



**Government Affairs Committee Agenda
November 10, 2020**

Welcome & Introductions

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

NAM Update

- Presidential Election
- H1-B visa

Todd Shelton, National Association of Manufacturers

Staff Reports

- Election Recap & Analysis
- Review Ohio COVID response
- Householder Corruption Scandal
- HB 6 Repeal / HB 772
- Income tax withholding
- OMA workforce opportunities
- *Bag Bill* passes
- 2020 OMA Competitiveness Agenda

Ryan Augsburger, OMA Staff

Rob Brundrett, OMA Staff

John Seryak, PE, Runnerstone LLC, OMA Energy Engineer

Kim Bojko, Partner, Carpenter Lipps & Leland, OMA Energy
Counsel

Committee Members

OMA Counsel's Report

- Ballot issue signature collection litigation
- COVID immunity legislation
- Dark money reform
- Supreme Court Elections

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

Presentations

- *Battleground Ohio – Election Results and
Analysis*
- *Update on House Bill 772*

OMA Staff, Counsel, Committee Members

Kevin DeWine, Former Ohio Republican Party Chair

Representative Mark Romanchuk (District 4, Mansfield)

**2020 Government Affairs Committee
Calendar**

Meetings begin at 9:30 a.m.
2021 Meeting Dates Coming Soon!

Our Meeting Sponsor:



OMA Government Affairs Committee

Name	Company	Location
Todd Altenburger	A E P Energy	Columbus, OH United States
Tara Amis	Clark Schaefer Hackett	West Chester, OH United States
Ann K. Aquillo	Scotts Miracle-Gro Company	Marysville, OH United States
Mary Beth Arensberg, PhD, RD, LD,FADA	Abbott Nutrition	Columbus, OH United States
Nan Arian	Frantz Ward LLP	Cleveland, OH United States
Ryan R. Augsburg	The Ohio Manufacturers' Association	Columbus, OH United States
Lissa Barry	Delta Systems, Inc.	Streetsboro, OH United States
James T. Batchelder	The M K Morse Company	Canton, OH United States
Dex Battista	Magna International	Troy, MI United States
Bradley H. Belden	The Belden Brick Company	Canton, OH United States
Claire Bennett	Squire Patton Boggs	Columbus, OH United States
Clint Blume	Haviland Drainage Products Co.	Haviland, OH United States
David Bonistall	American Trim, LLC	Sidney, OH United States
Terry Boose	Norwalk Concrete Industries	Norwalk, OH United States
Ruth Bradley Weyland	Tyson Foods, Inc.	Springdale, AR United States
Daniel Bremer	Honda of America Manufacturing, Inc.	Marysville, OH United States
Don J. Brown	Cargill, Inc.	Minneapolis, MN United States
Shawn Lee Brown	Go Sustainable Energy, LLC	Columbus, OH United States
Rob Brundrett	The Ohio Manufacturers' Association	Columbus, OH United States
Stephen Buehrer	Carpenter Lipps & Leland LLP	Columbus, OH United States
John M. Burke	O S C O Industries, Inc.	Portsmouth, OH United States
Maribeth Burns	The J.M. Smucker Company	Orrville, OH United States
Brent Chaney	Vistra Energy	Irving, TX United States
Scott Corbitt	Anheuser-Busch Companies	Columbus, OH United States
Susan Corfman, MJ	The J.M. Smucker Company PO#: 834698	Orrville, OH United States
Andrew P. Corsig	Pharmaceutical Research and Manufacturers of America (PhRMA)	Cincinnati, OH United States
Ben Cross	NuSynergy Energy, LLC	Athens, OH United States
Nicholas D'Angelo	Eaton	Cleveland, OH United States
Russell Decker	Nutrien	Lima, OH United States
Kevin DeWine	Crown Equipment Corporation C/o CBD Advisors	Beavercreek Township, OH United States
Bobbi Dillon	The Procter & Gamble Company	Cincinnati, OH United States
Steve Dimon	AMG Vanadium LLC C/o 21 Consulting, LLC	Columbus, OH United States
Ray Drake	UPS	Carol Stream, IL United States
Joseph F. Dutt	Summitville Laboratories	Minerva, OH United States
Drew Felz	General Mills, Inc.	Washington, DC United States
Chris Flaig	MCM CPAs & Advisors	Cincinnati, OH United States
Todd Frank	Vistra Energy	Cincinnati, OH United States
Tayte French Lutz	The French Oil Mill Machinery Company	Piqua, OH United States
Scott Frens	Fort Recovery Industries Inc.	Fort Recovery, OH United States
Jennifer Gilliland	Identity Systems Inc	Columbus, OH United States
TJ Godwin	Advanced Composites, Inc.	Sidney, OH United States
Jason Gonzalez	DuPont	Wilmington, DE United States
Tim Greenwood	O-I - C/o Spengler Nathanson PLL	Toledo, OH United States
Jason Griffin	LafargeHolcim U.S.A.	Chicago, IL United States
Hayley Heath	Magna International	Troy, MI United States
Michael E. Heltzer	B A S F Corporation	Florham Park, NJ United States
Jeffrey L. Hollister	Vanguard Paints & Finishes, Inc.	Marietta, OH United States
Lawrence D. Holmes	Fort Recovery Industries Inc..	Greenville, OH United States
Tyrel Jacobsen	AMG Vanadium LLC	Cambridge, OH United States
Matthew F. Johnston	Worthington Industries, Inc.	Columbus, OH United States
Kathryn Karbo	Koch Companies Public Sector, LLC	Washington, DC United States
Jamie Karl	The Ohio Manufacturers' Association	Columbus, OH United States
Ethan Karp	MAGNET	Cleveland, OH United States
Todd Lacksonen	AstraZeneca Pharmaceuticals	Dublin, OH United States
Adam Landefeld	Representative Mark Romanchuk, Ohio House District 2	, OH United States
Mike LaWell	ArcelorMittal	Fairview Park, OH United States
Timothy Ling	Plaskolite	Columbus, OH United States

OMA Government Affairs Committee

Name	Company	Location
Jessica A. Lloyd, MBA	Brilix Industries Inc.	Youngstown, OH United States
Clarence Mingo	T. Marzetti Company	Westerville, OH United States
Dennis Moore	Universal Metal Products	Wickliffe, OH United States
Ramola Musante	The Sherwin-Williams Company	Washington, DC United States
Ian Nickey	Covestro	Columbus, OH United States
Jeffrey J. Oravitz	Arsenal Capital Partners/ Evans Adhesive Corporation	Lima, OH United States
Rick Platt	Heath-Newark-Licking County Port Authority	Heath, OH United States
Mike Prentiss	The Procter & Gamble Company	Cincinnati, OH United States
Andrew Robreno	Ferrero U.S.A, Inc.	Washington, DC United States
Mark Romanchuk	P R Machine Works, Inc.	Mansfield, OH United States
Shelley Roth	Pierre's Ice Cream Company	Cleveland, OH United States
Kathy Rothenbuhler	Standard Acquisition, LLC	Fremont, OH United States
Jim Samuel	NRG Energy Inc. C/o Capitol Integrity Group	Columbus, OH United States
Christine Schwartz	American Honda Motor Company	Marysville, OH United States
Maxim Serezhin	Standard Power Group Ohio	New York, NY United States
Brian M. Sernulka	O-I Glass, Inc.	Perrysburg, OH United States
Jack Shaner	EnviroScience Inc.	Stow, OH United States
Christopher N. Slagle	Bricker & Eckler LLP	Columbus, OH United States
Michael L. Squillace	Dinsmore & Shohl	Columbus, OH United States
Michael E. Stanek	Hunt Imaging LLC	Berea, OH United States
Duane Steelman	Zaclon LLC	Cleveland, OH United States
Samantha Summers	Whirlpool Corporation	Washington, DC United States
Matthew Swentkofske	Molson Coors Beverage Company	Milwaukee, WI United States
Robert W. Tansing	Athens Foods, Inc.	Brook Park, OH United States
Kendy A. Troiano	Clark Grave Vault Company	Columbus, OH United States
Ann Tumolo	PPG	Pittsburgh, PA United States
Raymond Wayne	Heritage Thermal Services	East Liverpool, OH United States
Matthew Wells	WestRock	Richmond, VA United States
Paul Wilczewski	Scotts Miracle-Gro Company	Marysville, OH United States
Chad Wilson	Nationwide	Columbus, OH United States

Total Participants 87

Press Releases

The NAM drives coverage and provides up-to-date information about the manufacturing industry across the United States. Find press releases here.

Press Releases

Manufacturers Congratulate President-elect Biden, Vice President-elect Harris

Timmons: “The American people have spoken, and they have chosen a leader who throughout this campaign spoke of healing and bipartisanship”

November 7, 2020 11:41am

Washington, D.C. – National Association of Manufacturers President and CEO Jay Timmons released the following statement on the results of the 2020 election.

“Manufacturers congratulate President-elect Joe Biden on being declared the winner of the presidential election. The American people have spoken, and they have chosen a leader who throughout this campaign spoke of healing and bipartisanship. We also congratulate Vice President-elect Kamala Harris. Her election will resound through history, and we are hopeful that it will send a message that helps us achieve the more inclusive country that manufacturers work to build every day.

“Manufacturers trust the democratic process, and the vote counts are clear enough that the networks have confidently projected a winner. Poll workers tirelessly counted ballots through a pandemic to handle record turnout and make sure the process worked. Recounts are also part of our system, and we trust that they will be carried out fairly and carefully where required or requested. As part of the democratic process, we want to make sure this election is accurate and there are no valid questions about its legitimacy.

“When Joe Biden becomes the 46th President of the United States, he will take office in the face of crises of historic proportions and deep divisions. Throughout this difficult year, manufacturers have consistently risen to the occasion to help keep our fellow Americans safe, healthy and fed. We pledge to continue our leadership, especially as we race toward a vaccine, and we will work with a Biden–Harris administration, along with the new Congress, to achieve economic recovery and American renewal. Manufacturers are committed to being part of the solution.

“Our focus at the National Association of Manufacturers has always been on policy—not politics, personality or process. And so we look forward to working with anyone and everyone who shares the objectives of our policy goals—and advocating constructively with those who may not. It should be clear from the gains made by the Republican Party in this election that the American people are not interested in extreme policies from either party; they are looking for smart, stable and solutions-oriented governance. The right approach, one that can unify our country, is an agenda like that advanced by manufacturers—a competitive tax and regulatory system, infrastructure investment, comprehensive immigration reform, expanded trade and a strengthened workforce.

“This election has tested our nation. Election Day is behind us, and an uncertain future awaits. The choice facing each American is how we move forward. For our part, manufacturers choose to move forward in a way that will advance the values that make America exceptional: free enterprise, competitiveness, individual liberty and equal opportunity. We invite all of our leaders and fellow Americans to join us.”

-NAM-

The National Association of Manufacturers 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 12.2 million men and women, contributes \$2.37 trillion to the U.S. economy annually and has the largest economic multiplier of any major sector and accounts for 63% 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 NAM or to follow us on Twitter and Facebook, please visit www.nam.org.

Contact us with questions or requests

MEDIAREQUESTS@NAM.ORG

Press Releases

Manufacturers Trust the Democratic Process

Timmons: “Manufacturers have faith in our institutions”

November 5, 2020 9:51pm

Washington, D.C. – National Association of Manufacturers President and CEO Jay Timmons released the following statement on the state of the 2020 election.

“ Americans are hard at work counting the ballots and tallying the votes. That is our democratic process, and it has served us well throughout our history. Manufacturers have faith in our institutions, and all valid ballots must be counted.

-NAM-

The National Association of Manufacturers 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 12.2 million men and women, contributes \$2.37 trillion to the U.S. economy annually and has the largest economic multiplier of any major sector and accounts for 63% of private-sector research and development. The NAM is the

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Court Order regarding Presidential Proclamation 10052

Last Updated: October 9, 2020

On October 1, 2020, a federal district court in *National Association of Manufacturers v. Department of Homeland Security (NAM)* enjoined the government from enforcing section 2 of Presidential Proclamation (PP) 10052 against named plaintiffs and members of the plaintiff associations. The named plaintiffs include: the National Association of Manufacturers, the U.S. Chamber of Commerce, the National Retail Federation, TechNet, and Intrax, Inc. Therefore, any J-1, H-1B, H-2B, or L-1 applicant who is either sponsored (as an exchange visitor) by, petitioned by, or whose petitioner is a member of, one of the above named organizations is no longer subject to PP 10052's entry restrictions.

Many consular sections at U.S. embassies and consulates around the world are not able to operate at full capacity due to the COVID-19 pandemic and unique in-country conditions. Posts that are not currently able to offer full routine visa services are following the Department's Diplomacy Strong framework, which is designed to safely return our workforce to Department facilities. As post-specific conditions improve, our missions are providing additional services, culminating eventually in a complete resumption of routine visa services.

Posts with reduced services due to local conditions, available resources, and their "phase" within the Diplomacy Strong framework, may not be able to routinely process H, L, or J visa applications. However, at those posts, H, L, and J visa applicants may request emergency appointments following the guidance provided on posts' websites. PP 10052 is not considered as a factor when posts review requests for emergency appointments.

Visa applications are impacted by the order as described. Please consult the relevant U.S. embassy or consulate for further information.

J-1 Applications: Intrax, Inc. is a named plaintiff in *NAM* and is a sponsoring entity for certain J-1 programs. Therefore, in compliance with the *NAM* court's order, any J-1 program applicant whose sponsor is Intrax, Inc. will not be considered subject to PP 10052's suspension of entry. Applicants should be prepared to demonstrate, at the time of interview, that the J-1 program is sponsored by an entity that is a named plaintiff, or a member of one of the named plaintiff organizations. Additionally, it may be possible that J-1 applicants are employed by other named plaintiffs or members of plaintiff associations, which serve as host organizations. Any J-1 applicants who are sponsored by an entity other than Intrax, Inc., or who claim the host organization employer is a named plaintiff or member of named plaintiffs' association, and who believe they are covered by the *NAM* court's order should raise that with the consular officer at the time of visa interview.

H-1B, H-2B, and L-1 Applications: Applicants must be prepared to demonstrate that a U.S. employer/petitioner is a named plaintiff or member of any of the named plaintiff associations. Applicants may provide evidence directly to the consular officer at the time of visa interview. Applicants may provide to a consular officer a letter issued by one of the named plaintiffs to the applicant's petitioner attesting that the petitioner is a member in good standing of one of the named plaintiff associations. Consular officers will take steps to independently verify that the petitioner or sponsor is indeed a member of one of the plaintiff associations. Once the consular officers is able to confirm membership, they will be able to process the application to conclusion without regard to PP 10052.

Spouse and Child (derivative applications): The *NAM* court's order also enjoined the government from enforcing section 2 of Presidential Proclamation (PP) 10052. Section 2 of PP 10052 extended entry restrictions to H-4, J-2, and L-2 applicants who would accompany or follow to join the principal H-1B, H-2B, J-1, or L-1 applicants. Accordingly, consular officers will not apply PP 10052 to these derivative applicants if the principal applicant is covered by the *NAM* court's order. The principal applicant is not required to apply with the derivative applicants and may already be admitted into the United States at the time of their application.

NOTE: Other valid Presidential Proclamations (including the regional [COVID Proclamations](#)) continue to apply.

Five Burning Election Issues For Manufacturers

Lisa Caldwell Contributor

[Manufacturing](#)

I cover trends transforming and disrupting the manufacturing sector.



In February, global data intelligence company Morning Consult predicted that 2020 would be the year ... [+]
GETTY

In February, global data intelligence company Morning Consult predicted that [2020 would be the year of the manufacturing election](#). The claim came on the back of its research showing that more than three-quarters of registered US voters believed the issue of manufacturing was important in deciding which presidential candidate to vote for in the fall.

Then, of course, came COVID-19. Within a few short months, the virus had sent the country into lockdown, grinding entire industries to a halt, skyrocketing unemployment and threatening the health of millions of citizens.

With so much having happened, it would be reasonable to expect those initial figures to have become outdated — that other issues would have usurped manufacturing as the key pillar of the presidential race in a very different world. Yet, fast forward to today, and it may be that they're just as relevant.

Economy central

Of course, the economy has long been a central tenet of any election. But with the pandemic's impact continuing to be felt across sectors, the question of how we plot the road to national economic recovery has become even more intense than usual.

The Morning Consult study also found that nine in ten registered voters believe manufacturing is critical or important to the economy and job market. After the disruption wrought by COVID-19, those views are unlikely to have changed.

Complicating the matter when it comes to the role of manufacturing in any post-coronavirus revival is the debate around exactly how the industry's performing right now.

Indeed, respected sources are conflicting in their assessment of the current environment. Yet, to lay this data divergence solely at the door of the pandemic is reductive. Even before the virus hit, issues such as trade tensions with China and a growing digital skills gap were already making it hard to forecast exactly how manufacturers, both individually and collectively, would fare in the future.

What's become increasingly clear, however, is that expanding the manufacturing industry has never been more important to our nation's bottom line. Not quite the manufacturing election perhaps, but certainly one where it can expect to have a higher profile than usual.

The big issues

So, with the election just around the corner, what should firms be looking out for in the traditional merry-go-round of presidential debates, stump speeches and advertising campaigns? Here are the five key issues that could make a difference for manufacturers and the US economy as a whole:

- 1. The workforce** – as the manufacturing industry continues to digitize, it's critical that firms are given incentives to recruit and train the next generation of workers. That could mean anything from subsidized training programs and recruitment initiatives, to tax relief that makes it easier and more affordable to provide staff with on-the-job learning. Either way, manufacturers should consider how the candidates will help

them invest in creating the skilled workforce of tomorrow.

2. Innovation – according to the U.S. Bureau of Economics, manufacturing accounts for nearly two-thirds of total private sector investment in R&D. Yet, as a nation, the US ranks only 26th among advanced economies when it comes to policies designed to support it. Will there be tax credits to encourage companies to invest in and accelerate R&D? And will red tape in the patent process be reduced to help ensure more ideas make it to commercial reality? The industry requires these answers.

3. Trade – even before the coronavirus turned things upside down, many manufacturers were struggling to navigate an increasingly complex trading environment, particularly with China. Those challenges remain today and risk stifling progress on either side. To take the recent United States-Mexico-Canada Agreement as an example, it's given firms clarity and stability around the rules of engagement and how to leverage them. With so much uncertainty elsewhere, manufacturers have to know how the winning candidate intends to seek the same with China – and quickly.

4. Industry 4.0 – manufacturers' use of technology to drive efficiency gains throughout the value chain will be vital to their future success. Yet, while some countries, such as the UK, Japan, Germany and South Korea, incentivize companies to embark on their own Industry 4.0 journey, that is not the case in the US. Now, more than ever, we must recognize the importance of first-mover advantage. Done right, digital transformation is about augmenting workers, not replacing them, especially when allied to the training incentives outlined earlier. Manufacturers need the White House to act now before, as a nation, we fall behind.

5. The supply chain – if COVID-19 has shown us anything, it's that the global supply chain has never been more important. In an

unpredictable world, companies need to be resilient and agile enough to maintain trade when both localized and systemic interruptions occur. Yes, there's a national security issue to consider here, especially when it comes to overreliance on other countries. But manufacturers should demand that whoever is elected has a plan to address both national security concerns and jump-start every firm to achieve greater supply chain resiliency.

The beginning?

Of course, this isn't an exhaustive list. There are myriad other issues that manufacturers – not to mention the general voter population – will be watching closely in the coming weeks: everything from reducing carbon emissions and preparing for future pandemics, to addressing an increasingly fractured society.

Yet, the need for solutions to these key five issues should be front and center in manufacturers' minds as they prepare to make their choice at the ballot box in November. As we continue to come to terms with one of the most difficult periods in modern history, this is a chance to start building a brighter future.

The views expressed in this article are those of the author and do not necessarily reflect the views of the global EY organization or its member firms.



Lisa Caldwell

I serve as the Americas Central Regional Advisory Managing Partner for EY and have 25 years of management consulting, global operations and engineering experience.

Public Policy “Hot Topics” November 10, 2020

Overview

Public policy activity has been simmering while political activity has been intense since the Government Affairs Committee met in late August. COVID response continues to be a weekly priority for state and manufacturing management, but the July 21 arrest of Larry Householder on charges of racketeering, continues to grip the Statehouse with intrigue. In late October, two of the individuals charged by the U.S. Attorney plead guilty to racketeering, fortifying the “alleged” crimes into “admitted” crimes.

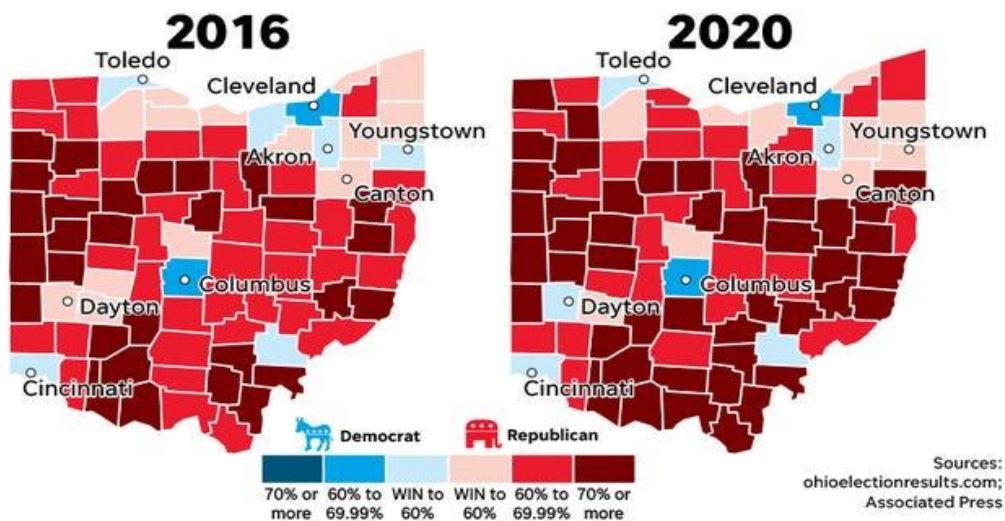
Time will tell if Larry Householder will be convicted and if FirstEnergy and other parties will be prosecuted for their role in the largest public corruption and bribery scandal in Ohio history. The heart of the federal investigation revolves around House Bill 6, an epic giveaway to energy companies that the OMA actively opposed. Surprisingly, the HB 6 scandal did not play a major role in the recent elections.

Other top issues over the quarter included HB 6 repeal to protect customers via HB 772, detrimental ballot reform, workforce development, workers’ comp rebates, bag bill, and collection of local payroll taxes due to COVID.

Presidential Election

Ohio voters delivered big for President Trump with an 8% margin of victory, spoiling Ohio’s status as a swing state and bellwether to predict the national winner. Public polls released within 24 hours of the election day suggested a dead heat. No president has won election without Ohio since the election of John F. Kennedy. Ohio votes came from very similar geographic and demographic distribution as in 2016. Ohio’s rural and semi-rural counties turned out big for Trump. Biden won significant victories from urban centers and suburban communities. This underscores a growing cultural divide that will have ramifications beyond presidential politics. See attached OMA post-election report.

Ohio elections went smoothly, a testament to state and local elections official and the thousands of dedicated poll workers. Ohio Secretary of State Frank LaRose is Ohio’s chief elections official.



COVID-19 Response

In recent weeks, COVID-19 cases along with hospitalization rates has been spiking, now with 5,000 new cases on a daily basis. The Governor is alarmed at the growing trends. The Governor has noted that the spread is not coming from the workplace or even schools that are in-person. In contrast the spread is coming from informal gatherings. The Governor is urging Ohioans to not let down their guard during informal gatherings especially during coming holidays. Employers may echo that advice to keep the economy open for all. The OMA is part of a coalition developing communication tools for manufacturers.

Last week, the Governor appointed Stephanie McCloud to lead the Ohio Department of Health, a post that has been vacant since early summer when Dr. Amy Acton stepped back amid very personal protests. McCloud, a workers' comp attorney had been in the Governor's cabinet serving as Administrator of the Bureau of Workers' Compensation.

Since March, state government officials have been exercising "ultimate authority" to restrict business activity in order to protect the public. With the exception of bars and restaurants, most businesses have been free to conduct business since early June with restrictions. The state continues to issue guidance on a bi-weekly basis. The OMA continues to analyze and communicate on that guidance. See OMA COVID resource center.

Ohio House: Election and Policy Outlook

Amid federal racketeering charges, House Republicans in late July dumped Larry Householder and elected Bob Cupp of Allen County (Lima) to lead the chamber as Speaker of the House.

Job 1 was to defend Republican seats and that is just what he did, picking up a net four seats increasing the Republican majority from 61 to 65 seats in the 99-member House of Representatives! Of note, Larry Householder was re-elected to his rural SE Ohio district with virtually 100% of the vote even as serious criminal charges hang over his head. Watch for the House to vote to "expel" Householder in January.

Speaker Cupp says school funding reform, capital building projects budget, criminal sentencing reforms and HB 6 repeal are top priorities for the lame duck session. Cupp who was elected to his final two-year term also faces another leadership election in early January that may be contested. Ladies and gentlemen, we are expecting some turbulence...please remain in your seats with your seatbelts fastened.

Ohio Senate: Election and Policy Outlook

Like the House, the Senate has been in campaign mode since summer. They appear to have increased their Republican majority by picking off a D seat in the Mahoning County where Donald Trump has been so popular. One central Ohio seat is too close to call, but the Republican has the advantage.

Senate President Larry Obhof is concluding his final term. It appears Senator Matt Huffman of Lima is poised to succeed Obhof in January when the new session is inaugurated. Senate priorities for the lame duck session include the capital budget.

Legislative Branch Composition & Control

- Senate (Republicans control 24 – 9) Post-election: 25 – 8.
- House of Representatives (Republicans control 61 – 38) Post-election: 65 – 34.

OMA Workforce Summit

Hundreds of Ohio manufacturers and partners gathered virtually on Oct 28 to participate in the fourth annual OMA Workforce Summit. Access to the full-day event is available through March.

Workforce Development

Workforce development remains a top priority for Ohio manufacturers even in the time of COVID-19. The OMA is in its fourth year supporting an industry sector partnership model on a regional basis to help enact systems change in workforce development. Please contact the OMA staff to get your team engaged in regional efforts to develop a modern manufacturing workforce. See more under Human Resources Report.

Ohio Manufacturing Alliance and Onshoring

At the same time, the OMA supported the Ohio Manufacturing Alliance to produce needed emergency protective equipment. That work is celebrated regularly by Governor DeWine and Lt. Governor Husted. We hope to work with state and national leaders learn to promote reshoring of production capacity for products ranging from PPE to defense and medical equipment.

2020 Political and Policy Environment

Some conservative Statehouse Republicans continue to push back on the Governor's response to the pandemic. The Senate has threatened to override state authority restricting bars to last call at 10pm.

The ongoing federal investigation and criminal charges related to Larry Householder may well compound challenges during the lame duck session.

Immunity Legislation

HB 606 was approved by the General Assembly in August. The OMA-supported legislation covers employers against exposure and also covers the manufacturer of emergency protective equipment or components. We discussed the bill at the August 26th meeting of the government affairs committee.

Tax Policy

In the original House bill to respond to COVID, the OMA was able to win a provision to allow companies to their current local withholding tax practice. The OMA also supported changes to income tax deadlines and giving expanded authority to the Department to defer other collections. The administration failed to act on its new authority by defer the CAT and other excise taxes. The OMA had pushed for the Department to use the new authority liberally.

The withholding provision has gotten much scrutiny over the summer from legislators and policy groups. The provision is now subject to a lawsuit by the Buckeye Institute and Senator Roegner has introduced legislation repealing the provision in state law. The OMA has created a work group regarding this issue focused on long term goals. This issue could move in lame duck.

HB 6 Repeal and Bribery Scandal

According to federal prosecutors "company A" expended more than \$60 million to pass and protect HB6. Also according to the federal affidavit, other energy interests contributed significant funds towards the "enterprise." No other charges or arrests have been announced, but there has been a lot of activity. Two of the five persons arrested in connection with the scandal recently pled guilty to racketeering. Within hours of the plea, FirstEnergy Corp fired CEO Chuck Jones and two other executives. The energy holding company notified investors of the possibility of coming criminal charges even though Jones had insisted the company acted "ethically" and did not participate in any wrongdoing.

The OMA was the most vocal business opponent to HB6. The OMA opposed the bill and prior efforts by utilities to garner subsidies from the PUCO. The bill transfers money from customers to power plant owners and in so doing, distorts competitive markets that protect customers from overpayment, drive innovation, fuel diversity and reliability. See energy report for a new analysis on the aggregate cost on customers to subsidize the two old coal power plants known as OVEC.

HB 772 was been introduced by Mark Romanchuk in early October. See enclosed summary of the bill which repeals all the new customer mandated costs imposed by HB 6, saving customers nearly \$3 billion. HB 772 is the preferred legislative vehicle to repeal and reform energy law. A joint zoom call of the Government Affairs Committee and Energy Committee was held in October to review and react to the bill. OMA members are encouraged to actively support HB 772!

Ballot Reform

In November 2018, Ohioans defeated a criminal sentencing constitutional amendment. The issue once again ignited the debate about how well-financed out of state interests are able to use Ohio's constitution as a petri dish for policy experimentation. The initial interest in a fix to the ballot process has dissipated however some legislators are advancing proposals. The proliferation of new ballot issues in 2020 is again triggering calls for reform.

Then came COVID. A lawsuit initiated by activists in Athens County to legalize recreational marijuana alleged that the gathering ban made it too hard to collect requisite number of signatures to place an issue on the ballot. Statewide ballot issues enjoined themselves to gain the same treatment.

In late May, a federal district judge bought the plaintiffs' argument granting them authority to collect signatures electronically and without actual ink signature. According to OMA counsel, the ruling overrides Ohio's Constitution, statutes, and decades of case precedent. If unchecked, a proliferation of ballot issues from well-funded special interests could immediately follow. The State appealed to the Circuit Court and prevailed. The OMA has been the lead amici in support of the State. See counsel's request for more detail.

Environment

Ohio EPA has resumed testing Ohio's public waterways for PFAS. Last year Governor DeWine directed Ohio EPA and the Department of Health to develop an "action plan" for PFAS in Ohio with the focus of testing public and private water systems. The pandemic halted testing right after the agency began testing. As noted above testing resumed over the summer.

The administration also remains focused on water quality across Ohio. The H2Ohio program introduced by the Governor was provided initial startup funding the state budget bill and will be administered by three state agencies, EPA, AG, and ODNR. The program will remain fully funded through FY 2020 with many of the projects spilling over into 2021 calendar year. There is no word on FY2021 funding.

OMA members and staff have been highly engaged on several federal issues including storm water and Ohio air permit nuisance SIP. See environment report for all of these issues.

Unemployment Compensation

After the failure of the General Assembly to address comprehensive unemployment compensation reform in the state budget manufacturers saw their unemployment taxes reduced in 2020. However due to COVID-19 Ohio has had to borrow \$4 billion from the federal government. Employers will be required to repay the government in the coming years. Ohio now finds itself in the same position as it did after the Great Recession. OMA is working to ensure any of the new benefits awarded via state's unemployment compensation systems are not the responsibility of individual companies who have continuously paid into the insurance system. OMA is supporting SJR4 which would allow the state to bond to repay borrowed funds.

Workers' Comp Claims Expansion to Mental Injury and COVID-19

The Governor announced a second \$1.5 billion rebate (checks distributed to employers in late October), then more recently, a third rebate or dividend payment in 2020, this time amounting to \$5 billion (checks going out in December). another premium rebate for state fund employers. Overall, the Ohio BWC will

return an aggregate \$8 billion to employers in 2020. That figure is approximately five times greater than aggregate premium collected! Some wonder if base rates should be reduced, but few can dispute the benefit of injecting cash into the economy.

After failing to include PTSD coverage for first responders in the BWC budget bill, the House came back and passed HB 308. The PTSD extension sets a costly precedent for extending mental coverage into a system that has required a physical injury to receive treatment. The OMA has long opposed the extension of PTSD since it is covered by healthcare plans. The OMA worked with other business groups to provide alternative coverage for Ohio's first responders but were rebuffed in the Householder House. There is talk of expanding to private employers either through legislation or through the courts. Watch out! The Senate is now hearing the bill and the OMA has been a vocal opponent.

Due to COVID-19 there has been a flurry of workers' compensation legislation. Mainly to allow COVID-19 as a presumptive occupational disease. One of these was inserted into the liability protection bill in the House, setting a very dangerous precedent for manufacturers.

Right to Work

No action has been anticipated due to Larry Householder's support from unions. Notably, the labor agenda won prevailing wage expansions on certain public works projects in the capital budget in June. The labor agenda has done well in recent years at the Statehouse.



Post-Election Report Wednesday, November 4, 2020

Overview and Turnout

As Ohioans concluded General Election voting yesterday, the state's turnout was estimated at 72% of Ohio's 8,073,829 registered voters, slightly surpassing Ohio's turnout in 2016

The record turnout was obviously fueled by the presidential contest. It will take some additional data analysis to determine how presidential coattails impacted down ticket races.

For the most part, the electoral process appears to have been conducted peacefully and smoothly with only minor glitches. Protests and potential rioting were anticipated in Ohio's urban centers. In Columbus, businesses near Capitol Square had in days leading up to November 3 erected plywood barriers to protect property from damage.

Unofficial Returns From the Secretary of State's Office

Visit the Ohio [Secretary of State website](#) for the unofficial vote tallies. Certified results are due by November 28.

Ohio Goes for Trump for President

Ohioans voted to reelect President Trump and Vice President Pence with a comfortable 53%-45% margin. As such, Ohio's 18 electoral votes go to Trump. Ohioans disproportionately favored the president compared to the national popular vote. Much like 2016, rural Ohio and the Mahoning Valley gave the Republican standard bearer an important boost.

With other critical states' election results outstanding at the time of writing, it remains to be seen if Ohio again elected the victorious candidate. No presidential candidate has prevailed without carrying Ohio since the 1962 election of John F. Kennedy. Ohio has since been widely considered a bellwether for the national choice.

Four credible national polls released on Monday of this week showed the race for the Buckeye state was neck and neck. Since 2016, Ohio has been a red state, safe for Republicans. Over the summer, political pollsters prognosticated that the president's popularity among Ohioans was waning and proclaimed Ohio a political toss-up. In fact, their analyses were incorrect, similar to 2016.

Supreme Court of Ohio

Two incumbent seats on the Supreme Court of Ohio were contested. Republican Justice Sharon Kennedy was handily reelected to another six-year term on the high court with 55% of the vote. However, incumbent Republican Judi French was defeated by Democrat challenger Court of Appeals Judge Jennifer Brunner who garnered the same solid 55% margin. There is a lot of head scratching about how these two races could be so different. The OMA-PAC

endorsed both French and Kennedy. The high court composition will now consist of four Republicans and three Democrats ending a court that was dominated by Republican jurists.

Ohio's Congressional Seats

Ohio has 16 Congressional Districts. No upsets. The most competitive races were:

- 1st Congressional District (Suburban Hamilton and Warren Counties). Incumbent Republican Steve Chabot appears to have held on, enjoying nearly 52% against Democrat and Libertarian challengers. The district has a 54% Republican index according to OMA's [2020 Ohio Election Guide](#).
- 12th Congressional District (East-central Ohio). One-term incumbent Troy Balderson comfortably defended his seat against Democrat and Libertarian challengers with 55% of the unofficial vote. District Republican index: 56%.
- 13th Congressional District (Includes Youngstown and Akron). Democrat incumbent Tim Ryan defended against Republican Christina Hagan (52% - 45%) in what was the Republican's best opportunity for a pickup in a region that strongly supports President Trump. District Republican index: 44%.

Ohio Senate

Sixteen of Ohio's 33 Senate districts were on the ballot. Senate terms are four years, staggered so that approximately half the membership is elected every two years. Republicans presently control the Senate with a 24-9 super majority. If Republicans hold the 16th then they are poised to widen their super majority.

- 16th Senate District (Western suburban Franklin County). **Too close to call.** Incumbent Republican Stephanie Kunze leads by just 30 votes as of this writing so a recount will follow. With a declining Republican index of 49%, incumbent Republican Stephanie Kunze faced tough competition from Democrat challenger Crystal Lett. The race became the Senate Ds top target. The OMA-PAC endorsed Kunze.
- 24th Senate District (Suburban Cuyahoga County). Incumbent Republican Matt Dolan defended his seat with a comfortable 54% margin. District Republican index: 52%. The OMA-PAC endorsed Dolan.
- 32nd Senate District (Trumbull and Ashtabula Counties and NE corner of Geauga County). **Upset – Republican pickup!** The Democrat incumbent Sean O'Brien was KO'd by Republican Sandra O'Brien, the Ashtabula County Auditor. District Republican Index: 52%. The OMA-PAC endorsed Sean O'Brien.

Ohio House

All 99 Ohio House of Representatives seats were up for election. House terms are two years. Republicans presently control the House 61-38. Subject to current trends holding, it appears House Republicans picked up a net three seats widening their majority to 64-35. Democrats had in recent days predicted they would pick up four to six seats. The Republican gains largely

came in traditional Democrat regions where voters have twice come out to enthusiastically support Trump. This is especially true in the Mahoning Valley area surrounding Youngstown.

The strong Republican performance is somewhat surprising since the House has been ground zero for the state's greatest public corruption scandal related to former speaker Larry Householder's role in HB6, delivering legislation to funnel customer money to FirstEnergy and related nuclear power plants. The alleged scandal came to light on July 21. In the months since, House Republicans elected Rep. Bob Cupp as Speaker. Cupp has been focused on defending R seats and fundraising. Speaker Cupp and his caucus had a very good election.

