSD without an accompany physical condition simultaneously with public pension benefits. The pension system would be required to inform the BWC that the claimant is collecting retirement compensation, and that whoever is paying the workers' compensation benefits can then terminate those benefits.

The OMA and its business partners continue to oppose these provisions in the budget bill and submitted this [letter](#) in opposition. 6/18/2015

BWC Budget Finally Moves out of Senate Committee

The Senate Transportation, Commerce and Labor Committee finally moved the Industrial Commission and Bureau of Workers' Compensation (BWC) budgets out of committee this week, but not before adding a peculiar [amendment](#) to the BWC budget.

Senator [Tom Patton](#) (R-Strongsville) inserted a provision requiring the BWC to study its operations and create a report detailing how BWC's aggregate appropriations over fiscal years 2016 and 2017 may be reduced by 5%. The report must be submitted to the Senate and the House within 90 days of the bill's effective date. The proposed BWC budget request already contains a [4% decrease](#) from the previous biennium.

The bills are not expected to be voted out of the Senate until later next week. 6/18/2015

Last Minute Learning Opportunities on BWC's Billing Changes

Prospective billing starts July 1 for private employers! To help you prepare, BWC is hosting a series of [webinars](#) in June, July and August. A few [seminar dates](#) are still available as well.

And here are informational videos to learn more about the new billing system:

- [What is prospective billing?](#)
- [How to read your Notice of Estimated Annual Premium](#)
- [How to change your premium installment schedule](#)

You can also contact OMA's [Brian Jackson](#) for information. 6/17/2015

Senate Adds PTSD Provision to State Budget Bill

The Senate added a controversial posttraumatic stress disorder (PTSD) provision to [HB 64](#), the state budget bill.

The [amendment](#) would make emergency first responders who are diagnosed with PTSD under certain circumstances eligible to receive compensation and medical benefits under Ohio's Workers' Compensation Law for up to one year, regardless of whether there was an accompanying physical injury.

The amendment stems from [SB 5](#) which is currently pending in the Senate and receiving heavy opposition from local government and business groups including the OMA. 6/10/2015

House Committee Hears Testimony on a Trio of Workers' Compensation Bills

This week the House Insurance Committee heard sponsor testimony on an array of bills spearheaded by Rep. [Mike Henne](#) (R-Clayton).

Reps. Henne and [Wes Retherford](#) (R-Hamilton) presented [sponsor testimony](#) on [HB 205](#) which would allow employers with more than 1,000 employees, as well as workers' compensation groups managed by third party administrators to purchase workers' compensation coverage in the private market.

Rep. Henne also offered [sponsor testimony](#) on [HB 206](#) which requires the Industrial Commission to compile and maintain statistics on workers' compensation hearing decisions and hearing officers.

Finally Reps. Henne and [Robert McColley](#) (R-Napoleon) testified ([Henne](#); [McColley](#)) in support of their bill, [HB 207](#), which would insulate employers from the cost of a claim during litigation when there is third party involvement. 6/10/2015

Employers Recognized for Safe Workplace Outcomes

The Ohio Bureau of Workers' Compensation (BWC) recognized more than [1,000 Ohio employers](#) that combined for more than one billion hours worked without a lost time workplace injury.

Employers were recognized during annual awards ceremonies of more than 80 safety councils across the state that serve as partners in BWC's efforts to educate employers and workers about the importance of workplace safety.

The Special Award for Safety recognizes businesses that have gone at least 500,000 hours and at least six months without an injury resulting in a day or more away from work.

[Learn more about how to join a safety council.](#) 6/9/2015

BWC Mails First Notice of Estimated Premium Under New Billing System

This is a big change for BWC state fund employers:

The Bureau of Workers' Compensation (BWC), transitioning to a new prospective billing system beginning in July 1, 2015, just mailed state fund employers' first [Notice of Estimated Annual Premium](#) and draws your attention to three key points:

1. Don't miss out on the 8-month premium transition credit!

To receive the transition credit, private employers must be in an active, reinstated, or debtor-in-possession status on July 1, 2015. You must report your January 1, 2015 - June 30, 2015, payroll by August 31, 2015 to receive the transition credit equal to your premium for that time period. Once you have reported your payroll, BWC will apply the transition credit to your account.

If you are in a lapsed status, correct it before the July 1 deadline!

2. How can you change your payment installment plan after the policy period has started?

BWC will start all private employers on a six-installment payment plan (bi-monthly). If you wish to change your installment plan, you have until July 15, 2015 to make that selection online or by calling (800) 644-6292. BWC is encouraging employers to stay on

the initial payment plan for the first year unless there is a significant reason to change.

3. Can your estimated payroll be adjusted if you know it is not accurate?

BWC has based your estimated premium on payroll amounts that you previously provided to it. If you believe the payroll amount is incorrect, or if you anticipate a change in operations that will affect your payroll for the policy period beginning July 1, 2015, notify BWC at (800) 644-6292.

If you have additional questions, check out all the [information and resources here](#) or send an [email to BWC's prospective billing mailbox](#).

Or, contact OMA's [Brian Jackson](#), who can be your guide to the new billing system. *6/2/2015*

An Array of Workers' Comp Bills Introduced

Last month Rep. [Mike Henne](#) (R-Clayton) introduced three separate workers' compensation bills, as follows.

[HB 205](#) would allow employers with more than 1,000 employees, as well as workers' compensation groups managed by third party administrators, to purchase workers' compensation coverage in the private market.

[HB 206](#) would require the Industrial Commission to compile and maintain statistics on workers' compensation hearing decisions and hearing officers.

And, [HB 207](#) would insulate employers from the cost of a claim during litigation when there is third party involvement.

The bills are expected to have a hearing prior to the summer recess. *6/4/2015*

Jackson Joins OMA Workers' Comp Staff

[Brian Jackson](#) has joined the OMA Workers' Compensation Services staff. Brian comes to us from the Bureau of Workers' Compensation, where he served as an actuarial analyst and a business consultant.

Brian is a graduate of The Ohio State University. There he received a B.S. degree in actuarial science.

Brian will assume Denny Davis's position upon Denny's well-deserved retirement this summer.

Welcome to the OMA team dedicated to protecting and growing Ohio manufacturing, Brian! *5/27/2015*

Protect Your 8 Month BWC Premium Holiday

Ohio Bureau of Workers' Compensation (BWC) Administrator/CEO Steve Buehrer [reminded Ohio employers](#) this week that they must take action now to ensure they receive their portion of the \$1.2 billion premium credit BWC will issue this summer as it updates its billing system.