- 16th House District (Suburban NW Cuyahoga County). **Upset -- Democrat pickup!** Incumbent Dave Greenspan appears to have been defeated in what was considered the toughest race for Republicans to hold. Democrat challenger Monique Smith leads with more than 1,000 votes for a 50.88% winning margin. District Republican index: 50%. The OMA-PAC had endorsed Greenspan.
- 21st House District (Suburban Franklin County). Democrat incumbent Beth Liston repelled a challenge by Mehek Cooke retaining her seat with a commanding 57% lead. District Republican index: 47%. The OMA-PAC endorsed Liston.
- 23rd House District (SW Franklin County). Incumbent Laura Lanese defended her challenger with 56% of the vote. District Republican index: 52%. The OMA-PAC endorsed Lanese.
- 36th House District (SE Summit County). Bob Young of Green prevailed over Democrat Matt Shaughnessy with 52% of the vote. This open seat was previously held by Republican Anthony DeVitis. District Republican index: 52%.
- 43rd House District (Preble and western suburban Montgomery County). Republican Rodney Creech held the seat with 54% of the vote, getting a boost from pro-Trump rural voters in Preble County on the Indiana border. District Republican index: 53%.
- 59th House District (Includes suburban Youngstown). Newcomer Republican Al Cutrona, an appointed incumbent, repelled a challenge by Democrat Chris Stanley taking 60% of the vote. District Republican index: 55%. The OMA-PAC endorsed Cutrona.
- 60th House District (Parts of Lake County). Veteran Democrat Daniel Troy bested Republican challenger George Phillips winning 50.72% of the vote. This open seat was vacated by Democrat John Rogers. District Republican index: 52%.
- 63rd House District (Parts of Trumbull County). **Upset – Republican pickup!** Incumbent Democrat Gil Blair was KO'd by Republican challenger Mike Loychik 54%-45%. This was a Republican pick up opportunity in pro-Trump Trumbull County that panned out. District Republican index: 49%.
- 64th House District (Parts of Trumbull and Ashtabula Counties). Democrat incumbent Michael O'Brien appears to have held his seat in spite of the wave of Trump support and multiple Senate "O'Brien" candidates running in the region. District Republican index: 50%. The OMA-PAC endorsed Mike O'Brien.

- 72nd House District (Perry and Coshocton Counties, and parts of Licking County). The scandal-tarnished former speaker was easily returned to the House effectively winning 100% of the vote. He was unopposed except for write-in challengers. Watch for a motion to expel Householder early in January, enabling House leaders to fill a vacancy. District Republican index: 67%.
- 75th House District (Parts of Portage County). **Upset – Republican pickup!** Incumbent Democrat Randi Clites was defeated by Gail Pavliga with 51% of the vote. District Republican index: 50%.
- 89th House District (Ottawa and Erie Counties). Republican incumbent D.J. Swearingen cruised to victory winning 57% of the vote against Democrat Alexis Miller in this seat that contains the Davis-Besse nuclear power plant, which is at the heart of the HB6 scandal. Democrats targeted this district but were unable to execute. District Republican index: 54%.
- 96th House District (Jefferson and Monroe Counties, and parts of Belmont County). **Upset – Republican pickup!** This was an open seat previously held by Democrat Jack Cera. Republicans were gunning to pick up the 96th in this conservative, union-friendly enclave on the Ohio River, where President Trump has enjoyed popularity. Republican Ron Ferguson has turned this blue district to red. District Republican index: 58%.
- 99th House District (Parts of Ashtabula and Geauga Counties). **Upset – Republican pickup!** Republicans scored another Trump victory in the district vacated by term-limited Democrat John Patterson. Republican Sarah Fowler reclaimed this district for the GOP with a commanding 58+% margin. District Republican index: 57%.

Bottomline

A red wave of Trump enthusiasm collided with a blue wave of Biden enthusiasm resulting in record turnout. Trump's popularity in Ohio saved down ticket Republicans in many, but not all closely contested districts. In the end, only a few were flipped – a function of the safe districts Republicans drew following the 2010 census. Republicans enjoy a disproportionately high number of seats compared to the number of Democrat voters overall. Majority Republicans appear poised to again have the opportunity to redraw district boundaries, this time under a new voter-approved process.

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CLIENT MEMORANDUM

TO: Friends and Clients

FROM: Bricker & Eckler's Government Relations Team

DATE: November 4, 2020

SUBJECT: 2020 General Election Update

On Tuesday, November 3, 2020, Ohioans, like the rest of the country, cast ballots in the 2020 general election. Many counties in Ohio and around the country reported record-breaking early voter turnout. Approximately 3.4 million Ohioans voted early by mail and in-person, and there an estimated 311,519 absentee and provisional ballots remain outstanding. This early vote played a role in the way in which Ohio was called by most media outlets and continues to delay the results of several key Electoral College states.

For a quick overview here in Ohio, The Buckeye State remains a fairly reliable Republican stronghold. President Trump won the state, improving on his vote total from 2016 and holding an unofficial lead in Ohio of more than 470,000 votes. However, the Ohio Supreme Court gained one Democrat to narrow the current Republican majority (from 5-2 to a narrow 4-3 Republican majority). Besides the presidency, many Ohioans were watching the Ohio Supreme Court races. The Ohio Supreme Court's role is important as Ohio wades through its new redistricting process that was changed by ballot initiative in 2018. The Legislature will be in charge of redrawing Ohio's congressional districts. If the congressional maps are challenged after, then the Ohio Supreme Court could either overturn or agree with how the congressional maps were drawn. Since this process is new, additional procedural actions could be challenged up to the Ohio Supreme Court. Therefore, the Ohio Supreme Court will play a key role in how Ohio's districts may look in 2022. Justice Judi French lost her race for reelection against Judge Jennifer Brunner by nearly half a million votes. On the flip side, Justice Sharon Kennedy won her reelection and defeated Judge John O'Donnell.

Both the Ohio House and the Ohio Senate Republicans added additional seats to their existing supermajorities in the Ohio General Assembly. However, the 16th Senate District in suburban Columbus, remains in play. Senator Stephanie Kunze (R-Hilliard) has a small 41 vote lead against Crystal Lett (D-Columbus) with many provisional and late absentee ballots yet to be counted. Former Speaker Larry Householder's (R-Glenford) reelection was another highly watched race during the evening, in which he successfully won his reelection against four write in candidates to continue to represent the 72nd House District. Finally, at the local level, one race has implications

for the statehouse where, Ron O'Brien, longtime Franklin County Prosecutor, lost his race to his Democratic challenger, Gary Tyack. The Franklin County Prosecutor also plays a role in state government, because the office possesses additional prosecutorial jurisdiction. For example, possible violations of state legislative ethics laws committed by legislators are referred to the Franklin County Prosecutor.

In addition to the President and two seats on the Ohio Supreme Court, all 16 Ohio U.S. Congressional seats were up. In 2020 in Ohio no U.S. Senate seats were contested. All 99 seats in the Ohio House of Representatives and 16 Ohio Senate seats were on the ballot.

Here is Bricker & Eckler's overview of the preliminary 2020 General Election results and details on races of particular interest.

Presidential

President Donald J. Trump cruised to victory in Ohio, capturing over 3 million votes and 53.36 percent of the vote. The President again saw large voter enthusiasm in rural parts of Ohio and ended up improving his overall share of the vote compared to 2016 by 233,413 votes. This increase countered former Vice President Biden, who received 209,517 more votes than former Secretary of State Hillary Clinton did in 2016. The increased overall votes reflected a record breaking turnout in Ohio. Nationally, however, many states were too close to call or still counting votes at the time of this memorandum, so the overall election for President remains unknown.

FEDERAL RACES

U.S. House of Representatives

All of Ohio's incumbent Members of Congress: Marcia Fudge (D), Marcy Kaptur (D), Troy Balderson (R), Mike Turner (R), David Joyce (R), Tim Ryan (D) and Steve Stivers (R) all won re-election. Steve Chabot (R), Brad Wenstrup (R), Joyce Beatty (D), Jim Jordan (R), Bob Latta (R), Bill Johnson (R), Bob Gibbs (R) and Warren Davidson (R) were successful and Ohio's delegation remains 12 Republicans and 4 Democrats. Nationally, Democrats are currently projected to maintain control of the House, but, with several races too close to call, Republicans appear to have gained 5 seats.

There were no races for the United States Senate in Ohio this year – U.S. Senator Rob Portman will face his next re-election bid in November 2022.

OHIO RACES

Ohio Supreme Court

Two current Republican Justices on the Ohio Supreme Court, Justice Judi French and Justice Sharon Kennedy, were up for reelection on Tuesday, with the partisan balance of the court hanging on the outcome of those races. In the end, it was a split decision. Justice Judi French was defeated by her opponent, 10th District Court of Appeals Judge Jennifer Brunner by approximately 500,000 votes statewide. Justice Sharon Kennedy defeated her opponent Cuyahoga County Common pleas court judge, John P. Donnell. Republicans now hold a narrow 4-3 majority going into the 2022 election cycle where two more incumbent Republican Justices – Justice Pat DeWine and Justice Pat Fischer – will face re-election, as well as an open seat being created by Justice Maureen O'Connor's forced departure from the court due to Ohio's 70-years-of-age limit on judicial candidates.

Ohio House of Representatives: Overview

Ohio's House Democrats hoped to duplicate success from 2018, however, House Republicans appear to have picked up several seats instead. The House Majority caucus will hold 65 of the chamber's 99 seats, up from 61, following the inauguration. Republicans were able to defeat a two incumbent legislators and win open seats that had been held by Democrats. Ohio Democrats lost races in the Mahoning Valley and Appalachia, but also in some suburban areas of Dayton and Columbus, where they had high hopes. The House Republican's victories are more impressive considering House Speaker Bob Cupp (R-Lima) had only 90 days to rebuild a campaign war chest and infrastructure after the majority caucus was rocked by the allegations against former House Speaker Larry Householder (R-Glenford) rendered previously raised caucus campaign funds unavailable while the federal investigation into the former Speaker continues.

Ohio House of Representatives: Races of Interest

Incumbent Representatives Randi Clites (D-Ravenna) and Gil Blair (D-Mineral Ridge) lost their bids for reelection.

The 43rd House District was an open seat that Democrats hoped to pick up. Instead, Preble County Commissioner Rodney Creech (R-W. Alexandria) defeated Amy Cox (D- Eaton).

Ron Ferguson (R-Wintersville) and Richard Olivito (D-Stuebenville) ran against each other for the 21st House District, which is currently held by term limited Representative Jack Cera (D-Bellaire), with Mr. Ferguson winning.

House Republicans worked to ward off Democrat challengers for the suburban districts. Ohio's House 16th District Incumbent David Greenspan (R-Westlake) faced a challenge in a tough district

by Monique Smith (D- Fairview Park) and it appears Ms. Smith narrowly prevailed with 50.88 percent of the vote.

Meanwhile, incumbent Laura Lanese (R-Grove City) defeated Nancy Day-Acauer (D-Columbus) for the 23rd House District.

In Cincinnati's 28th District, usually one of the most competitive districts in the state, incumbent Jessica Miranda (D-Cincinnati) defeated challenger Chris Monzel (R- Cincinnati), 51.72 percent of the vote in a rematch from 2018.

Ohio House of Representatives Preliminary Results

(Election winners are in **bold**.)

District Number	Incumbent	Republican	Democrat
1	Scott Wiggam	Scott Wiggam	Allison Theiss
2	Mark Romanchuk	Marilyn John	Sam Grady
3	Haraz Ghanbari	Haraz Ghanbari	Laurel Johnson
4	Robert R. Cupp	Robert R. Cupp	
5	Tim Ginter	Tim Ginter	Daniel Winston
6	Phil Robinson	Shay Hawkins	Phil Robinson
7	Tom Patton	Tom Patton	Joan Sweeny
8	Kent Smith	Chris Litwinowicz	Kent Smith
9	Janine Boyd	Dustin Russell	Janine Boyd
10	Terrence Upchurch		Terrence Upchurch
11	Stephanie Howse		Stephanie Howse
12	Juanita Brent	Jerry Powell	Juanita Brent
13	Michael Skindell	Daniel Harrington	Michael Skindell
14	Bride Rose Sweeney	Lynn McMahan	Bride Rose Sweeney
15	Jeffrey Crossman	Kevin Kussmaul	Jeffrey A. Crossman
16	Dave Greenspan	Dave Greenspan	Monique Smith
17	Adam Miller	Tim Haske	Adam Miller
18	Kristin Boggs	Kayla Packard	Kristin Boggs
19	Mary Lightbody	Meredith Freedhoff	Mary Lightbody
20	Richard Brown	Chris Baer	Richard Brown
21	Beth Liston	Mehek Cooke	Beth Liston
22	David Leland		David Leland
23	Laura Lanese	Laura Lanese	Nancy Day-Achauer
24	Allison Russo	Patrick Manley	Allison Russo

25	Bernadine Kennedy Kent	Jim Burgess	Dontavius Jarrells
26	Erica Crawley	Steve Blake	Erica Crawley
27	Tom Brinkman	Tom Brinkman	Sara Bitter
28	Jessica Miranda	Chris Monzel	Jessica Miranda
29	Cindy Abrams	Cindy Abrams	
30	Bill Seitz	Bill Seitz	
31	Brigid Kelly		Brigid Kelly
32	Catherine Ingram		Catherine Ingram
33	Sedrick Denson	Mary Hill	Sedrick Denson
34	Emilia Sykes	Henry Todd	Emilia Sykes
35	Tavia Galonski	Jodi Lynn Sarver	Tavia Galonski
36	Anthony DeVitis	Bob Young	Matt Shaughnessy
37	Casey Weinstein	Beth Bigham	Casey Weinstein
38	Bill Roemer	Bill Roemer	Joe Campbell
39	Fred Strahorn	John Mullins III	Willis Blackshear Jr.
40	Phil Plummer	Phil Plummer	Leronda Jackson
41	Jim Butler	Andrea White	Cate Berger
42	Niraj Antani	Tom Young	
43	Todd Smith	Rodney Creech	Amy Cox
44	Paula Hicks-Hudson	Robert McMahan	Paula Hicks-Hudson
45	Lisa Sobecki	Shane Logan	Lisa Sobecki
46	Michael Sheehy	Steven Salander	Michael Sheehy
47	Derek Merrin	Derek Merrin	Nancy Larson
48	Scott Oelslager	Scott Oelslager	
49	Thomas West	James Haavisto	Thomas West
50	Reggie Stoltzfus	Reggie Stoltzfus	Brian Simeone
51	Sara Carruthers	Sara Carruthers	
52	George Lang	Jennifer Gross	Chuck Horn
53	Candice Keller	Thomas Hall	Michelle Novak
54	Paul Zeltwanger	Paul Zeltwanger	Morgan Showen
55	Gayle Manning	Gayle Manning	Zach Stepp
56	Joe Miller	Bradley Lacko	Joe Miller
57	Dick Stein	Dick Stein	Dara Adkison
58	Michele Lepore-Hagan	David Simon	Michele Lepore-Hagan
59	Alessandro Cutrona	Alessandro Cutrona	Chris Stanley
60	John Rogers	George Phillips	Daniel Troy
61	Jamie Callender	Jamie Callender	Adam Dudziak

62	Scott Lipps	Scott Lipps	Erin Rosiello
63	Gil Blair	Mike Loychik	Gil Blair
64	Michael O'Brien	Martha Yoder	Michael O'Brien
65	John Becker	Jean Schmidt	Alan Darnowsky
66	Doug Green	Adam Bird	
67	Kris Jordan	Kris Jordan	Rachael Morocco
68	Rick Carfagna	Rick Carfagna	Steven Mount
69	Steve Hambley	Sharon Ray	Donna Beheydt
70	Darrell Kick	Darrell Kick	Kevin Barnet
71	Mark Fraizer	Mark Fraizer	Mark Carr
72	Larry Householder	Larry Householder	
73	Rick Perales	Brian Lampton	Kim McCarthy
74	Bill Dean	Bill Dean	
75	Randi Clites	Gail Pavliga	Randi Clites
76	Diane Grendell	Diane Grendell	Garrett Westhoven
77	Jeff LaRe	Jeff LaRe	Melissa Wilde
78	Ron Hood	Brian Stewart	Charlotte Owens
79	Kyle Koehler	Kyle Koehler	Cynthia Richards
80	Jena Powell	Jena Powell	Ted Jones
81	Jim Hoops	Jim Hoops	
82	Craig Riedel	Craig Riedel	
83	Jon Cross	Jon Cross	
84	Susan Manchester	Susan Manchester	Joe Monbeck
85	Nino Vitale	Nino Vitale	
86	Tracy Richardson	Tracy Richardson	Tiffanie Roberts
87	Riordan McClain	Riordan McClain	Nicholas Barnes
88	Bill Reineke	Gary Click	Chris Liebold
89	D.J. Swearingen	D.J. Swearingen	Alexis Miller
90	Brian Baldrige	Brian Baldrige	
91	Shane Wilkin	Shane Wilkin	Scott Dailey
92	Gary Scherer	Mark Johnson	Beth Workman
93	Jason Stephens	Jason Stephens	
94	Jay Edwards	Jay Edwards	Katie O'Neill
95	Don Jones	Don Jones	
96	Jack Cera	Ron Ferguson	Richard Olivito
97	Adam Holmes	Adam Holmes	Alaina Swope
98	Brett Hillyer	Brett Hillyer	Todd Beegle
99	John Patterson	Sarah Fowler	Richard Dana

Ohio Senate

The Ohio Senate is currently controlled by Republicans by a 24-9 margin. There were 16 Senate seats up for election this year. While there were a few interesting seats to watch, Republicans kept control of the upper chamber handily and may have increased their hold on the chamber to 25 seats.

Senate Republicans picked up the seat held by incumbent Senator Sean O'Brien (D-Cortland) when Sandra O'Brien (R-Rome) won with 50.9 percent of the vote.

Current Senate Finance Chairman, Senator Matt Dolan (R-Chagrin Falls) prevailed in close race against Tom Jackson (D-Solon) for the 24th Senate District.

One race is still too close to call. Incumbent Senator Stephanie Kunze (R-Hilliard) is narrowly leading Crystal Lett (D-Columbus) for the 16th District seat, holding on by only 41 votes. Given the narrow margin the race is expected to trigger Ohio's automatic recount law, which requires a recount if the election is within 0.5 percent.

Ohio Senate Preliminary Results

(Election winners are in bold.)

District Number	Incumbent	Republican	Democrat
2	Theresa Gavarone	Theresa Gavarone	Joel O'Dorisio
4	Bill Coley	George Lang	Kathy Wyenandt
6	Peggy Lehner	Niraj Antani	Mark Fogel
8	Louis Blessing III	Louis Blessing III	Daniel Brown
10	Robert Hackett	Robert Hackett	Charles Ballard
12	Matt Huffman	Matt Huffman	Ken Poling
14	Terry Johnson	Terry Johnson	Ryan Ottney
16	Stephanie Kunze	Stephanie Kunze	Crystal Lett
18	John Eklund	Jerry Cirino	Betsy Rader
20	Tim Schaffer	Tim Schaffer	Christian Johnson
22	Larry Obhof	Mark Romanchuk	Steve Johnson
24	Matt Dolan	Matt Dolan	Tom Jackson
26	Dave Burke	Bill Reineke	Craig Swartz
28	Vernon Sykes	Michael Downey	Vernon Sykes
30	Frank Hoagland	Frank Hoagland	Michael Fletcher
32	Sean O'Brien	Sandra O'Brien	Sean O'Brien

Court of Appeals

While Ohio Democrats had an off night in legislative races, they made several electoral gains in the judiciary. While the Ohio Supreme Court races garnered most of the attention, the state's Courts of Appeals also had several marquee matchups. Democrats swept in the First and Tenth District Court of Appeals, which reflected changing demographics in Franklin and Hamilton County.

District Number	Incumbent	Candidate #1	Candidate #2
1	Russell Mock	Russell Mock	Ginger Bock
2		Chris Epley	Marshall Lachman
3		Mark Miller	
4	Peter Abele	Peter Abele	
5	William Hoffman	William Hoffman	Jeff Furr
6	Thomas Osowik	Thomas Osowik	
6		Charles Sulek	Myron Duhart
7	Carol Ann Robb	Carol Ann Robb	
7	Cheryl Waite	Cheryl Waite	
8	Sean Gallagher	Sean Gallagher	
8	Larry Jones	Larry Jones	
8		Emanuella Groves	Pamela Hawkins
8	Anita Laster Mays	Anita Laster Mays	
8	Ray Headen	Ray Headen	Lisa Forbes
9	Julie Schafer	Julie Schafer	Betty Sutton
10		Colleen O'Donnell	Michael Mentel
10	Lisa Sadler	Lisa Sadler	Terri Jamison

11		Matt Lynch	
11		Cynthia Westcott Rice	Sarah Thomas Kovoov
12		Matthew Bryne	
12	Robert Hendrickson	Robert Hendrickson	

STATE BOARD OF EDUCATION CANDIDATES

Six of eleven seats on the State Board of Education were up in the 2020 general election. A term limited legislator, Representative Ron Hood, ran for one of the seats, but lost his bid.

District Number	Incumbent	Candidate #1	Candidate #2	Candidate #3
1	Linda Haycock	Diana Fessler		
5	Lisa Woods	Lisa Woods	Christina Collins	
6	Antoinette Miranda	Antoinette Miranda	Alice Nicks	
9	Stephanie Dodd	Ron Hood	Michelle Newman	
10		Mary Binegar	Brendan Shea	
11	Meryl Johnson	Meryl Johnson	Michele Elba	Richard Neale

LOCAL RACES

Franklin County Commissioners

Incumbent Franklin County Commissioners John O'Grady (D) and Kevin Boyce defeated their Republican challengers, with both Commissioners receiving 65 percent of the vote in the respective races.

Franklin County Prosecutor

One bright spot for Ohio Democrats was the Franklin County Prosecutor race where former Court of Appeals Judge Gary Tyack defeated longtime incumbent Republican Franklin County Ron O'Brien. Tyack received 53 percent of the vote.

Hamilton County Commissioners

Former Ohio House of Representative and Ohio Legislative Black Caucus Chair Alicia Reese (D) defeated Republican business man Andy Black (R). Reese won 50.57 of the vote. Incumbent Commissioner Denise Driehaus (D) also won, receiving 58 percent of the vote.

Hamilton County Prosecutor

Current Hamilton County Prosecutor Joseph Deters (R) faced a tough challenge from Former Hamilton County Municipal Court Judge, Fanon Rucker, but prevailed with 52.7 percent of the votes reported.

Belmont County Commissioner

Incumbent Republican J.P. Dutton was challenged by Vince Gianangeli, former director of Belmont County Department of Job and Family Services and current fiscal officer of Colerain Township, as an independent. Commissioner Dutton emerged victorious by a margin of over 4,000 votes.

SCHOOL LEVIES

Ohio's school districts saw mostly positive results with 67 percent of levies passing. Overall, 83 of 123 school levies passed. Examples of school district levies that passed included Cincinnati Public, Delaware City, Fairborn City, North Union, and Youngstown City.

Gahanna-Jefferson School District's levy, at the time this memorandum was drafted, was passing by only 2 votes.

LIBRARY LEVIES

Ohio's libraries continued receiving the strong community support they've grown accustomed to with 13 of 14 levies (92.86 percent) passing.

Library System	Result
Barberton Public Library	Passed

Birchard Public Library District	Passed
Brumback Library	Passed
Brown Memorial Library	Passed
Champaign County	Passed
Cuyahoga County Public Library	Passed
Cuyahoga Falls Library	Passed
Huron County Community Library;	Passed
Massillon Public Library	Passed
Mohawk Community Library	Passed
Mt. Gilead Public Library	Passed
Newcomerstown Public Library	Passed
Portage County District Library	Failed
Seneca East Public Library	Passed
Washington County Public Library	Passed
Wood County District Public Library	Passed

OTHER LOCAL ISSUES

In Columbus, two ballot measures passed. Issue 1 authorized aggregation for electric and natural gas utility services. The ambitious aggregation program calls for the city to receive 100% of its electric power from renewable/carbon free sources by 2025 and would be one of the largest aggregation programs in the country.

Issue 2 creates a new citizen police oversight board. Columbus, like many other large cities in the nation, saw increased racial tensions between citizens and the police department. The citizen police oversight board was part of a broader package of proposed reforms to help ease those tensions and reform police practices.

CONCLUSION

Ohio Republicans, after a strong election night showing, appear to have expanded their super majorities in both chambers of the Ohio General Assembly. The legislature will soon return for lame duck session and close out the 133rd General Assembly. Lame duck usually features a flourish of activity as legislators attempt to finish work before the General Assembly ends. Looking ahead to the 134th General Assembly, while the political margins of each Chamber will resemble the current legislature there are still many questions unresolved.

The Ohio Senate will have new leadership, with current Senate President Obhof leaving due to term limits. House Speaker Cupp will need to run for Speaker again, while the former Speaker remains a member of the Chamber. Governor DeWine and legislators will also need to enact a new two year state budget, while possibly dealing with budget constraints caused by economic slowdowns from the coronavirus pandemic.

As results are finalized, we'll update with any developments – if you have questions or would more information on any of the races outlined above, please feel free to reach out to any member of our Government Relations group.



REGISTER NOW!
**Ohio Food & Beverage
Manufacturers'
Policy Council 2020**

**Wednesday, December 9, 2020
10 a.m. – noon**

Via Zoom



Dear Colleague,

I am looking forward to chairing this year's **OMA Food & Beverage Manufacturers' Policy Council** on **Wednesday, December 9.**

This event offers a 'one-stop shop' for legislative and regulatory news and updates for Ohio's food and beverage manufacturers.

This is also a great opportunity to meet with the state regulators and subject matter experts who are critical to our businesses.

There is *no charge* to attend, but this event is only open to food and beverage *manufacturers*.

If you haven't already, you can [register here](#). (This link is unique to you, so please don't share it. Others can register by calling the OMA at **(800) 662-4463** or emailing OMA.)

I'm really looking forward to this event and working with you!

Jennifer Sweeney, Chair
Director – Government Affairs
Campbell Soup Company



Leadership

Ohio: Still a Red State

November 6, 2020

Ohioans went to the polls in record numbers, delivering 18 electoral votes to Donald J. Trump. While a record number of both Republicans and Democrats turned out, Republicans made more gains in the state legislature. **See our Post-Election Report.**

Republicans look to have picked up seats in the Ohio House to give them a record 65 R – 34 D votes.

Senate Republicans appear to have picked up one additional seat giving the upper chamber a 24 seat majority out of the 33 Ohio senate districts.

The distribution of votes throughout the Buckeye State is nearly identical as the result in 2016. Also similar to 2016, pre-election public polling suggested a dead heat or slight Democrat candidate advantage. In the end, Trump won by an 8% margin.

Join the OMA Government Affairs Committee on **Tuesday, November 10, 9:30-11:30 a.m.** to engage about the election and other public policy matters of importance to Ohio manufacturers. *11/5/2020*

Gov. DeWine Adds to Ohio Dept. of Health Executive Team; Names New BWC Administrator

November 6, 2020

Yesterday, Gov. DeWine announced executive appointments to the Ohio Department of Health that are intended to strengthen and support the agency as it executes its ongoing work and continues to fight the COVID-19 pandemic.

Dr. Bruce Vanderhoff, MD, MBA, has been named chief medical officer, and Stephanie McCloud will lead the agency as its director. McCloud will vacate her position as the administrator of the Ohio Bureau of Workers' Compensation (BWC). Dr. Vanderhoff comes from OhioHealth.

Replacing McCloud will be John Logue, the BWC's Chief of Strategic Direction; he will

become the administrator effective November 16. According to the BWC, Logue has worked in the industry for 26 years. Before returning to BWC in 2019, he served as vice president of client services for International Absence Management Company where he focused on Ohio workers' compensation. *11/5/2020*

Webinar: Complying With USMCA

November 6, 2020

On Thursday, Nov. 12 OMA Connections Partner **Plante Moran** will present a webinar titled "Don't Underestimate USMCA's Impact on Your Business."

The United States Mexico Canada Agreement (USMCA) entered into force on July 1, 2020. The panel will cover major changes, challenges and opportunities for manufacturers, and actions companies will need to take in order to comply with the USMCA.

There's no charge. **Register here.** *11/2/2020*

Webinar: Ohio Resources to Start or Build Your Export Business

November 6, 2020

The **Ohio Development Services Agency** has programs, services, and funds available to help manufacturers start or increase their export programs.

Join this **no-charge webinar** at 1 p.m. Monday, November 16, 2020.

Key topics include: assessing your company's readiness to enter your first market, expanding into additional markets, and exploring high-growth export markets. Learn about the multiple programs available to help and guide Ohio companies through the export process to achieve their global potential. *11/2/2020*

What Would 5G Mean to Your Business?

November 6, 2020

The Manufacturing Institute, the nonprofit workforce development and education partner of the National Association of Manufacturers, is surveying manufacturers to learn how 5G

technologies will affect their operations and workforce. **Take the survey here.** 11/2/2020

Ohio Launches New eProcurement Solution: Ohio|Buys

November 6, 2020

By increasing efficiency, modernizing procurement processes, and making opportunities to do business with the state more accessible, Ohio|Buys will become the primary platform for suppliers and bidders to conduct procurement activities with the State of Ohio.

Ohio|Buys provides an online shopping experience for state agencies to solicit quotes and purchase contract and off-contract items from suppliers.

Get the details here. 11/5/2020

Small Business Relief Grant Application Opens Nov. 2

October 30, 2020

Gov. Mike DeWine, Lt. Gov. Jon Husted, and legislative leaders recently **announced** the creation of the Ohio Small Business Relief Grant program — part of a \$420 million plan to distribute CARES Act funding. The small business grants will provide up to \$10,000 to employers with 25 or fewer employees (as of Jan. 1, 2020) to help cover COVID-19-related expenses such as PPE and other safety measures, mortgage/rent, utilities, and wages.

OMA Connections Partner GBQ Partners has produced **this summary** of the grant's eligibility requirements and allowed expenses.

Applications **can be submitted** beginning 10 a.m. Monday, Nov. 2. (To access the application, individuals will be required to use an existing OH|ID or **create a new OH|ID**.) Learn more **here** or **email** the Ohio Development Services Agency with questions. 10/26/2020

OMA Members Can Receive Significant UPS Shipping Discounts

October 30, 2020

One of the benefits of OMA membership is discounted shipping prices, due to the **OMA's partnership with UPS**. Members can save 50% on Domestic Next-Day/Deferred, 30% on

Ground Commercial/Residential, 10% on Domestic Next-Day Air® Early, 75% or more on less-than-truckload freight shipments over 150 lbs., and up to 50% on additional services.

Take advantage of UPS Smart Pickup® — a free service that uses innovative technology to automatically arrange a pickup only when you have a package to ship. To enroll, **click here** or call 1-800-MEMBERS. 10/27/2020

At a Glance: Status of COVID-19 Vaccine, Treatment Trials

October 30, 2020

OMA Connections Partner PhRMA recently produced **this activity tracker** to provide a snapshot of the status of COVID-19 vaccines and treatments. At last check, there were 1,534 active clinical trials, 547 unique therapy trials, and 43 unique vaccines in trial.

According to the tracker, it took 197 years to isolate measles characteristics, 158 years to isolate polio characteristics, and just two weeks to produce full genome sequencing of the novel coronavirus. 10/28/2020

Manufacturing Issues Summit Set for Nov. 12

October 30, 2020

OMA Connections Partner MCM CPAs & Advisors will host a **free manufacturing summit** on Thursday, Nov. 12, from 8:30 a.m. to 10:30 a.m. This online event will feature presentations on key issues tied to workforce, supply chains, and data analytics. 10/27/2020

Nov. 10 Event Will Provide Update on Industry 4.0

October 30, 2020

At 9 a.m. Tuesday, Nov. 10, OMA Connections Partner GBQ Partners will host a **free online discussion** to explore how Industry 4.0 and the Internet of Things (IoT) is changing manufacturing strategies. Topics will include incorporation of smart devices and embedded intelligence into operations, as well as leadership innovation while managing cybersecurity and other risks. 10/28/2020

What the Presidential Election Means for Manufacturers

October 30, 2020

OMA Connections Partner RSM has **published its perspectives** on what the 2020 presidential election could mean for manufacturers. The analysis includes “if Trump wins” and “if Biden wins” scenarios.

RSM writes that regardless of who wins, manufacturers can prepare for the effects of either election outcome by evaluating supply chains — with special emphasis on simplifying complex supply chains and reducing reliance on any one particular country or region. *10/28/2020*

Study: Ohio Has Third-Most Influential Voters in This Year’s Presidential Election

October 30, 2020

Election Day is almost here. While all Americans votes are counted equally, the choices of swing-state citizens are more influential. Personal finance website WalletHub this week compared the relative influence of voters in the 2020 presidential race. Ohio voters were ranked third-most influential, **according to the study**.

If you haven’t already voted — or even if you have — visit the **OMA’s Election 2020 site** for important voter resources. *10/29/2020*

Ohio’s Smaller Cities Shine in National Comparisons

October 23, 2020

Several Ohio communities received positive publicity this week thanks to two national studies that compare smaller cities across America.

Heartland Forward — a non-partisan institute for economic renewal — released its “**Most Dynamic Micropolitan Regions**” report, which ranks 515 micropolitan regions by economic performance. Top 150 cities include Wapakoneta, Wilmington, Celina, Findlay, Port Clinton, and Van Wert. Marietta and Wooster also had strong showings.

WalletHub.com published its “**Best Small Cities in America**” report, which compares more than 1,200 smaller cities by examining 43 factors, including local economy, affordability, and school quality. Mason and Dublin made the

study’s 99th percentile, representing the top 1% of smaller cities. Other Ohio cities in the top 20% were Hilliard, Beavercreek, Upper Arlington, Mentor, Strongsville, North Royalton, North Ridgeville, Delaware, Medina, Westerville, Stow, and Westlake. *10/21/2020*

Up-to-Speed on the USMCA?

October 23, 2020

On Nov. 12, experts from OMA Connections Partner Plante Moran will discuss the major changes brought about by the U.S. Mexico Canada Agreement (USMCA), as well as the resulting challenges and opportunities for manufacturers. Also covered will be the actions that companies must take to be fully compliant with the USMCA, which took effect on July 1, 2020. **Register here.** *10/20/2020*

Ohio Supreme Court Candidates Have Already Raised \$3 Million

October 23, 2020

Among many other things, at stake in the Nov. 3 election is political control of the Supreme Court of Ohio. As the *Akron Beacon Journal* **reported**, Republicans have controlled the court since 1987 and “hope at least one of the pair of Justices Judith French and Sharon Kennedy win re-election to preserve at least a 4-3 GOP advantage.”

Nearly \$3 million had been raised by the four Supreme Court candidates through the end of September — a sign that both political parties are heavily involved. The OMA and other major business groups **have endorsed** Justices French and Kennedy. *10/20/2020*

NAM Files Suit Against H-1B Rules

October 23, 2020

The National Association of Manufacturers (NAM) has joined several business groups in filing a **lawsuit** in federal court against harmful rules on H-1B visas. If left in place, the rules would negatively affect hundreds of thousands of U.S.-based workers and disrupt manufacturers’ ability to hire and retain critical high-skilled talent. Earlier this month, the NAM secured an injunction against the Trump administration’s restrictions on non-immigrant visas. **Read more.** *10/20/2020*

Tracking Your Mailed Ballot

October 23, 2020

The number of Ohioans who already have cast their ballots in the presidential election is **more than double** the total compared to this point in 2016, according to Ohio Secretary of State Frank LaRose.

If you are voting by mail this election — or have done so already — you can track your ballot electronically. Simply visit the **Ohio Secretary of State's website**, click on your county, enter the requested information, and you will receive updates on your ballot via email, voice mail, or text.

Saturday, Oct. 31 is the deadline to request an absentee ballot, while Monday, Nov. 2 is the postmark deadline for returning absentee ballots. Nov. 2 is also the final day for early in-person voting (8 a.m. to 2 p.m.). For more, **see the OMA's 2020 Election page**. 10/20/2020

Ohio No. 10 in 'Back to Normal' Index

October 16, 2020

Moody's Analytics and CNN recently created the "**Back-to-Normal**" Index to track the economic recovery in every state. Index values range from zero to 100%, which would indicate full economic recovery to pre-pandemic levels. As of Oct. 9, the index indicated that Ohio's economy was operating at 87% of where it was in early March. The Buckeye State's recovery is tenth best in the U.S., according to the index. 10/13/2020

What Matters to Manufacturers in This Year's Election?

October 16, 2020

According to *Forbes* contributor **Lisa Caldwell**, manufacturing policies will play a large role in determining who wins the upcoming elections. Candidates' proposals to enhance the workforce, increase U.S. innovation, restructure trade relationships, and hasten the arrival of Industry 4.0 are key themes in the 2020 election.

As a reminder, the OMA has published its **list of OMA-PAC endorsements** for a number of General Assembly races, as well as the two Supreme Court of Ohio contests. This list is included on the **OMA's Election 2020 website**, which offers several Ohio-specific voter resources, including information on how to vote early, absentee, or in person.

By the way, if you're voting by mail, you can now **track your ballot** electronically. 10/14/2020

At a Glance: Presidential Polls at Two Weeks Out

October 16, 2020

With just over two weeks until Election Day, here's a summary of the latest general election polling:

- The RealClearPolitics **average of Ohio polling** shows the presidential contest at a statistical dead heat, with Joe Biden leading President Trump by 0.6%. That's compared to a sizeable advantage for Biden in the **national average** of polls, including in **key battleground states**.
- RealClearPolitics has also published a **comparison of the presidential polls in 2020 and 2016**. Nationwide, Biden is ahead of Hillary Clinton's lead over Trump at this time in the 2016 race.
- **Gallup surveys** have found that a majority (54%) rate Trump positively for his job performance on the economy, and 55% consider themselves and their family to be better off than they were four years ago.

•
Meanwhile, for information on Ohio's House and Senate races, as well as congressional and select judicial contests, be sure to see the **OMA's Ohio Election Guide**. 10/15/2020

Magazine Profiles Ohio's Manufacturing Sector

October 16, 2020

In its latest issue, **Business Facilities magazine** spotlights Ohio's manufacturing sector, as well as the state's actions under Gov. Mike DeWine during COVID-19. The national publication writes: "What used to be derisively called the 'Rust Belt' is now a thriving hub of advanced manufacturing," as "Ohio stands ready to welcome back manufacturers who opt for reshoring."

The article highlights the state's workforce development initiatives, as well as the **Ohio Manufacturing Alliance to Fight COVID-19**, created in the pandemic's early days "to coordinate an all-hands-on-deck effort by manufacturers around the state to produce PPE." 10/13/2020

Temporary Relief for Employers Using H-1B Visas

October 16, 2020

Earlier this month, a federal judge placed an immediate hold on a series of damaging visa restrictions that would prevent manufacturers from filling crucial jobs with H-1B visas.

The favorable ruling was the result of a complaint **led by the National Association of Manufacturers** (NAM) following the Trump administration's actions to restrict the issuance of H-1B visas to highly skilled foreign workers for temporary employment.