Private employers in an active status are eligible to receive a credit for eight months of workers' compensation coverage as part of BWC's switch to prospective billing. Since active status includes being up-to-date on payments, Buehrer also announced that BWC would establish payment plans for companies wishing to come into compliance and be eligible for the credit.

Under the new system, effective July 1 for private employers, businesses will be billed prior to receiving coverage instead of the current practice of billing employers in arrears. Designed to prevent double billing during the transition, the credit will result in BWC paying businesses' previous six months coverage, or final payroll report, under the old system, as well as 1/6th of their policy year 2015 premium due. Private employers' first payment under prospective billing will be due August 31.

To receive the credit, employers must be in active status by July 1. Employers with lapsed coverage must take the following steps to ensure eligibility for the transition credit:

- Report unreported payroll for currently lapsed payroll periods;
- Pay any outstanding premium, late fees and penalties for assessed premium, or;
- Request a payment plan for any premium amounts that cannot be paid in full.

BWC continues to offer free prospective billing [webinars and seminars](#) across the state to provide details and answer questions about prospective billing. More information is available [here](#). Employers with questions can call 1-800-644-6292 or [email](#). *5/21/2015*

Revamped BWC Pharmacy Program Dramatically Drops Opiate Use

The Ohio Bureau of Workers' Compensation (BWC) just [reported](#) on the progress its making with the outpatient medication formulary it implemented in 2011 to limit inappropriate uses of medications and lower prescription costs. Injured workers were prescribed 15.7 million fewer opiate doses in 2014

than in 2010, representing a 37% decrease in the number of injured workers receiving opiates.

The report was delivered by John Hanna, BWC's pharmacy program director, during the fourth annual National Rx Drug Abuse Summit in Atlanta, Georgia.

After implementing the formulary, BWC began refining coverage for opiates as well as coverage of muscle relaxants and anti-ulcer agents, which, according to BWC, are also commonly overprescribed and misused. Over that period of time, prescriptions for muscle relaxants and anti-ulcer medications decreased by 72% and 83%.

Moving forward, BWC will be targeting dangerous combinations of medications prescribed by multiple physicians. After detecting those at the highest risk, BWC will work with their physicians or make referrals to managed care organizations to ensure injured workers aren't receiving medication combinations that can be deadly.

Ongoing improvements to the pharmacy program have also produced dollar savings. In 2014, BWC's total drug costs were 16%, or \$20.7 million, less than in 2010.

With 859,000 open claims, BWC is the largest state fund workers' compensation insurer in the country. The agency paid \$1.7 billion in total benefits during fiscal year 2014, including \$662 million in medical spending and \$109 million in pharmacy benefits. 5/14/2015

Workers' Compensation Legislation
Prepared by: The Ohio Manufacturers' Association
Report created on September 1, 2015

- HB51** **INDUSTRIAL COMMISSION BUDGET** (HACKETT R) To make appropriations for the Industrial Commission for the biennium beginning July 1, 2015, and ending June 30, 2017, and to provide authorization and conditions for the operation of Commission programs.
Current Status: 6/30/2015 - **SIGNED BY GOVERNOR**; eff. 7/1/15; various sections effective 90 days
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-51>
- HB52** **WORKERS' COMPENSATION BUDGET** (HACKETT R) To make changes to the Workers' Compensation Law, to make appropriations for the Bureau of Workers' Compensation for the biennium beginning July 1, 2015, and ending June 30, 2017, and to provide authorization and conditions for the operation of the Bureau's programs.
Current Status: 6/30/2015 - **SIGNED BY GOVERNOR**; Eff. 7/1/15; certain sections effective in 90 days
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-52>
- HB64** **OPERATING BUDGET** (SMITH R) To make operating appropriations for the biennium beginning July 1, 2015, and ending June 30, 2017, and to provide authorization and conditions for the operation of state programs.
Current Status: 6/30/2015 - **SIGNED BY GOVERNOR**; Eff. 7/1/15
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-64>
- HB205** **SELF-INSURING EMPLOYERS** (HENNE M, RETHERFORD W) To modify the requirements for an employer to become a self-insuring employer for purposes of the Workers' Compensation Law, to transfer authority over the workers' compensation self-insurance program to the Superintendent of Insurance, and to allow certain employers and groups of employers to obtain workers' compensation coverage from a private workers' compensation insurer.
Current Status: 6/9/2015 - House Insurance, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-205>
- HB206** **INDUSTRIAL COMMISSION-CLAIM STATISTICS** (HENNE M) To require the Industrial Commission to keep statistics on individual hearing decisions of contested workers' compensation claims.
Current Status: 6/9/2015 - House Insurance, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-206>
- HB207** **WORKERS' COMPENSATION-SURPLUS FUND** (HENNE M, MCCOLLEY R) To allow a state fund employer to have a workers' compensation claim that is likely to be subrogated by a third party paid from the surplus fund account in the state insurance fund rather than charged to the employer's experience.
Current Status: 6/16/2015 - House Insurance, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-207>

- HB292** **FIREFIGHTER COMPENSATION (HAGAN C)** To provide that a firefighter who is disabled as a result of specified types of cancer is presumed for purposes of the laws governing workers' compensation and the Ohio Police and Fire Pension Fund to have incurred the cancer while performing official duties as a firefighter.
Current Status: 7/22/2015 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-292>
- SB5** **WORKERS' COMPENSATION-PTSD (PATTON T, BROWN E)** To make peace officers, firefighters, and emergency medical workers diagnosed with post-traumatic stress disorder arising from employment without an accompanying physical injury eligible for compensation and benefits under Ohio's Workers' Compensation Law.
Current Status: 4/22/2015 - Senate Finance, (Fifth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-5>
- SB27** **WORKERS' COMPENSATION-FIREFIGHTER CANCER (PATTON T)** To provide that a firefighter who is disabled as a result of specified types of cancer is presumed for purposes of the laws governing workers' compensation and the Ohio Police and Fire Pension Fund to have incurred the cancer while performing official duties as a firefighter.
Current Status: 2/17/2015 - Senate Insurance, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-27>
- SB149** **WORKERS' COMPENSATION-BRAIN-SPINAL CORD INJURY (SCHIAVONI J)** To make an individual who has lost the use of a body part due to a brain injury or spinal cord injury eligible for partial disability and permanent total disability compensation under the Workers' Compensation Law.
Current Status: 4/22/2015 - Referred to Committee Senate Transportation, Commerce and Labor
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-149>

TO: OMA Government Affairs Committee
FROM: Ryan Augsburger / Rob Brundrett
SUBJECT: Tax Public Policy Report
DATE: September 2, 2015

Overview

The state budget process wrapped up at the end of June. Manufacturers led the effort in removing the administration's proposals of raising the CAT rate and expanding the sales tax to cover new services.