H-1B visas are commonly utilized by manufacturers and specialty equipment contractors trying to compete with the rest of the world for skilled labor. **This guidance document** was recently updated by the U.S. Department of State to summarize the court order. **Contact OMA staff** to learn more. 10/12/2020

Event Aims to Match Small Businesses With Government Contracts

October 16, 2020

The Ohio Business Matchmaker — Ohio's largest small business-to-government contracting event — has been rescheduled for Nov. 17-18 as an online event due to COVID-19. The online platform will allow small businesses to meet with federal, state, and local government buyers, as well as large prime contractors that represent billions of dollars of upcoming contracts. **Learn more or register.** 10/12/2020

Cybersecurity Questions You Should Be Asking

October 16, 2020

According to a recent IBM study, the average cost of a data breach is \$3.86 million. The average time it takes to identify and contain a breach is 280 days. Because cybersecurity is a vital part of every company's operating plan, OMA Connections Partner Clark Schaefer Hackett has published **these five questions** to evaluate your company's cybersecurity preparedness. 10/12/2020

Mapped: America's \$2 Trillion Economic Drop

October 16, 2020

VisualCapitalist.com recently **published an infographic** showing which states were impacted most by COVID-19 shutdowns and stay-at-home orders during the early months of the pandemic. Between March and June 2020, U.S. GDP fell by 31.4% from in Q1. Ohio experienced a GDP decline of 33%. From Q1 to Q2, Michigan saw the biggest decline in durable goods production (-7.57%), while Indiana saw the biggest decline in non-durable goods manufacturing (2.65%). 10/13/2020

Ohio's Leading Indicators Report Shows Positive Trends for Manufacturing, Most Metro Areas

October 9, 2020

The latest **Ohio Leading Indicators report**, compiled by the Department of Job and Family Services, shows that Ohio's average weekly manufacturing hours increased to 41.4 in August. Manufacturing production, while still well below its recent apex of late 2018, rebounded to 2016 levels.

If August's employment rebound continues through the year, the state's employment rate is projected to grow at an annual rate of 5.82% for the next six months, according to the report. Job growth projections for Ohio's metropolitan statistical areas (MSAs) are as follows:

- Cleveland-Elyria MSA at 0.98%;
- Youngstown-Warren-Boardman MSA at 1.16%;

- Dayton MSA at 2.05%;
- Akron MSA at 2.10%;
- Canton-Massillon MSA at 2.61%;
- Columbus MSA at 3.51%; and
- Cincinnati MSA at 3.71%.

The Toledo MSA has a projected negative annual growth rate of -0.15%. *10/5/2020*

100 Things to Do in Ohio This Fall

October 9, 2020

Fall is the perfect time for manufacturers and their families to get out and explore their state, even in the midst of COVID-19. TourismOhio has published **this list of 100 things to do in Ohio**. From visiting one of 75 state parks, to trying out local food and beverage shops, to finding the perfect pumpkin patch, this is an impressive list of Ohio attractions that you'll want to share with co-workers and employees. *10/5/2020*

Election Resources for Ohio Manufacturers

October 2, 2020

Election Day is only a month away. Early in-person voting begins next week. And the deadline to register or update your voter information is Monday, Oct. 5.

To help manufacturers get out the vote, the OMA created its **Election 2020 website** — full of Ohio-specific resources, including:

- Information to vote early, absentee, or in person.
- Information on state and federal candidates, as well as a listing of OMA-PAC-endorsed candidates;
- OMA policy priorities; and
- The **Manufacturing Voter Center**, a non-partisan voter resources guide that can be shared with employees. (**Here's a flyer** you can distribute to employees.)

Election season is here. Make your voice heard! *10/2/2020*

U.S. Manufacturing Reports Are Mostly Positive for September

October 2, 2020

This week's ADP National Employment report **showed** that U.S. private companies added 749,000 jobs in September, beating Wall Street estimates. As **noted** by the National Association of Manufacturers' chief economist Chad Moutray, manufacturing employment jumped by 130,000 in September, increasing for the fifth straight month.

Meanwhile, the manufacturing index from the Institute for Supply Management **came in below expectations** in September, but remained in positive territory at 55.4%. The **Manufacturing Outlook Index** published by OMA Connections Partner RSM rose for the second month in a row. *9/30/2020*

Ohio Manufacturers Continue Making the Headlines

October 2, 2020

The OMA has added more articles to its **growing list of news stories** spotlighting Ohio manufacturers serving their communities, state, and nation by producing or donating protective equipment and supplies to fight COVID-19. These stories, which have been shared on OMA social media, show that Ohio manufacturers continue to lead the way during the pandemic. *10/1/2020*

Rethinking Supply Chain Risk

October 2, 2020

Many manufacturers are taking a hard look at their supply chains to mitigate the risk of future disruptions. At noon (ET) Wednesday, Oct. 21, OMA Connections Partner Clark Schaefer Hackett will host a **free webinar** titled, "Rethinking Your Supply Chain – Lessons Learned From COVID-19."

Key topics will include strategies for reducing supply chain risk, including reshoring, near-shoring, and diversification. *9/30/2020*

Webinar: Outlook for the North American Economy

October 2, 2020

Wondering about the economic outlook for the U.S. and Canadian economies? OMA Connections Partner GBQ Partners will host a **free webinar** on Thursday, Oct. 29 at 11 a.m. (ET) to examine the North American economy's greatest risks, possible impacts if COVID-19 makes a significant return, and what to expect through the remainder of 2020 and into 2021. *9/30/2020*

Act Fast to Get a Free-for-Life Subscription to Manufacturers Marketplace

October 2, 2020

Manufacturers Marketplace — made possible by a collaboration of the National Association of Manufacturers and state manufacturing associations, including the OMA — is a searchable database that helps U.S. manufacturers find and do business with one another.

Manufacturers Marketplace is now available for free for life to OMA members if they create an account today, MFG Day, Oct. 2. Just click on **“Create an Account”** and use **“MFGDay2020”** as the password. Email the Marketplace’s **David Smart** for questions. *10/2/2020*

Treasury Department Issues Ransomware Advisories

October 2, 2020

October is National Cybersecurity Awareness Month. The U.S. Department of the Treasury’s Office of Terrorism and Financial Intelligence **this week issued** a pair of advisories to assist in combating ransomware scams and attacks, which continue to increase in size and scope. Additional resources **can be found here**.

To boost cybersecurity awareness, OMA Connections Partner CliftonLarsonAllen is hosting a **series of webinars** that will cover risks, trends, IT security attack and defense, and mitigation and response techniques. *10/1/2020*

Speaker Cupp Addresses OMA Board

September 25, 2020

This week, the OMA board of directors held its Q3 meeting. Guest speaker was Ohio House Speaker **Bob Cupp** (R-Lima), who outlined his short-term priorities, including legislation to

repeal and/or replace the state’s nuclear bailout law (House Bill 6) following the scandal surrounding former Speaker Larry Householder.

The speaker said he intends to strengthen the relationship and dialogue between the business community and House leadership — noting that his top goal is to restore faith and trust in the institution and legislative process. *9/22/2020*

OMA Welcomes Two New Board Members

September 25, 2020

This week’s meeting of the OMA board was the first for two new directors.

John Shevlin is vice president of quality assurance and regulatory affairs at **Midmark Corp.** Headquartered in Dayton, with several other locations in the U.S. and international subsidiaries, Midmark is a leading provider of medical, dental and veterinary equipment and technology.

Matt O’Connor is president of **Zaclon LLC**, a Cleveland-based manufacturer of specialty chemicals with wide applications and worldwide sales.

OMA board chair Jane Neal said: “A strength of the OMA board is that it represents Ohio’s diverse manufacturing sector. We look forward to working with John and Matt.” *9/23/2020*

Honda’s Caroline Ramsey Honored for Service to OMA

September 25, 2020



This week, Caroline Ramsey, manager for communications and government relations

at **Honda of America Mfg.**, was presented the OMA Babington Award, which recognizes volunteer leaders who go “above and beyond” in their service to the association. Ramsey has announced she will retire from Honda later this fall.

Caroline’s service to the OMA includes a stint as chair of the Government Affairs Committee, as well as her extensive work to enhance Ohio’s manufacturing workforce. A special thanks to Caroline for her longtime involvement with the OMA. *9/24/2020*

Index: U.S. Manufacturing Shows Fifth Straight Monthly Gain

September 25, 2020

OMA Connections Partner RSM says that U.S. manufacturers in September reported the fastest improvement in operating conditions **since January 2019**. The U.S. manufacturing purchasing managers’ index released by IHS Markit posted a reading of 53.5 in September, up from 53.1 in August. September marked the fifth straight monthly advance. *9/24/2020*

On-Demand Webinar to Boost Your Cybersecurity

September 25, 2020

Cybersecurity incidents targeting the manufacturing sector rose significantly in the second quarter of 2020, accounting for more than a third of detected attacks, according to reports.

The OMA recently hosted a webinar to help OMA members build their cybersecurity response and recovery. Presented by the experts at OMA Connections Partner Roetzel, the **webinar is available on demand**, as is the **webinar handout**. *9/24/2020*

Governor Signs Immunity Protection Bill Into Law

September 18, 2020

This week, Gov. Mike DeWine **signed House Bill 606**, OMA-supported legislation to provide legal liability protections to businesses and other entities during COVID-19 — as long as they have not shown reckless conduct, or intentional misconduct, or willful or wanton misconduct, as

noted in **this analysis** by OMA Connections Partner Roetzel.

The OMA worked to ensure the bill covered manufacturers that produce PPE and other products in response to the pandemic. The signed version of the bill extends liability protections through September 2021 and covers lawsuits dating back to March, when the state of emergency was first declared. The new law will become effective on Dec. 13, 2020, according to **this summary** by OMA General Counsel Bricker & Eckler.

Read the **OMA’s statement** thanking the General Assembly and Gov. DeWine for acting to protect the manufacturing community and Ohio’s economy. *9/14/2020*

Ohio Receives Defense Manufacturing Grant

September 18, 2020

The U.S. Department of Defense has approved a **\$5 million grant** to improve Ohio’s defense manufacturing processes and train workers for next-generation jobs. The grant follows an announcement last month designating Ohio as a defense manufacturing community. *9/17/2020*

Ohio Receives High Marks From Economic Development Publication

September 18, 2020

Ohio has again been named as one of the best states in which to do business by *Area Development* magazine in its **new rankings**. The Buckeye State comes in at No. 9 in the comparison — and is a top five state for logistics and infrastructure, as well as available real estate.

This recognition comes after Ohio earlier this year earned a top-ten spot in *Chief Executive* magazine’s annual rankings and multiple top-ten honors in *Business Facilities* magazine’s comparisons. *9/14/2020*

Ball State Study Gives Ohio Mostly Solid Grades for Manufacturing Climate

September 18, 2020

Ball State University’s Center for Business and Economic Research recently released

its **Manufacturing Scorecard 2020**. Ohio was awarded a solid overall grade of B in the study, which considers several factors across eight broad categories, including taxes, human capital, and global reach.

Ohio's top grades came in logistics (A grade), global reach (B) and sector diversification (B). The state's lowest grade was in worker benefit costs (D). Five states were awarded an A grade, including Indiana, Kentucky and Michigan. *9/16/2020*

Court Reverses Judge's Harmful Ruling on Statewide Ballot Issues

September 18, 2020

Earlier this summer, we reported that the OMA was leading an important fight against attempts to erode Ohio's petition process and the validity of ballot security. The OMA and other business groups filed an amicus (friend of the court) brief that supported the state's appeal of a **judge's ruling** that would have allowed electronic signature collections (instead of in-person signatures) for pending ballot measures, while extending the signature deadlines.

This would have dealt a blow to Ohio's interests by providing a lifeline to out-of-state special interest groups seeking to change the Ohio Constitution to legalize marijuana, impose a \$13/hour minimum wage, allow for same-day voter registration, among other actions.

This week, the U.S. Sixth Circuit Court of Appeals **reversed** the harmful ruling from the lower court, which overstepped its bounds when it effectively tried to rewrite Ohio's constitution. As of the deadline for this *Leadership Briefing*, it was unclear whether the lawyers for the out-of-state interests will appeal to the U.S. Supreme Court. *9/17/2020*

NAM Urges Federal Action on Infrastructure

September 18, 2020

The National Association of Manufacturers (NAM) is part of a national coalition called **United for Infrastructure**, established to engage federal policymakers on the need to invest in our nation's infrastructure. During this election year, the group is actively promoting principles established in the NAM's "**Building to Win**" plan — which spotlights the Ohio

River's **Brent Spence Bridge** in the Cincinnati area as a real-world example of infrastructure in need of repair.

You are encouraged to communicate that action is needed now to improve America's infrastructure and create manufacturing jobs. The NAM has made available **this tool** to put you in touch with your federal representatives. *9/15/2020*

Ohio School Report Cards Now Available

September 18, 2020

Report cards for Ohio's public schools are **now available**, but they do not contain grades on student performance due to disruptions last spring caused by the COVID-19 pandemic. Given the limited data, it can be challenging to gauge how well a particular school or district is performing. *9/15/2020*

Never Forget: September 11, 2001

September 11, 2020

It was 19 years ago, but for those old enough to remember, the images are still seared in our minds. **Sept. 11, 2001** saw nearly 3,000 Americans killed and more than 6,000 injured. Among the fatalities were 343 firefighters, 72 law enforcement officers, and 55 military personnel. In the **words** of former President George W. Bush, our nation that day saw evil — the very worst of human nature. And we responded with the best of America. Never forget. *9/11/2020*

Study: Ohio No. 2 for Aerospace, Aircraft Developers

September 11, 2020

A new comparison names Ohio as the nation's second-best state for "aerospace attractiveness." Pricewaterhouse Cooper's **annual ranking** puts the Buckeye State just behind No. 1 Georgia and ahead of No. 3 Washington state for its attractiveness to aerospace and aircraft developers.

Ohio was No. 1 in the tax policy category and finished in the top ten for industry, infrastructure, economy, and labor. "With an (aerospace and defense) workforce of 38,000, Ohio is also the largest U.S. state supplier to Boeing and Airbus," according to the report. *9/8/2020*

Addressing Ongoing Supply Chain Challenges

September 11, 2020

The pandemic has exposed vulnerabilities in supply chains worldwide. It has also provided an opportunity for companies to develop forward-thinking strategies to address immediate needs and prepare for continued disruption. **This article** from OMA Connections Partner Plante Moran provides insight on ways to strengthen your business' supply chains. *9/10/2020*

Ohio Survey: Biden 49%, Trump 45%

September 11, 2020

Conservative-leaning polling firm Rasmussen Reports **says** Democratic presidential nominee Joe Biden holds a four-point lead — 49% to 45% — over President Trump in Ohio, which historically has been a must-win for Republicans. The poll, conducted Sept. 1-2, found only 3% of Ohio's likely voters were undecided.

Rasmussen **also reported** this week that 17% of likely U.S. voters who "strongly approve" of the job President Trump is doing say they are less likely to let others know how they intend to vote.

Meanwhile, the **RealClearPolitics average** of nationwide presidential polls shows Biden currently leading, including in most **battleground states**. *9/10/2020*

General Assembly Finally Passes COVID-19 Immunity Protections for Manufacturers

September 4, 2020

Ohio lawmakers returned to Columbus this week and finally worked out the remaining issues on **House Bill 606** which had languished for three months.

The bill provides legal liability protections to employers and specified providers from lawsuits related to the COVID-19 pandemic. OMA worked to ensure that the bill covered manufacturers that produced PPE and other products in response to the pandemic.

A joint House and Senate conference committee convened on Tuesday to make a final round of revisions, most importantly extending the protections through September 2021. The bill

will cover improper lawsuits going back to March when the state of emergency was first declared by Gov. DeWine. The full House approved the conference report Tuesday afternoon and the Senate followed suit on Wednesday. Gov. DeWine is expected to sign the bill soon.

A shout out to members who took the time to let their elected officials know the importance of this legislation. *9/2/2020*

Ohio Earns Major Defense Manufacturing Designation

September 4, 2020

Ohio Governor Mike DeWine and Lt. Governor Jon Husted **announced yesterday** that the U.S. Department of Defense has made a commitment to Ohio's defense manufacturers and put the state in position to receive a \$5 million grant to improve manufacturing processes and train workers for next-generation jobs.

The Defense Department has designated Ohio as a Defense Manufacturing Community, which is a program designed to support long-term community investments that strengthen national security innovation and expand the capabilities of defense manufacturing.

OMA President Eric Burkland said, "The OMA is excited to continue to expand our partnership with the Ohio Manufacturing Extension Partnership and Ohio Development Services Agency in support of new resources directed to defense manufacturers. We will be working with the **endorsed regional sector partnerships** in support of current and prospective defense manufacturers." *9/3/2020*

OMA Testifies in Support of Unemployment Bill to Limit Abuse

September 4, 2020

This week **the OMA testified** in support of **Senate Bill 282** before the Senate Insurance and Financial Institutions Committee. The bill would require the Ohio Department of Job and Family Services (ODJFS) to create an online process whereby employers could report recipients of unemployment benefits who have potentially failed to meet the nonmonetary requirements of benefit eligibility. The bill would require timely review of filed complaints.

As manufacturers continue to struggle to fill available jobs, this is a simple and streamlined way to communicate issues to ODJFS in an effort to return workers to available jobs. *9/3/2020*

Your One Stop for Ohio Election 2020 Resources

September 4, 2020

To prepare for this year's important elections, The Ohio Manufacturers' Association has produced Ohio-specific voter resources. This new **web page** is where you can find the tools you need to vote – whether early, absentee, or in person.

Also available is information about state and federal candidates, OMA policy priorities, OMA-PAC endorsed candidates, and more. Share these resources widely. We will leave the **link to these resources on our home page** for the duration of the election season. Make your voice heard! *8/31/2020*

JobsOhio Names New Director of Food and Agribusiness

September 4, 2020

JobsOhio announced the hiring of Tim Derickson, a longtime agribusiness entrepreneur and former state legislator, as its new Director of Food and Agribusiness. In his new role, Derickson will oversee a sector that includes hundreds of companies — including many OMA members — that cultivate, process, package, distribute and market foods and beverages enjoyed around the world. **More here.** *9/3/2020*

Census: Is Your Household Counted?

September 4, 2020

Census data will be collected through September 30. These data determine how \$675 billion is distributed among the states and Ohio's representation in Congress. An accurate count ensures that Ohio and its residents receive their fair share of government resources.

Those who have not yet completed the census can do so **online** or by calling 1-844-330-2020. *8/31/2020*

ICYMI: Huntington Economist Talks Recovery

September 4, 2020

Last week OMA hosted an economic outlook webinar in conjunction with our Connections Partner Huntington National Bank. Huntington's director of economics, Dr. George Mokrzan, showed a solid economic recovery thus far for the U.S., including for much of the manufacturing sector. Here's the **recorded webinar**, as well as **accompanying slides.** *8/28/2020*

OMA Government Affairs Committee Examines Key Issues, Previews 2020 Election

August 28, 2020

The OMA Government Affairs Committee (GAC) met virtually this week for its quarterly meeting. Members were briefed on the latest Statehouse activity in the areas of energy, environment, human resources, safety and workers' compensation, and taxes. Key topics included Ohio's nuclear bailout law, COVID-19 liability legislation, and proposals to expand workers' compensation coverage (including for COVID-19 and PTSD).

In addition to a review of **key races** for the General Assembly, members received election insights from three guest speakers: District 2 Rep. **Mark Romanchuk** (R-Mansfield), who is running for the Ohio Senate; Kevin DeWine, former Ohio Republican Party chair; and Kyle Kondik, managing editor of the nationally renowned ***Sabato's Crystal Ball***, published by the University of Virginia Center for Politics. Caroline Ramsey, manager for communications and government relations at Honda of America Mfg., was honored for her longtime involvement with the OMA. Ramsey, a former GAC chair, will retire from Honda this fall. The GAC **will meet again Nov. 11.** *8/26/2020*

OMA-PAC Announces Endorsements for 2020 Election

August 28, 2020

Earlier this month, the OMA released its **2020 Ohio Election Guide**, a non-partisan publication providing insight on races for the General Assembly, Congress, and key judicial seats.

This week, we can announce the candidates for the General Assembly and Supreme Court of Ohio who have received the endorsement of the OMA Political Action Committee (OMA-

PAC). **See the full list of endorsements.** *8/26/2020*

Four Republican House Members Seek to Oust DeWine

August 28, 2020

For the first time in more than a century, Ohio lawmakers this week drafted articles of impeachment against a sitting governor as four Republican House members are targeting fellow a Republican — Gov. Mike DeWine — for what they say has been a heavy-handed approach to managing the pandemic.

The impeachment effort is being spearheaded by Reps. **John Becker** (R-Cincinnati), **Nino Vitale** (R-Urbana), **Candice Keller** (R-Middletown), and **Paul Zeltwanger** (R-Mason). The lawmakers have even published **this website**.

House Speaker **Bob Cupp** (R-Lima) condemned the impeachment effort soon after its announcement, calling the resolution “an imprudent attempt to escalate important policy disagreements with the governor into a state constitutional crisis.” The governor’s response was, “**Have at it,**” adding that he was focused on more important issues. *8/25/2020*

Urge Your State Lawmakers to Pass Liability Legislation

August 28, 2020

Ohio’s legislative leaders have added session dates for next week to take up priority measures. Among the legislation that could be considered is a bill to provide liability protection for businesses during COVID-19.

If you have not already done so, please consider using **the OMA’s easy-to-use tool** to contact your state lawmakers and tell them to finish the job on this important measure. *8/27/2020*

Miscellaneous Legislation of Interest to Manufacturers'

Prepared by: The Ohio Manufacturers' Association

Report created on November 9, 2020

- HB30 EUTHANIZED ANIMAL REMAINS-FOOD** (LANESE L) To prohibit pet food from containing remains from any dog or cat or from any other animal that was euthanized by the use of an injected drug.
Current Status: 2/12/2019 - Referred to Committee House Agriculture and Rural Development
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-30>
- HB46 STATE GOVT EXPENDITURE DATABASE** (GREENSPAN D) To require the Treasurer of State to establish the Ohio State Government Expenditure Database.
Current Status: 1/22/2020 - **SUBSTITUTE BILL ACCEPTED**, Senate General Government and Agency Review , (Seventh Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-46>
- HB48 LOCAL GOVT ROAD IMPROVEMENT FUND** (GREENSPAN D) To provide for a new Local Government Road Improvement Fund for local governments to fund road improvements.
Current Status: 2/12/2019 - Referred to Committee House Finance
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-48>
- HB62 TRANSPORTATION BUDGET** (OELSLAGER S) To increase the rate of and modify the distribution of revenue from motor fuel excise taxes, to make appropriations for programs related to transportation and public safety for the biennium beginning July 1, 2019, and ending June 30, 2021, and to provide authorization and conditions for the operation of those programs.
Current Status: 4/3/2019 - **SIGNED BY GOVERNOR**; Various effective dates; taxes eff. 7/1/19
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-62>
- HB72 CAPITAL IMPROVEMENTS FUND** (ROGERS J, CERA J) To create the Supplemental State Capital Improvements Pilot Program funded by a temporary transfer from the Budget Stabilization Fund and to make an appropriation.
Current Status: 2/20/2019 - Referred to Committee House Finance
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-72>
- HB76 BALLOT LANGUAGE UNIFORMITY** (MERRIN D) To enact the "Ballot Uniformity and Transparency Act" to modify the form of election notices and ballot language for property tax levies.
Current Status: 1/22/2020 - Senate General Government and Agency Review , (Fourth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-76>
- HB115 REGULATOR RESTRICTION REDUCTION** (RIEDEL C, ROEMER B) To require certain agencies to reduce the number of regulator restrictions and to amend the versions of

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

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

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

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

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

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

HB160 **REVISE LIQUOR CONTROL LAWS (INGRAM C)** To revise certain provisions of the liquor control laws and to declare an emergency.

Current Status: 10/13/2020 - **SIGNED BY GOVERNOR**; eff. 10/13/20

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

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

Current Status: 6/16/2020 - **SIGNED BY GOVERNOR**; eff. 9/15/20

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

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

Current Status: 3/27/2019 - Introduced

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

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

Current Status: 5/28/2020 - House Criminal Justice, (Second Hearing)

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

- HB181** **PROMOTE OHIO-GROWN ALCOHOL INGREDIENTS** (HAMBLEY S) To authorize the Department of Agriculture to promote the use of Ohio-produced agricultural goods grown for inclusion in beer, cider, or spirituous liquor through promotional programs.
Current Status: 4/4/2019 - Referred to Committee House Agriculture and Rural Development
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-181>
- HB185** **JOBSONIO-PUBLIC RECORDS-MEETINGS** (INGRAM C) To establish that records kept by JobsOhio are public records subject to inspection and copying under Ohio Public Records Law and to require all meetings of the JobsOhio Board of Directors to be open to the public, except when in an executive session.
Current Status: 5/15/2019 - House Economic and Workforce Development, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-185>
- HB202** **ELECTRIC VEHICLE INFRASTRUCTURE** (SMITH K, WEINSTEIN C) To establish the Electric Vehicle Infrastructure Study Committee.
Current Status: 10/1/2019 - House Transportation and Public Safety, (Fourth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-202>
- HB216** **CHAIN ESTABLISHMENT REGULATION** (SKINDELL M, KELLY B) To regulate employment practices of formula retail and food services establishment employers and contractors and to require the purchaser of a formula retail or food services establishment to retain certain employees.
Current Status: 5/22/2019 - House Commerce and Labor, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-216>
- HB220** **GOVERNMENT BLOCKCHAIN USE** (CARFAGNA R) To allow a governmental entity to utilize distributed ledger technology, including blockchain technology.
Current Status: 6/12/2019 - **REPORTED OUT AS AMENDED**, House Commerce and Labor, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-220>
- HB237** **SHIPPED LIQUOR** (MANNING D, UPCHURCH T) To allow spirituous liquor and mixed beverages to be shipped to consumers via an S liquor permit holder.
Current Status: 5/14/2019 - Referred to Committee House Commerce and Labor
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-237>
- HB238** **WHISTLEBLOWER PROTECTIONS** (CERA J, SCHERER G) To revise Ohio's whistleblower protection laws.
Current Status: 2/26/2020 - **REPORTED OUT**, House Civil Justice, (Sixth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-238>

- HB242 BAN PLASTIC BAG FEES** (LANG G, JONES D) To specify the authority to use an auxiliary container, to temporarily prohibit the imposition of a tax or fee on those containers, and to apply existing anti-littering law to those containers.
Current Status: 10/13/2020 - **SIGNED BY GOVERNOR**; eff. 90 days
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-242>
- HB251 CONTRACT ACTION-PERIOD OF LIMITATION** (LANG G, HILLYER B) To shorten the period of limitations for actions upon a contract.
Current Status: 6/24/2020 - **BILL AMENDED**, Senate Judiciary, (Seventh Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-251>
- HB272 COURTS-EXERCISE OF JURISDICTION** (OELSLAGER S, HILLYER B) To expand the basis of a court's exercise of personal jurisdiction to include any basis consistent with the Ohio Constitution and the United States Constitution.
Current Status: 9/16/2020 - **SIGNED BY GOVERNOR**
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-272>
- HB319 LOCAL CONTROL-FIREARMS** (WEST T, MILLER A) To restore local authority to generally regulate firearms-related conduct.
Current Status: 9/24/2019 - Referred to Committee House State and Local Government
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-319>
- HB320 PENDING BACKGROUND CHECK-FIREARMS** (WEST T) To prohibit a federally licensed firearms dealer from transferring a firearm while a background check is pending unless 30 days have elapsed.
Current Status: 9/24/2019 - Referred to Committee House State and Local Government
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-320>
- HB324 DAMAGES-ADJUST FOR INFLATION** (MILLER A) To raise the limitations on damages for noneconomic loss and punitive damages in certain tort actions based on adjustments for inflation from the year 2005 to 2019.
Current Status: 6/24/2020 - Referred to Committee Senate Health, Human Services and Medicaid
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-324>
- HB346 VAPE PRODUCT SALES** (PATTON T) To prohibit the sale of flavored electronic smoking devices and flavored vapor products and to establish a committee to study the health risks associated with such products.
Current Status: 10/2/2019 - Referred to Committee House Health
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-346>

- HB347** **VAPE PRODUCT RETAILERS** (PATTON T) To place restrictions on retailers of vapor products.
Current Status: 10/2/2019 - Referred to Committee House Health
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-347>
- HB369** **SEXUAL, GENDER DISCRIMINATION** (HILLYER B, SKINDELL M) To enact the Ohio Fairness Act to prohibit discrimination on the basis of sexual orientation or gender identity or expression, to add mediation as an informal method that the Ohio Civil Rights Commission may use, and to uphold existing religious exemptions under Ohio's Civil Rights Law.
Current Status: 2/4/2020 - House Civil Justice, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-369>
- HB469** **HEALTH INSURANCE COST-SHARING** (MANCHESTER S, WEST T) To prohibit certain health insurance cost-sharing practices.
Current Status: 11/10/2020 - House Health, (Fourth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-469>
- HB472** **CRIMINAL PERIOD OF LIMITATIONS - RAPE** (ROGERS J) To eliminate the period of limitations for the criminal prosecution of a person for rape.
Current Status: 1/28/2020 - Referred to Committee House Criminal Justice
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-472>
- HB476** **EMINENT DOMAIN** (MANNING D, HAMBLEY S) To amend the law regarding eminent domain and to declare an emergency.
Current Status: 6/9/2020 - House State and Local Government, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-476>
- HB490** **ELECTRIC/ HYBRID VEHICLE REGISTRATION FEES** (GREENSPAN D, SHEEHY M) To provide for the proration of the plug-in electric and hybrid motor vehicle registration fees.
Current Status: 2/11/2020 - Referred to Committee House Finance
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-490>
- HB499** **MOTOR FUEL TESTING PROGRAM** (KELLY B, LANG G) To authorize a county to implement a motor fuel quality testing program.
Current Status: 5/19/2020 - House Transportation and Public Safety, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-499>
- HB510** **CRIMINAL PENALTIES - VEHICLE SAFETY** (PATTON T) To increase the criminal penalties associated with failing to secure a load on a vehicle.
Current Status: 3/10/2020 - Referred to Committee House Criminal Justice
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-510>

- HB518** **TORT ACTIONS - RAPE VICTIMS** (BOGGS K, RUSSO A) To remove the cap on damages for noneconomic loss when a victim of rape or assault brings a tort action.
Current Status: 3/10/2020 - Referred to Committee House Civil Justice
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-518>
- HB560** **VOTER REGISTRATION, ELECTIONS** (LEPORE-HAGAN M, LISTON B) To modify the law governing voter registration and the method of conducting elections.
Current Status: 5/5/2020 - Referred to Committee House State and Local Government
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-560>
- HB562** **PROHIBIT EVICTION, FORECLOSURE DURING COVID-19** (LELAND D, CROSSMAN J) To prohibit foreclosure activity and the eviction of residential and commercial tenants during the state of emergency declared regarding COVID-19, to refer such proceedings caused by the state of emergency to mediation, and to declare an emergency.
Current Status: 5/5/2020 - Referred to Committee House Civil Justice
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-562>
- HB564** **PREVENT UTILITY DISRUPTION DURING COVID-19** (LELAND D) To prevent the disruption of utility service during the state of emergency declared regarding COVID-19 and to declare an emergency.
Current Status: 5/5/2020 - Referred to Committee House Public Utilities
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-564>
- HB576** **SUSPEND HOMESTEAD INTEREST PENALTY, FORECLOSURE** (ROGERS J, CROSSMAN J) To temporarily abate the charging of interest and penalties against tax-delinquent homesteads and suspend tax foreclosure proceedings and tax certificate sales regarding such homesteads and to declare an emergency.
Current Status: 5/5/2020 - Referred to Committee House Ways and Means
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-576>
- HB580** **REQUIRE INSURERS COVER TELEMEDICINE** (LISTON B, PATTON T) To require health plan issuers to cover telemedicine services during a state of emergency, and to declare an emergency.
Current Status: 9/23/2020 - House Insurance, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-580>
- HB581** **ADDRESS COVID-19 CONCERNS** (CALLENDER J) To address immediate concerns related to COVID-19.
Current Status: 5/5/2020 - Referred to Committee House Health
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-581>
- HB586** **STATE AGENCIES - PROCUREMENT PROGRAMS** (GREENSPAN D, KELLY B) To require any state agency seeking to purchase supplies or services to comply with an applicable first or second procurement program and to prohibit any governmental ordering

office from combining multiple parts of a larger related project to avoid using the procurement list maintained by community rehabilitation programs.

Current Status: 5/6/2020 - House State and Local Government, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-586>

HB589 FINANCIAL DAMAGE INSURANCE COVERAGE - COVID-19 (CROSSMAN J, ROGERS J) To require insurers offering business interruption insurance to cover losses attributable to viruses and pandemics and to declare an emergency.

Current Status: 6/9/2020 - House Insurance, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-589>

HB590 PRICE GOUGING PROHIBITION (CROSSMAN J, ROGERS J) To prohibit price gouging after a declaration of an emergency and to declare an emergency.

Current Status: 5/5/2020 - Referred to Committee House Criminal Justice

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-590>

HB596 DEBT COLLECTION POSTPONEMENT (WEST T) To halt the collection of debts and to declare an emergency.

Current Status: 5/5/2020 - Referred to Committee House Civil Justice

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-596>

HB602 PROPERTY TAX FORECLOSURE NOTICES (ROGERS J, LIPPS S) To modify the manner in which property tax foreclosure notices may be published.

Current Status: 6/10/2020 - **REPORTED OUT**, House Ways and Means, (Fifth Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-602>

HB606 CIVIL IMMUNITY - COVID-19 TRANSMISSION (GRENDALL D) To grant civil immunity to a person who provides services for essential businesses and operations for injury, death, or loss that was caused by the transmission of COVID-19 during the period of emergency declared by Executive Order 2020-01D, issued on March 9, 2020.

Current Status: 9/14/2020 - **SIGNED BY GOVERNOR**

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-606>

HB614 UNEMPLOYMENT COMPENSATION, COVID RELIEF (FRAIZER M, RICHARDSON T) To create the Unemployment Compensation Modernization and Improvement Council, to revise the claims process and duties related to that process, to require the Auditor of State to examine and make recommendations on the efficiency of the process, to require the Director of Job and Family Services to create a strategic staffing plan for employees who handle inquiries and claims for unemployment benefits, to require the Chancellor of Higher Education to create a template for workforce-education partnership programs, to provide for the distribution of some federal coronavirus relief funding to local subdivisions, to extend the renewal deadline for concealed handgun licenses for ninety days or until June 30, 2021, whichever is later, to allow licensees to apply for or renew licenses with any county sheriff until that date, to authorize the conveyance of certain state-owned land, to provide funding for community projects, to make appropriations, and to declare an emergency.

Current Status: 10/1/2020 - **SIGNED BY GOVERNOR**; eff. 10/1/20.
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-614>

- HB617** **LEGISLATIVE APPROVAL PROCEDURES - SHUTDOWN ORDERS** (JORDAN K) To establish certain time frames and legislative approval procedures as conditions governing the authority of the Department of Health to issue statewide shelter-in-place or stay-at-home orders for preventing the spread of contagious or infectious diseases, to invalidate existing statewide shelter-in-place or stay-at-home orders issued by the Department, and to declare an emergency.
Current Status: 5/12/2020 - Referred to Committee House State and Local Government
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-617>
- HB618** **NOW ACT** (BECKER J) To limit the authority of the Governor and the Department of Health to issue orders regarding contagious or infectious diseases, to prohibit any order from affecting the conduct of an election, to designate its provisions as the "Need Ohio Working (NOW) Act," and to declare an emergency.
Current Status: 6/9/2020 - House State and Local Government, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-618>
- HB647** **PROHIBIT MANUFACTURING, POSSESSION - MAGAZINES** (STRAHORN F) To prohibit the manufacture or possession for sale of high-capacity magazines except for authorized use by law enforcement agencies or for federal military purposes.
Current Status: 5/27/2020 - Referred to Committee House Federalism
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-647>
- HB670** **REAPPROPRIATE CAPITAL FUNDS** (MERRIN D) To make capital reappropriations for certain agencies for the biennium ending June 30, 2022, and to declare an emergency.
Current Status: 6/3/2020 - House Finance, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-670>
- HB737** **MODIFY CAMPAIGN FINANCE LAW** (MANNING G, MIRANDA J) To modify the Campaign Finance Law regarding independent expenditures and political action committees.
Current Status: 8/31/2020 - Referred to Committee House State and Local Government
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-737>
- HB739** **ANTI-CORRUPTION ACT** (SWEENEY B, RUSSO A) To modify the campaign finance law, to name this act the Ohio Anti-Corruption Act, and to amend the versions of sections of the Revised Code that are scheduled to take effect January 1, 2021, to continue the provisions of this act on and after that effective date.
Current Status: 8/31/2020 - Referred to Committee House State and Local Government
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-739>

- HB741** **ADD OFFENSES-PUBLIC RETIREMENT BENEFITS** (MANNING G, GREENSPAN D) To add extortion and perjury and certain federal offenses to the offenses that may result in forfeiture or termination of public retirement system benefits.
Current Status: 8/31/2020 - Referred to Committee House Criminal Justice
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-741>
- HB747** **OFF-LABEL DRUG USAGE** (GRENDALL D, CUTRONA A) Regarding the prescribing and dispensing of drugs for off-label uses.
Current Status: 8/31/2020 - Referred to Committee House Health
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-747>
- HB750** **PUBLIC CORRUPTION CHARGES** (CROSSMAN J, BLAIR G) To prohibit a person who is currently charged with a public corruption offense from taking office as a member of the General Assembly, to require a current member who is charged with a public corruption offense to repay certain amounts to the state, and to declare an emergency.
Current Status: 8/31/2020 - Referred to Committee House State and Local Government
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-750>
- HB762** **MODIFY CAMPAIGN FINANCE LAWS** (GRENDALL D, FRAIZER M) To modify the campaign finance law and to declare an emergency.
Current Status: 9/21/2020 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-762>
- HB763** **TERMINATE COVID-19 STATE OF EMERGENCY** (GRENDALL D, STOLTZFUS R) To terminate the COVID-19 state of emergency in Ohio and to declare an emergency.
Current Status: 9/23/2020 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-763>
- HCR36** **CONGRESS REQUIRE POLITICAL CORPORATE DONOR IDENTITIES** (GRENDALL D) To urge Congress to pass legislation requiring corporations and labor organizations that make political expenditures to disclose the identities of their donors.
Current Status: 8/31/2020 - Referred to Committee House State and Local Government
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HCR-36>
- HJR1** **INITIATIVE PETITION SIGNATURE REQUIREMENTS** (KOEHLER K) Proposing to amend Sections 1a and 1g of Article II of the Constitution of the State of Ohio to modify certain signature requirements for a proposed constitutional amendment by initiative petition.
Current Status: 6/30/2019 - Referred to Committee House Civil Justice
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HJR-1>

- SB1** **REDUCE REGULATORY RESTRICTIONS** (MCCOLLEY R, ROEGNER K) To require certain agencies to reduce the number of regulatory restrictions and to continue the provision of this act on and after August 18, 2019.
Current Status: 6/4/2020 - House Appoints Managers; S. Wiggam, B. Seitz & B. Kelly Named as House Conferees
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-1>
- SB3** **DRUG SENTENCING REFORM** (EKLUND J, O'BRIEN S) To modify the controlled substance possession and trafficking prohibitions and penalties and the drug and alcohol abuse civil commitment mechanism.
Current Status: 11/10/2020 - House Criminal Justice, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-3>
- SB33** **CRITICAL INFRASTRUCTURE FACILITIES OFFENSES** (HOAGLAND F) To modify certain criminal offenses with respect to critical infrastructure facilities and to impose fines and civil liability for damage to a critical infrastructure facility.
Current Status: 1/29/2020 - **REPORTED OUT**, House Public Utilities, (Seventh Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-33>
- SB46** **PUNITIVE OR EXEMPLARY DAMAGES LIMITATION EXEMPTIONS** (EKLUND J) To expand the exemption from punitive or exemplary damages limitations in tort law that is related to certain felony convictions.
Current Status: 3/19/2019 - Senate Government Oversight and Reform, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-46>
- SB52** **CIVILIAN CYBER SECURITY RESERVE FORCES** (GAVARONE T) To create the civilian cyber security reserve forces, to make the Secretary of State a member of the Homeland Security Advisory Council, to require the Secretary of State to appoint a chief information security officer, to require the boards of elections to audit election results, and to make an appropriation.
Current Status: 10/25/2019 - **SIGNED BY GOVERNOR**; eff. 1/24/2020; appropriations eff. 10/25/2019
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-52>
- SB57** **HEMP REGULATION** (HILL B, HUFFMAN S) To establish conditions and requirements governing the regulation of hemp and hemp products, and to declare an emergency.
Current Status: 7/30/2019 - **SIGNED BY GOVERNOR**; most provisions eff. 7/30/2019; certain provisions eff. 9/20/2019 and 3/22/2020
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-57>
- SB119** **DAYLIGHT SAVINGS TIME** (ROEGNER K, PETERSON B) To exempt Ohio from daylight savings time.
Current Status: 11/13/2019 - Senate General Government and Agency Review , (Third Hearing)

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

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

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

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

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

Current Status: 11/10/2020 - House Criminal Justice, (Third Hearing)

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

SB182 **RAISE MINIMUM AGE-FIREARM PURCHASES (THOMAS C, LEHNER P)** To raise the minimum age to purchase a firearm to age 21 and to increase the penalty for improperly furnishing firearms to an underage person.