Tax Legislation

House Bill 64 – state budget bill

The House Bill 64 conference committee crafted the final compromise version of the state budget in late June.

The centerpiece of the as-introduced budget was a tax overhaul that included lower income taxes on individuals and small business owners paid for – in part – by increased sales, commercial activity, tobacco, and severance taxes.

Through active advocacy by OMA members and a united business community, the House and Senate agreed to a tax package that eliminated the proposed commercial activity tax rate increase and the proposed sales tax expansion and rate, while still lowering taxes on individuals and small businesses.

This is a big win for manufacturing.

Senate Bill 88 – CAT credit

Sponsored by Sen. Charleta Tavares (D-Columbus) would create tax credits, including CAT credits, for the employment of individuals who have been convicted of criminal offenses. The bill has not had any hearings.

House Bill 102 – CAT credit

House Bill 102 sponsored by Reps. Niraj Antani (R-Miamisburg) and Hearcel Craig (D-Columbus), would provide a bid preference for state contracts to a veteran-owned business and would have authorize a personal income and CAT credit for a business that hires and employs a veteran for at least one year. However the sponsors introduced a substitute version of the bill at its first hearing removing the CAT provisions from the bill.

House Bill 176 – CAT credit

House Bill 176 sponsored by Reps. Hall (R-Millersburg) and O'Brien (D-Bazetta) creates the Gaseous Fuel Vehicle Conversion Program. The bill allows a credit against the income or commercial activity tax for the purchase or conversion of alternative fuel vehicle. It reduces the amount of sales tax due on the purchase or lease of a qualifying electric vehicle by us to \$500. It applies the motor fuel tax to the distribution or sale of compressed natural gas. The bill also authorizes a temporary, partial motor fuel tax

exemption for sales of compressed natural gas used as motor fuel. The bill was introduced last year, but stalled in the legislative process.

House Bill 182 – JEDDs reorganization

House Bill 182 sponsored by Representative Schuring (R-Canton) would revise the law governing the creation and operation of joint economic development districts (JEDDs) and enterprise zones. Amongst the changes the bill establishes a procedure permitting the owner of a business operating in the unincorporated territory of a JEDD to apply for exemption from the JEDD income tax on behalf of the business and its employees.

Tax News

Needed Tax Fix

Legislative leaders have indicated that it is likely the General Assembly will take action later this fall to fix the error in the recently passed state budget that would leave certain Ohio business owners facing a tax increase this year.

The budget was supposed to reduce the tax on business income above \$250,000 to a flat 3% rate. However the final version of the bill reads that the 3% rate applies to all taxable business income, not just income above \$250,000. For some taxpayers, this 3% is higher than the current graduated tax rate.

Lawmakers have noted this was an error and that a fix could be in the works. The legislature needs to remedy this by the end of the year in order for the hike on some businesses not to take effect.

Navistar Amicus

Earlier this summer the Ohio Supreme Court issued a decision favorable to businesses, (Navistar v. Testa), finding that the deadline for notifying the Tax Commissioner of the amount a taxpayer intended to claim as a credit against the commercial activity tax (CAT) for net operating losses (NOLs) accrued under the former franchise tax, did not preclude the tax commissioner from adjusting the amounts reflected in the notice.

However the Board of Tax Appeals must consider all the evidence, including that submitted by the taxpayer, in determining whether an error was made.

The OMA filed an amicus brief with the court. The court used much of the OMA's analysis set forth in its amicus brief in its written decision, which signals a win ultimately for manufacturers.

This was an important case regarding the CAT, and the OMA's involvement factored into the outcome.

Ohio House & Senate Conference Committee Unveils Tax Provisions for 2016-2017 Budget Bill

By Mark A. Engel, Esq.
Bricker & Eckler LLP

Following the adoption of competing budget bill provisions by the Ohio House and Senate, a conference committee has worked out differences and issued its recommendations. Like the versions proposed by Governor Kasich and approved by the Ohio House and Senate, the conference version of the bill results in a significant tax cut for Ohio taxpayers. The difference lies in the road traveled to achieve the reductions.

Conference Committee Provisions

Like the Senate and the House, the conference committee provides for a significant income tax cut to Ohio taxpayers. It, too, proposes a 6.3 percent reduction in personal income tax rates. Like the Senate version of the bill, the conference committee also eliminates entirely the state income tax on the first \$250,000 in net income from small businesses and imposes a new flat tax at a rate of 3 percent on such income in excess of \$250,000. These changes would be effective for taxable years beginning on and after January 1, 2015; however, for calendar year 2015, only 75 percent of the first \$250,000 in net income will escape taxation.

The conference committee specifies that personal and dependent exemptions may be used only to reduce nonbusiness income. It applies a means test to the retirement income credit, the lump-sum retirement credit, the lump-sum distribution credit and the senior citizen credit. Beginning with 2015, only taxpayers with Ohio taxable income less than \$100,000 will be able to claim these items. It also creates a new refund contribution check-off to fund a program operated by a nonprofit entity to grant wishes to individuals under the age of 18 who are residents and who have been diagnosed with a life-threatening medical condition.

The conference bill also contains a provision, added by the Senate, that changes the manner in which electric generation facilities are taxed. Currently, such facilities are subject to the public utility personal property tax. The provision exempts generation and production equipment from taxation. That revenue is made up by increasing the assessment percentage on transmission and distribution equipment of all electric and energy companies having such equipment by an amount sufficient to replace the money formerly raised by the tax on generation equipment. That additional money is collected by the county treasurer and sent to the treasurer of state.

The bill also contains a mechanism to determine the “production equipment levy loss” associated with the exemption for each jurisdiction, much as levy losses were calculated under the existing utility and CAT provisions. This amount is reduced by the state education aid off-set, and distributions are made in February and August by the state from the money forwarded by the county treasurer to the treasurer of state.

The conference committee proposes to increase the tax on cigarettes by \$0.35 per pack. There are no changes in the taxes on other tobacco products. This increase would become effective July 1, 2015.