Current Status: 1/21/2020 - Senate Government Oversight and Reform, (Second Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-182>

SB183 **FIREARM TRANSFERS (THOMAS C, LEHNER P)** To require a firearm transfer to be made through a dealer, through a law enforcement agency, or pursuant to a specified exception, and to require a background check when a firearm is transferred.

Current Status: 9/17/2019 - Senate Government Oversight and Reform, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-183>

SB186 **VOTER REGISTRATION (MANNING N, SYKES V)** To create a voter verification and registration system, to modify the requirements for the administration of the statewide voter registration database, and to allow electors to register as affiliated with a political party.

Current Status: 2/25/2020 - Senate Government Oversight and Reform, (Second Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-186>

SB204 **AIRPORT DEVELOPMENT DISTRICT (SCHURING K, SYKES V)** To authorize the creation of an airport development district for the purpose of funding public infrastructure improvements and attracting airlines and additional flights to a qualifying airport.

Current Status: 6/10/2020 - Referred to Committee House Economic and Workforce Development

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-204>

SB231 **INVESTIGATE INSULIN PRICING (CRAIG H, ANTONIO N)** To require the Attorney General to investigate insulin pricing and prepare and submit a report.

Current Status: 2/25/2020 - Senate Finance Health and Medicaid Subcommittee, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-231>

SB232 CAP COST SHARING-INSULIN DRUGS (CRAIG H, ANTONIO N) To cap cost-sharing for prescription insulin drugs.

Current Status: 2/25/2020 - Senate Finance Health and Medicaid Subcommittee, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-232>

SB263 PBM PROHIBITIONS-REIMBURSEMENTS (HACKETT R) To prohibit a pharmacy benefit manager from taking certain actions with respect to reimbursements made to health care providers that participate in the federal 340B Drug Pricing Program.

Current Status: 11/10/2020 - Senate Finance, (Second Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-263>

SB276 LIMITED LIABILITY COMPANIES (ROEGNER K) To enact the Ohio Revised Limited Liability Company Act.

Current Status: 11/10/2020 - House Civil Justice, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-276>

SB279 PROHIBIT PHONES WHILE DRIVING (MAHARATH T) To generally prohibit the use of electronic wireless devices while driving.

Current Status: 3/4/2020 - Referred to Committee Senate Local Government, Public Safety and Veterans Affairs

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-279>

SB285 DISTRACTED DRIVING (O'BRIEN S, KUNZE S) To revise the laws relative to distracted driving and the use of an electronic wireless communications device while driving.

Current Status: 9/22/2020 - Senate Local Government, Public Safety and Veterans Affairs, (Third Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-285>

SB294 ABSENTEE VOTING (HUFFMAN M) To extend absent voting by mail for the March 17, 2020, primary election to April 28, 2020, to make an appropriation, and to declare an emergency.

Current Status: 5/6/2020 - Referred to Committee Senate Government Oversight and Reform

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-294>

SB297 PROHIBIT FORECLOSURES, EVICTIONS (ANTONIO N, CRAIG H) To prohibit foreclosure activity and the eviction of residential and commercial tenants during the state of emergency declared regarding COVID-19, to refer such proceedings caused by the state of emergency to mediation, and to declare an emergency.

Current Status: 7/21/2020 - Senate General Government and Agency Review , (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-297>

SB301 CONSUMER SALES PRACTICES ACT-PROHIBIT PRICE GOUGING (MANNING N, WILSON S) To make changes to the Ohio Consumer Sales Practices Act and to declare an emergency.

Current Status: 5/13/2020 - Senate Judiciary, (Second Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-301>

SB305 TELEMEDICINE DURING EMERGENCY (CRAIG H) To require health plan issuers to cover telemedicine services during a state of emergency and to declare an emergency.

Current Status: 5/27/2020 - Senate Insurance and Financial Institutions, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-305>

SB308 CIVIL LIABILITY-EMERGENCY SERVICES (HUFFMAN M) To revise the law governing immunity from civil liability and professional discipline for health care providers during disasters or emergencies, to provide qualified civil immunity to service providers providing services during and after a government-declared disaster, and to declare an emergency.

Current Status: 6/10/2020 - Referred to Committee House Civil Justice

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-308>

SB310 FEDERAL COVID FUNDING (DOLAN M) To provide for the distribution of some federal coronavirus relief funding to local subdivisions, to make an appropriation, and to declare an emergency.

Current Status: 6/10/2020 - Consideration of House Amendments; Senate Does Not Concur, Vote on Emergency Clause 10-22

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-310>

SB316 CAPITAL REAPPROPRIATIONS (DOLAN M) To make capital reappropriations for the biennium ending June 30, 2022, and to declare an emergency.

Current Status: 6/3/2020 - **REPORTED OUT**, Senate Finance, (Second Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-316>

SB347 CAMPAIGN FINANCE LAW (MANNING N) To modify the Campaign Finance Law regarding independent expenditures and political action committees.

Current Status: 9/16/2020 - Senate Government Oversight and Reform, (Second Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-347>

SB349 CAMPAIGN FINANCE LAW (FEDOR T) To modify the campaign finance law, to name this act the Ohio Anti-Corruption Act.

Current Status: 9/1/2020 - Referred to Committee Senate Government Oversight and Reform

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-349>

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

Current Status: 2/12/2020 - Senate Transportation, Commerce and Workforce, (First Hearing)

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

SCR17 **URGE CONGRESS-DISCLOSE POLITICAL DONORS** (FEDOR T) To urge Congress to pass legislation requiring corporations and labor organizations that make political expenditures to disclose the identities of their donors.

Current Status: 9/22/2020 - Senate Government Oversight and Reform, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SCR-17>

SJR2 **CONVENTION OF STATES** (HUFFMAN M) Application to the Congress of the United States for a Convention of the States under Article V of the Constitution of the United States that is limited to proposing amendments that impose fiscal restraints on the federal government, limit the power and jurisdiction of the federal government, and limit the terms of office for its officials and Members of Congress.

Current Status: 10/9/2019 - Referred to Committee Senate General Government and Agency Review

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

SJR4 **REPAY FEDERAL UNEMPLOYMENT ADVANCES** (PETERSON B) Proposing to enact Section 18 of Article VIII of the Constitution of the State of Ohio to allow the General Assembly to provide for the issuance of obligations to repay outstanding advances made by the federal government to the unemployment compensation program of the state.

Current Status: 8/31/2020 - Referred to Committee House Finance

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SJR-4>



For Immediate Release:
September 3, 2020

Contact: Todd Walker at (614) 644-0247
Todd.Walker@development.ohio.gov

Ohio Earns Major Defense Manufacturing Designation

(COLUMBUS, Ohio) — Ohio Governor Mike DeWine and Lt. Governor Jon Husted today announced that the U.S. Department of Defense has made a commitment to Ohio's defense manufacturers and put the state in position to receive a \$5 million grant to improve manufacturing processes and train workers for next-generation jobs.

The Defense Department has designated Ohio as a Defense Manufacturing Community, which is a program designed to support long-term community investments that strengthen national security innovation and expand the capabilities of defense manufacturing.

"The agility, speed, and resilience of Ohio's manufacturing base offers a vital resource to the Department of Defense in its efforts to broaden and deepen the domestic defense supply chain," Governor DeWine said. "The same model that realigned the entire Ohio manufacturing base to fight COVID-19 can be realigned to re-shore, innovate to solve Defense Department challenges, and produce equipment at scale."

The next step in the process is for Ohio to apply for the \$5 million grant, and the Defense Department will help Ohio apply for the grant.

Ohio will use the funds to help the state's manufacturers adopt new processes and technology to make the state a pre-eminent defense supplier. The funds also will be used to help workers prepare for the new high-tech jobs that employers will create and to attract new people to the manufacturing workforce, including people of color, women, veterans, and others.

"This project continues this administration's goals of building a stronger tech workforce in Ohio," Lt. Governor Husted said. "Ohio has a talented workforce, great infrastructure, and an exceptional cost- and quality-of-life rating, which makes us an attractive state to do business."

The Ohio Development Services Agency led the effort for the state to be designated as a Defense Manufacturing Community. The Ohio Manufacturing Extension Partnership, which is a program within Development, will take the lead in the project and will be aided by numerous organizations and businesses throughout the state, including the Ohio Manufacturers' Association, JobsOhio, Dayton Development Coalition, America Makes, and Advanced Robotics for Manufacturing.

"Ohio will create the nation's premier defense manufacturing community," said Lydia Mihalik, director of the Development Services Agency. "Becoming an official Ohio Defense Manufacturing Community will accelerate and scale manufacturing initiatives, and thereby strengthen the defense supply chain. Ohio is committed to building an inclusive, skilled manufacturing workforce to support the project."

To read statements about this designation by many Ohio businesses and organizations, visit <https://development.ohio.gov/files/media/pressrelease/2020-0826-partner-quotes.pdf>.

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MEMORANDUM

TO: Ohio Manufacturers' Association
Government Affairs Committee

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

DATE: November 10, 2020

RE: November 2020 OMA Government Affairs Committee Counsel Report

I. November 2020 Government Affairs Committee Counsel Report.

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

II. Statewide Ballot Issues Overview.

No statewide ballot issues appeared on the November General Election in 2020. The next opportunity for statewide ballot issues is the November General Election in 2021. Signatures to be placed on the 2021 ballot are due on June 30, 2021.

III. Pending Legislation (2019-2020).

The House chose to return the 1st of September to complete their work on the qualified immunity legislation, House Bill 606. The Senate also returned at the same time to finish House Bill 606 and passed several other bills. After Labor Day, the House and Senate held one more session before the election. However, the House did not complete any new business because the House Democrats intended to motion for a floor amendment to any bill that came up. House Democrats aimed to repeal H.B. 6 through the amendment. Speaker Cupp also created and appointed members to a new committee, House Select Committee on Energy Policy and Oversight. This committee was charged with review of the various bills that were introduced to repeal House Bill 6. The committee met every week and heard testimony on the several repeal H.B. 6 bills that were introduced. No additional legislative activity occurred in October as members continued to campaign for their re-election in November. With the election results and new leadership in the House, we are expecting a calm lame duck session.

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

Bribery Scheme surrounding House Bill 6. On July 21, 2020, the FBI raided Speaker Larry Householder's (R-Glenford) home and arrested him. The FBI also arrested four other individuals: Neil Clark, founder of Grant Street Consultants, a lobbying firm in Columbus; former Ohio Republican Party chair and consultant Matthew Borges; Juan Cespedes, co-founder of The Oxley Group in Columbus; and Jeffrey Longstreth, adviser to Householder. The afternoon of the same day, the U.S. Attorney for the Southern District of Ohio, David DeVillers, and the FBI special agent in charge, Chris Hoffman, held a press conference regarding the recent charges brought against Speaker Householder and the four other individuals. U.S. Attorney DeVillers reviewed the criminal complaint and presented a chart which showed how money flowed from Company A to a 501(c)(4) entity called Generation Now that the complaint states was secretly held by Speaker Householder. U.S. Attorney DeVillers called the case "likely the largest bribery, money-laundering scheme ever perpetrated against the people of Ohio." Company A is the company alleged to have funneled millions of dollars to Generation Now and benefited from H.B. 6, the legislation at the center of the allegations. It is reported that the bribery scheme was created to ensure that H.B. 6 was passed. Three of the individuals were registered lobbyists for Company A. Since the press conference, Company A has been identified as First Energy.

U.S. Attorney DeVillers said the investigation was launched about a year ago and included undercover agents. Although U.S. Attorney DeVillers could not elaborate on the strength of the evidence against Speaker Householder, he did comment that this investigation is just beginning and asked the public to share any tips to the FBI tip line. Additional arrests could occur in the future. The complaint is 82 pages long and spells out the many different companies, individuals, and entities involved.

After reports of the largest corruption scandal to hit Ohio came out, many elected officials began calling for the repeal of H.B. 6. Three bills, all identical, were introduced to repeal all new code provisions enacted through H.B. 6 and re-enact all code sections that were repealed in H.B. 6, such as Ohio's renewable energy portfolio standards. The three bills are:

- House Bill 738 is sponsored by Representative Michael Skindell (D-Lakewood) and Representative Michael O'Brien (D-Warren).
- House Bill 746 is sponsored by Representative Dave Greenspan (R-Westlake) and Representative Laura Lanese (R-Grove City).
- Senate Bill 346 is sponsored by Senator Stephanie Kunze (R-Hilliard) and Senator Sean O'Brien (D-Bazetta)

When the House elected Representative Bob Cupp to the Speaker role, Speaker Cupp gave a short speech at the podium describing some of his priorities. One of these priorities is to repeal House Bill 6, since the original legislation was tainted with former Speaker Householder's bribery scheme.

Speaker Cupp created the House Select Committee on Energy Policy & Oversight to oversee the legislative hearings on the bills. Representative Jim Hoops (R-Napoleon) was appointed chair of the committee. The committee met four times in September for invited testimony on the legislation. However, no action has been taken further on repealing H.B. 6. It remains determined if any action will be taken due to lack of consensus on the right approach. Early in October, Representative Mark Romanchuck (R-Ontario) introduced a compromise bill, House Bill 772. This bill will repeal the subsidies created for the nuclear plants and Ohio Valley Electric Corporation (OVEC), but will not re-enact Ohio's renewable energy portfolio standards (RPS). Whereas, the other bills listed above will re-enact Ohio's RPS because it was eliminated in H.B. 6. The Senate has yet to introduce a similar bill. Governor DeWine continues to speak of his support of the repeal of H.B. 6. However, he has also stated he would support another piece of legislation to provide funding for nuclear power plants because he believes it is important to Ohio's energy portfolio.

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

During the fourth hearing of H.B. 238, Representative Patton (R-Strongsville) offered a substitute version of the bill. The committee accepted this version. Specifically, the substitute bill removes all mention of private sector in the language and complies with the jurisdiction of the Inspector General. The House Civil Justice Committee passed the bill on February 28, 2020 by a vote of 10-0. The bill awaits a House vote.

H.B. 352 - Employment Law Uniformity Act. Representative Jon Cross (R-Kenton) and Representative George Lang (R-West Chester) introduced H.B. 352 on October 1, 2019. H.B. 352 makes several changes to the process of the Ohio Civil Rights Commission. H.B. 352 also reduces the statute of limitations on civil actions for employment discrimination claims from six years to two years. This bill prohibits the dual action of filing an administrative claim with the Ohio Civil Rights Commission and filing a lawsuit. Instead, a claim for workplace discrimination must be filed with the Ohio Civil Rights Commission prior to commencing a lawsuit. H.B. 352 also eliminates personal liability for supervisors, managers or other employees of an employer unless the discriminatory act is outside the scope of employment, retaliation against the claimant or aides in a discriminatory practice. In addition, this bill codifies an affirmative defense, which provides an employer to rebut a claim if the employer can exhibit that it enacted anti-harassment policies

and complaint procedures and the employee failed to utilize the policies and procedures. H.B. 352 also provides clarification on the available avenue of filing an age discrimination lawsuit.

This bill was referred to the House Civil Justice Committee and received four hearings before being voted out of committee on May 12, 2020. The committee voted out an amended version of the bill, with an amendment offered by Representative Jeff Crossman (D-Parma) that tolls the statute of limitations to allow parties to negotiate in good faith. The bill now awaits a House floor vote.

H.B. 378 – Unemployment Compensation. This bill is sponsored by Representative Jeff Crossman (D-Parma) and Michele Lepore-Hagan (D-Youngstown). H.B. 378 was introduced on October 22, 2019 and referred to the Ohio House Insurance Committee. The bill allows employees on strike to receive unemployment compensation. H.B. 378 contains an emergency clause; therefore, the bill would take immediate effect if it was signed by Governor DeWine. The legislation has not yet been heard by the House Insurance Committee.

H.B. 380 - Payment to Construction Contractors. Representative Jon Cross (R-Kenton) and Representative Bride Sweeney (D-Cleveland) introduced H.B. 380 on October 23, 2019. H.B. 380 was referred to House Commerce and Labor Committee on October 29, 2019. Thus far, H.B. 380 received three hearings. Generally, H.B. 380 requires owners of commercial and public construction projects to pay contractors within 35 days after receiving a request for payment. If a payment is not timely made, then an 18% annual interest rate will be applied to the amount owed. This modification to the Prompt Pay Act would include project owners in the act. Currently, the act only addresses payments amongst contractors, subcontractors, material suppliers, and laborers. The bill received a fourth hearing on May 20, 2020 in the House Commerce and Labor Committee.

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

S.B. 11 was introduced on February 12, 2019 and is assigned to the Senate Judiciary Committee where it had its third hearing on May 22, 2019. This bill has received no further hearings as of the middle of February. Previous versions of the bill received strong support from the business community. Many business groups are supportive of the bill because they recognize the importance of diversity in the workplace and believe that improvements should be made to protect against discrimination of any type.

Also, Representatives Brett Hillyer (R-Uhrichsville) and Michael Skindell (D-Lakewood) introduced similar legislation in the Ohio House on October 17, 2019. H.B. 369 was referred to

the Ohio House Civil Justice Committee. H.B. 369 is nearly identical to S.B. 11; however, S.B. 11 includes a provision that makes any provision of a hiring hall contract unenforceable if it obligates a contractor to hire, only employees referred to the contractor by the union, unless within 30 days after the contract's execution the union has in effect procedures for referring qualified employees for hire without regard to sex. H.B. 369 has received two hearings, thus far. The second hearing on February 4, 2020 received nearly 300 pieces of written testimony in favor of the bill. Several organizations provided in person testimony such as the Ohio Chamber of Commerce, Columbus Chamber of Commerce, Ohio Civil Rights Commission, Ohio State Bar Association, Ohio Realtors and Equitas Health Institute.

State Minimum Wage. Several bills to increase the state minimum wage are pending before this general assembly. Representative Brigid Kelly (D-Cincinnati) introduced the first bill. H.B. 34 was introduced on February 12, 2019. This bill was referred to the House Commerce and Labor Committee. The bill has only received one hearing. Specifically, the bill increases the state minimum wage to \$12.00 per hour beginning January 1, 2020. Then, the bill increases the state minimum wage by \$1.00 each year following 2020, for three years. H.B. 34 also allows municipal corporations, townships or counties to establish within their respective jurisdiction a local minimum wage rate that exceeds the state minimum wage.

Following the introduction of H.B. 34, Senator Cecil Thomas (D-Cincinnati) and Senator Hearcel Craig (D-Columbus) introduced S.B. 90, which will increase the state minimum wage and allow municipalities, townships and counties to establish a higher minimum wage requirement. S.B. 90 increases the state minimum wage to \$12.00 beginning January 1, 2020 and then increases the minimum wage by a \$1.00 each year for the following three years.

Lastly, Representative Kent Smith (D-Euclid) and Representative Lisa Sobecki (D-Toledo) introduced H.B. 391, which requires the state minimum wage to be raised to \$10.55 beginning January 1, 2021. This bill was referred to the House Commerce and Labor committee on November 12, 2019. The bill has not received any hearings after referral. This bill was introduced prior to the constitutional amendment petition filing with the Attorney General's office.

Although, all bills mentioned are primarily sponsored by Democrats in both Republican majority chambers, the ballot issue on increasing minimum wage may spark movement on the state minimum wage discussion.

Water Contaminant Legislation. Following federal trends, several bills have been introduced relating to water quality issues. Representative Wiggam (R-Wooster) introduced H.B. 427 on November 26, 2019. The bill was referred to the House Public Utilities Committee and has received one hearing for sponsor testimony.

H.B. 427 prohibits the Ohio EPA from adopting rules that require a public water system, in existence prior to the bill's effective date, to treat drinking water for secondary contaminants.

The Ohio EPA may require treatment if the level of a secondary contaminant exceeds a health advisory limit established by the U.S. EPA. The bill defines a secondary contaminant as aluminum, chloride, color, copper, corrosivity, fluoride, foaming agents, iron, manganese, odor, pH, silver, sulfate, total dissolved solids, and zinc. Representative Wiggam stated in his sponsor testimony that the legislation is in response to the Ohio EPA's current rulemaking on public water systems and taste of water requirements. Representative Wiggam stated Ohio EPA's current rulemaking activities is not proscribed in the Revised Code.

H.B. 497 also was recently introduced in the House. This bill requires the Director of Ohio EPA to adopt rules establishing maximum allowable contaminant levels in drinking water and water quality standards for certain containments. H.B. 497 was introduced on February 6, 2020 and is sponsored by Representative Mary Lightbody (D-Westerville) and Representative Allison Russo (D-Upper Arlington). H.B. 497 was referred to House Health Committee and has yet to receive a hearing.

Although the two bills are entirely different, the introduction of both bills shows the legislative engagement on the water contaminant issue. We will continue to monitor any legislative action on these bills and any new bills that are introduced.

H2Ohio Update. On October 26, 2020, the Controlling Board approved the transfer of \$28 million of surplus funds to the H2Ohio line item in the Ohio Department of Agriculture's budget. This allows the program to be funded in fiscal year 2021.

In addition, the legislature is still grappling with a future plan for H2Ohio through the debate and discourse over S.B. 2 and H.B. 7. S.B. 2 creates the Statewide Watershed Planning and Management Program under the administration of the Director of Agriculture. This program requires that the Director categorize watersheds and appoint at least one watershed planning and management coordinator to each categorized watershed. Whereas, H.B. 7 creates the H2Ohio Trust fund and the H2Ohio Advisory Council to disburse dollars from the trust fund for water quality programs. H.B. 7 also creates the H2Ohio Endowment Board, which allows the fund to accept donations, land, title to land and federal dollars. Both bills are pending in the opposite chambers and S.B. 2 has been amended from its original version passed in the House.

H.J.R. 2 – Prohibiting Certain Foreign Investment in Critical Infrastructure Located in Ohio. A joint resolution sponsored by Representatives Jamie Callender (R-Concord) and Don Manning (R-New Middletown), H.J.R. 2 seeks to place a constitutional amendment on the 2020 General Election ballot. Joint Resolutions require 3/5th majority votes by both chambers of the General Assembly to pass, meaning 60 votes in the House and 20 votes in the Senate. The proposal prohibits foreign businesses and individuals from having majority ownership interest in critical infrastructure located in Ohio. The resolution defines what "critical infrastructure" is subject to the resolution's requirements and includes projects like power plants (coal, nuclear, and natural gas), water treatment plants, intrastate electric transmission lines, and intrastate natural gas pipelines. It

also requires divestment of foreign investment in any critical infrastructure determined to be majority owned or controlled by foreign investment. Thus far, the House Energy and Natural Resources Committee has only held one hearing for sponsor testimony on H.J.R. 2.

IV. Tort Reform.

We are currently monitoring various tort reform legislative efforts and await the possible re-introduction of certain civil justice legislative items from prior legislative cycles. Thus far, the 132nd General Assembly has kept Ohio within the same bounds of tort reform, and continues to discuss how to change the laws to be better for businesses in Ohio.

Limiting Liability related to COVID-19. Due to recent events, several legislators recognized the concerns of the business community regarding re-opening and the risk of liability surrounding the coronavirus. Therefore, Representative Diane Grendell (R-Chesterland) introduced House Bill 606 and Senator Matt Huffman (R-Lima) introduced Senate Bill 308. Although, both bills' language varied from one another, the House and Senate held discussions around marrying the language. Representative Bill Seitz (R-Cincinnati) handled the negotiations and interested parties for H.B. 606.

H.B. 606 provides immunity to health care providers and immunity to for-profit, non-profit, higher education institutions and others against claims of exposure, transmission or contraction of the coronavirus. H.B. 606 was referred to the House Civil Justice Committee. However, H.B. 606 limits the immunity by requiring its end date be December 31, 2020. During its fifth hearing on May 27, 2020, the bill was amended to prevent immunity to apply if the person's action was intentional conduct. As discussed prior, this detrimentally impairs the immunity. The bill passed the House Civil Justice Committee and then moved to the House floor for a vote. The bill was amended on the floor to include the ability to file a worker's compensation claim for COVID-19, which would be defined as an occupational disease. This amendment taints the bill further as discussed previously. Following, H.B. 606 was referred to Senate Judiciary Committee, where Chair Eklund acted expeditiously and removed the worker's compensation language and amended "intentional conduct" to "intentional misconduct". After three hearings, the Judiciary Committee favorably reported H.B. 606 on June 30, 2020. The same day the full Senate considered the bill and passed it. The bill was sent back to the House for concurrence on the Senate amendments.

S.B. 308 was referred to the Senate Judiciary Committee. S.B. 308 had five hearings and was passed out of the committee on June 3, 2020 by a vote of 7-3. The same day the Senate considered the bill on the floor and passed it 24-9 along party lines. S.B. 308 places the qualified immunity for healthcare providers and businesses in the Revised Code; whereas, H.B. 606 language is only uncodified language. S.B. 308 was referred to the House Civil Justice Committee, but never received any hearings. After Speaker Cupp was elected to the leadership position in the House, negotiations revolving the two bills began again.

Both bills likely include protections for manufacturers. Specifically, H.B. 606 protects manufacturers from claims of exposure, transmission or contraction of coronavirus. S.B. 308 protects manufacturers from claims of exposure and protects them for their actions or omissions that are a result of or in response to the disaster declared.

When the House returned on September 1, Speaker Cupp put H.B. 606 at the top of the agenda. Although, the House did not concur the Senate amendments, it allowed the bill to be placed into conference committee. The House and Senate acted quickly and appointed the following members to the conference committee on H.B.606: Representative Rick Carfagna (R-Genoa Township, Representative Bill Seitz (R-Cincinnati), Representative Richard Brown (D-Canal Winchester), Senator Matt Huffman (R-Lima), Senator John Eklund (R-Munson Township), and Senator Cecil Thomas (D-Cincinnati). The conference committee met the same day and amended H.B. 606. First, the emergency clause that would have allowed the bill to go into effect immediately, was removed. Second, the bill was amended to allow for the immunity to last until September 31, 2021, instead of December 31, 2020. Both chambers accepted the conference committee report, and the bill was sent to Governor DeWine. Governor DeWine signed the bill on September 14, 2020.

Third Party Litigation Funding. Senator Steve Wilson (R-Maineville) introduced Senate Bill 322, which makes several changes to Ohio's current law on non-recourse civil litigation. Specifically, the bill requires a company engaged in the business of non-recourse civil litigation advance in Ohio to register with the Superintendent of Financial Institutions in the Department of Commerce. In addition, the consumer of the suit must notify the court and the opposing party of the contract between the consumer and the business who is funding the litigation. S.B. 322 was referred to the Senate Judiciary Committee on June 10, 2020 and has not received a first hearing yet.

Statute of Limitations on Contracts. Introduced last session as H.B. 694 by Representative George Lang (R-West Chester), this legislation was designed to shorten Ohio's statute of limitations for actions brought related to contracts and bring Ohio in line with other states to maintain Ohio's competitiveness with other similarly situated states. The bill was reintroduced this General Assembly on May 21, 2019 as H.B. 251. H.B. 251 was referred to the House Civil Justice Committee. The House Civil Justice Committee conducted three hearings and then adopted a substitute bill, which was a compromise amongst stakeholders.

The introduced language changed the statute of limitations from eight years to three years for causes of action related to agreements in writing and changed the statute of limitations from six years to three years for causes of action related to agreements not in writing. Sub. H.B. 251 changes the statute of limitations from eight years to six years for causes of action related to agreements in writing and changed the statute of limitations from six years to four years for causes of action related to agreements not in writing. Additionally, the bill explicitly states that credit card

accounts and claims for an account stated fall under a six year statute of limitations. The bill also clarifies that the borrowing statute in R.C. 2305.03(B) does not apply to contract actions.

H.B. 251 passed the Ohio House unanimously. Then, the bill was referred to the Senate Judiciary Committee. The committee has held seven hearings on the bill thus far. Many interested parties have brought possible amendments to the Chair's attention during their testimony. Senator Coley also introduced an amendment which would change the statute of limitations from six years to seven years for written contracts. It also changes the statute of limitations from four years to five years for oral contracts. Chair Eklund asked committee members to thoughtfully review the language to determine if the amendments should be added to the bill. However, the committee has not adopted any amendments. Chair Eklund continues to work with interested parties and allow for debate to continue on this bill. This bill is likely a lame duck priority because President Obhof continues to support the bill, and he is term limited.

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

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

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

On June 18, 2019, Representative Brent Hillyer (R-Uhrichsville) introduced H.B. 249. H.B. 249 will grant a victim of sexual misconduct committed during a specified period by a physician employed by a land grant university a right of action against the university. This bill has received six hearings in the House Civil Justice Committee. However, the Ohio State University announced a \$41 million settlement with 162 survivors in 12 lawsuits. Therefore, the House may no longer pursue this legislation.

Another bill was recently introduced to remove the cap on non-economic damages for rape and assault victims. Representative Kristin Boggs (D-Grandview) and Representative Allison Russo (D-Upper Arlington) introduced H.B. 518 on February 19, 2020. H.B. 518 is not assigned to a committee yet. Specifically, H.B. 518 removes the cap on compensatory damages for the non-

economic loss that is recoverable in a tort action brought by a victim of rape, felonious assault, aggravated assault, assault, or negligent assault asserting any claim. We will continue to monitor these legislative efforts.

V. Local Update

On the local side, the City of Columbus council recently enacted the Wage Theft Prevention and Enforcement code section. It became effective October 1, 2020. This code section creates the Wage Theft Prevention and Enforcement Commission, which will have jurisdiction over claims of wage theft and/or payroll fraud against a covered entity. A covered entity is any entity in the Columbus jurisdiction that bids for, applies for or is in a financial incentive agreement with the City (Columbus). A covered entity is also an entity that requests or applies for a building permit, a commercial license, a business permit, or a vendor registration. All contractors or subcontractors of a covered entity are also included in the definition. This definition is broad.

A financial incentive agreement includes a contract between the entity and the City, where the entity receives a tax incentive, tax abatement, tax credit, or some other financial incentive, but not limited to, a community reinvestment act tax, tax increment financing agreements, enterprise zone agreements, opportunity zone agreements, job creation and retention tax credits, downtown office incentive program payments, any commercial loan, grant, or conveyance of city-owned land for less than fair market value.

Wage theft or payroll fraud is also defined in the code section. Payroll fraud means concealing an entity's true tax liability to a government agency, including but not limited to misclassification of employees, failure to report or underreported payment of wages, or executing a cash transaction while failing to maintain proper records. Wage theft means a violation of the Ohio Prompt Pay Statute, Ohio's minimum fair wage standards act and Ohio's minimum wage constitutional amendment. So, if the Commission determines an entity has committed wage theft or payroll fraud, the Commission can make an adverse determination for the covered entity. The Commission can also order penalties on to the covered entity, which includes losing its financial incentive.

Please find the code language attached.

VI. Political Updates

The November 2020 General Election was another day in 2020 filled with the unknown., partially due to the unprecedented amount of Ohio voters that came out during the early voting period. Many Ohio voters watched the Presidential results; however, the business community was concerned of a switch on the Ohio Supreme Court. Unfortunately, Justice Judi French lost her re-election race against Judge Jennifer Brunner. Justice Sharon Kennedy clutched her victory against her opponent, Judge John P. O'Donnell. For further analysis on the Ohio Supreme Court, Ohio Senate and Ohio House races, please find the 2020 Ohio General Election Update attached.

VII. Litigation and Amicus Activity Update

A. Monitored Cases.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

On May 31, 2017, Ohio Attorney General Mike DeWine filed an action in Ross County Common Pleas Court against several manufacturers of opioids, including Purdue Pharma (which sold OxyContin) and Endo Health Solutions (which sold Percocet). The lawsuit alleges that the defendant drug companies violated the Ohio Consumer Sales Practices Act and created a public nuisance by disseminating false and misleading statements about the benefits and risks of opioids. The suit alleges that the defendant drug companies' conduct increased the prescription of

opioids and fueled Ohio's opioid crisis. Among other remedies, the State seeks an injunction to stop continued misrepresentations and damages for the money the State spent on opioids.

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

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

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

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

On February 25, 2020, the State filed its First Amended Complaint.

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

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

On October 13, 2020, Mallinckrodt filed a Notice of Suggestion of Pendency of Bankruptcy and Automatic Stay of Proceedings.

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

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

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

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

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

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

On July 25, 2019, the Court entered a stipulated protective order.

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

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

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

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

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

On August 10, 2020, the Court denied McKesson's motion to reopen fact discovery.

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

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

4. Global Opioid Settlement

On October 21, 2019, Distribution companies AmerisourceBergen, McKesson, Cardinal Health and drug manufacturer Teva Pharmaceuticals reached a \$260 million settlement with the adverse parties in the combined cases to be heard in Cleveland, Ohio. The distribution companies will pay the counties \$215 million, while Teva will pay \$20 million and donate \$25 million to Suboxone. After the settlement amounts were announced, Governor DeWine and Attorney General Yost conducted an informal meeting with local and county leaders to discuss the settlement funds being spread across the counties. Attorney General Yost had previously pressed the Legislature for a statutory change to allow the Attorney General's office to control cases that affect the public of Ohio. Even those efforts failed, Attorney General Yost still pressed for the state's involvement to allow all counties to receive sufficient funds and avoid disparity among separate county suits. After several months of these negotiations, Governor DeWine announced a framework for how the dollars may be distributed. On February 13, 2020, Governor DeWine stated the preliminary

proposal will give 30% to local governments upfront and 15% to the state. The remaining 55% will go into a trust controlled largely by local entities, with the proceeds of the trust supporting ongoing efforts to battle addiction. Governor DeWine also stated more of the state's portion may be allocated to the trust to help battle addiction issues in Ohio in the future. The counties and municipalities involved have until March 6th to agree to the "One Ohio" plan. Attorney General Yost and Governor DeWine have publicly stated their optimism for the plan to be adopted. As of March 12, 2020, 73 of the state's 88 county governments agreed to the One Ohio plan. Attorney General Yost stressed that other entities may join even though it is beyond the original deadline to agree of March 6th.

The State of Ohio is still pursuing separate lawsuits against drug makers and distributors, including Cardinal Health in Ross and Madison counties. Both suits were scheduled to begin in October; however, they were delayed until March. Another separate lawsuit against pharmacies was set to go to trial in November, but Judge Polster cancelled the trial due the pandemic and has not rescheduled the trial.

5. *Lunsford v. Sterilite of Ohio, LLC*, Ohio Supreme Court Case No. 2018-1431; discretionary appeal from Fifth District Court of Appeals, Case No. 2017CA00232, 2018-Ohio-3437

The Defendant company adopted a substance abuse policy. The policy informed employees that it may test them for "reasonable suspicion that an employee may be impaired by the use of drugs or alcohol" and that the company would conduct "random testing at periodic intervals to maintain safety and productivity." The policy also explained (1) that a urinalysis method would be used to conduct the test, and (2) the consequences of refusal or failure to take the test (including termination of employment).

Three Plaintiffs were chosen to be tested under the random screening provision and one was tested under the reasonable suspicion clause. Immediately prior to the test, Plaintiffs learned that the company would be collecting the urine specimen using a direct observation method. Under this method, Plaintiffs were each accompanied by a monitor of the same sex in the restroom. The persons accompanying Plaintiffs were required to visually observe Plaintiffs' production of the urine samples. The direct observation method was not described in the substance abuse policy, but all employees were subjected to this method of specimen collection.

Two Plaintiffs were fired because they failed to produce a urine specimen within two and a half hours. The other two Plaintiffs produced samples and are still employed by the company; one of them was particularly uncomfortable in providing a specimen under the direct observation method because of genital scarring that she was forced to reveal.

Plaintiffs filed a complaint against the company alleging, among other things, invasion of privacy and wrongful discharge in violation of public policy. The company filed a motion to

dismiss for failure to state a claim upon which relief could be granted and the trial court granted the motion to dismiss on both of these claims. After the Plaintiffs dismissed the remaining claims, they appealed to the Fifth District Court of Appeals. The Court of Appeals reversed. In its lengthy analysis, the Court of Appeals stated that the Plaintiffs have stated a valid claim for invasion of privacy under the Ohio Supreme Court's decision in *Housh v. Peth*, 165 Ohio St. 35 (1956). It then determined that the case law that the company and trial court relied on "does not foreclose the possibility" that the direct observation method of collection could comprise a violation of the right to privacy. Thus, the Court of Appeals remanded the case to the trial court to allow the Plaintiffs to pursue their claims.