The conference committee did not raise the sales tax rate or expand its base. It also dropped a proposal by the Senate to impose the sales tax on hotel intermediary services and proposes a new exemption for the provision of sanitation services to a meat slaughtering or processing operation necessary to comply with federal meat safety regulations, effective October 1, 2015. The conference bill does retain provisions added by the Senate to prescribe new criteria for determining whether an out of state seller has substantial nexus with Ohio for use tax collection purposes, expresses those criteria as creating presumption that may be rebutted by the seller, and adds other provisions relating to the administration of these provisions.

Absent from the conference bill is a revision to Ohio's severance tax for oil and natural gas produced through hydraulic fracking. However, talks continue between interested parties, and some provision could yet be added before final action by the Senate.

The conference bill retains a number of provisions added by the Senate, including the tax amnesty in early 2016, retaining the income tax credit for contributions to political campaigns, retains the historic preservation tax credit, and makes changes to the petroleum activity tax rate and tax computation. In another provision, production credit associations, which were originally subject to the financial institutions tax, and agricultural credit associations, which were not specifically addressed by that tax, are both specifically made subject to the CAT. This provision is retroactive to January 1, 2014, and is characterized as remedial in nature.

Finally, like the Senate version the bill creates a new exemption from the CAT for gross receipts of a manufacturer, supplier, or distributor of beauty, health, personal care, or aromatic products, provided the vendor is part of an integrated supply chain and has a business location in Ohio located within ten miles of another such vendor, and provided the receipts are from sales of the products to another vendor or retailer in that supply chain. The provision specifies that the taxpayer claiming the exclusion must be located in a particular area of the state.

House Bill 64 as proposed

As proposed in House Bill 64, personal income tax rates would have been reduced 23 percent over two years. The top marginal rate would have been reduced from 5.3 percent to 4.1 percent of Ohio taxable income. The bill also proposed to exclude from the income tax small business income from any business with gross receipts up to \$2 million.

As introduced, the bill also proposed to:

- Increase the commercial activity tax rate by 23 percent, from 0.26 percent of taxable gross receipts to 0.32 percent;
- Increase the state sales tax rate from 5.75 percent to 6.25 percent;
- Extend the sales tax to a number of services, including services such as public relations, lobbying, management consulting, research and public opinion polling, and debt collection;
- Increase the severance tax rate on oil, natural gas, and natural gas liquids produced through horizontal wells from the current levels of \$0.20 cents per barrel of oil and \$0.03 per MCF of natural gas (including liquids), to a rate of 4.5 percent or 6.5 percent of the

average value of the oil, natural gas, or natural gas liquids produced, either downstream or at the well-head, respectively; and

- Increase and equalize the various taxes imposed upon tobacco products, including e-cigarettes.

It was estimated that House Bill 64 would have reduced income taxes by about \$5.7 billion, while increasing other taxes by about \$5.2 billion, resulting in a net tax reduction of about \$500 million for Ohio taxpayers.

Substitute Bill passed by the House

As introduced, House Bill 64 generated significant opposition, especially from business interests that would have borne the brunt of the tax increase provisions and enjoyed few of the income tax reduction benefits.

The House's substitute bill provides for a 6.3 percent across-the-board reduction in income tax rates, reducing the top marginal rate to 4.997 percent. The proposal also makes permanent the small business tax deduction for 75 percent of the first \$250,000 of business income earned by sole proprietors and the owners of pass-through entities. The substitute bill proposes to retain the provisions of House Bill 64 that imposed a means-test for some deductions and credits. This provision applies to the deduction for social security and railroad retirement benefits; the \$50 senior credit; and the lump sum retirement credit. Taxpayers with annual income in excess of \$100,000 would no longer be able to claim these deductions and credits.

The increases and other adjustments to the sales, commercial activity, severance and tobacco taxes are dropped from the substitute bill.

In addition to some other minor tax revisions, the substitute bill also:

- Continues to allow the historic preservation tax credit against the CAT;
- Provides a nonrefundable credit against the Petroleum Activities Tax for tax paid by another;
- Extends the enterprise zone program for two years, to October 15, 2017;
- Removes language creating the tax expenditure review committee to review tax expenditures over the next several years; and
- Makes technical changes to the jobs retention and jobs creation tax credits.

The proposal is expected to result in a net reduction in taxes of approximately \$1.2 billion over the two fiscal years in the biennium.

Senate Version of the Bill

The Senate, like the House, wanted to provide for a significant income tax cut to Ohio taxpayers. It, too, proposes a 6.3 percent reduction in personal income tax rates. The bill also eliminates entirely the state income tax on the first \$250,000 in net income from small businesses and imposes a new flat tax at a rate of 3 percent on such income in excess of \$250,000. These changes would be effective for taxable years beginning on and after January 1, 2015.

The Senate version also removes a proposal by the House to means-test the deduction for social security benefits from the Ohio tax base. Under the House-passed version, taxpayers with Ohio adjusted gross income greater than \$100,000 would not be able to deduct their social security benefits from their Ohio income. That provision is absent from the Senate's version of the bill.

The Senate proposes to increase the tax on cigarettes by \$0.40 per pack. The tax on other tobacco produced would be increased from 17 percent to 22.5 percent. These increases would become effective July 1, 2015. The tax is not extended to e-cigarettes.

The Senate considered raising the sales tax rate but, in the end, declined to do so. Under its proposal, the state rate remains at 5.75 percent. Also absent from the Senate version is a revision to Ohio's severance tax for oil and natural gas produced through hydraulic fracking. However, talks continue between interested parties, and some provision could yet be added before final action by the Senate.

A number of other relatively minor changes are offered by the Senate. Those provisions include a temporary tax amnesty for certain taxes for a 45-day period in early 2016; new definitions for whether a seller has "substantial nexus" with Ohio in order to register, collect and remit use tax for out-of-state purchases transacted by Ohio consumers; and a requirement for hotel intermediaries to charge, collect and remit sales tax on the full price of hotel rooms charged to their customers. Other provisions of interest include:

- A sales tax exemption for forklifts used by a logistics company to transport completed manufactured property from the manufacturing facility to the point where they will be shipped;
- Restores the income tax credit for contributions to political campaigns;
- Places the historic rehabilitation tax credit on a two-years hiatus, restarts the program as a grant program, and eliminates the ability to claim the credit against the CAT;
- Makes some changes to the petroleum activity tax rate and tax computation in specific cases;
- Modifies the definition of Ohio payroll for purposes of computing the jobs creation and jobs retention tax credits to account for increases or decreases in the state income tax rate.

Also of note, the bill creates a new exemption from the CAT for gross receipts of a manufacturer, supplier, or distributor of beauty, health, personal care, or aromatic products, provided the vendor is part of an integrated supply chain and has a business location in Ohio located within ten miles of another such vendor, and provided the receipts are from sales of the products to another vendor or retailer in that supply chain. In another provision, production credit associations, which were originally subject to the financial institutions tax, and agricultural credit associations, which were not specifically addressed by that tax, are both specifically made subject to the CAT. This provision is retroactive to January 1, 2014, and is characterized as remedial in nature.

The Senate proposal is estimated to cut taxes a net total of \$1.7 billion.

Next Steps

The version of the bill as agreed by the Conference Committee will be submitted to both the House and the Senate for approval. Assuming approval happens, the bill will be sent to Governor Kasich for his signature. The Governor does has line-item veto authority over provisions with which he does not agree.

The current fiscal year ends June 30, and a new budget needs to be in place by July 1, 2015.

Ohio Income Tax Changes for Business Income May Increase Taxes For Some Taxpayers

By Mark A. Engel
Bricker & Eckler LLP

Much has been made about the income tax cut that is the center piece of the tax provisions contained in Am. Sub. H.B. 64, the budget bill for the 2016-2017 period. Behind all the noise, however, lurks a tax increase for the 2015 tax year for many taxpayers taking advantage of the so-called small business tax deduction. It won't affect all small businesses, just those with taxable income (after deducting their small business deduction) less than about \$40,000. It happens because the new tax rate on that income is a flat 3 percent, while currently net income under \$40,000 is taxed at a lower graduated rate.

Under the budget bill, Ohio's income tax is a graduated tax, ranging from 0.495 percent for persons with taxable income of \$5,000 or less, to 4.997 percent for persons with taxable income in excess of \$200,000. For taxable years beginning in 2014, taxpayers with "Ohio small business investor income" and filing joint returns were able to deduct three-fourths of the first \$250,000. "Ohio small business investor income" is business income of an individual (typically from a sole proprietor or from a pass-through entity) apportioned or allocated to Ohio.

For taxable years beginning in 2015, however, taxpayers may exclude three-fourths of the first \$250,000 of their taxable business income, and the excess is taxed at a flat rate of three percent. For taxable years beginning in 2016, taxpayers may exclude the entire first \$250,000 of taxable business income from taxation. Taxable business income in excess of \$250,000 is subject to the flat three percent tax rate.

What appears to have been overlooked is that for taxable years beginning in 2015, some taxpayers with taxable business income in excess of the excluded amount will actually pay more income tax in 2015 than they would have had the law not been changed. That is caused by the graduated nature of Ohio's income tax rate structure. Taxpayers with nonbusiness taxable income below \$40,000 are taxed at a top marginal rate of 2.969 percent. However, taxpayers with business taxable income in excess of the excluded amount are taxed at the flat rate of three percent. Because that rate is higher than the graduated rates to which nonbusiness taxable income is subject, taxpayers with taxable business income will actually pay more income tax in 2015 than if the law had not been changed.

The following table illustrates the situation:

Total Business Income	2014		2015		2016		
	Taxable Bus. Income	TAX	Taxable Bus. Income	TAX	Taxable Bus. Income	TAX	TAX - regular rate
\$ 120,000.00	\$ 30,000.00	\$ 633.88	\$ 30,000.00	\$ 900.00	\$ 0	\$ 0-	N/A
\$ 160,000.00	\$ 40,000.00	\$ 950.76	\$ 40,000.00	\$ 1,200.00	\$ 0	\$ 0-	N/A
\$ 200,000.00	\$ 50,000.00	\$ 1,320.56	\$ 50,000.00	\$ 1,500.00	\$ 0	\$ 0-	N/A

\$ 250,000.00	\$ 62,500.00	\$ 1,782.81	\$ 62,500.00	\$ 1,875.00	\$ 0	\$ 0	N/A
\$ 300,000.00	\$112,500.00	\$ 3,888.35	\$112,500.00	\$ 3,375.00	\$ 50,000.00	\$ 1,500.00	\$ 1,237.35

One can readily see that for taxpayers with taxable business income below \$250,000, there will be a one-year increase in income tax due in 2015.

One other feature that seems to have escaped notice is that while taxpayers with Ohio business taxable income are not subject to tax on the first \$250,000 of such income beginning in 2016, the first dollar of business income in excess of that amount, they are subject to the three percent tax rate. That means that taxpayers with more than \$250,000, but less than \$290,000 total Ohio business income, will pay more income tax under the flat tax than they would if the excess income were taxed under the normal graduated rate system. Over-all, individuals with Ohio business income still see a sizeable reduction in their income tax as a result of the bill. However, individuals that might fall into this range of business income need to be aware of this situation when making their estimated tax payments.

Tax

OMA Amicus a Factor in Manufacturing Victory

This week the Ohio Supreme Court issued a [decision favorable to businesses](#), (*Navistar v. Testa*), finding that the deadline for notifying the Tax Commissioner of the amount a taxpayer intended to claim as a credit against the commercial activity tax (CAT) for net operating losses (NOLs) accrued under the former franchise tax, did not preclude the tax commissioner from adjusting the amounts reflected in the notice.

However the Board of Tax Appeals must consider all the evidence, including that submitted by the taxpayer, in determining whether an error was made.

The OMA filed an amicus brief with the court. The court used much of the OMA's analysis set forth in its amicus brief in its written decision, which signals a win ultimately for manufacturers.

This was an important case regarding the CAT, and the OMA's involvement factored into the outcome. You can read an [analysis](#) by OMA tax counsel [Mark Engel](#) from Bricker & Eckler. Congratulations and thank you, Mark, for your involvement on behalf of OMA. 8/20/2015

Ohio Tax Dept. Issues New Withholding Tables

OMA Connections Partner, Clark, Schaefer, Hackett, reports that new employer withholding tables have been issued for use with payrolls that end on or after August 1, 2015 and says that according to The Ohio Department of Taxation:

"The new tables take into consideration the income tax rate reductions that went into effect when The Budget Bill was signed into law on June 30, 2015. The tables reflect a 3.1% reduction in the withholding rates previously in effect for 2014, and the new tables are to be used for the remainder of calendar year 2015 and in future years.