The Ohio Supreme Court accepted the company's discretionary appeal. The proposition of law before the Court is:

Proposition of Law No. 2. Employees of a private employer in the State of Ohio do not have a reasonable expectation of privacy in whether they are reporting to work under the influence of drugs, or whether they are cheating on a drug test. Absent allegations that the manner of testing used by a private employer to obtain this information is not job-related and consistent with business necessity, an at-will employee cannot maintain an action against her employer for invasion of privacy.

Oral argument before the Ohio Supreme Court occurred on January 28, 2020. The issue before the Court is not whether employers have a right to randomly test employees or the right to terminate an employee who does not consent to such testing. The narrow issue before the Court is whether Ohio precedent precludes Plaintiffs, as a matter of law, from pursuing a claim that the method of collection of a urine sample could be an invasion of privacy.

On August 26, 2020, the Court, in a 4-3 decision, reversed the decision of the Court of Appeals. Justice Kennedy, who authored the majority opinion, noted that the case pits two common law principles – the employment at-will doctrine and the tort of invasion of privacy – against one another. Under the at-will doctrine, an employer can terminate employment "for any reason not contrary to law." But, this doctrine is not without limits. State and federal law prohibit termination for several reasons, including discrimination based on a protected status (such as gender and race) and for other public policy reasons.

The majority opinion found that the Plaintiffs did not object to the employer's right to drug test its employees; they only objected to the manner in which it was carried out — the direct observation method.

The court opined that Ohio recognizes the intentional tort of invasion of privacy which includes "intrusion upon seclusion." But, the court went on to say that the tort of invasion of privacy is not absolute and, generally, consent will bar recovery for an invasion-of-privacy claim. The employees argued that they did not provide consent to this method of providing a urine sample because they were not told about it prior to their signing the consent forms. The majority

disagreed, finding that the employees not only consented when they signed the consent form, but also when they later failed to object or refuse to provide a urine sample when the monitor took them to the restroom.

Justice Stewart wrote a dissenting opinion joined by Chief Justice O'Connor and Justice Donnelly. The dissent stated that the at-will doctrine has no application to the employees' invasion of privacy claims. But, if it were applied, the employees could not be terminated for failing to submit to the test because the Court has held that an invasion of privacy is against public policy — and an employer cannot fire a worker for a reason that is contrary to public policy.

The Plaintiffs moved for reconsideration. The motion for reconsideration was denied on October 27, 2020 in a 4-3 decision with Chief Justice O'Connor and Justices Stewart and Donnelly dissenting.

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

Fifteen years ago, the Supreme Court of Ohio was asked to consider whether class certification under Civ.R. 23 (B)(2) (which applies to injunctive relief) is proper in an action seeking to establish a medical-monitoring fund for employees who alleged they had been exposed to beryllium dust and fumes. See *Wilson v. Brush Wellman, Inc.*, 103 Ohio St.3d 538 (2004). The Court's analysis focused on whether the relief requested, medical monitoring, was primarily compensatory or injunctive. The Court noted that, "depending on the nature of the precise relief sought and the circumstances of the particular case, many courts have declined to certify medical monitoring classes when joined with requests for funding and compensation." *Id.* at 542. And, that is what the *Wilson* plaintiffs sought both compensation and funding for medical-monitoring relief. After carefully analyzing the criteria for class certification, the Court concluded that plaintiffs did not meet the standard for class certification under Civ.R. 23 (B)(2).

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

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

After the Court denied the motions to dismiss, some of the Defendants filed answers and some filed a motion for reconsideration. The Court denied the motion for reconsideration on the issue of personal jurisdiction. On September 1, 2020, Defendant Daikin Industries filed a petition for permission to appeal the personal jurisdiction issue under 28 U.S.C. §1292(b). This motion has been fully-briefed, but the Court has not yet ruled on this motion.

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

On July 31, 2020, Plaintiffs moved for class certification. The response to this motion is due on November 28, 2020.

Subpoenas for documents have been served upon third-parties.

7. PFAS cases against DuPont de Nemours Inc., U.S. District Court, Southern District of Ohio, Eastern Division, Case No. 2:17-cv-00998

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

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

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

B. Amicus Cases.

1. *Thompson, et al. v. Governor DeWine, et al.*, Sixth Circuit Court of Appeals, Case No. 20-3526

On May 19, 2020, Judge Sargus, a federal district judge in the Southern District of Ohio, issued a decision in a case involving three sets of petitioners attempting to get measures on the November 2020 ballot. The petitioners are obtaining signatures in support of two statewide initiative petitions to change the Ohio Constitution (the Safe and Secure Election Amendment and the Raising the Wage Amendment). The third group of petitioners is seeking to change local laws to decriminalize marijuana possession in several southeastern Ohio cities.

The petitioners sued Governor DeWine, Director of Health Acton, and Secretary of State LaRose alleging that the state requirements to get their petitions to the ballot coupled with the “stay at home order” violate their First Amendment rights under the U.S. Constitution. Judge Sargus granted a preliminary injunction in favor of the petitioners, enjoining the enforcement of Ohio’s requirements that all petitions be signed in ink and witnessed by the petition circulator, and extended the deadline (set forth in the Ohio Constitution) for filing signatures in support of the statewide initiative petitions from July 1, 2020 to July 31, 2020. The District Court’s order also required the State to accept electronically-signed and witnessed signatures (even though this has never been done before in Ohio) and to meet and confer with petitioners to work out any technical or security issues related to the on-line collection of signatures.

The State appealed the decision to the Sixth Circuit Court of Appeals the next day and moved to stay the District Court’s order. The State also moved to have the appeal heard en banc (i.e., by the full court).

The Ohio Manufacturers’ Association (along with other statewide business organizations) filed a motion for leave to support the State’s motion to stay as amicus curiae. Among other things, the OMA argued that requirements at issue – signing in ink and having signatures witnessed by the circulator – prevent fraud and should be strictly complied with. The OMA also argued that the District Court’s decision extending the deadline for filing the signatures to July 31, 2020 eliminated the constitutional right to challenge signatures/the petition because objections are required to be filed on July 31, 2020 under the Ohio Constitution.

On May 26, 2020, the Sixth Circuit granted the motion to stay the District Court’s decision. As a result, petitioners are not able to gather signatures electronically and the deadline for gathering signatures and submitting them to the Secretary of State is July 1, 2020 again.

The motion for en banc consideration was denied on June 16, 2020. The next day, the Court set a briefing schedule requiring the State’s brief to be filed no later than July 27, 2020 and the Appellees’ briefs to be filed no later than August 26, 2020. The State filed its brief on July 17 and the OMA and other amici filed their motion for leave to file their brief (with the brief attached) on July 2, 2020.

On August 20, 2020, the statewide petitioners (supporting ballot issues for raising the minimum wage and amending the Ohio Constitution's election provisions) moved to withdraw from the appeal. The State agreed not to object to the motion on the condition that the statewide petitioners dismiss the underlying lawsuit and they agreed to do so. The appeal is still being pursued by the local initiative petitioners who are seeking to enact ordinances in Akron and other political subdivisions to decriminalize marijuana possession.

When the local initiative petitioners filed their brief, they added counsel from the Sidley Austin law firm and added Oliver B. Hall from the Center for Competitive Democracy. The State filed its reply brief on September 3, 2020.

On September 16, 2020, the Sixth Circuit Court of Appeals issued a per curiam opinion reversing the District Court's decision granting a preliminary injunction. As a result, the local initiative petitioners were not able to present the initiative to voters on the November 2020 ballot. The Court's issued a mandate on October 8, 2020. To date, no appeal to the U.S. Supreme Court has been filed.

VIII. Update to the Tax Counsel's Report.

Tax Counsel Justin Cook provided an update from the March Tax Counsel's Report.

A. *Athens v. McClain*, Slip Opinion No. 2020-Ohio-5146

On November 5, 2020, the Ohio Supreme Court released its long-awaited decision in *Athens v. McClain*, Slip Opinion No. 2020-Ohio-5146, a consolidated case involving several constitutional challenges to the centralized collection of municipal net profit taxes. Ultimately, the Court upheld H.B. 49 with respect to its centralized collection provisions, but found that it was unconstitutional for the State to retain .5% of net profit taxes to defray collection costs. From a taxpayer's perspective, it is unclear if the loss of a funding mechanism will impact centralized collection going forward.

Background. In 2017, Ohio enacted H.B. 49 to establish an optional system for centralized collection of municipal net profit taxes. Prior to this bill, taxpayers with activities in multiple municipalities filed net profit returns with each jurisdiction. H.B. 49, starting in 2018, allowed business taxpayers to opt into a centralized collection process, where one return would be filed with the state covering all net profit tax liabilities. Over a hundred cities quickly filed constitutional challenges to the law. After much litigation, the appeals were heard by the Ohio Supreme Court.

Court's Decision. In its decision, the Court noted that Article XVIII, Section 13 of the Ohio Constitution authorizes the General Assembly to "limit the power of municipalities to *levy*

taxes.” After considering several definitions for the word “levy,” the Court concluded this section of the Constitution allows the General Assembly to proscribe applicable tax collection procedures, including centralized collection under H.B. 49.

The Court took a contrary view with respect to the State retaining a portion of collected net profit taxes. Regardless of whether the .5% charge is characterized as an administrative fee or tax on the municipalities, the Court held it was unconstitutional. However, the Court further concluded that this provision could be severed from the remaining provisions of H.B. 49, thus allowing the general system of centralized collection to remain valid law.

Justice Michael Donnelly drafted the Court’s majority decision, and he was joined by Chief Justice Maureen O’Connor, Justice Patrick F. Fischer, and Justice Melody J. Stewart.

Justice Kennedy concurred in part and dissented in part from the majority opinion on the grounds that she found both the centralized collection and .5% fee unconstitutional. Justice DeWine, on the other hand, concurred in part and dissented in part from the majority decision, writing that he found both centralized collection and the .5% constitutional. Justice French joined Justice DeWine’s opinion.

Impact on Ohio Manufacturers. Many manufacturers have enjoyed the centralized collection regime, finding it administratively easier to file a single net profit tax return with the State, as opposed to multiple returns with various taxing authorities across Ohio. For the present time, today’s decision preserves this right to elect into centralized filing. It is unclear, however, whether the loss of a funding mechanism will impact State policy and jeopardize it over the long-term. The OMA will undoubtedly monitor any developments in this arena and continue advocating for policies that streamline tax filings for manufacturers.

B. Other Judicial Actions

1. *Defender Security Company v. McClain*, 2020-Ohio-4594, --- N.E.3d --- (2020).

This case involves the situsing of gross receipt for Ohio commercial activity tax (“CAT”) purposes. Taxpayer, Defender Security, installed security equipment and entered contracts with customers for alarm monitoring services on properties located in Ohio. Defender collected the contracts at its headquarters in Indianapolis, and in batches, forwarded the contracts to ADT’s offices in Colorado. ADT would then determine which contracts to take assignment of, and which to simply act as an independent contract of Defender in providing monitoring services to Ohio customers.

At issue was whether amounts paid by ADT to purchase these security monitoring contracts should be sitused to Ohio. The Tax Commissioner and Taxpayer disagreed over how to apply R.C. 5751.033(I), which states that “[g]ross receipts from the sale of all other services, and all

other gross receipts not otherwise situated under this section, shall be situated to this state in the proportion that the purchaser's benefit in this state with respect to what was purchased bears to the purchaser's benefit everywhere with respect to what was purchased.”

Ultimately, the Ohio Supreme Court overruled the BTA’s decision, siding with Taxpayer. The Court noted that while the benefit of security monitoring services are received in Ohio, that isn’t at issue. Instead, the benefit of what is being sold—intangible contract rights—is received by the purchaser at the place where it performs monitoring services and receives customer payments. Because all of this happens outside of Ohio, the Court sourced gross receipts outside of Ohio.

This case is important because it provides the clearest guidance to date on how one should source gains and income from intangible contract rights.

2. *Time Warner Cable, Inc. v. City of Cincinnati*, 2020-Ohio-4207.

The Ohio Court of Appeals in the First District held that a taxpayer was entitled to file its municipal income tax return based on the group used in its federal consolidated filings. The City was not permitted to draft rules to require taxpayers to exclude certain entities from the municipal filing. Use of the larger consolidated group, as a result, reduced taxpayer’s net profit tax liability in the City of Cincinnati.

3. *State of Ohio v. Great Lakes Minerals, LLC*, 597 S.W.3d 169 (2020).

Citing the doctrine of comity, the Supreme Court of Kentucky refused to rule on a taxpayer’s challenge to the Ohio CAT. The Court held that state courts in Ohio would be better suited to hear a constitutional challenge involving state law.

4. *The Buckeye Institute, et al. v. Yost*.

Section 29 of H.B. 197 provides that employees working at a temporary location due to the pandemic are deemed to be providing services at their principal place of work for municipal income tax withholding purposes. Practically, this often results in employees having municipal income taxes withheld based on the city where their employer’s office is located while actually working remotely from their home in a different city or outside of a city altogether. As noted in a previous report, The Buckeye Institute and several individuals filed suit in the Franklin County Court of Common Pleas seeking a determination that Section 29 is unconstitutional under both the federal and state constitutions based on the theory it allows municipalities to impose tax on non-residents based on economic activity occurring outside of their jurisdiction. The suit was filed July 2, 2020. There have been no substantive rulings to date.

C. Administrative Actions

1. Employee Withholding Forms, Form IT-4. The Department proposes a new version of O.A.C. 5703-7-06 to make it a requirement that employees provide on Form IT-4 the name and number of the school district in which they reside.
2. Updated Information Releases. The Department issued several updates to two existing information releases, ST 1993-04 and ST 2004-03. These information releases address the taxability of exterminating services and sales of equipment used to provide internet services, respectively. Neither updates should have material impacts for manufacturers.

D. Proposed Legislation

H.B. 749. H.B. 749 was introduced to the House on August 31, 2020. It proposes to eliminate bonus depreciation for taxpayers with net operating losses in years 2020 and 2021. Eliminating bonus depreciation impacts the calculation of “Adjusted Gross Income” for Ohio income tax purposes.

S.B. 352. S.B. 352 was introduced in the Senate, and it proposes a repeal to Section 29 of H.B. 197. Section 29 of H.B. 197 was part of Ohio’s response to the COVID pandemic. It provides, in short, that employees working at a temporary location (such as their home) due to the pandemic are deemed to be providing services at their principal place of work for municipal income tax withholding purposes. Section 29 is also the subject of a lawsuit, referenced below. *See also* H.B. 754 that proposes eliminating Section 29 of H.B. 197.

H.B. 725. This bill, introduced before the House, proposes a refundable income tax credit for investing in a sound recording production company.

H.B. 609. H.B. 609 has passed the House but remains pending before the Senate. As previously reported, this bill proposes a new tax amnesty program that would start January 1, 2021 and run through March 31, 2021. H.B. 609 would allow delinquent taxpayers to voluntarily pay unreported or underreported state taxes and receive a waiver of all otherwise applicable penalties and interest. Taxpayers would also be immune from criminal prosecution. Most, but not all, Ohio taxes would be eligible. Eligible taxes would include commercial activity tax, sales and use tax, and public utility excise tax, among others.

S.B. 307. This bill is under consideration by the Senate Ways and Means Committee. As previously reported, S.B. 307 proposes to temporarily exempt sales of protective equipment from Ohio sales and use tax. “Protective equipment” includes items that protect the wearer from injury or disease, but that are not suitable for general use. The exemption would apply to sales made prior to January 1, 2021.

S.J.R. 3. We previously reported on S.J.R. 3, and it remains pending before the legislature. Since the last report, however, it was reported favorably by the Ways and Means Committee. This resolution proposes an amendment to Ohio's constitution. The amendment would require a two-thirds vote in both the Ohio House and Senate to approve any increase in income tax rates.

H.B. 440. We previously reported on H.B. 440, and it remains pending before the legislature. This bill was introduced in December of 2019 to eliminate sales tax on employment services where the individuals providing temporary labor operate manufacturing equipment. It also would eliminate sales tax on supplies and services to clean and maintain manufacturing equipment.

H.B. 449. We previously reported on H.B. 449, and it remains pending before the legislature. H.B. 449 was introduced in the House on December 17, 2019 and referred to the House Ways and Means Committee on January 28, 2020. Under this bill, transferring more than 50% ownership in a pass-through entity that owns real property would be subject to real estate conveyance fees. The proposed legislation targets transactions where real estate is dropped into a newly formed entity and ownership in the new entity is transferred to the buyer (as opposed to directly conveying the underlying real estate). *See also Columbus City Schools Bd. of Edn. v. Franklin County Bd. of Revision*, Slip Opinion No. 2020-Ohio-353.

H.B. 467. We previously reported on H.B. 467, and it remains pending before the legislature. This bill relates to Ohio's withholding tax imposed on non-residents' distributive shares of income from a pass-through entity. The current withholding tax applies at either 8.5% or 5%, depending on the type of non-resident investor. The proposed bill would reduce the withholding rate to 4% across the board.

Chapter 377 – Wage Theft Prevention and Enforcement

377.01 – Definitions

(a) “Adverse determination” means a covered entity has committed wage theft or payroll fraud. Such a determination includes an administrative merit determination, arbitration award or decision, civil judgment, or criminal conviction, including any determination made in or through a court proceeding, administrative hearing, or any governmental body. If the covered entity appeals the determination, the adverse determination occurs whenever the initial determination, in whole or part, is confirmed or the appeal is denied. Adverse determination also means that a specified covered entity entered into a contract or agreement with a contractor or subcontractor that was listed by the Wage Theft Prevention and Enforcement Commission prior to the effective date of the contract or agreement as having received an adverse determination within the preceding four (4) years.

(b) “Beneficiary of a Financial Incentive Agreement” means an employer engaged in commercial activity, including but not limited to a lessee, tenant or occupant, at a location or on a development site covered by a financial incentive agreement.

(c) “Covered entity” means an individual, partnership, corporation, firm, trust, association or other entity, together with any entity that is the parent of, has a direct or indirect majority ownership interest in, or has direct or indirect management and control of, the entity that requests, bids for, applies for, or receives from the City or is party to, with the City, a financial incentive agreement, City contract for goods or services, a building permit, a commercial license, a business permit, or a vendor registration. Covered entity also means any contractor or subcontractor of a covered entity, including a subcontractor of a higher-tiered subcontractor, that performs work or renders services, or intends to perform work or render services, at a location or on a development site covered by a financial incentive agreement or pursuant to or in satisfaction of a City contract for goods or services. Covered entity also means a beneficiary of a financial incentive agreement. For purposes of this chapter, the City may look beyond the signatory to the bid, application, registration, contract, financial incentive agreement, building permit, commercial license or business permit, or beneficiary of a financial incentive agreement, to the real party in interest or common owner when determining whether a covered entity has a prior adverse determination of wage theft or payroll fraud for purposes of pursuing remedies for an adverse determination.

(d) “Employee” means a person meeting the standard of an employee under the parameters of the right to control test established by the United States Internal Revenue Service, or its successor test.

(e) “Financial Incentive” means any contract or other agreement between the City and a covered entity by which the City provides a tax incentive, tax abatement, tax credit or other financial incentive to the covered entity including, but not limited to, Community Reinvestment Act tax abatements, tax increment financing agreements, enterprise zone agreements, opportunity zone agreements, job creation and retention tax credits, downtown office incentive program payments, any commercial loan, grant, or conveyance of city-owned land for less than fair market value.

(f) "Payroll fraud" means concealing an entity's true tax liability or other financial liability to a government agency from government licensing, regulatory, or taxing agencies through tax evasion or fraud, including but not limited to misclassification of employees, failure to report or underreported payment of wages, or executing a cash transaction while failing to maintain proper records of reporting and withholding.

(g) "Wage theft" means a violation of the Ohio Prompt Pay Statute, O.R.C. 4113.15; the Ohio Minimum Fair Wage Standards Act, O.R.C. Chapter 4111; Ohio's Minimum Wage Constitutional Amendment, Section 34a of Article II of the Ohio Constitution; O.R.C. Chapters 4109 or 4115; O.R.C. Sections 4113.17, 4113.18, 4113.52, or 4113.61; any federal statute or regulation comparable to the aforementioned Ohio statutes; any statute or regulation of another state that may apply to a particular agreement; or the City wage requirement; or any successor to any of these laws or regulations, or committing a violation of local, state or federal wage or payroll laws by any other means.

(h) "Independent contractor" means a person that meets the standard of an independent contractor under the parameters of the right to control test established by the United States Internal Revenue Service, or its successor test.

377.02 Wage Theft Prevention and Enforcement Commission

(a) There is hereby created the Wage Theft Prevention and Enforcement Commission, the duties of which shall include investigating compliance with the provisions of Chapter 377 of Columbus City Code and related rules and regulations, recommending penalties and remedies for non-compliance and/or certification of an adverse determination to the City Attorney, receiving complaints from residents, workers, and businesses regarding non-compliance with Chapter 377 of Columbus City Codes and related rules and regulations, publishing a monthly list of contractors and subcontractors that received an adverse determination, participating in community education programs, and designating other entities to perform any of these functions on behalf of the Commission.

(b) The Commission shall be composed of five (5) members. Upon appointment to the Commission, members shall serve for a term not exceeding three years.

(c) Of the five (5) members comprising the Commission, two (2) members shall be appointed by the Mayor, two (2) members shall appointed by Columbus City Council, and the fifth member appointed by the Commission with the advice and consent of the Mayor and Columbus City Council.

(d) The Commission shall hold public meetings, the intervals between which shall not exceed sixty (60) days.

(e) The Commission shall receive staff support, to be provisioned by the Department of Finance, equivalent to no less than one (1) full-time employee.

(f) Prior to making a recommendation to the City Attorney for penalties or remedies, the Commission shall provide a covered entity with notice that it may submit information to the Commission relevant to whether the covered entity has violated this chapter, related rules and regulations, or received an adverse determination. The Commission may, in its discretion, convene a public meeting for the purpose of reviewing information presented to the Commission by a covered entity.

(g) The Commission shall provide written notice of the results of its investigation and any recommended penalties and remedies for non-compliance and/or adverse determinations to the covered entity.

(h) The Commission shall publish and update a monthly list of contractors and subcontractors that have received an adverse determination from any local, state, or federal body within the preceding four (4) years.

(i) The Commission may receive complaints from residents, workers and businesses regarding non-compliance with this chapter and related rules and regulations and refer the workers and/or the matter to the United States Department of Labor, the Ohio Department of Commerce or any other appropriate entity for further investigation.

(i)The Commission may contract with a qualified non-for-profit organization to assist with investigations and education programs.

(k) The Commission shall issue a report annually to City Council on its activities and whether it recommends the reduction or revocation of any financial incentives defined in this chapter due to violations of Chapter 377. Said report shall be submitted to City Council prior to or contemporaneously to the issuance of the Tax Incentive Review Committee recommendations to City Council.

377.03 Ineligibility of a covered entity

- (a) A covered entity is ineligible to receive any financial incentives provided by the City, City contracts, building permits, commercial licenses or business permits, or to register with the City's vendor services portal, or to perform work or services at a location or development site covered by a financial incentive agreement, or pursuant to or in satisfaction of a contract for goods or services, for four (4) years from the date of the adverse determination against the covered entity.
- (b) A covered entity that receives or is a party to a financial incentive agreement or a City contract for goods or services, contractors of such covered entities, subcontractors of such contractors, and subcontractors of higher-tiered or other subcontractors of such contractors, that enter into a contract or agreement to perform work or services at a location or development site covered by a financial incentive agreement, or pursuant to or in satisfaction of a contract for goods or services, with a contractor or subcontractor listed by the Commission as having received an adverse determination, is ineligible to receive future financial incentives provided by the City, City contracts, or to perform work or services at a location or development site covered by a financial incentive agreement, or pursuant to or in satisfaction of a contract for goods or services, for four (4) years from the effective date of the contract or agreement.

- (1) The four (4) year period of ineligibility referred to in section 377.03(b) shall not apply if the Commission had not published the name of the contractor or subcontractor that received the adverse determination prior to the date the effective contract or agreement was made.
- (2) Nothing contained in section 377.03(b) shall limit the reporting or disclosure obligations of a covered entity under this Chapter.
- (3) Nothing contained in this section 377.03(b) shall affect the applicability of other provisions of this Chapter that result in ineligibility and penalties.

377.04 Covered entity reporting obligations

(a) A covered entity requesting, applying for or bidding for a financial incentive agreement, contract for goods or services, building permit, commercial license or business permit, registering with the City's vendor services portal, or intending to perform work or services at a location or development site covered by a financial incentive agreement, or pursuant to or in satisfaction of a contract for goods and services, shall disclose at the time of request, application, bidding, registration, or prior to performing such work or services, whichever occurs first, any adverse determination during the preceding four (4) years.

(b) A covered entity that receives a financial incentive agreement shall have a continuing obligation to provide the City with a sworn statement describing any adverse determination against the covered entity no later than thirty (30) days after the adverse determination. The reporting obligation remains in effect for the duration of the financial incentive agreement.

(c) A covered entity that receives a financial incentive agreement shall have a continuing obligation to report adverse determinations against a contractor of the covered entity, a subcontractor of the contractor, and a subcontractor of a higher-tiered or other subcontractor of the contractor, that performs work or services at a location or on a development site covered by the financial incentive agreement no later than thirty (30) days after the adverse determination. The reporting obligation remains in effect for the duration of any agreement between the covered entity and the contractor, the contractor and a subcontractor, and a subcontractor and a higher-tiered or other subcontractor of the contractor, to perform work or services at the location or on a development site covered by the financial incentive agreement, and at all times when the contractor of the covered entity, a subcontractor of the contractor, or a subcontractor of a higher-tiered or other subcontractor of the contractor, performs work or services at the location or on the development site covered by the financial incentive agreement.

(d) A contractor of a covered entity that performs work or services at a location or on a development site covered by a financial incentive agreement shall provide the City with a sworn statement detailing any adverse determination against the contractor, a subcontractor of the contractor, and a subcontractor of a higher-tiered or other subcontractor of the contractor, no later than thirty (30) days after the adverse determination. The reporting obligation remains in effect for the duration of any agreement between the covered entity and the contractor, the contractor and a subcontractor, and a subcontractor and a higher-tiered or other subcontractor of the

contractor, to perform work or services at the location or on a development site covered by the financial incentive agreement, and at all times when the contractor of the covered entity, a subcontractor of the contractor, or a subcontractor of a higher-tiered or other subcontractor of the contractor, performs work or services at the location or on the development site covered by the financial incentive agreement.

(e) A subcontractor of a contractor of a covered entity, and a subcontractor of a higher-tiered or other subcontractor of the contractor, that performs work or services at a location or on a development site covered by a financial incentive agreement shall provide the City with a sworn statement detailing any adverse determination against the subcontractor, including their subcontractors as set forth, above, in this paragraph, no later than thirty (30) days after the adverse determination. The reporting obligation remains in effect for the duration of any agreement between the contractor of a covered entity and a subcontractor, and a subcontractor and a higher-tiered or other subcontractor of the contractor, to perform work or services at the location or on a development site covered by the financial incentive agreement, and at all times when the subcontractor of the contractor of a covered entity, or a subcontractor of a higher-tiered or other subcontractor of the contractor, performs work or services at the location or on the development site covered by the financial incentive agreement.

(f) A covered entity that receives a financial incentive agreement shall have a continuing obligation to report adverse determinations against a beneficiary of the financial incentive agreement to the City no later than thirty (30) days after the adverse determination. The reporting obligation remains in effect for the duration of time the beneficiary of the financial incentive agreement engages in commercial activity at a location or on a development site covered by a financial incentive agreement or for the duration of the financial incentive agreement, whichever is less.

(g) A beneficiary of a financial incentive agreement shall provide the City with a sworn statement detailing any adverse determination against the beneficiary of the financial incentive agreement no later than thirty (30) days after the adverse determination. The reporting obligation remains in effect for the duration of time the beneficiary of the financial incentive agreement engages in commercial activity at a location or on a development site covered by a financial incentive agreement or for the duration of the financial incentive agreement, whichever is less.

(h) A covered entity that receives a contract for goods or services shall have a continuing obligation to provide the City with a sworn statement describing any adverse determination against the covered entity no later than thirty (30) days after the adverse determination. The reporting obligation remains in effect for the duration of the contract for goods or services.

(i) A covered entity that receives a contract for goods or services shall have a continuing obligation to report any adverse determinations against a contractor of the covered entity, a subcontractor of the contractor, and a subcontractor that contracts with a higher-tiered or other subcontractor of the contractor, that performs work or services pursuant to or in satisfaction of the contract for goods and services no later than thirty (30) days after the adverse determination. The reporting obligation remains in effect for the duration of any agreement between the covered entity and the contractor, the contractor and a subcontractor, and a subcontractor of a higher-tiered or other subcontractor of the contractor, to perform work or services pursuant to or in

satisfaction of the contract for goods or services, and at all times when the contractor of the covered entity, a subcontractor of the contractor, or a subcontractor of a higher-tiered or other subcontractor of the contractor, performs work or services pursuant to or in satisfaction of the contract for goods and services.

(j) A contractor of a covered entity that performs work or services pursuant to or in satisfaction of a contract for goods or services shall provide the City with a sworn statement detailing any adverse determination against the contractor, a subcontractor of the contractor, and a subcontractor of a higher-tiered or other subcontractor of the contractor, no later than thirty (30) days after the adverse determination. The reporting obligation remains in effect for the duration of any agreement between the covered entity and the contractor, the contractor and a subcontractor, and a subcontractor of a higher-tiered or other subcontractor of the contractor, to perform work or services pursuant to or in satisfaction of the contract for goods or services, and at all times when the contractor the covered entity, or a subcontractor of the contractor, and a subcontractor of a higher-tiered or other subcontractor of the contractor, performs work or services pursuant to or in satisfaction of the contract for goods or services.

(k) A subcontractor of a contractor of a covered entity, and a subcontractor that contracts with a higher-tiered or other subcontractor of the contractor, that performs work or services pursuant to or in satisfaction of a contract for goods or services shall provide the City with a sworn statement detailing any adverse determination against the subcontractor, including their subcontractors as set forth, above, in this paragraph, no later than thirty (30) days after the adverse determination. The reporting obligation remains in effect for the duration of any agreement between the contractor of a covered entity and the subcontractor, and a subcontractor and a higher-tiered or other subcontractor of the contractor, to perform work or services pursuant to or in satisfaction of the contract for goods or services, and at all times when the subcontractor of the contractor of the covered entity, or a subcontractor of a higher-tiered or other subcontractor the contractor, performs work or services pursuant to or in satisfaction of the contract for goods or services.

377.05 Commercial licenses, business permits, and vendor registration

A covered entity requesting or applying for renewal of a City commercial license, business permit or registration on the vendor services portal shall disclose at the time of application for renewal any adverse determination during the time period since the initial application or previous renewal, whichever is later.

377.06 Payroll inspection

A covered entity must maintain detailed payroll records and provide requested payroll records to the Commission within five (5) business days of the request. If a covered entity is performing work or services covered by O.R.C. § 4115.03 the Commission shall request payroll records from the City's prevailing wage coordinator.

377.07 Investigations

A covered entity is required to authorize the agency or other investigative body investigating a complaint of wage theft or payroll fraud to release to the City Commission any and all related evidence, findings, complaints and determinations and to keep the City advised regarding the status of the investigation and

the final determination. A financial incentive agreement, contract, subcontract, lease or terms of occupancy or other agreement covered by this Chapter must also authorize release and disclosure of the same.

377.08 Declaration of reporting obligations

(a) A covered entity shall include in solicitations, agreements, contracts, subcontracts, leases and terms of occupancy a notice setting forth the reporting requirements, obligations to review the Commission list of contractors and subcontractors that received an adverse determination prior to entering into a contract or agreement and penalties for non-compliance as set forth in this Chapter.

(b) The City shall include in financial incentive agreements a notice setting forth the reporting requirements, obligations to review the Commission list of contractors and subcontractors that received an adverse determination prior to entering into a contract or agreement and penalties for non-compliance as set forth in this Chapter.

(c) Covered entities must post a conspicuous notice at all covered locations and development sites indicating that the location or development site is subject to this Chapter as administered by the Commission. The notice shall include contact information for the Commission.

377.09 Use of Independent Contractors

(a) If a covered entity utilizes independent contractors to perform work or services on behalf of the covered entity at a location or on a development site covered by a financial incentive agreement, or under a City contract for goods or services, the covered entity shall provide the following information to the Commission:

(1) the total number of employees and the total number of independent contractors;

(2) a description of the work or services to be performed;

(3) the rate and frequency of pay;

(4) the duration of the work or services;

(5) a description of benefits provided to the independent contractor(s), if any, and the costs paid for the benefits by the covered entity and/or the worker(s);

(6) a written description and any supporting documents or records indicating the following:

(i) the nature and degree of the covered entity's control;

(ii) the permanency of the worker's relationship with the covered entity;

(iii) the amount of the worker's investment in facilities, equipment or helpers;

(iv) the amount of skill, initiative, judgement or foresight required for the worker's services;

(v) the worker's opportunity for profit and loss;

(vi) the extent of integration of the worker's services into the covered entity's business;

(vi) other information the covered entity considers relevant to whether the worker is properly classified as an independent contractor.

(b) In circumstances under which independent contractors subcontract to other independent contractors, independent contractors of covered entities shall provide to covered entities the same information with regard to said subcontractors as defined in Section 377.09(a).

(1) A covered entity receiving a report shall provide a copy to the Commission within seven (7) days of receipt.

(c) All reports required under this section shall be provided no later than twenty one (21) days following the date on which the independent contractor commences work on behalf of the covered entity.

(d) The Commission may contact contractors, subcontractors, employees and independent contractors and/or a covered entity for additional information, including payroll records.

(1) A covered entity shall provide additional information requested by the Commission within seven (7) days of receipt.

(e) If the Commission, or its designee, reasonably determines a worker(s) has been misclassified as an independent contractor, the Commission, or its designee, may refer the worker(s) and/or the matter to the United States Department of Labor, the Ohio Department of Commerce or any other appropriate entity for further investigation.

(f) A City contract shall not be awarded to an entity that is the subject of a referral described in (e), above, until the issues of whether the individual has been properly classified has been resolved.

(g) The Commission shall make forms available for providing information and reports related to the use of purported independent contractors.

377.10 Rules and regulations

(a) The Commission shall develop rules and regulations for the following:

(1) Review of financial incentive agreements and City contracts to ensure that provisions required by this chapter are included.

(2) Monitoring of financial incentive agreements and City contracts and the submission of required statements to ensure compliance with this chapter, including reviewing complaints, referring complaints to an appropriate federal or state agency for investigation, and monitoring the outcome of complaints against covered entities for purposes of this Chapter.

(3) Pursuing remedies, imposing sanctions and levying penalties for failing to timely submit reports and sworn statements required by this chapter, and setting fees for filing disclosures and statements required by this chapter.

(4) Protecting victims of wage theft and payroll fraud from retaliation or adverse action resulting from reports made pursuant to or required under this Chapter.

(5) Publication and updates to the Commission list of contractors that received adverse determinations.

377.11 Penalties

(a) This section applies to covered entities not deemed ineligible under section 377.03(a).

(b) Whenever any adverse determination is rendered against a covered entity under this Chapter, or, if the adverse determination is appealed, then whenever the final decision on appeal confirms the adverse determination, in whole or part, the City will pursue any available legal, contractual or equitable remedies, whether or not provided for in the contract or financial incentive agreement, including any of the following:

(1) Unilateral termination or modification of the financial incentive agreement as recommended by the Tax Incentive Review Council to City Council following receipt of a report and recommendation from the Wage Theft Prevention and Enforcement Commission; [note:

(2) Unilateral reduction of the tax abatement, tax credit or other incentives by up to 100 percent of the future benefit agreement as recommended by the Tax Incentive Review Council to City Council following receipt of a report and recommendation from the Wage Theft Prevention and Enforcement Commission;

(3) Recapture of subsidy and abatement benefits by up to 100 percent of accrued value agreement as recommended by the Tax Incentive Review Council to City Council following receipt of a report and recommendation from the Wage Theft Prevention and Enforcement Commission;

(4) Loss of low-interest rate commercial loan benefits;

(5) Suspension or revocation of grants;

(6) Deeming the covered entity ineligible for future contracts or financial incentive agreements with the City until all victims of wage theft and payroll fraud have been paid in full;

(7) As a condition of continuing an active or future contract with the City, requiring the posting of a bond or other form of insurance equal to one year of gross wages and a certified monthly payroll report for the duration of the City contract if the covered entity has previously received an adverse determination;

(8) A stop work order until all victims of wage theft and payroll fraud have been paid in full and there is full compliance with the terms of this Chapter;

(9) Suspension or revocation of a building permit;

(10) Temporary or permanent debarment of the contractor or subcontractor;

(11) Suspension or revocation of a commercial license or business permit; and

(12) Informing the relevant City Departments, including the City Auditor, and/or the City Prosecutor, in order to determine if further action is necessary or available.

(c) When the City reduces or terminates a tax abatement, tax credit or other similar tax benefit, the City will set aside a portion of the recaptured revenue, less revenue owed to the Columbus City Public School District, for the Columbus Just Pay Fund.

(d) The failure of a Covered Entity to provide the Commission or its designee with requested documents within twenty one (21) business days shall constitute an adverse determination and the City may pursue penalties under 377.11 (a)(1)-(12).

377.12 Effective Date

The provisions of this section will be effective after October 1, 2020.

377.13 Effective Date & Incorporation in City Contracts

All City contracts and Financial Incentive agreements as defined in 377.01(e) shall incorporate and require all parties to comply with Chapter 377 as a term of said City contract or Financial Incentive agreement.

377.14 Community education and know your rights program

The City and Commission shall partner with employers, labor organizations and community organizations for the purpose of informing residents of their workplace rights under federal, state and local law and to communicate the benefits of the Columbus Wage Theft Prevention and Enforcement provisions to businesses, employees and communities.

377.15 Just Pay fund

- (a) There is hereby created the Columbus Just Pay Fund. All fees and administrative penalties imposed under this chapter shall be allocated to the Fund. The Fund shall be used solely for the purpose of paying expenses related to the administration of this chapter, expanding enforcement of wage and hour laws, and supporting community education on the rights of workers under wage and hour laws.
- (b) The Just Pay fund shall receive deposits transferred from the various funds of the city in an amount necessary to provide resources adequate to support the enforcement of the Columbus Wage Theft Prevention and Enforcement provisions. The amounts transferred from the various funds of the city into the Just Pay fund shall be calculated upon the number of purchase orders and purchase requisitions originating within each fund of the city, multiplied by a fixed dollar amount as determined by the Director of Finance and Management.

377.16 Severability

The invalidity of any section, clause, sentence or provision of this chapter shall not affect the validity of any other part of this chapter which can be given effect without such invalid part or parts.

To: OMA Government Affairs Committee
From: Ryan Augsburger / Rob Brundrett
Re: Energy Public Policy Report
Date: November 10, 2020

Overview

For years customer interests were losing ground on energy policy. The controversial House Bill 6 which became law just last summer remains in the rearview mirror. Implementation is still underway, with some provisions not effective until 2021.

Then on July 21, 2020 federal prosecutors announced the arrest of former House Speaker Larry Householder and associates in what has been referred to as Ohio's largest public corruption scandal. At the center of the government's bribery and racketeering allegations: House Bill 6.

In the three and a half months since, calls for "repeal" of HB6 have prevailed from both sides of the aisle. One would hope other bills that are unfavorable for electric customers will fade.

Bribery & Corruption at the Statehouse

In a press conference on the afternoon of July 21, just hours after the arrest of the Ohio Speaker of the House Larry Householder, the US Attorney described an undercover investigation that had been going on for over a year. Efforts by Ohio's top House Republican to deliver HB6 and prevent its repeal via referendum are alleged to have been traded for financial contributions to dark money groups (501C(4)s) from supporters of HB6, most notably, "Company A", widely understood to be FirstEnergy Corp.

The investigation, now in an "overt phase" continues and the US Attorney implied further criminal charges were possible in the racketeering case. Politicians are trying to respond by distancing themselves from the former Speaker and some of his policies, however repeal has been slow HB 6 did not play prominently in the election. All that said, shoes continue to drop with the swift termination of FirstEnergy executive leadership.

The OMA held two special joint meetings for members of the OMA energy committee and government affairs committee on July 30 and again on Oct 7.

Repeal House Bill 6?

As soon as news of Larry Householder's arrest made its way around Cap Square, calls to repeal HB 6 started, especially from elected officials who went along with Householder's top legislative priority in 2019. As always, the devil is in the details. At this point, point two options have emerged: straight repeal and targeted repeal.

- Straight Repeal (Stalled): HB738 (Skindell & M. O'Brien), HB746 (Lanese & Greenspan), SB346 (S. O'Brien & Kunze)
- Targeted Repeal: HB 772 (Romanchuk) Informal hearing 11/10/20

Legislative leaders have stated that HB 6 repeal will be a priority for the lame duck session that begins today. The session will conclude in less than a month. If they don't complete a repeal, then it likely begins anew in January. Failure to repeal will impose new costs on customers starting in January.

The OMA testified in support of repeal in the House in October. The OMA considers HB 772 to be the preferred approach to repeal HB 6 and protect customer and protect markets. See attached summary of HB 772.

HB 6 Scam

Before the racketeering investigation announcement, lawmakers were chastised for allowing the owners of Ohio's nuclear power plants to scam Ohio's ratepayers. As the OMA **reported** earlier, the owner of the plants, Energy Harbor (formerly FirstEnergy Solutions), announced in May it would be rewarding certain investors with hundreds of millions dollars of stock buybacks. This was made possible because the company and its allies were able to persuade lawmakers in Columbus to enact House Bill 6 last year.

FERC Decision Tips HB 6 on its Head

Even before the FBI and US Attorney arrested Larry Householder in July, things had not been going well for HB6 in the wake of a Federal Energy Regulatory Commission (FERC) order to protect competitive wholesale electricity markets from subsidized power.

The order, which modifies and expands the Minimum Offer Price Rule (MOPR), was originally designed to prevent state subsidization of new natural gas generators. Under FERC's recent order, the expanded MOPR also applies to nuclear, coal, and renewable power plants that receive state subsidies. FERC did this to level the playing field.

The FERC order tips House Bill 6 on its head, according to the OMA analysis included in the June Energy Committee meeting materials. At that meeting the Energy Committee heard directly from PJM's independent Market Monitor, Dr. Joseph Bowring about the clear limitations the order places on nuclear energy plants ability to participate in the capacity markets. The OMA warned of such market consequences last summer.

House Bill 6 Becomes Law

Recall HB 6 which was rocketed through the General Assembly last year, provided subsidies for the owners of uneconomic power plants, namely the two nuclear power plants. The bill also notably provided a subsidy to the power plants owned by the Ohio Valley Electrical Corporation (OVEC). The bill also largely orders a stop to Ohio's utility-administered energy efficiency programs and renewable energy standards.

The bill in its final form will distort electricity markets denying customers of the long-term benefits of competition. New costs, some known and some unknown, will hit customers of all sizes.

Virtually all the warnings expressed by the OMA over the past year have materialized exposing manufacturers of all sizes to new costs. Just last week, the owner of the nuclear power plants took action to reward investors, sending hundreds of millions of dollars of revenue to be paid by captive Ohio customers and proving the bailout was not needed. See included resource material.

HB 6 Implementation

The provisions of HB 6 became effective in late-October. The bill delegated immense new authority and price-setting to the PUCO and other state agencies. The OMA Energy Group has been participating in those proceedings to protect manufacturing interests. Even in the wake of the alleged corruption scandal, the executive branch has been implementing HB6 provisions. Even more surprising in the face of a threatened injunction by Ohio Attorney General Dave Yost and repeal conversations in the legislature.

Decoupling Revenue Guarantees Utility Record Revenue

Among the HB 6 provisions that opened the door to unknown new customer costs was the creation of a decoupling rider. Six months after passage of the HB6, the PUCO gave approval to FirstEnergy utilities to place the new rider on customer bills. Under the mechanism, if annual revenue in a given calendar year is

less (or greater) than 2018's base distribution revenue, FirstEnergy utilities will charge (or credit) the difference to customers through the decoupling rider. 2018 produced record revenue for the utilities. Additionally, the rider will move tens of millions of dollars in "lost revenue" charges from the expiring energy efficiency rider into this new rider. The OMA estimates this will benefit FirstEnergy revenue by \$355 million between through 2024 and potentially \$400 million in the following five-year term. See enclosed memo on decoupling by OMA technical consultant RunnerStone, LLC.

SEET Means More Cost for Customers

The House Finance Committee last year inserted language into the state budget (House Bill 166) to alter Ohio's prohibition of "significantly excessive" profits by regulated utilities. The provision, which would allow FirstEnergy to keep "significantly excessive" profits rather than issue refunds to customers, is set to take effect next year. See enclosed memo from OMA energy counsel Kim Bojko of Carpenter Lipps & Leland and by RunnerStone, LLC for more information. OMA pegs this at \$50 million in denied customer refunds between 2017-2019 and more in future years which will be exacerbated by the decoupling mechanism created by HB6.

- HB 740 (Skindell & Denson) Repeals the SEET giveaway to FirstEnergy. Pending in House Select Committee. Hearing today.

Post HB 6 Legislative Activity

In the months since HB 6 was completed both the Ohio House and Ohio Senate appeared poised to enact other energy reforms. Unfortunately, customer protection does not seem to be in store. Instead we are monitoring new proposals that will protect utilities and erode Ohio's deregulation law.

- **House Bill 247**
Months after lawmakers gave utilities and other interests the opportunity to force captive ratepayers to pay for new generation, HB 247 would go further in allowing distribution utilities to offer services beyond distribution. It seems unnecessary and anti-market. One utility is aggressively lobbying for this bill and has asked their large manufacturing customers to pen a letter of support. Don't be fooled. The OMA has been communicating extensively about this threat. The OMA opposes HB 247. Contact staff for our analysis.
- **House Bill 246**
Sponsor state rep. Nino Vitale (R-Urbana) unveiled a new version of House Bill 246, legislation to purportedly modernize state agencies that regulate utilities. The bill would impose new risks on manufacturers and could give utilities even more sway over the regulations that govern them. It would also provide monopoly utilities an unfair advantage against competitive energy companies, including developers of renewable energy and electric vehicle charging businesses. Other provisions of HB 246 would diminish the role and voice of customer advocates in proceedings before the PUCO.

Also, the bill would create a natural gas supply access investment program within the Ohio Public Works Commission. The Commission traditionally coordinates the construction of public buildings and infrastructure financed from state approved bonds, which does not include privately-owned energy infrastructure. This provision appears to bypass market economics. See enclosed memo on HB 246.

- **House Bill 104**
Introduced by Representative Dick Stein (R-Norwalk), HB 104 is intended to spur research and development of molten salt nuclear reactors in Ohio via state tax dollars. The bill also advances Ohio as a hub for radioactive wastes. The OMA has written the primary sponsor to convey concerns. Many other Republican legislators have co-sponsored this unwise legislation.

HB 104 would establish an unwise and elaborate state agency that would take regulatory authority away from professional agencies — including the U.S. Nuclear Regulatory Commission — and instead place it under the Ohio Department of Commerce, which has no expertise in this arena. Moreover, the bill would empower bureaucrats at this new agency to act in the place of the governor in approving joint-development agreements.

The new agency would have some influence over nuclear plant decommissioning plans, according to an enclosed analysis prepared for the OMA. “Of special note is that Ohio’s two nuclear power plants are required to maintain decommissioning funds, and that whether their decommissioning plans were fully funded was a point of contention in the recent FirstEnergy Solutions (now Energy Harbor) bankruptcy.

- **House Joint Resolution 2**

Representatives Don Manning of Youngstown and Jamie Callender of Lake County provided proponent testimony on HJR 2 to place on the ballot an amendment to the Ohio Constitution to ban foreign interests from owning critical energy infrastructure. The move dovetails with the pro-HB 6 China-bashing campaign. Some believe the resolution is political retribution to referendum proponents.

In today’s global economy, a state provision against foreign ownership seems unwise. Precedents abound for other commercial activity. For example, foreign interests invest heavily in manufacturing businesses in Ohio. No action since last report. Representative Manning passed away earlier this year.

- **Senate “Comprehensive” Energy Reform**

Last autumn Senate Energy & Public Utilities Chairman Steve Wilson (R-Maineville) signaled the Senate would focus on grid reliability as a central component in the Senate’s comprehensive energy reform package. This is a curious, albeit familiar refrain from a policymaker since the grid is more reliable than ever today. The OMA fielded testimony on Tuesday, March 2.

PJM on Resiliency and Power Auctions Delayed

Throughout the recent legislative subsidy debates at the General Assembly, grid operator PJM Interconnect had been clear to dispel the myths of poor fuel diversity and electric supply shortages affecting “reliability.” The OMA has an analysis on current PJM activity but further proceedings at PJM will be needed for clarity. PJM has already delayed a planned energy auction for a full year, from May 2019. PJM suggests it could hold the auction as soon as December of 2020, or as late as March 2021. However, some parties are advocating at the FERC to delay the auction deep into 2021 to allow states time to pass legislation that would return pricing capacity to state regulatory authorities.

Protecting Competitive Electric Markets

In 1999, with the passage of Senate Bill 3, Ohio began a transition to deregulated generation. That transition has delivered customer choice, cost-savings and innovation. One of the main tenets of deregulation was forcing then-integrated utility companies to sell or spin-off their generation. “Stranded costs” and other above-market surcharge constructs enabled the utilities to have their generation paid for by Ohioans for a second time. HB 6 represents yet another above-market payment to utilities and power plant owners by customers who realize no benefit.

The OMA has been a proponent of markets, supporting the original deregulation legislation and opposing utility profit subsidy schemes that distort the market and result in new above-market charges on manufacturers’ electric bills. Several noteworthy studies have demonstrated how the market delivers lower prices, choice and innovation without compromising reliability. NOPEC in August issued an updated study that pegs customer savings at \$24 billion over eight years. With the passage of HB 6, competitive markets are under attack in Ohio.

OVEC Bailout

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

On-Site Generation Taxed in Ohio

The Ohio Department of Taxation is sending out tax bills to third parties operating on-site generation, be it wind, solar or onsite gas generation. The Department contends that a customer who generates power should pay generation tax the same as a utility. The Department's basis for collecting the tax is tenuous. The OMA supports a legislative correction for all forms of onsite generation. No further action.

Energy Standards and Renewable Siting Legislation

After six years of back and forth policy battles, HB 6 dismantled the standards for efficiency and renewable energy. Siting requirements for large scale wind generation projects were not part of the debate. The PUCO ordered energy efficiency programs to wind down beginning September 30, 2020, so manufacturers who are using rebates will want to claim them soon. Presumably, if HB 6 is repealed these programs would reactivate.

- HB 223 (Strahorn & Skindell) relaxes overly restrictive wind farm siting regulations. No action.
- SB 234 (McColley) revises regulations governing siting of wind farms by expanding local control. No action.



Post-HB 6 Energy Policy Options

Restoring Ohio's Competitive Marketplace for Electric Customers

Ohio manufacturers depend on economical, reliable power to operate their facilities. The subsidies provided to monopoly electric distribution utilities and select electric generation companies under House Bill 6 (HB 6) do nothing to aid Ohio customers, including manufacturers. Instead, those subsidies layer more costs on the backs of customers while distorting competitive markets.

How did Ohio get here? And what can policymakers do now to restore the state's energy policy to a more competitive, market-oriented path that benefits Ohio's businesses and households?

Ohio's Free-Market Reforms of 1999

In 1999, the General Assembly passed deregulation legislation (SB 3), unleashing the power of markets to drive competition and lower generation costs, while reducing emissions and providing for greater fuel diversity and more innovative products. Deregulation has produced an estimated [\\$3 billion in savings per year](#) for Ohio's customers, making Ohio one of the nation's energy-cost leaders for both businesses and households.

Over the past two decades, however, policymakers have watered down Ohio's deregulation efforts, driving up costs for customers. The enactment of House Bill 6 in July 2019 marked the most egregious of these regressive steps.

HB 6's Assault on Ohio's Ratepayers

In short, House Bill 6 rewards energy companies at the expense of Ohio electric consumers. Harmful provisions of HB 6 include the following:

- **Clean Air Fund/Subsidies for Nuclear Plants:** HB 6's "crown jewel" is a \$150 million-a-year subsidy for the owner of Ohio's two nuclear power plants. This subsidy, financed by Ohio electric consumers, cannot be justified as publicly available financial data and the owner's proposed \$800 million stock buyback have demonstrated the power plants are not financially strapped. An additional \$20 million subsidy for select solar plants brings this total to \$170 million annually.
- **Decoupling (Profit Guarantees):** The bill's decoupling mechanism will provide the FirstEnergy utilities with 2018 revenue levels (plus an additional \$66 million each year), regardless of the amount of electricity sold. These [data and analyses](#) demonstrate how FirstEnergy utilities may collect \$355 million through 2024 – and hundreds of millions more in later years – from Ohio's electric customers. (FirstEnergy CEO told investors this provision would make the company "somewhat recession proof.")
- **OVEC Subsidies:** HB 6 provides additional subsidies for the utility owners of the Ohio Valley Electric Corporation (OVEC) coal plants – subsidies estimated to be worth \$405 million through 2030. One of the two plants is in Indiana.

(Continued)

HB 6 Repeal and Reform to Protect Customers and Ohio's Competitiveness

To restore Ohio's electricity sector to the free-market pathway envisioned by policymakers at the turn of the century, Rep. Mark Romanchuk (R-Ontario) has introduced [House Bill 772](#). If signed into law, HB 772 would eliminate the above-market riders of HB 6, as well as of SB 221 (e.g., energy efficiency and nuke subsidies).

HB 772 would save customers hundreds of millions of dollars per year, while restoring Ohio's competitive advantages. Whether customers should pay for above-market charges for all the various competing technologies should be the subject of separate legislation, considered later as part of a fair and transparent legislative process.

HB 772 Summary

Specifically, HB 772 would do the following:

1. Repeal the Clean Air Program and rider created by HB 6 to subsidize the nuclear power plants and select renewable energy projects.
2. Repeal the OVEC rider created by HB 6 to subsidize the two old coal plants (including one in Indiana) owned by a consortium of energy companies, and prevent the PUCO from reviving or enacting a new OVEC rider.
3. Require a refund of OVEC charges collected from customers pursuant to HB 6 immediately.
4. Repeal the decoupling mechanism in HB 6 that benefits FirstEnergy by rewarding it with unearned income at the expense of customers. Additionally, terminates all other decoupling mechanisms established and prevents the PUCO from reviving or enacting new decoupling riders.
5. Require FirstEnergy to immediately refund the full amount of decoupling charges to customers.
6. Require the PUCO and the Ohio Air Quality Development Authority to eliminate or rescind any mechanism, charge, rule, or order enacted, authorized, or issued to implement a provision of HB 6.
7. Include an emergency clause, ensuring that HB 772's reforms go into effect immediately upon being signed by the governor.

Unlike other "straight repeal" bills pending in the House and Senate, HB 772 does not reinstate the energy efficiency standards (and rider) or renewable portfolio standards (and rider) that HB 6 repealed and modified. In other words, HB 772 allows the energy efficiency standards and costs to sunset at the end of 2020, and maintains the modifications to the renewable portfolio standards as directed by HB 6.

HB 772 also prevents utilities from offering so-called "voluntary" energy efficiency programs that are voluntary for the utility, but mandate customer participation and costs paid for by customers.

Utility administered renewable energy and energy efficiency programs have changed a great deal – in both capabilities and costs – since the adoption of the standards in SB 221. At the same time, these technologies and their customer-driven markets have advanced and evolved. Ohio should take a fresh look at what policies are appropriate to stimulate adoption of these technologies in a market-based economy.



MEMORANDUM

Date: November 9, 2020

To: The Ohio Manufacturers' Association

From: John Seryak, PE and Peter Worley (RunnerStone, LLC)

RE: Ohio's Worsening OVEC Situation: \$1.5 billion in potential costs over three decades, for 39% less power, 20% less employment, enough carbon emissions to offset two nuclear plants, and an ineffectual PUCO audit

House Bill 6 (HB 6) created a state-wide customer subsidy for the Ohio Valley Electric Corporation (OVEC), which owns two 1950's era coal power plants, Kyger Creek in Ohio and Clifty Creek in Indiana. The OVEC power plants previously had PUCO-approved subsidies for three Ohio electric distribution utilities with ownership interests in OVEC. The OVEC coal plants have been selling electricity for less than it costs to generate it since 2012, and Ohioans had already been forced to pay about \$159 million in subsidies to the plants through 2019. An immediate halt to OVEC subsidies would lower customer costs, reduce carbon dioxide emissions, and support competition.

OVEC almost certainly will remain uneconomical through 2030, the term of its HB 6 subsidy, costing Ohioans another estimated \$700 million. And yet this is not the end: OVEC has a power agreement and debt through 2040. OVEC's owners, including the three Ohio electric distribution utilities, have repeatedly sought subsidies to cover OVEC's losses in Ohio, and if asked to foot the bill again at these rates, Ohioans would be on the hook for yet an additional possible \$700 million from 2031-2040. Policymakers should anticipate that the OVEC owners will seek additional subsidies in 2030. The potential cost to Ohio ratepayers of this

OVEC's Expensive Subsidies, Poor Performance

- OVEC sells power for less than it costs it to generate and has since 2012
- State subsidies could amount to \$1.5 billion in charges to Ohio's consumers through 2040
- \$159 million in customer subsidies through 2019
- ~\$700 million in potential Ohio customer subsidies due to HB 6 through 2030
- ~\$700 million in future subsidies potentially necessary to maintain OVEC operations from 2031– 2040
- 39% reduction in power output since 2010
- 20% reduction in employed workers since 2015
- OVEC's carbon emissions are equivalent to two nuclear power plants' worth of emissions offset
- PUCO audit ineffectual – OVEC ignores audit findings, running at a financial loss & forgoing market revenue while continuing to receive cost recovery and profit



government support that could span several decades could be around \$1.5 billion, but possibly more.

These customer subsidies have done nothing to improve OVEC's performance, which remains poor, and runs counter to Ohio's policy aims. OVEC sells electricity for less than it costs to generate it. OVEC estimates its energy output this year will be 39% less than in 2010. Its carbon dioxide emissions offset that of two nuclear plant's worth of emission-less electricity. OVEC employment is down 20% since 2015. And OVEC has failed to make suggested improvements from a PUCO audit, with no consequence. A halt to subsidies may also encourage OVEC's owners to make prudent business decisions instead of seeking government assistance.

HB 6's statewide treatment of OVEC was to shift subsidies from certain customers to others, while increasing the overall total cost of OVEC subsidies to Ohioans over time, as compared to previously PUCO-approved OVEC subsidies. This policy framework of "which bad subsidy design is best?" is a false choice and worsened the overall situation. The real question before policymakers should be how to prevent Ohio customers from being forced to subsidize old, uneconomical power plants, one of which isn't even located in Ohio. Of critical importance to policymakers should be whether, absent subsidies, the OVEC owners will make decisions about OVEC that would be in their own financial best interest.

In the remainder of this memorandum we demonstrate OVEC's chronic underperformance, the costs to Ohioans thus far and potential costs going forward, and how these subsidies have had no positive effect as OVEC's power output continues to decline.

Ohioans Subsidized \$159 Million of OVEC's \$1.3 Billion in Losses from 2012-2019

OVEC's two coal plants are uneconomical. From 2012 to 2019, their average weighted price of electricity was approximately 34% more expensive than the market price. The OVEC average price was approximately \$59/MWh,¹ while the average competitive market price in Ohio was \$44/MWh.² This is about a \$1.3 billion total loss for OVEC. Ohio's electric distribution utilities own about 38%

¹ Production weighted average. OVEC Annual Report Documents under Section "Power Costs." For example, 2019 Annual Report: <https://www.ovec.com/FinancialStatements/AnnualReport-2019-Signed.pdf>

² The OVEC and PJM prices include Energy and Capacity. Energy price is the PJM RTO load-weighted LMP price. Capacity price is the PJM RTO Base Residual Auction price (assuming OVEC had all of its 2,350 MW of capacity clear.) Prices do not include Ancillary Services because OVEC does not attempt to sell them into PJM currently.

of OVEC,³ and thus their pro-rated share of this loss is about \$493 million.⁴ Ohio customers have covered approximately \$159 million of those losses through 2019.⁵

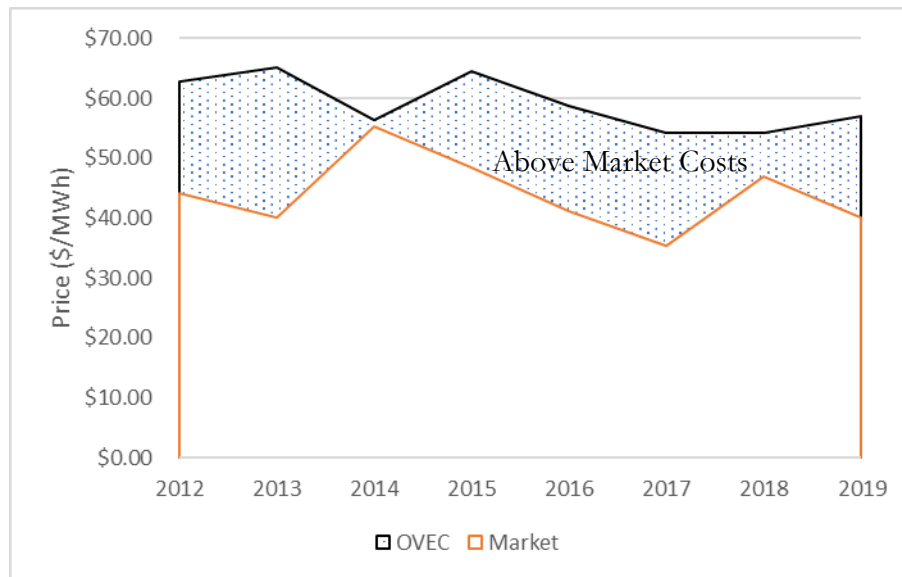


Figure 1. OVEC Price of Electricity vs PJM Wholesale Market Price of Electricity

³ Dayton Power and Light Co. (DP&L) owns 4.9%, Duke Energy Ohio (Duke) owns 9%, Energy Harbor Corp. owns 4.85%, and Ohio Power Co. (AEP Ohio) owns 19.93%. <https://www.ovec.com/FinancialStatements/AnnualReport-2019-Signed.pdf>

⁴ Each year the difference in OVEC price and market price was multiplied by OVEC's production. The years were summed and then multiplied by 38%, which is how much Ohio's customers were responsible for prior to HB 6. Prior to HB 6, Ohio customers were responsible for their utility's percentage share in the OVEC power participation benefits and requirements: AEP Ohio (a.k.a Ohio Power) has 19.93%, DP&L has 4.90%, and Duke has 9.00%. These percentages come from OVEC's 2019 Annual Report (page 2 of PDF). We assume these percentages were not considerably different in previous years. <https://www.ovec.com/FinancialStatements/AnnualReport-2019-Signed.pdf>

⁵ \$113.8 million through AEP Ohio's Rider PPA from 2017-2019; \$16.4 million through DP&L's Reconciliation Rider from 2017-2019; \$28.3 million through Duke's Rider PSR.

Year	PJM Wholesale		
	OVEC Price (\$/MWh)	Market Price (\$/MWh)	Price Difference (OVEC minus PJM)
2012	\$62.87	\$44.25	\$18.62
2013	\$65.18	\$40.00	\$25.18
2014	\$56.38	\$55.23	\$1.15
2015	\$64.40	\$48.50	\$15.90
2016	\$58.66	\$41.14	\$17.52
2017	\$54.27	\$35.33	\$18.94
2018	\$54.29	\$46.84	\$7.45
2019	\$57.04	\$40.11	\$16.93
8-yr weighted average	\$58.84	\$43.87	\$14.97

Table 1. OVEC Price of Electricity vs PJM Wholesale Market Price of Electricity

The combined production of the two OVEC plants has decreased 23% over the past decade from 14,600,000 MWh in 2010 to 11,200,000 MWh in 2019.⁶ OVEC expects its production to decrease further in 2020 down to 9,000,000 MWh,⁷ which amounts to a 39% less electricity generated than in 2010.

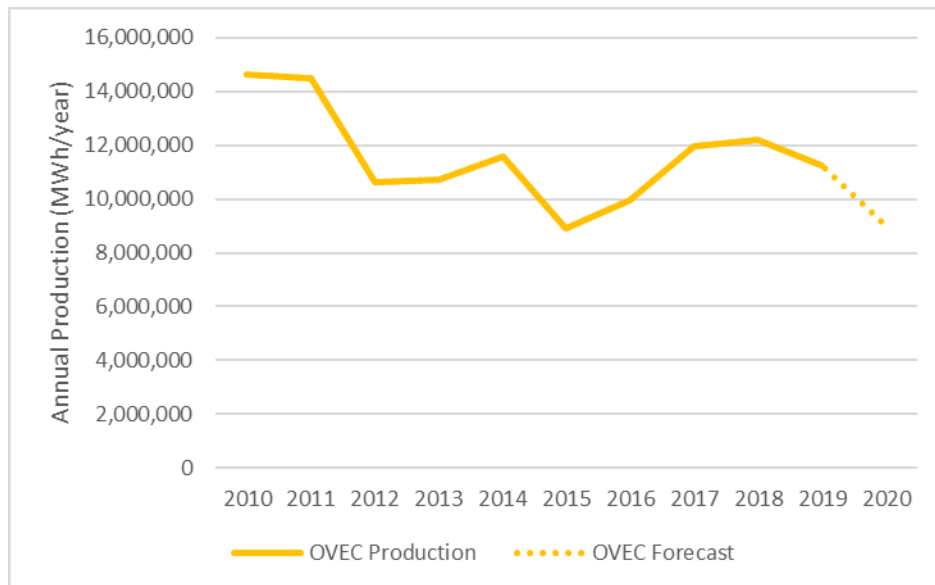


Figure 2. OVEC Electricity Production

⁶ Form EIA-923: <https://www.eia.gov/electricity/data/eia923/>

⁷ OVEC 2019 Annual Report; page 4 of PDF: <https://www.ovec.com/FinancialStatements/AnnualReport-2019-Signed.pdf>



Year	Annual Production (MWh/year)		
	Clifty Creek	Kyger Creek	OVEC Production
2010	7,898,624	6,740,162	14,638,786
2011	7,948,267	6,514,656	14,462,923
2012	5,945,617	4,688,606	10,634,223
2013	5,610,367	5,129,185	10,739,552
2014	6,062,463	5,493,736	11,556,199
2015	5,225,154	3,681,044	8,906,198
2016	5,030,848	4,934,172	9,965,020
2017	6,037,635	5,899,969	11,937,604
2018	6,369,305	5,801,085	12,170,390
2019	5,722,979	5,515,010	11,237,989
2020			9,000,000

Table 2. OVEC Electricity Production

The company has reduced the number of employees by 20% from 738 in 2015 down to 591 in 2019.⁸ Lastly, OVEC is a high carbon emitting plant, emitting on average 12 million tons of carbon dioxide per year, which is roughly equivalent to the amount of carbon dioxide savings that the Davis Besse and Perry nuclear plants could claim as compared to PJM’s marginal electricity emissions averages.⁹ To put in context, the electricity market in Ohio over this period emitted approximately 30% less per MWh than OVEC.¹⁰

Ohio Policy Mandates Ohioans to Subsidize OVEC for the Next Decade, ~\$700 Million Cost at Current Rates

Prior to 2019, the PUCO authorized AEP Ohio, Duke, and DP&L to add charges to customers’ bills to subsidize the OVEC plants.¹¹ The PUCO permitted the utilities not only to charge customers for prudently incurred costs at the plants, but also to earn a profit no matter how well the plants operated.¹² The PUCO authorized DP&L to charge customers through 2023, AEP Ohio though

⁸ OVEC 2019 Annual Report, page 45 of PDF: <https://www.ovec.com/FinancialStatements/AnnualReport-2019-Signed.pdf>

⁹ Form EIA-923, OVEC plant average emissions of 12,225,169 tons CO₂/year; Davis Besse and Perry nuclear plant average generation of 12,798,134 MWh/year x 0.73 tons CO₂/MWh (PJM marginal off-peak emissions rate) = 12,798,134 tons CO₂/year

¹⁰ From PJM Reports, using Table 2 - Marginal Off-Peak Emissions
<https://www.pjm.com/~media/library/reports-notice/special-reports/20160318-2015-emissions-report.ashx>
<https://www.pjm.com/~media/library/reports-notice/special-reports/2019/2019-emissions-report.ashx?la=en>

¹¹ They were authorized in utility Electric Security Plans (ESP). The corresponding PUCO cases were for AEP Ohio 16-1652-EL-SSO; for DP&L 16-395-EL-SSO; for Duke 17-1263-EL-SSO

¹² FERC Form 1 (page 30 of PDF) “The Companies have continued and expect to continue to operate pursuant to the cost-plus rate of return recovery provisions at least to June 30, 2040”



2024, and Duke through 2025. HB 6 created a new subsidy, which supplanted the previously approved PUCO subsidies. HB 6 expanded the OVEC subsidy to include recovery of losses for Energy Harbor (in addition to AEP Ohio, Duke, and DP&L), extended the subsidy through 2030, and recovered the cost of the subsidy from all ratepayers in the state.

DP&L and Duke estimated they would each need approximately \$10.6 million to cover their losses in OVEC for the year of 2019.¹³ AEP Ohio calculated it would need \$49.1 million.¹⁴ Together, the costs amount to \$70.3 million. If OVEC continues to operate like it did in 2019 compared to the market, Ohio ratepayers would end up paying \$703 million to subsidize OVEC through 2030.

The HB 6 subsidy amount fluctuates yearly based on OVEC's operational costs and wholesale electric market prices. In a study, the Institute for Energy Economics and Financial Analysis (IEEFA) forecasted that OVEC's operational costs would continue to rise, while market prices remain low, resulting in \$110 million per year in subsidies or \$1.1 billion over the decade.¹⁵ Ohio's Legislative Service Commission has also estimated \$703 million in costs charged to customers. Subsequently, \$703 million estimate could be conservative because other factors can affect OVEC's profitability, including if OVEC fails to clear PJM's capacity auction, if OVEC continues to lose efficiency as it ages (OVEC is over 65 years old), and if utilities increase capital investment in the OVEC plants.

OVEC Has Outstanding Debt through 2040

HB 6 is silent on the remainder of OVEC's future after 2030. Still, AEP Ohio, DP&L, and Duke all are part of an inter-company power agreement with OVEC through 2040. And the agreement permits OVEC to sell electricity for less than what it costs to generate. Furthermore, OVEC has \$570 million of debt due between 2031-2040.¹⁶ If the trend in Ohio policy to cover the costs of

¹³ Based on DP&L's "Reconciliation Rider"; PUCO Case 18-1379-EL-RDR; DP&L projected their OVEC net-costs on 9/2018 for 10/2018-11/2019; <https://dis.puc.state.oh.us/TiffToPDF/A1001001A18I14B61728G01403.pdf> (page 4 of PDF)

Based on Duke's "Price Stabilization Rider (Rider PSR)"; PUCO Case 19-447-EL-RDR; Duke projected their OVEC net-costs on 2/2019 for 1/2019-12/2019; <https://dis.puc.state.oh.us/TiffToPDF/A1001001A19B28B45404G05311.pdf> (page 3 of PDF)

¹⁴ Based on AEP Ohio's "Power Purchase Agreement (PPA) Rider"; PUCO Case 18-1392-EL-RDR; AEP Ohio calculated their actual OVEC net-costs for 1/2019-12/2019. See Figure 16 in London Economic International's audit of the rider. <http://dis.puc.state.oh.us/TiffToPDF/A1001001A20I17B31207C02236.pdf> (page 36 of PDF)

¹⁵ IEEFA 2017 Report <https://ieefa.org/wp-content/uploads/2017/06/Dont-Bail-Out-Retire-OVEC-Coal-Plants.pdf> (page 11 of PDF)

¹⁶ OVEC 2019 Annual Report; page 18 of PDF: <https://www.ovec.com/FinancialStatements/AnnualReport-2019-Signed.pdf>



OVEC’s uncompetitive business continues, Ohioans could be charged for \$220 million of the debt and also the continued losses in the power markets.¹⁷

If Ohio’s distribution utilities continue to lose \$70.3 million per year on OVEC in the 2031-2040 timeframe, that is an additional \$703 million that Ohio’s ratepayers will likely be asked to subsidize.

PUCO Audit Findings Have Not Affected OVEC Business Practices

In an audit of the AEP Ohio PPA Rider, London Economics International identified several business decisions by OVEC that were questionable, and possibly could be deemed imprudent. This audit appears to be ineffectual – the PUCO has not reduced payments to AEP Ohio for possibly imprudent decisions regarding the OVEC operations, has not compelled OVEC to operate differently, and indeed OVEC has not changed important business practices that could lower costs to customers.

First, as explained previously, OVEC sells electricity into the market at prices that are less than what it costs to generate the power, accumulating losses. A PUCO-contracted audit of OVEC highlighted this issue, stating that OVEC should “carefully consider when and whether the must-run offer strategy is optimal, as it appears that in some months, it may result in negative energy earnings for the plants.”¹⁸ However, OVEC did not adopt this operational recommendation.

Second, OVEC delayed exploring the ability to earn additional market revenue through PJM’s Ancillary Services market, despite the previous PUCO audit recommending it.¹⁹ Again, this foregone revenue was not deducted from the costs that Ohioans are forced to pay to the utilities for OVEC.

Third, OVEC makes capital investments that may not be economically justified given the revenues they receive from the electricity market. In 2011-2013, OVEC made capital investments, creating debt, in a new scrubber system that cost \$1,000,000,000.²⁰ This, among other investments, the PUCO 2020 audit questioned: “... this does not imply that the level of capital spending is justified by the revenues earned in PJM. Most coal plants of similar size ... in PJM have either announced or are planning for deactivation due to economic issues and aging problems and are therefore having limited capital investment.”²¹

¹⁷ Relevant Ohio utilities are responsible for 38% of the OVEC Power Participation Benefits and Requirements. OVEC 2019 Annual Report (page 2 of PDF) AEP Ohio (a.k.a Ohio Power) has 19.93%. Dayton Power and Light has 4.90%. Duke Energy Ohio has 9.00%. Energy Harbor has 4.85%.

¹⁸ London Economic International’s audit of the AEP Ohio PPA Rider., Case No. 18-1759-EL-RDR, Page 53 of PDF.

¹⁹ London Economic International’s audit of the AEP Ohio PPA Rider, Case No. 18-1759-EL-RDR, Page 53 of PDF.

²⁰ IEEFA 2017 Report
<https://ieefa.org/wp-content/uploads/2017/06/Dont-Bail-Out-Retire-OVEC-Coal-Plants.pdf> (page 3 of PDF)

²¹ London Economic International’s audit of the AEP Ohio PPA Rider, Case No. 18-1759-EL-RDR (page 97 of PDF)

September 4, 2020

[FERC Orders Hearings Following Opposition To Columbia Transmission Rate Hikes](#)

Federal regulators have scheduled hearings after stakeholder groups in Ohio and elsewhere pushed back on proposed rate hikes by Columbia Gas Transmission LLC.

The Federal Energy Regulatory Commission's move this week comes after utility companies, industrial customers and consumer advocates expressed concerns about the company's plan to recover project and modernization costs through rate increases.

"We find that Columbia's proposed tariff records ... have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or otherwise unlawful," FERC wrote in its order.

The company, a subsidiary of TC Energy, filed its rate case with the commission in July, with company officials saying they are seeking to recover "prudently-incurred operating costs" and a "fair return" on historical investments.

"The modernization and other capital investments we've made over the years have provided our customers with more reliable access to low-cost natural gas and premium markets that are required to continue to grow the US and global economies," said Stanley Chapman III, TC Energy's executive vice president. "We continue to improve the company's strategic position by enhancing our existing robust energy infrastructure with increased efficiency and reliability."

But the proposal triggered a swift response from ratepayers who pointed out the proposed tariffs in some cases could lead to as much as a

threefold increase for customers utilizing the company's Columbia Gas Transmission Pipeline.

"It is manifestly unjust and unreasonable (the company) is asking FERC to accept that its costs have increased by 383% for providing service in Ohio (and elsewhere) and it should increase rates by 78% (firm transportation service) to 134% (storage service) annually for Ohio consumers (and others throughout the region)," argued the Ohio Consumers' Counsel and the Northeast Ohio Public Energy Council in joint comments.

The groups argue that customers of Columbia Gas of Ohio – not to be confused with Columbia Gas Transmission LLC. – would be particularly impacted given that the former passes charges received from Columbia Transmission to its retail customers.