"The new withholding tables are posted on the [Employer Withholding Tax web page](#). The tables include the percentage method for calculating withholding as well as daily, weekly, biweekly, semimonthly and monthly tables."

If you have questions about the new withholding tables, contact the [Ohio Department of Taxation](#) at (888) 405-4039 or CSH's [Sharon Stone](#). 8/18/2015

October 1 Compliance Deadline for "EMV" Payment Cards

OMA Connections Partner, GBQ Partners LLC, reports that, to enhance security, major U.S. card companies have mandated a liability shift for certain payment card transactions, effective on October 1, 2015.

On October 1, the liability for counterfeit in-store payment card transactions generally shifts to the party (either the issuer or merchant) that doesn't support EMV cards (cards with computer chips as opposed to magnetic cards, also known as EuroPay, MasterCard and Visa (EMV) cards).

The Small Business Administration estimates that about 40% of U.S. payment cards will contain EMV chips by the end of 2015, up from 3% at the start of the year.

[Read more from GBQ Partners here.](#) 8/18/2015

The Lowdown on Ohio's Tax Holiday

Ohio's first sales tax holiday started today, August 7, at 12:01 a.m. and concludes at 11:59 p.m. on Sunday, August 9. It's intended to help consumers save some money on back-to-school shopping. The tax-free shopping only applies to specific items.

OMA Connections Partner, Clark Schaefer Hackett, describes [how it works](#). 7/31/2015

New Ohio Legislation Helps Protect the Value of Awarded Tax Credits

HB 64, the state's budget for fiscal years 2016-2017, which becomes law on September 29, 2015, improves the computation of the Job Creation Tax Credit (JCTC) and Job Retention Tax Credit (JRTC).

JCTC and JRTC agreements awarded prior to the enactment of HB 64 compute the value of the tax credit based on new income tax revenue. Since personal income tax reductions over the past few years have negatively impacted the amount of tax credits realized by companies, HB 64 provides measures to help stabilize the value of the incentives for active agreements and future program awards.

Read more from OMA Connections Partner, GBQ Partners, [here](#). 8/6/2015

Tax Fix in the Works

Legislative leaders have indicated that it is likely the General Assembly will take action later this fall to fix

the error in the recently passed state budget that would leave certain Ohio business owners facing a tax increase this year.

The budget was supposed to reduce the tax on business income above \$250,000 to a flat 3% rate. However the final version of the bill reads that the 3% rate applies to all taxable business income, not just income above \$250,000. For some taxpayers, this 3% is higher than the current graduated tax rate.

Lawmakers have noted this was an error and that a fix could be in the works. The legislature needs to remedy this by the end of the year in order for the hike on some businesses not to take effect. 7/23/2015

ACA Related Excise Tax on Certain Small Employers Now in Effect

OMA Connections Partner, GBQ Partners, gives a timely heads-up about a potential excise tax liability for small employers that offer an "employer payment plan" arrangement to their employees.

Per GBQ: "Employer payment plans are arrangements in which the employer does not establish a health insurance plan for its own employees, but reimburses those employees for premiums they pay for health insurance (either through a qualified health plan in the Marketplace or outside the Marketplace). These employer payment plans are considered to be a group health plan subject to the market reforms of the Affordable Care Act. If these plans fail to comply with the market reform provisions, the small employers will be subject to excise tax."

Transition relief for this tax was granted; however, after June 30, 2015, such employers are generally liable for the excise tax.

Furthermore, according to GBQ, "The excise tax is significant, especially for small businesses. Small employers with employer payment plans that do not comply with the reform provisions will be subject to a \$100 per day, per employee excise tax. This could be as high as \$36,500 per employee in a given year!"

Read [more here](#). 7/21/2015

FASB Delays Revenue Recognition Standard

OMA Connections Partner, Clark, Schaefer, Hackett, reports that on July 9, 2015, the Financial Accounting Standards Board (FASB) officially deferred implementation of the landmark global revenue recognition accounting standard by one year. You

can read about the causes for the delay and revised implementation timing [here](#). 7/14/2015

Budget Tax Plan Has Unintended Consequences for Some Small Businesses

While the state budget passed by the General Assembly and signed by the governor grants tax relief for most Ohioans, it triggers a tax increase for the 2015 tax year for taxpayers taking advantage of the so-called small business tax deduction.

Businesses with total business income of up to about \$270,000 a year will pay more in taxes for 2015 because of how the budget tax reforms phase in over the next two years.

[Mark Engel](#), OMA's tax counsel from Bricker & Eckler LLP provides this useful [memo](#). Individuals who fall into this range of business income should be aware of this situation and accordingly plan their estimated tax payments. 7/9/2015

Business Tax Hikes Stopped in Final Budget Bill

This week the [House Bill 64](#) conference committee crafted the final compromise version of the state budget.

The centerpiece of the as-introduced budget was a tax overhaul that included lower income taxes on individuals and small business owners paid for - in part - by increased sales, commercial activity, tobacco, and severance taxes.

Through active advocacy by OMA members and a united business community, the House and Senate agreed to a tax package that eliminated the proposed commercial activity tax rate increase and the proposed sales tax expansion and rate, while still lowering taxes on individuals and small businesses.

This is a big win for manufacturing. OMA tax counsel [Mark Engel](#) of Bricker & Eckler LLP prepared this [memo](#) recapping the most recent tax changes.

The tax provisions, as well as the rest of the bill, now need to clear Governor Kasich's desk. 6/25/2015

Senate Adds to CAT Exemptions

This week the Senate failed to remove the only new commercial activity tax (CAT) exclusion included in HB 64, the state budget bill.

The [provision](#) relates to "receipts of a manufacturer, supplier, or distributor of beauty, health, personal care, or aromatic products, provided the vendor is part of an integrated supply chain and has a business location in Ohio, provided the receipts are from sales of such products to another such vendor or a retailer

in that supply chain, provided both vendors are on the same parcel or collection of parcels, and those parcels are located in a county with a population between 150,000 and 200,000 according to the most recent federal decennial."

It is estimated that this exclusion could eliminate several millions of dollars per year from the CAT base. 6/18/2015

Senate Proposes Electricity Tax Pass-Through

Among the hundreds of statutory changes the Senate made this week to the state budget bill, HB 64, is one that would shift the tax cost of generation property from competitive pricing to unregulated cost recovery from electricity customers.