Industrial users, including the Ohio Manufacturers' Association Energy Group, echoed concerns about the justification for the proposed increases in their own comments.

"Columbia proposes an annual cost of service increase from \$602 million to approximately \$2.9 billion, and an increase in rate base from approximately \$1.6 billion to roughly \$11.9 billion, however, Columbia has not shown these proposed changes to be just and reasonable," the groups argued.

Duke Energy agreed that "Columbia Gas has failed to demonstrate how its significant rate increases and other controversial rate design, modernization and tariff proposals are just and reasonable. Rather, rates approaching double or triple the existing rates suggest, in fact, an unjust and unreasonable proposal."

FERC's order requires hearings to be convened by June 23, 2021, with an initial decision issued by November 2021. A settlement judge has also been appointed to oversee talks between the parties, with status reports due every 60 days.

Energy

PUCO Initiates FirstEnergy Audit November 6, 2020

This week, the Public Utilities Commission of Ohio (PUCO) **initiated an audit** of FirstEnergy's compliance with corporate separation laws and regulations. The action by the PUCO comes after the agency has been petitioned and criticized for not investigating wrongdoing by the regulated monopoly utility company, FirstEnergy, referred to as "Company A" in the federal prosecution against Larry Householder for its role in HB 6.

In the wake of guilty pleas entered by two of the accused conspirators last week, FirstEnergy fired its CEO and other executives. FirstEnergy's board said that the executives had violated company policies and its code of conduct. With that admission, the PUCO initiated the audit of FirstEnergy.

Meanwhile eyes are on the post-election or lame duck legislative session that will soon convene for a month or so. Late last week, Senate President Larry Obhof told the **Columbus Dispatch** (subscription) that the Senate will hold informal hearings on **House Bill 772** (Romanchuk) to repeal HB 6. *11/5/2020*

Guilty Pleas in HB 6 Corruption Case; FirstEnergy Fires CEO Chuck Jones October 30, 2020

The fallout continues from the House Bill 6 scandal.

On Thursday, Oct. 29, U.S. District Court Judge Timothy Black accepted guilty pleas from two of the individuals facing federal racketeering charges alongside former Ohio House Speaker **Larry Householder** (R-Glenville). Hours later, **FirstEnergy Corp. announced** it had terminated CEO Charles E. Jones Jr. and two senior vice presidents for **violating company policies** and its code of conduct. As reported at **Cleveland.com**, Juan Cespedes, a former lobbyist for FirstEnergy, and Jeffrey Longstreth, a longtime campaign and political strategist for Householder, admitted they took part in a "massive pay-to-play scandal" tied to the nuclear subsidy law and a subsequent referendum campaign. Federal authorities allege the scheme involved more than \$60 million in bribes to Householder and a handful of allies.

The **Statehouse News Bureau** writes that the guilty pleas mean the defendants have "reached a deal with federal prosecutors." U.S. Attorney David DeVillers says the "investigation remains ongoing." *10/29/2020*

Utility-Scale Battery Storage Costs Fell Nearly 70% in Recent Years October 30, 2020

The ability to store electricity — and do so in a way that's affordable — is critical to expanding the use of renewable energy. So it's worth noting the U.S. Energy Information Administration **has reported** that the average energy capacity cost of utility-scale battery storage in the U.S. fell from \$2,152 per kilowatt hour (kWh) in 2015 to \$625 per kWh in 2018 — a nearly 70% decrease. *10/28/2020*

Analysis: Markets Prepare for Possible Changes to Renewable Energy Policies October 30, 2020

The prospect of a Joe Biden victory on Election Day has spurred a rise in renewable energy stocks, according to OMA Connections Partner RSM. **The firm writes:** "By contrast, returns for oil and gas producers are down for the year, not only because of weaker demand that followed the economic slowdown, but also because of the prospect of regulatory headwinds for fossil fuels under a new administration." *10/28/2020*

Crain's: Ohio Can't Allow HB 6 to Stand October 23, 2020

Crain's Cleveland Business has weighed in on repeal of House Bill 6. The paper writes: "Allowing this bill to stand sends an unmistakable signal that corruption is tolerated, at least when crafting an alternative to the result of the corruption is hard. ... The Legislature loses credibility by the day as it lets HB 6 stand." The editorial signals support for **House Bill 772**, which would, among other things, "repeal the nuclear, solar, and coal subsidies included in HB 6" while preserving other parts of the legislation, including ending green energy standards. For a brief background on HB 772 and why it has OMA's support, **see the OMA's summary.** *10/19/2020*

Another Week of No Hearings on HB 6 Repeal **October 16, 2020**

More than 12 weeks have passed since federal agents arrested then-House Speaker Larry Householder (R-Glenford) for his ties to the alleged a \$60 million conspiracy to pass House Bill 6.

And in just 75 days — on Jan. 1 — Ohioans will be forced to start paying for HB 6's subsidies via their electric bills, costing ratepayers \$170 million annually.

Fortunately, **House Bill 772** has been offered by Rep. Mark Romanchuk (R-Ontario) to repeal and reform provisions of Ohio's energy law that have been negatively impacted by HB 6. (The OMA has produced **this two-page document** to summarize HB 772 and why it's needed.) But the **House Select Committee on Energy Policy and Oversight**, which is considering HB 6 repeal options, has not held a hearing since Sept. 30.

As **this Cleveland.com editorial** indicates, calls for the General Assembly to act are growing louder. Gov. Mike DeWine **this week said** he thinks Ohio lawmakers will pass some type of repeal legislation after the Nov. 3 election. This will be a key topic of discussion at the OMA's **Government Affairs Committee meeting** on Nov. 10. *10/15/2020*

Romanchuk Briefs OMA Members on HB 6 Repeal and Reform Legislation **October 9, 2020**

This week, Rep. **Mark Romanchuk** (R-Ontario) addressed a joint meeting of the OMA's Government Affairs Committee and Energy Committee. Romanchuk briefed members on **House Bill 772**, legislation he has introduced to repeal and reform provisions of Ohio's energy law that have been negatively affected by what he called "the HB 6 debacle."

OMA staff has produced **this two-page document to summarize HB 772** and why it's needed.

According to Rep. Romanchuk, Ohio has continued to subsidize electric generation despite the enactment of deregulation legislation (SB 3) more than two decades ago. He said Ohio needs to return to market-driven energy

policy. OMA staff stressed that a strong, unified manufacturing coalition will be needed to pass HB 772. *10/7/2020*

Ohio to Lose Two More Coal-Fired Generation Plants **October 9, 2020**

Ohio will be down to nine coal-fired plants — providing 9,000 megawatts (MW) of generation — after Texas-based **Vistra Energy**, an OMA Connections Partner, shuts two power stations near Cincinnati in the next six years.

Hannah News Service (subscription) **reported** this week that "the state will lose more than 2,500 MW at the Miami Fort and W.H. Zimmer coal plants with the company's continued transition from high-carbon technologies to gas-fired and renewable sources."

The coal plants "remain economically challenged," Vistra said, noting that the retirements reflect the major technology investments that would be required to comply with federal environmental regulations. *10/6/2020*

Romanchuk Introduces HB 6 Repeal and Reform Bill **October 2, 2020**

This week, Rep. **Mark Romanchuk** (R-Ontario) introduced **House Bill 772** to repeal and reform provisions of Ohio's energy law that have been altered by House Bill 6.

HB 772 differs from the so-called "straight repeal" bills in that Rep. Romanchuk's legislation would reverse the law on new customer costs imposed by HB 6, including subsidies for nuclear power plants, old coal plants, and subsidized profits for FirstEnergy. HB 772 appears to line up with the four suggested elements for repeal and reform as outlined by the OMA in **testimony last week**.

The OMA will be studying the bill in detail and will share analysis next week. Stay tuned. *10/1/2020*

Urgency of HB 6 Repeal Fades **October 2, 2020**

This week, the **House Select Committee on Energy Policy and Oversight** conducted its

fourth hearing on a pair of House Bill 6 repeal bills (**HB 738** and **HB 746**). Afterward, Chairman **Jim Hoops** (R-Napoleon) told Statehouse news media that the committee's exact schedule remains undetermined. He added that "whether the two nuclear plants need the financial support remains a key question." Meanwhile, only 90 days remain until Jan. 1, when Ohioans start funding HB 6's nuclear subsidies via their electric bills. *10/1/2020*

Comparing Utility Bills From Akron to Zanesville **October 2, 2020**

The Ohio Public Utilities Commission of Ohio (PUCO) **has published the results** of its most recent Ohio Utility Rate Survey. The PUCO's **September survey** provides an overview and comparison of electric, telephone, and natural gas bills across Ohio. It includes utility bills paid by industrial customers in eight major Ohio cities. *10/1/2020*

EIA: Big Drop in Industrial Consumption of Natural Gas **October 2, 2020**

The consumption of natural gas in the U.S. industrial sector declined from 25.4 billion cubic feet per day (Bcf/d) in January 2020 to 20.1 Bcf/d in June 2020, **according** to the U.S. Energy Information Administration. Industrial natural gas consumption in June 2020 was nearly 1.0 Bcf/d lower than its year-ago level due to COVID-19. *10/1/2020*

OMA Makes Case for HB 6 Repeal and Reform **September 25, 2020**

The OMA this week provided insight and analysis to Ohio lawmakers charged with reviewing the state's nuclear bailout law (House Bill 6). In a **Sept. 23 hearing** by the **House Select Committee on Energy Policy and Oversight**, OMA board member and past chair David Johnson, CEO of Summitville Tiles Inc. in Columbiana County, told lawmakers that the OMA supports repeal and reform of the law. Johnson was one of multiple OMA members who testified against HB 6 last year.

"We believe the preferred legislative package would repeal the anti-market provisions of HB 6

that are punitive to customers," Johnson said in **his testimony**. "We suggest a repeal that protects customers and maximizes customers' cost savings."

Also testifying were OMA's energy counsel, Kim Bojko of Carpenter Lipps & Leland LLP, and OMA's engineering consultant, John Seryak of RunnerStone LLC. Bojko and Seryak explained anti-competitive aspects of HB 6, including the law's unique **decoupling mechanism**, as well as the **"significantly excessive profits" provision** contained in the state's 2019 budget.

Committee Chair Rep. **Jim Hoops** (R-Napoleon) told news media that the panel remains in "fact-finding mode." He has not yet indicated when the committee will vote on **proposals to repeal HB 6**. *9/23/2020*

Ohio Sues to Block Nuclear Subsidies From Being Paid **September 25, 2020**

Ohio Attorney General **Dave Yost** this week **sued** FirstEnergy companies, former Speaker Larry Householder, and several other parties for their alleged ties to a scandal involving House Bill 6. The complaint, filed in Franklin County Common Pleas Court, names 14 defendants, including Householder and his four associates who have been indicted and pleaded not guilty to racketeering charges.

The AG's office is also seeking to block any party from receiving HB 6 subsidies. **Cleveland.com reports** that "the lawsuit doesn't seek to stop the collection of any nuclear bailout money — just to block its payment to Energy Harbor (formerly FirstEnergy Solutions). The suit doesn't state what would or should happen to any surcharge money collected from Ohioans."

Meanwhile, FirstEnergy says the attorney general's complaint is **"without legal merit."** *9/24/2020*

OCC Again Demands Independent Probe of FirstEnergy **September 25, 2020**

The Office of Ohio Consumer Counsel (OCC) — the state's official consumer advocate — this week made a second request that utility

regulators authorize an independent investigation into whether FirstEnergy improperly used ratepayer funds to fuel what federal prosecutors are calling the biggest bribery scandal in state history.

As reported by **Ohio Capital Journal**, OCC objected to a directive **last week** by the PUCO that FirstEnergy itself show that it didn't use ratepayer funds to pay for a scheme to pass House Bill 6 last year.

The OCC is also asking the PUCO to reopen an investigation into the \$465 million FirstEnergy was allowed to collect from Ohio ratepayers in 2017 and 2018 in the form of a "distribution modernization rider." The Supreme Court of Ohio **declared the charge to be unlawful**, but the money was not refunded. *9/23/2020*

HB 6 Decoupling Explained September 18, 2020

During this week's House hearing on legislation to repeal House Bill 6, discussion and questions centered around the nuclear bailout law's poorly understood "decoupling mechanism." The provision, which has been implemented, will assure FirstEnergy utilities will be made whole to 2018 revenue levels.

During an investor call earlier this year, FirstEnergy's CEO bragged that the provision would make the company "somewhat recession proof." Previous **OMA analysis** showed how FirstEnergy utilities stand to benefit from hundreds of millions of dollars in unearned income.

In response to questions from our members and policymakers, OMA technical consultants at RunnerStone LLC have developed **this primer on decoupling and how HB 6 decoupling benefits FirstEnergy** by deviating from best practices. The research finds that while there is a legitimate purpose and public policy for decoupling, the HB 6-enabled decoupling mechanism is a horse of a different color — one that provides no offsetting customer benefits. Read the memo to compare a typical decoupling mechanism to the special decoupling mechanism in HB 6. *9/17/2020*

PUCO Opens Investigation Into FirstEnergy's HB 6 Spending September 18, 2020

Last week, the Ohio Consumers' Counsel (OCC) requested that the PUCO **launch an investigation** into FirstEnergy's political spending to determine if the company used money collected from consumers in its activities associated with the nuclear bailout, House Bill 6.

This week, the PUCO **opened a review** of FirstEnergy's political and charitable spending related to HB 6 and the subsequent referendum effort. While this action is more limited than the OCC request, the PUCO directed FirstEnergy to show cause by Sept. 30 that the cost of these activities were not included, directly or indirectly, in any rates or charges paid by customers. The PUCO did not issue a ruling on OCC's **other motions**, including the request to re-open the Distribution Modernization Rider audit case.

Interested parties will have an opportunity to file comments on FirstEnergy's response by Oct. 29 and reply to comments by Nov. 13. *9/17/2020*

Report: Fossil Fuels Account for 80% of U.S. Energy Production, Consumption September 18, 2020

Research from the U.S. Energy Information Administration (EIA) shows that despite **falling costs** to produce renewable energy, fossil fuels — including petroleum, natural gas, and coal — continue to account for the largest share of energy production and consumption in the U.S. Last year, **80% of domestic energy production** was from fossil fuels, and 80% of domestic energy consumption originated from fossil fuels. *9/16/2020*

House Committee Begins Review of HB 6 Repeal Bills September 11, 2020

The Ohio House **Select Committee on Energy Policy and Oversight** has begun consideration of legislation that would repeal the nuclear subsidy law (House Bill 6). The committee this week held initial hearings on two repeal bills (**HB 738** and **HB 746**), as well as **HB 740**, which would reverse budget language that benefited FirstEnergy by modifying the significantly excessive earnings test.

Rep. **Jim Hoops** (R-Napoleon), who chairs the select committee, told **Gongwer News Service** (subscription) "there remains no firm timeline for a potential repeal or for wrapping up

the committee's work." But Chairman Hoops added that he "has no intention on repeating the hundreds of hours of testimony" heard during the 2019 debate on HB 6. *9/10/2020*

Did Utility Customers Foot the Bill for Passage of HB 6? September 11, 2020

This week, the Office of the Ohio Consumers' Counsel (OCC) — the statewide advocate for residential utility customers — **filed a motion** to compel the Public Utilities Commission of Ohio (PUCO) to conduct a management audit of Akron-based FirstEnergy.

The OCC wants to find out if FirstEnergy or its affiliated companies used money collected from consumers to help pass and defend House Bill 6, the nuclear bailout law. As reported in **this Cincinnati Enquirer article**, the consumers' counsel wants the PUCO to appoint an independent auditor "to probe whether millions collected from a fee on FirstEnergy customers' bills, called a distribution modernization rider, was used improperly."

The PUCO, which has been mum about the activities of the regulated utility, has until Sept. 23 to make a decision on the OCC's motion. *9/10/2020*

OMA Energy Committee Examines Options to Address HB 6 September 11, 2020

This week, the OMA Energy Committee held its quarterly meeting. Members were briefed on the options being considered by state lawmakers to address Ohio's nuclear bailout law (House Bill 6) following the arrest of former Speaker Larry Householder (R-Glenford) earlier this summer. Other highlights of the meeting included:

- **A review of HB 6 provisions and consumer costs**, presented by OMA Energy Engineer John Seryak, RunnerStone, LLC;
- **A summary of recent natural gas market trends**, presented by

Darin King, NiSource/Columbia Gas of Ohio; and

- **An overview of electricity market trends**, presented by Susanne Buckley, Scioto Energy.

OMA Energy Committee Chair Brad Belden, president of Belden Brick, reminded members that the committee's **next meeting** will be Dec. 2. *9/10/2020*

Utilities Cast Doubt on Biden's 'Carbon Neutral' Plan September 11, 2020

This week, an **analysis** by Reuters reported that the U.S. power industry "would struggle to meet presidential hopeful Joe Biden's proposed mandate that it become carbon neutral by 2035 without some big breakthroughs in clean energy technology."

According to the news agency, the country's largest electricity suppliers said "rapid advances in nascent technologies — such as batteries to store power for lean times, carbon capture to trap waste from fossil fuels, and advanced nuclear power — will be critical to reaching net-zero carbon dioxide emissions." *9/8/2020*

Speaker Cupp Appoints Select Committee to Deal With HB6 September 4, 2020

This week Speaker **Bob Cupp** appointed the 15-member bipartisan **House Select Committee on Energy Policy & Oversight**, which will lead efforts to repeal and replace House Bill 6.

Rep. **Jim Hoops** (R-Napoleon) has been tapped as the chair of the committee.

Meanwhile, the Senate has begun hearings on a straight repeal measure (SB 346), with members of the Senate Energy & Public Utilities Committee. *9/3/2020*

OMA Protests Pipeline Rate Hike August 28, 2020

The OMA Energy Group has joined a coalition of industrial customers **to protest a proposed hike** in transmission charges on certain natural gas shipments by as much as 78%. In the joint protest, which is pending before the Federal Energy Regulatory Commission (FERC), the

coalition questions the justification for such a large increase. The increased costs would directly impact customers that ship gas on the Columbia Gas Transmission Pipeline and would be passed on to smaller customers. In addition to the OMA Energy Group, the coalition includes the American Forest and Paper Association, Process Gas Consumers, and the Industrial Consumers of America.

Columbia Transmission is not affiliated with Columbia Gas of Ohio, but is owned by TC Energy Corporation (formerly TransCanada). The case will be discussed at the **upcoming meeting** of the OMA Energy Committee on Sept. 10. *8/27/2020*

Report: FirstEnergy Bullied Lawmakers to Support Subsidies

August 28, 2020

A **Cleveland Plain Dealer** article published this week details how FirstEnergy has used its “political might” to pressure Ohio lawmakers over the past several years. The article, which profiles a former state legislator who represented the community served by Davis-Besse nuclear plant, reveals how lobbyists for the utility holding company strong-armed legislators into supporting subsidies. Ned Hill, a professor of economic development at The Ohio State University and a critic of House Bill 6, is quoted as describing the activity as “crony capitalism” — the kind that occurs “when a business has friends in government who do it favors in exchange for cash payments and political contributions.” *8/27/2020*

House Bill 6 Fallout Continues

August 28, 2020

The Ohio Senate has added a session date next week and may consider options to repeal the nuclear bailout law, House Bill 6. Meanwhile, Attorney General Dave Yost this week **threatened to sue** to block HB 6 subsidies for Ohio’s nuclear plants. The subsidies would total \$150 million a year, generated by fees added to Ohioans’ electricity bills starting Jan. 1.

Also this week, the Associated Press **published this story** examining the alleged \$60 million bribery scheme that led to the arrest of former Speaker **Larry Householder** (R-Glenford). The article references **OMA research** that estimates FirstEnergy could reap \$355 million in unearned revenue through 2024 due to HB 6’s “decoupling mechanism.” *8/27/2020*

Energy Legislation

Prepared by: The Ohio Manufacturers' Association
Report created on November 9, 2020

- HB6** **CLEAN AIR PROGRAM** (CALLENDER J, WILKIN S) To create the Ohio Clean Air Program, to facilitate and encourage electricity production and use from clean air resources, and to proactively engage the buying power of consumers in this state for the purpose of improving air quality in this state.
Current Status: 7/23/2019 - **SIGNED BY GOVERNOR**; Eff. 10/22/19
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-6>
- HB20** **SOLAR PANEL LIMITATIONS** (BLESSING III L) To prohibit condominium, homeowners, and neighborhood associations from imposing unreasonable limitations on the installation of solar collector systems on the roof or exterior walls of improvements.
Current Status: 6/26/2019 - House State and Local Government, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-20>
- HB55** **OIL AND GAS WELL ROYALTY STATEMENTS** (CERA J) To require the owner of an oil or gas well to provide a royalty statement to the royalty interest holder when the owner makes payment to the holder.
Current Status: 2/26/2019 - House Energy and Natural Resources, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-55>
- HB94** **LAKE ERIE DRILLING** (SKINDELL M) To ban the taking or removal of oil or natural gas from and under the bed of Lake Erie.
Current Status: 9/17/2019 - House Energy and Natural Resources, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-94>
- HB95** **BRINE-CONVERSION OF WELLS** (SKINDELL M) To alter the Oil and Gas Law with respect to brine and the conversion of wells.
Current Status: 9/17/2019 - House Energy and Natural Resources, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-95>
- HB104** **NUCLEAR DEVELOPMENT** (STEIN D) To enact the Advanced Nuclear Technology Helping Energize Mankind (ANTHEM) Act by establishing the Ohio Nuclear Development Authority and the Ohio Nuclear Development Consortium and authorizing tax credits for investments therein.
Current Status: 7/21/2020 - Senate Energy and Public Utilities, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-104>
- HB223** **WIND SETBACKS** (STRAHORN F, SKINDELL M) To alter the minimum setback requirement for wind farms of five or more megawatts.
Current Status: 5/8/2019 - Referred to Committee House Public Utilities

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-223>

- HB245** **PROPERTY TAX EXEMPTION TIMELINES** (SMITH J) To remove the current deadlines by which an owner or lessee of a qualified energy project must apply for a property tax exemption.
Current Status: 5/21/2019 - Referred to Committee House Energy and Natural Resources
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-245>
- HB246** **PUCO/OCC REFORM** (VITALE N) To reform and modernize the Public Utilities Commission and the Consumers' Counsel.
Current Status: 5/28/2020 - **SUBSTITUTE BILL ACCEPTED**, House Public Utilities, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-246>
- HB247** **RETAIL ELECTRIC SERVICE LAW** (STEIN D) Regarding the competitive retail electric service law.
Current Status: 10/23/2019 - House Public Utilities, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-247>
- HB260** **CLEAN ENERGY JOBS** (DENSON S, WEINSTEIN C) To maintain operations of certified clean air resources, establish the Ohio generation and jobs incentive program and the energy performance and waste reduction program, and make changes regarding wind turbine siting.
Current Status: 5/28/2019 - Referred to Committee House Energy and Natural Resources
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-260>
- HB401** **TOWNSHIP REFERENDUM - WIND FARMS** (REINEKE W) To require inclusion of safety specifications in wind farm certificate applications, to modify wind turbine setbacks, and to permit a township referendum vote on certain wind farm certificates.
Current Status: 12/3/2019 - House Energy and Natural Resources, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-401>
- HB499** **MOTOR FUEL TESTING PROGRAM** (KELLY B, LANG G) To authorize a county to implement a motor fuel quality testing program.
Current Status: 5/19/2020 - House Transportation and Public Safety, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-499>
- HB564** **PREVENT UTILITY DISRUPTION DURING COVID-19** (LELAND D) To prevent the disruption of utility service during the state of emergency declared regarding COVID-19 and to declare an emergency.
Current Status: 5/5/2020 - Referred to Committee House Public Utilities

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-564>

- HB738 REPEAL HB6 - REVIVE PRIOR LAWS** (SKINDELL M, O'BRIEN M) To repeal Sections 4 and 5 of H.B. 6 of the 133rd General Assembly to repeal the changes made by H.B. 6 of the 133rd General Assembly to the laws governing electric service, renewable energy, and energy efficiency and the changes made to other related laws.
Current Status: 9/30/2020 - House Energy Policy and Oversight Select Committee, (Fourth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-738>
- HB740 EARNINGS - UTILITY SECURITY PLAN** (SKINDELL M, DENSON S) Regarding the significantly excessive earnings determination for an electric distribution utility's electric security plan.
Current Status: 9/10/2020 - House Energy Policy and Oversight Select Committee, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-740>
- HB746 REPEAL HB6** (LANESE L, GREENSPAN D) To repeal the changes made by H.B. 6 of the 133rd General Assembly to the laws governing electric service, renewable energy, and energy efficiency and the changes made to other related laws.
Current Status: 9/30/2020 - House Energy Policy and Oversight Select Committee, (Fourth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-746>
- HB772 ELECTRIC UTILITY SERVICE LAW/REPEAL PART OF HB 6** (ROMANCHUK M) To make changes regarding electric utility service law, to repeal certain provisions of H.B. 6 of the 133rd General Assembly, and to declare an emergency.
Current Status: 11/10/2020 - Senate Energy and Public Utilities, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-772>
- HJR2 CRITICAL INFRASTRUCTURE PROTECTION AMENDMENT** (MANNING D, CALLENDER J) Proposing to enact Section 12 of Article XV of the Constitution of the State of Ohio to provide Ohio critical infrastructure protection.
Current Status: 10/30/2019 - House Energy and Natural Resources, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HJR-2>
- SB86 UTILITY SERVICE RESELLERS** (MAHARATH T) To regulate certain resellers of utility service.
Current Status: 12/10/2019 - Senate Energy and Public Utilities, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-86>
- SB234 WIND FARMS** (MCCOLLEY R) To require inclusion of safety specifications in wind farm certificate applications, to modify wind turbine setbacks, and to permit a township referendum vote on certain wind farm certificates.

Current Status: 2/11/2020 - Senate Energy and Public Utilities, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-234>

SB346 **REPEAL HB6** (O'BRIEN S, KUNZE S) To repeal the changes made by H.B. 6 of the 133rd General Assembly to the laws governing electric service, renewable energy, and energy efficiency and the changes made to other related laws.

Current Status: 11/10/2020 - Senate Energy and Public Utilities, (Second Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-346>

SB363 **ELIMINATE AUTOMATIC ENROLLMENT-AGGREGATION PROGRAMS** (HOAGLAND F) To eliminate automatic enrollment in governmental electric and natural gas aggregation programs.

Current Status: 9/22/2020 - Referred to Committee Senate Energy and Public Utilities

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-363>

TO: OMA Government Affairs Committee
FROM: Ryan Augsburger / Rob Brundrett
RE: Environment Public Policy Report
DATE: November 10, 2020

Overview

The COVID-19 pandemic and the Larry Householder bribery scandal slammed the brakes on any robust legislative agenda through the spring and summer months. The General Assembly has been returning intermittently through the summer to take care of lingering issues. However no new or major environmental legislation or policy is expected in the coming months.

With the reduction of tax revenue there was concern that H2Ohio would lose funding. All first year funding was fully distributed, but there is a question mark for the second year funding. In the meantime, a wide variety of projects tied to H2Ohio continue as planned.

PFAS water testing was delayed due to COVID-19. The agency was attempting to test the vast majority of Ohio's public water systems. Testing was restarted in July and expected to continue through the end of 2020.

The OMA continues to be heavily engaged at the agency level regarding rules and regulations that impact Ohio's manufacturers.

OHIO EPA COVID-19 INFORMATION

Ohio EPA Requests Electronic Filings of Plans, Permit Applications

Ohio EPA has announced that because its district offices and central office are temporarily closed, businesses are encouraged to submit plans, permit applications, and other required documents electronically when there are existing avenues to do so, such as eBiz. Plans under 25 MB can be emailed. For large plans over 25 MB, entities should work with the reviewer/division to upload via LiquidFiles. Directions for submitting docs via LiquidFiles are available on YouTube (<https://www.youtube.com/watch?v=BkeiTm5e9zE&feature=youtu.be>).

Ohio EPA staff has been told they will be working from home until January 4, 2021.

How to Contact Ohio EPA Staff During the COVID-19 Crisis

Due to COVID-19 concerns, Ohio EPA is currently operating with many staff members working remotely. The agency wants businesses to know that if you are working with staff on a current project — and you know the name of the employee you are working with — you can email them using this format: `firstname.lastname@epa.ohio.gov`. Or call the employee directly.

The agency's website has contact information for every district, division, and office. Businesses can contact Ohio EPA's main phone line at (614) 644-3020. To report a spill or environmental emergency, contact the spill hotline (800) 282-9378 or (614) 224-0946.

Ohio EPA COVID-19 Guidance

Earlier this year, the U.S. EPA and other environmental regulators developed temporary enforcement discretion policies to mitigate the impact of the pandemic on their own employees, as well as on the employees of regulated companies and their contractors. States, including Ohio, also adopted their own enforcement discretion policies.

Both U.S. EPA and Ohio EPA have terminated these enforcement discretion policies.

In the early stages of the pandemic, Ohio EPA allowed for more regulator leniency. Ohio EPA's COVID-19 webpage now states:

With the lifting of Ohio's stay at home order and the reopening of businesses under Ohio's Responsible RestartOhio Plan, **Ohio EPA discontinued considering any new COVID-19 regulatory flexibility requests effective Aug. 31, 2020**. This deadline is also consistent with U.S. EPA's termination of federally related regulatory flexibility requests.

General Assembly News and Legislation

Senate Bill 2 – Statewide Watershed Planning

The bill's goal is to create a comprehensive statewide watershed planning structure to be implemented by local soil and water conservation districts to encourage efficient crop growth, soil conservation and water protection methods. The bill specifically states that it is the General Assembly's intent to collaborate with organizations representing agriculture, conservation, the environment, and higher education to establish a certification program for farmers that utilize practices designed to minimize impacts to water quality.

The Senate sees the bill as a complementary piece of legislation to the work done in the budget on creating and funding H2Ohio. The House of Representatives has held five hearings on the Senate bill.

House Bill 7 – H2Ohio Trust Fund

The bill creates the H2Ohio Trust Fund for the protection and preservation, and restoration of the water quality of Ohio's lakes and rivers. It requires the Ohio Water Development Authority to act as trustee of the fund and grants them full powers to invest money. It also creates the H2Ohio Advisory Council to establish priorities for use of the fund for water quality initiatives.

The House initially removed most of the funding for H2Ohio from the state budget. However, the startup funding was reinserted during House and Senate discussions along with other H2Ohio framework provisions. The House passed the bill and it has received one hearing in the Senate last fall.

Senate Bill 50 – Increase Solid Waste Disposal Fee

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

Senate Bill 222 – Container Use Restriction

The Senate version of House Bill 242 also authorizes the use of an auxiliary container for any purpose; it also prohibits the imposition of a tax or fee on those containers and applies existing anti-littering laws to those containers. The OMA provided proponent testimony on the bill in Senate committee.

House Bill 242 – Container Use Restriction

The Ohio House of Representatives last week voted 58-35 to accept the Senate's changes to House Bill 242 — often referred to as the “plastic bags bill” in the news media. HB 242 prevents local governments from putting fees or bans on the use of auxiliary containers, such as plastic bags or other types of containers often used in retail and the food and beverage industry. Ohio is a manufacturing leader for these types of containers.

The major change to HB 242 made by the Senate was the inclusion of a 12-month sunset on the pre-emption provision. Several local governments in Ohio had previously banned certain types of containers, although some had already repealed their ban due to COVID-19. Bill supporters, including the OMA who testified multiple times in support of the bill, say HB 242 provides uniform business regulations across the state.

The OMA supported the bill and will work to increase the length of the pre-emption in future legislation. Gov. Mike DeWine is expected to sign the bill.

House Bill 328 – PFAS Firefighting Foam

The bill prevents testing and training with firefighting foam with PFAS added. The bill which is supported by the industry has received two hearings in the House.

House Bill 491 – Plastic Pollution Awareness Day

The bill designates the fifteenth day of February as “Plastic Pollution Awareness Day.” The bill has not had any hearings.

House Bill 497 – PFAS Drinking Standard

The bill would require the Director of Environmental Protection to adopt rules establishing maximum allowable contaminant levels in drinking water and water quality standards for certain contaminants (PFAS). The bill has not had any hearings and was referred to the House Health committee.

House Bill 522 – Waste Disposal Conservancy Districts

The bill authorizes conservancy districts to provide for the collection and disposal of solid waste. The bill has not had any hearings to date.

House Bill 675 – Clean Ohio Program

The bill makes revisions to the Clean Ohio Program and makes an appropriation. There have been no hearings.

Regulations

OMA Submits Comments Opposing Portions of Ohio EPA's Credible Data Rule

The OMA submitted comments opposing portions of Ohio EPA's Proposed Credible Data Program. The OMA specifically opposed the addition of “state universities” to the definition of “state environmental agency” found within the Ohio Administrative Code 3745-4-02(Q).

As drafted, the rule appears to allow for any state university employee to submit data, which could be deemed credible pursuant to the rule regardless of the employee's area of discipline, training, and experience. The OMA has requested this provision be removed from the draft rule. We will continue to engage on this issue

OMA Files Federal Comments on Ohio Air Pollution Nuisance SIP

This summer the OMA led a coalition of business groups by filing comments to the U.S. EPA's correction of the inclusion of Ohio's air pollution nuisance rule. The comments agree with U.S. EPA's proposal to remove the nuisance rule from the Ohio SIP. Ohio's public nuisance provision is a general rule prohibiting public nuisances and has not connection with the purposes for which SIPs are developed and approved. Manufacturers often find themselves in the crosshairs of lawsuits based on the SIP provision even though they are in total compliance with the permit limits. The coalition recently filed supporting comments. Early indications from U.S. EPA seem positive.

OMA Submits Comments on Water Quality Standards for Point Sources

On August 28, OMA submitted comments to Ohio EPA regarding the agency's Early Stakeholder Outreach (ESO) – OAC Chapter 3745-1-38 – Variances from Water Quality Standards for Point Sources.

OMA highlighted the wide ranging impact of the rule and stressed in particular that greater flexibility is needed with respect to the mercury variance portion of the rule.

OMA Submits Comments on Ambient Water Quality Criteria

The OMA submitted comments regarding the U.S. EPA's Draft Ambient Water Quality Criteria Recommendations for Lakes and Reservoirs of the Conterminous United States. The OMA outlined serious concerns regarding the proposed use of the draft recommendations, as well as some of the assumptions underlying the recommendations.

The OMA stated that the draft recommendations, if pursued, "should not be issued as Clean Water Act Section 304(a) criteria, but rather as guidance for the limited purpose of evaluating whether nutrients may be a cause of a confirmed use impairment in a lake or reservoir, and only after the models are revised to address their overly conservative assumptions."

Ohio Submits Ozone Documents to U.S. EPA

Last month, Ohio EPA submitted to U.S. EPA the emissions inventory and emission statement program to satisfy attainment demonstration requirements under the 2015 ozone National Ambient Air Quality Standard (NAAQS).

Cleveland, Cincinnati in Non-Attainment for Ozone Standard

Earlier this month, Ohio EPA hosted calls to notify stakeholders in the Cincinnati and Cleveland areas that both regions will not be in attainment under the federal ozone standard of 2015. Both regions are required to be in compliance with the standard by Aug. 3, 2021.

Because both regions are reporting higher ozone numbers, they will be considered as being in "moderate non-attainment." This status change will trigger additional compliance requirements under the federal Clean Air Act, including emissions offsets.

The OMA will continue to work with members and Ohio EPA on Ohio's responses to these new challenges. Ohio EPA says they are working with other states to examine non-point source solutions — not just point sources, which tend to punish manufacturers.

Good News for Manufacturers: U.S. EPA Declines to Tighten Ozone Standards

Ohio manufacturers should note that the U.S. EPA last week did not propose stricter ozone standards despite pressure from environmental groups. The EPA's new proposal retains the 70-part-per-billion (ppb) standard for ozone, commonly referred to as smog, set under the Obama

administration. Even under the current standard, the Cincinnati and Cleveland areas are both at high risk of being elevated to “moderate non-attainment” status, which would mean tighter controls on emitting industries.

“At a time when we are facing record-breaking unemployment, a lower ozone standard could slow our economic rebound and threaten manufacturing competitiveness,” the National Association of Manufacturers wrote in a statement of support for the EPA’s proposal.

OMA Comments on U.S. EPA Stormwater Permits

The OMA submitted comments on the U.S. EPA’s National Pollutant Discharge Elimination System (NPDES) 2020 Issuance of the Multi-Sector General Permit (MSGP) for stormwater discharges associated with industrial activity. The EPA’s draft was more than 1,000 pages. The OMA has followed the MSGP closely for years as it is a good indication of where Ohio EPA will fall on the issue.

Three states are urging the U.S. EPA to impose new mandates related to the monitoring and reduction of per- and polyfluoroalkyl substances (PFAS) from industrial stormwater discharges. Colorado, Massachusetts, and New Mexico recently submitted comments on the draft Multi-Sector General Permit (MSGP) that ask EPA to require permitted industrial facilities to monitor PFAS in their stormwater discharges and to develop practices intended to minimize the potential for PFAS to be introduced into stormwater.

Ohio EPA Issues General Permit for Impacts to Ephemeral Streams

Ohio EPA announced the availability of a general permit that will be available to applicants for projects that impact ephemeral streams, which flow only for a short time, usually after a large storm or snowmelt.

The general permit comes in response to U.S. EPA’s recently finalized Navigable Waters Protection Rule. The new federal rule removes certain waters from federal jurisdiction under the federal Clean Water Act. States retain the authority to determine oversight of these non-jurisdictional waters.

The OMA submitted comments on Ohio EPA’s proposed General Permit for Isolated Wetlands and Ephemeral Streams. The new general permit is a product of the recent federal rule addressing “waters of the United States” (WOTUS) under the Navigable Waters Protection Rule.

Ohio EPA Agency News

Lake Erie Commission Advisory Group Includes OMA Members

The Lake Erie Commission has voted to establish an advisory group to better vet technology-driven proposals that will help combat harmful algal blooms to protect Lake Erie and Ohio waterways. Among the OMA members that have been named to the H2Ohio Technology Assessment Program advisory council are Scotts Miracle-Gro Company and Owens Corning.

Ohio EPA Launches ‘Ask an Expert’

Ohio EPA’s Office of Compliance Assistance and Pollution Prevention (OCAPP) has created a new avenue for companies to receive free and confidential environmental assistance regarding regulatory concerns about air, waste, water, and other environmental requirements. This service is available Monday through Friday, from 10 a.m. to 12 p.m. — and from 1 p.m. to 3 p.m.