A [brief analysis](#) prepared by OMA tax counsel Mark Engle writes the bill "exempts generation and production equipment from taxation. That revenue is made up by increasing the assessment percentage on transmission and distribution equipment of all electric and energy companies having such equipment by an amount sufficient to replace the money formerly raised by the tax on generation equipment."

The impact is to end tangible personal property taxes on generation equipment and shift the tax to transmission and distribution companies. "(T)he key is that this is a cost that may be passed through to ratepayers without the need for a rate case," Engle notes. 6/18/2015

Senate Cuts Taxes by \$1.7B in Latest Budget

This week the Ohio Senate [announced](#) its changes to the state budget bill. Included in the changes made by the Senate Finance Committee was a significant tax cut for Ohioans. The Senate calls for a net \$1.7 billion tax cut which includes a 6.3% reduction in personal income tax rates.

The Senate version of [HB 64](#) also eliminates entirely the state income tax on the first \$250,000 in net income for small businesses and imposes a new flat tax at a rate of 3% percent on income in excess of \$250,000. These changes would be effective for taxable years beginning on and after January 1, 2015.

The Senate proposes to increase the tax on cigarettes by 40 cents per pack.

Absent from the Senate version is a revision to Ohio's severance tax for oil and natural gas produced through hydraulic fracking. However, talks continue between interested parties, and some provision could yet be added before final action by the Senate.

The bill makes additional changes including the elimination of one commercial activity tax (CAT) carve out and the creation of another.

OMA tax counsel [Mark Engel](#) of Bricker & Eckler LLP drafted this [memorandum](#) that summarizes the Senate changes as well as key differences among the House and as-introduced versions.

An omnibus amendment to the bill will be introduced in the Senate Ways and Means Committee for its consideration. Additional amendments might be added either by the committee or by the full Senate. Both chambers will need to approve a reconciliation, and the bill would need the signature of the governor in order to become law. The current fiscal year ends June 30, and a new budget needs to be in place by July 1, 2015. 6/10/2015

OMA Tax Committee Hears Senate Budget Update



This week Ohio Senate Ways and Means Chairman [Bob Peterson](#) (R-Sabina) and Vice Chairman [Bill Beagle](#) (R-Tipp City) visited with OMA Tax Committee members. The senators discussed the Senate's process of analyzing the [budget bill's](#) tax provisions.

Senator Peterson indicated that the Senate members heard the [arguments](#) set forth by the OMA and other business groups and are thus wary of touching the commercial activity tax or expanding the sales tax. He indicated that the Senate favors a larger income tax cut than that contained in the House-passed bill. The senators speculated that the sales tax rate might receive a Senate increase, although it would likely be smaller than the governor's introduced proposal.

The Senate plans to release a sub bill the week of June 8th and hold a floor vote on June 17. That would leave just 13 days for the House and Senate to settle any disagreements in the conference committee process. The governor's signature must be on the final bill by the statutory June 30 deadline. 5/28/2015

Pictured: OMA Tax Committee Chair, Michele Kuhrt, Director of Taxes & Financial Administration, The Lincoln Electric Co., Sen. Bob Peterson, and Caroline

Ramsey, Government & Community Relations, Honda of America Manufacturing, Inc.

Heritage Foundation Supports Governor's Tax Plan

This week the [Senate Ways and Means Committee](#) heard [testimony](#) from [Stephen Moore](#), Distinguished Visiting Fellow with The Heritage Foundation, a Washington D.C. based think tank.

Moore testified in support of the administration's introduced tax plan. He argued, "Mr. Kasich would cut this rate (income tax) by expanding the sales tax, increasing extraction taxes on the oil and gas industry, and raising other fees. On balance all of these tax shifts would be economically desirable and help create more growth in Ohio."

The Senate will release a substitute version of the budget in early June. The OMA, as well as other business groups, previously [testified](#) in the Senate articulating serious concerns with the tax plan as introduced. 5/21/2015

Manufacturers Push Senate on State Budget & Taxes

Debate continues in the Ohio Senate on HB 64, the state operating budget and potential vehicle for proposed business tax increases.

OMA members have been communicating [concerns](#) about the tax increases and their economic consequences. If you haven't contacted your state senator on the issue, please do so. You'll be making a difference, now and into the future. Use the [OMA Manufacturing Advocacy Center](#) to easily connect.

The OMA Government Affairs Committee meets on June 3 at the OMA offices across the street from the Statehouse. It'll be a good time for you to come to the state capital, meet with peers and then visit with your senators and representatives. Contact [Ryan Augsburger](#) or [Rob Brundrett](#) for help with scheduling legislative visits. Register for the meeting [here](#). 5/14/2015

Taxation Legislation

Prepared by: The Ohio Manufacturers' Association
Report created on September 1, 2015

- HB9** **TAX EXPENDITURE REVIEW COMMITTEE** (BOOSE T) To create a Tax Expenditure Review Committee for the purpose of periodically reviewing existing and proposed tax expenditures.
Current Status: 6/29/2015 - Referred to Committee Senate Ways and Means
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-9>
- HB12** **TIF-INCENTIVE DISTRICTS** (BUTLER, JR. J, BURKLEY T) To establish a procedure by which political subdivisions proposing a tax increment financing (TIF) incentive district are required to provide notice to the record owner of each parcel within the proposed incentive district before creating the district.
Current Status: 3/17/2015 - House Ways and Means, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-12>
- HB19** **INTERNAL REVENUE CODE** (SCHERER G) To expressly incorporate changes in the Internal Revenue Code since March 22, 2013 into Ohio law and to declare an emergency.
Current Status: 4/1/2015 - **SIGNED BY GOVERNOR**; eff. 4/1/215
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-19>
- HB26** **COIN SALES-USE TAX EXEMPTION** (MAAG R, HAGAN C) To exempt from sales and use taxes the sale or use of investment metal bullion and coins.
Current Status: 6/24/2015 - Referred to Committee Senate Ways and Means
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-26>
- HB32** **AIRCRAFT-MOTOR FUEL EXCISE TAX** (PERALES R) To subject the receipt of motor fuel used to operate aircraft to the motor fuel excise taxes rather than the sales and use taxes and to require a percentage of motor fuel excise tax revenue to be used for airport improvements.
Current Status: 2/10/2015 - Referred to Committee House Ways and Means
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-32>
- HB64** **OPERATING BUDGET** (SMITH R) To make operating appropriations for the biennium beginning July 1, 2015, and ending June 30, 2017, and to provide authorization and conditions for the operation of state programs.
Current Status: 6/30/2015 - **SIGNED BY GOVERNOR**; Eff. 7/1/15
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-64>
- HB65** **TAX-EXPENDITURE APPRAISAL** (DRIEHAUS D) To provide for the periodic appraisal of the effectiveness of tax expenditures.
Current Status: 3/24/2015 - House Ways and Means, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-65>
- HB84** **MUNICIPAL TAX-CIVIL ACTIONS** (SPRAGUE R, SWEENEY M) To require civil actions by

taxpayers related to municipal income taxes be brought against the municipal corporation imposing the tax rather than the municipal corporation's tax administrator.

Current Status: 3/24/2015 - House Ways and Means, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-84>

HB99 INCOME TAX-SCHOOL FUNDING (CURTIN M) To require that an amount equal to state income tax collections, less amounts contributed to the Ohio political party fund via the income tax checkoff, be distributed for the support of elementary, secondary, vocational, and special education programs.

Current Status: 5/5/2015 - House Ways and Means, (Second Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-99>

HB102 VETERAN-OWNED BUSINESSES (CRAIG H, ANTANI N) To provide a bid preference for state contracts to a veteran-owned business and to authorize a personal income and commercial activity tax credit for a business that hires and employs a veteran for at least one year.

Current Status: 4/28/2015 - House Ways and Means, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-102>

HB162 SEVERANCE TAX RATES (CERA J) To change the basis, rates, and revenue distribution of the severance tax on oil and gas, to create a grant program to encourage compressed natural gas as a motor vehicle fuel, to authorize an income tax credit for landowners holding an oil or gas royalty interest, and to exclude some oil and gas sale receipts from the commercial activity tax base.

Current Status: 5/12/2015 - House Ways and Means, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-162>

HB176 GAS-FUEL CONVERSION PROGRAM (HALL D, O'BRIEN S) To create the Gaseous Fuel Vehicle Conversion Program, to allow a credit against the income or commercial activity tax for the purchase or conversion of an alternative fuel vehicle, to reduce the amount of sales tax due on the purchase or lease of a qualifying electric vehicle by up to \$500, to apply the motor fuel tax to the distribution or sale of compressed natural gas, to authorize a temporary, partial motor fuel tax exemption for sales of compressed natural gas used as motor fuel, and to make an appropriation.

Current Status: 6/23/2015 - **REPORTED OUT AS AMENDED**, House Ways and Means, (Fourth Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-176>

HB232 SELLER-USE TAX COLLECTION (GROSSMAN C, SCHERER G) To prescribe new criteria for determining whether sellers are presumed to have substantial nexus with Ohio and therefore required to register to collect use tax, to allow sellers presumed to have substantial nexus to rebut that presumption, and to require a person, before the person enters into a sale of goods contract with the state, to register, along with the person's affiliates, to collect use tax.

Current Status: 6/2/2015 - Referred to Committee House Ways and Means

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-232>

- HB269** **INCOME TAX-SOUND RECORDING** (SMITH K, LATOURETTE S) To authorize a refundable income tax credit for individual investors in a sound recording production company equal to a portion of the company's costs for a recording production or recording infrastructure project in Ohio.
Current Status: 6/22/2015 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-269>
- HB280** **BALANCED BUDGET COMPACT** (KRAUS S, KOEHLER K) To adopt the Compact for a Balanced Budget and to declare an emergency.
Current Status: 6/30/2015 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-280>
- SB2** **INTERNAL REVENUE SERVICE-INCORPORATE CHANGES** (PETERSON B) To expressly incorporate changes in the Internal Revenue Code since March 22, 2013, into Ohio law, and to declare an emergency.
Current Status: 2/18/2015 - Referred to Committee House Ways and Means
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-2>
- SB12** **INCOME TAX CREDIT-SCIENCE RELATED DEGREE** (HOTTINGER J) To grant an income tax credit to individuals who earn degrees in science, technology, engineering, or math-based fields of study.
Current Status: 2/4/2015 - Referred to Committee Senate Ways and Means
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-12>
- SB18** **TAX CREDIT-NATIONAL GUARD EMPLOYMENT** (GENTILE L) To authorize a refundable income tax credit for employers that hire one or more qualified veterans or members of the National Guard or reserves.
Current Status: 2/4/2015 - Referred to Committee Senate Ways and Means
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-18>
- SB21** **EARNED INCOME TAX CREDIT RESTRICTION** (SKINDELL M) To remove the income restriction on the earned income tax credit and to make the credit refundable beginning in 2015.
Current Status: 2/4/2015 - Referred to Committee Senate Ways and Means
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-21>
- SB40** **ECONOMIC DEVELOPMENT TAX CREDIT** (BEAGLE B) To authorize tax credits for contributions of money to economic and infrastructure development projects undertaken by local governments and non-profit corporations.
Current Status: 6/10/2015 - Senate Ways and Means, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-40>
- SB41** **NEW MARKETS TAX CREDIT QUALIFICATIONS** (BEAGLE B, TAVARES C) To modify the qualifications for the New Markets Tax Credit and the schedule for receiving the credit.
Current Status: 6/3/2015 - Senate Ways and Means, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-41>

SB52 AIRCRAFT FUEL EXCISE TAX (BEAGLE B) To subject the receipt of motor fuel used to operate aircraft to the motor fuel excise taxes rather than the sales and use taxes and to require a percentage of motor fuel excise tax revenue to be used for airport improvements.

Current Status: 2/18/2015 - Referred to Committee Senate Ways and Means

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-52>

SB88 FELON EMPLOYMENT TAX CREDIT (TAVARES C, THOMAS C) To create a tax credit for the employment of individuals who have been convicted of criminal offenses.

Current Status: 3/4/2015 - Referred to Committee Senate Ways and Means

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-88>

SB100 SALES TAX HOLIDAY-ENERGY STAR (BROWN E) To provide a three-day sales tax "holiday" each April during which sales of qualifying Energy Star products are exempt from sales and use taxes.

Current Status: 3/4/2015 - Referred to Committee Senate Ways and Means

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

SB198 NON-RESIDENT MUNICIPAL INCOME TAX (JORDAN K) To prohibit municipal corporations from levying an income tax on nonresidents' compensation for personal services or on net profits from a sole proprietorship owned by a nonresident.

Current Status: 7/20/2015 - Introduced

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-198>