<https://ohioepa.custhelp.com/app/contactus>

Ohio Changes Direction on PFAS Testing

Due to the COVID-19 pandemic, Ohio paused its statewide PFAS testing plan due to COVID-19. The state resumed testing last month.

Last year Gov. Mike DeWine directed state agencies to analyze the prevalence of per- and polyfluoroalkyl substances (PFAS) in Ohio's drinking water. This action followed a Sept. 18 letter from Gov. DeWine and 14 other governors to federal lawmakers, calling for more comprehensive federal legislation on PFAS standards.

In December an action plan was released to study all of Ohio's drinking water for PFAS chemicals. The plan contains education and other support for communities who's water tests positive for certain PFAS chemicals. The OMA worked with the agency to ensure that the plan would be fairly developed as concerned to Ohio's manufacturers.

The debate over PFAS has become controversial as plaintiffs' lawyers aggressively attempt to litigate against manufacturers.

Ohio EPA Compliance Assistance Conference Set for Sept. 21 – Oct. 8

Ohio EPA's Compliance Assistance Conference is going virtual this year. The annual event will be held Sept. 21 through Oct. 8. The free conference will provide daily interactive sessions focusing on compliance with air, waste, and water regulations — spaced over three consecutive weeks. The agency says registration and more information will be coming soon.



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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

H.B. 242*
133rd General Assembly

Bill Analysis

[Click here for H.B. 242's Fiscal Note](#)

Version: As Reported by Senate Local Government, Public Safety, and Veterans Affairs

Primary Sponsors: Reps. Lang and Jones

Helena Volzer and Sam Benham, Attorneys

SUMMARY

- Prohibits, for twelve months, local governments from imposing a tax, fee, assessment, or other charge on auxiliary containers (for example, a plastic or paper bag), the sale, use, or consumption of auxiliary containers, or on the basis of receipts received from the sale of auxiliary containers.
- Specifies that a person may use an auxiliary container for purposes of commerce or otherwise, but sunsets this specification after twelve months.
- Clarifies that existing law prohibiting the improper deposit of litter applies to auxiliary containers under the state anti-littering law.

DETAILED ANALYSIS

Auxiliary containers

The bill enacts new law and modifies existing law governing “auxiliary containers.” Under the bill, auxiliary containers are single-use or reusable packaging such as bags, cans, bottles, or other containers made of materials such as plastic, glass, metal, or cardboard that is designed for transporting food, beverages, or other merchandise from or at a restaurant, grocery store, or other retail establishment.¹ In particular, the bill does all of the following with respect to auxiliary containers:

* This analysis was prepared before the report of the Senate Local Government, Public Safety and Veterans Affairs Committee appeared in the Senate Journal. Note that the legislative history may be incomplete.

¹ R.C. 3767.32(D); Section 3(A) of the bill.

1. Temporarily prohibits a municipal corporation, charter county, or limited home rule township from imposing a tax, fee, assessment, or other charge on auxiliary containers, the sale, use, or consumption of such containers, or on the basis of receipts received from the sale of such containers (for a more detailed explanation of this provision, see “**Local fee and tax prohibitions**,” below);²
2. Specifically authorizes a person to use an auxiliary container for purposes of commerce or otherwise. The bill specifies that nothing in this authorization may be construed to prohibit the authority of a county, municipal corporation, or solid waste management district from implementing a voluntary recycling program (see **COMMENT 1**);³
3. Sunsets the prohibition on local fees or taxes and the specification regarding the use of auxiliary containers twelve months from the bill’s effective date;⁴
4. Clarifies that existing law prohibiting the improper deposit of litter applies to auxiliary containers under the state anti-littering law. Current law prohibits a person from improperly depositing litter on public property, private property not owned by the person, or in or on waters of the state. Violation of the prohibition is a third degree misdemeanor, and a sentencing court may require the violator to remove litter from property or from the waters of the state.⁵

Local fee and tax prohibitions

Municipal corporations

Municipal corporations are endowed by the Ohio Constitution with home rule powers, which authorize them to exercise powers beyond those provided in state law and, in certain respects, contrary to state law.⁶ In particular, municipal corporations may impose taxes without explicit authorization to do so under state law.⁷ However, the Ohio Constitution does allow the General Assembly to enact laws limiting the power of municipalities to levy taxes and assessments.⁸ Indeed, continuing law prohibits municipalities from levying several types of taxes, including sales taxes and gross receipts taxes.

The bill further restricts municipal taxing power by prohibiting municipal corporations from imposing a tax on auxiliary containers themselves, on the sale, use, or consumption of such containers, or on the basis of receipts received from the sale of such containers. The bill

² R.C. 301.30, 504.04(B)(8), and 715.013(B).

³ Section 3(B) of the bill.

⁴ R.C. 301.30, 504.04(B)(8), and 715.013(B); Section 4 of the bill.

⁵ R.C. 3736.32 and 3767.99, not in the bill.

⁶ Ohio Constitution, Article XVIII, Section 3.

⁷ *Gesler v. City of Worthington Income Tax Bd. of Appeals*, 138 Ohio St.3d 76; 2013-Ohio-4986; 3 N.E. 1177.

⁸ Ohio Constitution, Article XIII, Sections 6 and 13.

also prohibits a municipal corporation from imposing a fee, assessment, or other charge on any of those bases (see **COMMENT 2**).⁹

Charter counties

In general, counties possess only those powers expressly delegated to them by state law, or those which are necessarily implied from those powers.¹⁰ However, the Ohio Constitution allows counties, with voter approval, to adopt a charter, which may endow the county with the same home rule powers exercised by municipal corporations, including the power of taxation.¹¹ However, the charters of both of the counties in Ohio that have adopted charters, Cuyahoga and Summit, specifically disclaim the power to levy any tax other than the taxes permitted under state law for noncharter counties.¹²

As with municipal corporations, the bill prohibits a charter county from imposing a tax, fee, assessment, or other charge on auxiliary containers, on the sale, use, or consumption of such containers, or on the basis of receipts received from the sale of the containers (see **COMMENT**). But the bill specifies that charter counties may still impose their general sales and use taxes on such containers to the extent the sale of such containers is taxable or becomes taxable in the future under the state's sales and use tax law.¹³

Limited home rule townships

Similar to counties, townships are generally limited to acting in accordance with powers delegated to them under state law.¹⁴ Continuing law authorizes certain townships with at least 3,500 residents to form a limited home rule government, which is allowed to exercise home rule powers, subject to certain exceptions. Among other exceptions is a prohibition against levying taxes not authorized under state law for all townships.¹⁵ Accordingly, even limited home rule townships are prohibited from levying taxes not authorized by state law, but this does not

⁹ R.C. 715.013(B).

¹⁰ See *Geauga County Bd. of Commrs. v. Munn Rd. Sand & Gravel*, 67 Ohio St.3d 579, 621 N.E. 696 (1993); *State ex rel. Kuntz v. Zangerle*, 130 Ohio St. 84 (1935), syllabus, paragraph 1.

¹¹ Ohio Constitution, Article X, Section 3.

¹² Article I, Section 1.02, Charter of Cuyahoga County, available at: Article I, Section 1.02, Charter of Cuyahoga County, available at: <http://council.cuyahogacounty.us/en-US/Charter-CuyahogaCounty.aspx>, and Article I, Section 1.02, Charter of Summit County, available at: <https://co.summitoh.net/index.php/executive/charter-government>.

¹³ R.C. 301.30. Current sales and use tax law appears to exempt a broad range of items, some of which might qualify as auxiliary containers, when purchased by retailers for their customers' use – see R.C. 5739.02(B)(15).

¹⁴ See *State ex rel. Schramm v. Ayres*, 158 Ohio St. 30, 106 N.E.2d 630 (1952) and *Drees Co. v. Hamilton Twp.*, 132 Ohio St.3d 186, 2012-Ohio-2370, 970 N.E.2d 916.

¹⁵ R.C. 504.04(A)(1).

necessarily imply that they lack power to impose fees or other charges for regulatory purposes that are not regarded as taxes.

The bill expressly prohibits home rule townships from imposing a fee, assessment, or other charge on auxiliary containers, on the sale, use, or consumption of the containers, or on the basis of receipts received from the sale of the containers.¹⁶

COMMENT

1. The bill authorizes any person to use an auxiliary container for “purposes of commerce or otherwise.” It also applies the existing littering law to the improper disposal of such containers. It is unclear how a municipal ordinance (enacted by a municipal corporation under its municipal home rule authority)¹⁷ that prohibits persons from using auxiliary containers would interact with this general authorization.¹⁸

2. The bill prohibits municipal corporations and charter counties from imposing a “fee, assessment, or other charge” on auxiliary containers, on the sale, use, or consumption of such containers, or on the basis of receipts received from the sale of such containers.¹⁹ Although the Ohio Constitution and county charters appear to allow state law’s limitation on each subdivision’s respective taxing power, it is unclear whether the Ohio Constitution authorizes the General Assembly to limit “fees and other charges” that might be imposed by a municipal corporation or charter county for regulatory or other public welfare purposes.²⁰

Because the bill restricts municipal and charter county authority to impose fees and charges, it may interfere with a municipal corporation’s or charter county’s home rule authority.

Indeed, courts have held that a statute enacted by the General Assembly that purports to limit that constitutional authority may be invalid as applied to these home rule subdivisions.²¹ The same issue does not arise with limited home rule townships, as their home rule authority is granted by state law and not the Ohio Constitution.

¹⁶ R.C. 504.04(B)(8).

¹⁷ Ohio Constitution, Article XVIII, Section 3.

¹⁸ See *Canton v. State*, 95 Ohio St.3d 149, 2002-Ohio-2005, 766 N.E.2d 963.

¹⁹ R.C. 301.30 and 715.013(B).

²⁰ See *Drees, infra*. for discussion of legal distinction between taxes versus fees and other government exactions.

²¹ See *Canton*.

HISTORY

Action	Date
Introduced	05-13-19
Reported, H. State & Local Gov't	06-27-19
Passed House (58-35)	12-11-19
Reported, S. Local Government, Public Safety, & Veterans Affairs	05-26-20



October 7, 2020

VIA Electronic Mail (dsw_rulecomments@epa.ohio.gov)

Ohio EPA Division of Surface Water
Attn: Jennie Pugliese
P.O. Box 1049
Columbus, OH 43216-1049

Re: Comments on Ohio EPA's Proposed Credible Data Program, Wave 2 (OAC 3745-4) Rulemaking

Dear Ms. Pugliese:

Pursuant to Ohio EPA's Public Notice of Proposed Rulemaking Governing Credible Data Program, the Ohio Manufacturers' Association (OMA) is hereby providing Ohio EPA with written comments to Ohio EPA's proposed rulemaking pertaining to Ohio Administrative Code ("OAC") Chapter 3745-4.

The OMA is dedicated to protecting and growing manufacturing in Ohio. The OMA represents over 1,300 manufacturers in every industry throughout Ohio. For more than 100 years, the OMA has supported reasonable, necessary and transparent environmental regulations that promote the health and well-being of Ohio's citizens. The OMA appreciates the opportunity to comment on Ohio EPA's proposed rulemaking pertaining to OAC Chapter 3745-4, the Credible Data program.

The OMA is opposed to Ohio EPA's proposed addition as currently drafted of "state universities" to the definition of "state environmental agency" found within OAC 3745-4-02(Q). The other state environmental agencies listed within OAC 3745-4-02(Q) appear to be consistent with the definition of "state environmental agency," having the primary function of "protection, management, study, or assessment of the environment, natural resources or ecological systems." OAC 3745-4-02(Q). State universities, on the other hand, have a much broader focus, and do not fit within this definition. The proposed addition of "state universities" to OAC 3745-4-02(Q) does not limit the term in any way, nor does the incorporated definition of "state universities" within R.C. 3345.011. The rule as drafted appears to allow for any state university employee to submit data and have it be deemed credible pursuant to the rule, regardless of that employee's area of discipline, training, and experience.

Notably, the rule as drafted provides that data submitted by state universities shall be *automatically* deemed credible pursuant to OAC 3745-4-01(D)(1). And unlike OAC 3745-4-01(D)(2), subsection (D)(1) does not contain a provision authorizing the Director to exercise discretion in identifying reasons why the data submitted are not credible.

The OMA respectfully requests that Ohio EPA please remove this provision or at least provide further clarity in regards to this proposed addition to OAC 3745-4-02(Q).

The OMA would like to thank Ohio EPA for the opportunity to comment and to participate in this rulemaking process.

Sincerely,

A handwritten signature in blue ink that reads "Rob Brundrett". The signature is written in a cursive, slightly slanted style.

Rob Brundrett
Director, Public Policy Services

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



August 28, 2020

VIA Electronic Mail (dsw_rulecomments@epa.ohio.gov)

Ohio EPA Division of Surface Water
P.O. Box 1049
Columbus, OH 43215-1019
dsw_rulecomments@epa.ohio.gov

Re: **Comments on Ohio EPA's *Early Stakeholder Outreach – OAC Chapter 3745-1-38 – Variances from Water Quality Standards for Point Sources***

Dear Sir/Madam:

Pursuant to Ohio EPA's July 2020 Public Notice, the Ohio Manufacturers' Association (OMA) is hereby providing Ohio EPA with written comments to Ohio EPA's Early Stakeholder Outreach notification pertaining to Ohio Administrative Code 3745-1-38, Variances from Water Quality Standards for Point Sources.

The OMA is dedicated to protecting and growing manufacturing in Ohio. The OMA represents over 1,400 manufacturers in every industry throughout Ohio. For more than 100 years, the OMA has supported reasonable, necessary and transparent environmental regulations that promote the health and well-being of Ohio's citizens. The OMA appreciates the opportunity to comment on these rules at this Early Stakeholder Outreach stage.

The OMA's members are routinely impacted by Ohio EPA's water quality standards for point sources, including the provisions within OAC Rule 3745-1-38. The OMA therefore respectfully requests to be included in any meetings or future discussions on amendments to this rule, and looks forward to reviewing any draft proposed changes that are developed. In particular, the OMA believes that greater flexibility is needed with the mercury variance portion of the rule, and looks forward to further reviewing and discussing updates Ohio EPA may make to the multiple discharger mercury variance conditions contained within Rule 3745-1-38.

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

Sincerely,



Rob Brundrett
Director, Public Policy Services

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

Environment

Recycling Grants Available to Ohio Manufacturers

October 30, 2020

Ohio EPA is resuming its Recycling and Litter Prevention Grant Program. Opportunities for manufacturers include the **Market Development Grant**, which helps purchase equipment to create or expand processing capacity for recyclable materials. The maximum award is \$200,000 and the grant requires a 100% match. Grantees have 24 months to complete their projects. A scrap tire grant is also available. The grant cycle begins Monday, Nov. 2 and ends Feb. 5, 2021. Two webinars — **one on Nov. 5** and **one on Jan. 7** — will provide details on the grants and how to apply. Questions? Use [this email](#). 10/28/2020

Ohio EPA's Compliance Assistance Conference Now Available on Demand

October 23, 2020

Did you miss this fall's Ohio EPA Compliance Assistance Conference? No worries. The conference sessions were recorded and are **available here**. Whether you're interested in air, waste, and water regulations, these sessions offer valuable insight. 10/21/2020

Learn About Ohio EPA and OSHA's On-Site Consultation

October 23, 2020

If you're responsible for managing your business' environment, safety, and health regulations, know that Ohio EPA and OSHA offer an On-Site Consultation Program, with teams across the state to provide free and confidential services to help navigate the complex rules — without the threat of punitive actions.

At 10 a.m. on Nov. 4, you can attend **this online session** to learn about the on-site consultation program and the resources offered. 10/21/2020

Gov. DeWine Signs Bill to Temporarily Prohibit Local Bans of Auxiliary Containers

October 16, 2020

This week, Gov. Mike DeWine signed **House Bill 242**, which prevents local governments from putting fees or bans on the use of auxiliary containers, such as plastic bags or other types of containers often used in retail and the food and beverage industry.

HB 242 specifies that a person may use an auxiliary container for purposes of commerce or otherwise, but sunsets this specification after 12 months. The OMA supported the bill and will work to increase the length of the pre-emption in future legislation. 10/13/2020

OMA Members Recognized for Environmental Stewardship

October 9, 2020

Ohio EPA **recently recognized** multiple OMA members when it announced the winners of this year's Encouraging Environmental Excellence (E3) Stewardship Awards. The E3 program honors businesses and organizations for completing environmentally beneficial activities.

Among this year's E3 Award winners were the following OMA members: Whirlpool Corporation, Findlay Operations; Kenworth Truck Company; Charter Steel – Fostoria; and Cooper Farms. **Click here** to learn more about the program and nomination process. 10/6/2020

OMA Submits Comments Opposing Portions of Ohio EPA's Credible Data Rule

October 9, 2020

The OMA this week **submitted comments** opposing portions of Ohio EPA's Proposed Credible Data Program. The OMA specifically opposed the addition of "state universities" to the definition of "state environmental agency" found within the Ohio Administrative Code 3745-4-02(Q).

As drafted, the rule appears to allow for any state university employee to submit data, which could be deemed credible pursuant to the rule regardless of the employee's area of discipline, training, and experience. The OMA has requested this provision be removed from the

draft rule. We will continue to engage on this issue. 10/8/2020

Ohio's Industrial Carbon Emissions Have Fallen by More Than Half Since 1980

October 9, 2020

During the recent presidential and vice presidential debates, the issue of man-made climate change was raised. Regardless of your position on the extent to which human activity affects the climate, it's worth noting the progress Ohio has made over the past few decades in lowering greenhouse gas emissions, thanks in large part to new technologies and cleaner energy sources.

From 1980 to 2017, the latest year of data available, Ohio's industrial carbon dioxide emissions were **reduced by nearly 54%**, according to the Energy Information Administration. Since 1990, these emissions have been cut by 25%. During this time of progress, Ohio has maintained its position as a global manufacturing leader. 10/8/2020

Ohio EPA Director Laurie Stevenson Briefs OMA Members

October 2, 2020

This week, the OMA Environment Committee gathered virtually for its third and final scheduled meeting of 2020. Ohio EPA Director **Laurie Stevenson** was the guest speaker. She talked to OMA members about the adjustments made by agency to ensure services have continued during the pandemic. Director Stevenson also highlighted water issues affecting the state and manufacturers, including water nutrients and PFAS testing.

The committee reviewed legislative, regulatory, and policy issues impacting manufacturers on the environmental front. Next year's meetings will be scheduled later this quarter; keep an eye out for the 2021 meeting schedule. 10/1/2020

Auxiliary Container Bill Sent to Governor

September 25, 2020

The Ohio House of Representatives this week voted 58-35 to accept the Senate's changes to **House Bill 242** — often referred to as the

“plastic bags bill” in the news media. HB 242 prevents local governments from putting fees or bans on the use of auxiliary containers, such as plastic bags or other types of containers often used in retail and the food and beverage industry. Ohio is a manufacturing leader for these types of containers.

The major change to HB 242 made by the Senate was the inclusion of a 12-month sunset on the pre-emption provision. Several local governments in Ohio had previously banned certain types of containers, although some had already repealed their ban due to COVID-19. Bill supporters say HB 242 provides uniform business regulations across the state.

The OMA supported the bill and will work to increase the length of the pre-emption in future legislation. Gov. Mike DeWine is expected to sign the bill. 9/24/2020

Cleveland, Cincinnati in Non-Attainment for Ozone Standard

September 18, 2020

This week, the Ohio EPA hosted calls to notify stakeholders in the **Cincinnati** and **Cleveland** areas that both regions will not be in attainment under the federal ozone standard of 2015. Both regions are required to be in compliance with the standard by Aug. 3, 2021.

Because both regions are reporting higher ozone numbers, they will be considered as being in “moderate non-attainment.” This status change will trigger additional compliance requirements under the federal Clean Air Act, including emissions offsets.

The OMA will continue to work with members and Ohio EPA on Ohio's responses to these new challenges. Ohio EPA says they are working with other states to examine non-point source solutions — not just point sources, which tend to punish manufacturers. 9/17/2020

Lake Erie Commission Advisory Group Includes OMA Members

September 18, 2020

The **Lake Erie Commission** has voted to establish an advisory group to better vet technology-driven proposals that will help

combat harmful algal blooms to protect Lake Erie and Ohio waterways. Among the OMA members that have been named to the **H2Ohio Technology Assessment Program** advisory council are Scotts Miracle-Gro Company and Owens Corning. *9/14/2020*

Ohio EPA Webinar on Regulations in Your Community

September 18, 2020

Late last month, Ohio EPA hosted a webinar titled, “**Environmental Regulations of Businesses in Your Community**.” The webinar is now available on demand. It provides an overview of the environmental regulations affecting both large and small businesses in Ohio communities — and explains Ohio EPA’s permitting, inspection, and enforcement procedures. *9/17/2020*

Ohio EPA Compliance Assistance Conference Begins Next Week

September 18, 2020

Here’s a reminder that this year’s Ohio EPA Compliance Assistance Conference, which will be completely online, begins Monday, Sept. 21 and will continue over a three-week period. For details, see **this guide** or go directly to the **registration page**. *9/17/2020*

Report: Environmental Agencies Have Ended COVID-19 Enforcement Discretion Policies

September 11, 2020

Earlier this year, the U.S. EPA and other environmental regulators developed temporary enforcement discretion policies to mitigate the impact of the pandemic on their own employees, as well as on the employees of regulated companies and their contractors. States,

including Ohio, also adopted their own enforcement discretion policies.

This week, OMA Connections Partner Benesch **published a new bulletin** stating that both U.S. EPA and Ohio EPA have terminated these enforcement discretion policies. According to Benesch, Ohio business “would be wise to assume that environmental regulators will now be deeply skeptical of claims that any ongoing difficulties.” *9/10/2020*

OMA Submits Comments on Water Quality Standards for Point Sources

September 4, 2020

On August 28, OMA **submitted these comments** to Ohio EPA regarding the agency’s Early Stakeholder Outreach (ESO) – OAC Chapter 3745-1-38 – Variances from Water Quality Standards for Point Sources.

OMA highlighted the wide ranging impact of the rule and stressed in particular that greater flexibility is needed with respect to the mercury variance portion of the rule.

We’ll will continue to work with Ohio EPA through the rule process. *9/3/2020*

Roundtable to Focus on Reuse of Textile Materials

August 28, 2020

Does your business have recurring supplies of textile materials or an end-market or solution provider? If so, you can help Great Lakes businesses keep textiles out of the landfill. Ohio EPA invites you to take part in a **virtual roundtable** — held in conjunction with the Ohio Materials Marketplace — at 10:30 a.m. (ET) Tuesday, Sept. 1. *8/24/2020*

Environment Legislation
Prepared by: The Ohio Manufacturers' Association
Report created on November 9, 2020

- HB7** **H2OHIO PROGRAM** (GHANBARI H, PATTERSON J) To create the H2Ohio Trust Fund for the protection and preservation of Ohio's water quality, to create the H2Ohio Advisory Council to establish priorities for use of the Fund for water quality programs, and to authorize the Ohio Water Development Authority to invest the money in the Fund and to make recommendations to the Treasurer of State regarding the issuance of securities to pay for costs related to the purposes of the Fund.
Current Status: 10/22/2019 - Senate Finance, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-7>
- HB94** **LAKE ERIE DRILLING** (SKINDELL M) To ban the taking or removal of oil or natural gas from and under the bed of Lake Erie.
Current Status: 9/17/2019 - House Energy and Natural Resources, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-94>
- HB95** **BRINE-CONVERSION OF WELLS** (SKINDELL M) To alter the Oil and Gas Law with respect to brine and the conversion of wells.
Current Status: 9/17/2019 - House Energy and Natural Resources, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-95>
- HB242** **BAN PLASTIC BAG FEES** (LANG G, JONES D) To specify the authority to use an auxiliary container, to temporarily prohibit the imposition of a tax or fee on those containers, and to apply existing anti-littering law to those containers.
Current Status: 10/13/2020 - **SIGNED BY GOVERNOR**; eff. 90 days
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-242>
- HB340** **DRAINAGE LAW** (CUPP B) To revise the state's drainage laws.
Current Status: 9/22/2020 - Senate Agriculture and Natural Resources, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-340>
- HB491** **PLASTIC POLLUTION AWARENESS DAY** (CRAWLEY E) To designate the fifteenth day of February as "Plastic Pollution Awareness Day."
Current Status: 2/11/2020 - Referred to Committee House State and Local Government
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-491>
- HB497** **SAFE DRINKING WATER ACT** (LIGHTBODY M, RUSSO A) To require the Director of Environmental Protection to adopt rules establishing maximum allowable contaminant levels in drinking water and water quality standards for certain contaminants.
Current Status: 2/11/2020 - Referred to Committee House Health

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-497>

- HB522 WASTE DISPOSAL - CONSERVANCY DISTRICTS** (SOBECKI L, SWEARINGEN D) To authorize conservancy districts to provide for the collection and disposal of solid waste.
Current Status: 3/10/2020 - Referred to Committee House State and Local Government
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-522>
- HB675 REGARDING CLEAN OHIO PROGRAM** (HILLYER B, SWEARINGEN D) Relating to the Clean Ohio Program and to make an appropriation.
Current Status: 5/27/2020 - Referred to Committee House State and Local Government
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-675>
- HR247 AIR QUALITY STANDARDS** (ROEMER B) To respectfully urge Congress and President Donald Trump to amend the Federal Clean Air Act to eliminate the requirement to implement the E-Check Program and direct the Administrator of USEPA to begin new rule-making procedures under the Administrative Procedures Act to repeal and replace the 2015 National Ambient Air Quality Standards; to respectfully urge Congress and President Donald Trump to pass legislation to achieve improvements in air quality more efficiently while allowing companies to innovate and help the economy grow; to urge the Administrator of USEPA to alleviate burdensome requirements of the E-Check Program and the Clean Air Act if Congress and the President fail to act; and to encourage OEPA to explore alternatives to E-Check in Ohio.
Current Status: 2/20/2020 - **PASSED BY HOUSE**; Vote 62-29
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HR-247>
- HR307 PLASTIC POLLUTION AWARENESS DAY** (CRAWLEY E) Designating Plastic Pollution Awareness Day in Ohio, February 15, 2020.
Current Status: 2/4/2020 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HR-307>
- SB2 STATEWIDE WATERSHED PLANNING** (PETERSON B, DOLAN M) To create a statewide watershed planning structure for watershed programs to be implemented by local soil and water conservation districts.
Current Status: 2/19/2020 - **BILL AMENDED**, House Energy and Natural Resources, (Fifth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-2>
- SB50 INCREASE SOLID WASTE DISPOSAL FEE** (EKLUND J) To increase state solid waste disposal fee that is deposited into the Soil and Water Conservation District Assistance Fund, and to make an appropriation.
Current Status: 4/2/2019 - Senate Finance, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-50>

SB354 **BROWNFIELDS** (WILLIAMS S) To require the Ohio Environmental Protection Agency to conduct a study to determine where brownfield sites are located in this state and to make an appropriation.

Current Status: 9/1/2020 - Referred to Committee Senate Finance

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-354>

SB355 **CLEAN OHIO REVITALIZATION GRANTS** (WILLIAMS S) To make an appropriation to the Development Services Agency to award Clean Ohio Revitalization Grants.

Current Status: 9/1/2020 - Referred to Committee Senate Finance

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-355>

To: OMA Government Affairs Committee
From: Ryan Augsburger / Rob Brundrett
Re: Human Resources Report
Date: November 10, 2020

Overview

Due to the COVID-19 pandemic Ohio has found itself with unprecedented increases in unemployment. State agencies and services are stretched thin.

Ohio's unemployment compensation system blew through what little reserves it contained and Ohio made a request to borrow \$3 billion from the federal government to ensure that state payments would still be made to claim filers.

A large amount of legislation was introduced impacting employers, employees, and the state unemployment compensation system.

The Lt. Governor continues to champion workforce solutions including TechCred and Industry Sector Partnerships. Both were able to avoid the budget ax as agencies were required to cut expenses due to the unprecedented shortfall in state tax revenue. Requirements for TechCred have been loosened and companies were notified that the Industry Sector Partnership grants will be awarded in the near term.

The OMA hosted its fourth annual OMA Workforce Summit on October 28.

General Assembly News and Legislation

House Bill 2 – Credential Assistance Program

The budget bill included money for credential assistance and industry sector partnerships. The House removed the funding language from the budget bill and introduce a piece of legislation based on the budget recommendations. HB 2 is a priority workforce bill in the House. The OMA is supportive of the purpose of the legislation and is working with the bill sponsors to ensure that the money allocated will be used in programs that support the OMA industry sector partnership network.

The House and Senate shifted gears in conference committee and included all workforce funding in the budget bill but implementation language remains with HB 2. The Senate recently passed House Bill 2 from its Finance Committee and is awaiting a full floor vote which is expected as early as this week. The OMA was able to get several changes in the bill to benefit the statewide sector partnership network and industry sector partnership grant program.

Senate Joint Resolution 4 – Bond Unemployment Compensation Debt

The bill proposes to enact Section 18 of Article VIII of the Constitution of the State of Ohio to allow the General Assembly to provide for the issuance of obligations to repay outstanding advances made by the federal government to the unemployment compensation program of the state. The OMA has supported a bonding alternative to help pay off unemployment compensation debt. OMA provided proponent testimony on the on the resolution in Senate committee. The full Senate passed the resolution in June. The OMA has pressed to see action on this provision in the lame duck session.

Senate Bill 9 – Health Plan Claim Information

The bill requires a health plan issuer, beginning in July 2020, to release specific information to a

requesting group policyholder. This information includes, net claims data paid or incurred by month, monthly enrollment data, monthly prescription claims information, and, for paid claims over \$30,000, the amount paid toward each claim and claimant health condition. The bill has passed the Senate and House. Conference committee was expected over the summer but has been derailed due to the bribery scandal.

Senate Bill 11 – Ohio Fairness Act

The bill prohibits discrimination on the basis of sexual orientation or gender identity or expression. The bill adds mediation to the list of informal methods by which the Ohio Civil Rights Commission may use to induce compliance with Ohio's Civil Rights Law before instituting a formal hearing. The bill also upholds existing religious exemptions under Ohio's Civil Rights Law. OMA was supportive of the House version in the previous General Assembly. The Senate has held three hearings on the bill but none since last May.

House Concurrent Resolution 17 – Expand SNAP Benefits to Striking Workers

The Resolution Congress to expand Supplemental Nutrition Assistance Program eligibility to include the households of striking workers. The resolution has had one hearing in the House.

House Bill 21 – Unemployment Comp: Mass Layoffs

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

House Bill 34 – State and Local Minimum Wage Increase

The bill would increase the state minimum wage and to allow municipalities, townships, and counties to establish higher minimum wage requirements. The bill had one hearing in January.

House Bill 91 – Family Medical Leave

The bill would establish family and medical leave insurance benefits. The bill has had one hearing in the House. House Insurance has held two hearings and is expected to hold at least one more hearing.

Senate Bill 92 – Wage Discrimination

The bill would enact the "Fair and Acceptable Income Required (FAIR) Act" and revises the enforcement of the prohibitions against discrimination in the payment of wages. The bill had its first hearing last March.

Senate Bill 94 – Pregnant Workers

SB 94 creates the "Ohio Pregnant Workers Fairness Act" to generally require employers to make reasonable accommodations for employees who are pregnant or breastfeeding. The bill has had one hearing.

Senate Bill 149 – Employee Wage History

The bill prohibits employers from seeking a prospective employee's wage or salary history. The bill had its first hearing this January.

Senate Bill 201 – Alternate Employer Organizations

The bill creates alternative employer organizations. The AEO mirrors the functions

of PEOs (Professional Employer Organizations) with the exception that an AEO must file federal payroll taxes under the tax identification number of its client instead of its own, which is the traditional model. The bill has had three hearings.

Senate Bill 207 – Drug Test for Unemployment Benefits

The bill requires unemployment benefit applicants to take a drug test under certain circumstances, to create the Ohio Works First drug testing pilot program, and to make an appropriation. The bill has had one hearing.

House Bill 221 – Wage Discrimination Complaints

The bill would require the Ohio Civil Rights Commission to establish a system for individuals to make anonymous complaints regarding wage discrimination. It has had three hearing in the House.

Senate Bill 282 – Unemployment Comp Complaints

The bill would require the Director of Job and Family Services to establish a process for employers to make complaints regarding unemployment compensation benefits. The bill has had one hearing.

House Bill 352 – Civil Rights Employment Law

The bill is Ohio's latest attempt to clean up its outdated and complex employment laws. The bill brings Ohio more closely in uniform with federal laws and includes the following changes:

Creates a uniform two-year statute of limitations for all employment discrimination claims.

- Unites the filing of age discrimination claims to the same procedures and remedies as all other protected classes.
- Eliminates individual statutory liability for managers and supervisors.
- Requires individuals file an administrative charge of discrimination with the Ohio Civil Rights Commission as a prerequisite to filing a discrimination lawsuit in court.
- Establishes certain affirmative defenses

The bill was reported out of House Committee in May.

House Bill 369 – Ohio Fairness Act

Much like its companion bill in the Senate, House Bill 369 prohibits discrimination on the basis of sexual orientation or gender identity or expression. The bill adds mediation to the list of informal methods by which the Ohio Civil Rights Commission may use to induce compliance with Ohio's Civil Rights Law before instituting a formal hearing. The bill also upholds existing religious exemptions under Ohio's Civil Rights Law. OMA is supportive of the Senate version and is supportive of the House version.

House Bill 378 – Striking Employees Unemployment Compensation

The bill would provide unemployment benefits to striking workers. This would be a complete reversal of unemployment compensation law which is for workers who are unexpectedly out of work through no fault of their own. The OMA opposes this massive overreach.

House Bill 508 – Unemployment Compensation: Domestic Violence Victims

The bill allows an individual to be eligible for unemployment compensation benefits for unemployment due to domestic violence. The bill has not had any hearings.

House Bill 584 – Unemployment Compensation Work Requirements

The bill would temporarily change eligibility and work search requirements under the Unemployment Compensation Law and declares an emergency.

House Bill 588 – COVID-19 Public Assistance Programs

The bill would delay eligibility redeterminations for certain public assistance programs, temporarily modify income eligibility requirements for certain public assistance programs, and to declare an emergency.

House Bill 593 – COVID-19 Paid Leave

The bill requires paid leave for an employee who is unable to work due to quarantine or mandatory isolation, creates a grant program to compensate contract workers who cannot perform services during public health emergencies, makes an appropriation, and declares an emergency.

House Bill 614 – Unemployment Compensation Reform

House Republicans introduced House Bill 614. The bill's original goal was to study and reform the application, processing, and administration infrastructure of Ohio's unemployment compensation system. The focus is not on solvency but instead the administrative challenges due to COVID-19.

The bill also became a vehicle for several other priorities including appropriating \$650 million in CARES Act dollars to local governments. It also was amended with Senate Bill 181 which is a workforce template bill supported by the OMA. The Governor signed the bill on October 1.

House Bill 672 – Worker Protection Act

The bill would allow Ohioans on unemployment to retain their jobless benefits if they are recalled or offered their jobs back. The bill is aimed at workers who are considered high risk under the following conditions: their employer does not comply with state safety guidelines, they are the primary caregiver, and their child care is not operating — or if they have COVID-19 symptoms or a positive diagnosis. OMA staff will continue to monitor this bill and similar legislation that could impact manufacturing employers.

Supreme Court Rules LGBTQ Employees are Protected From Job Discrimination

The U.S. Supreme Court ruled that federal law prohibits employers from discriminating against employees for being homosexual or transgender. In a 6-3 decision, the Court's majority said these workers are protected against discrimination under Title VII of the Civil Rights Act of 1964. The landmark ruling resolves a long-standing and complicated debate.

OMA Connections Partner Thompson Hine suggests that employers consider the following actions in response to this week's Court action:

Review policies relating to non-discrimination and equal employment; Amend equal employment opportunity policy to incorporate a statement that the business does not discriminate or retaliate against applicants or employees based on sex, sexual orientation, sexuality, transgender status, or gender identity or expression; Implement training for managers or others who regularly interview applicants; and Remind human resources staff to maintain records of sex-related medical conditions as confidential medical records under the ADA.

Workforce Services

The OMA's fourth annual workforce summit took place on October 28. Due to COVID-19 the event was held virtually. More information will continue to come over the course of August and September. We hope your company might consider a sponsorship. Please contact Dan Noreen at the OMA if you are interested in learning more about sponsoring the summit.

TechCred

TechCred continues to be a successful program for manufacturers looking to upskill their current employees. According to state statistics, manufacturers continue to use the system much more than other industries. This can be attributed to how manufacturers have organized for workforce development.

Sector Partnership Grants

On Thursday, Jan. 23, Ohio Lt. Gov. Jon Husted announced the launch of the Industry Sector Partnership grant program. The program's development was spearheaded by the OMA to expand and enhance Ohio's partnerships and their workforce development efforts.

Established by House Bill 2 and funded through the state operating budget (HB 166), the program will invest \$5 million over two years to strengthen the state's network of industry sector partnerships.

There will only be one round of funding and it will be awarded in FY21 based off the applications submitted earlier this year.

Manufacturing Mentorship Program

On Aug. 20, Ohio's long-awaited Manufacturing Mentorship Program will go live. Under the program, which was driven by the OMA and created in the state operating budget (House Bill 166), Ohio manufacturers will now be able to employ 16- and 17-year-olds on a part-time basis in manufacturing occupations.

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

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

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



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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

H.B. 614
133rd General Assembly

Final Analysis

[Click here for H.B. 614's Fiscal Note](#)

Version: As Passed by the General Assembly

Primary Sponsors: Reps. Fraizer and Richardson

Effective date: Emergency: October 1, 2020

Paul Luzzi, Attorney

SUMMARY

Director of Job and Family Services duties

- Requires the Director of Job and Family Services to develop, and periodically review, a written staffing plan to be implemented whenever there is a substantial increase or substantial decrease in inquiries or in the number of claims for unemployment benefits.
- Requires the Director to adopt rules creating a system that participants in the unemployment benefit application process can use to make customer service complaints.
- Requires the Director to maintain a consolidated list of contacts related to inquiries about unemployment benefits.
- Revises the process by which the Director notifies an applicant for unemployment benefits of eligibility issues.

Unemployment Compensation Modernization and Improvement Council

- Creates the Unemployment Compensation Modernization and Improvement Council to examine the process by which claims for unemployment benefits are filed and paid.
- Requires the Council to prepare an initial report, within six months after its first meeting, that describes the state of the claims process and any planned improvements to the process.
- Requires the Council to be notified of security breaches in the records maintained under the law and of substantial disruptions in the claims process.

- Prohibits the Council from examining the solvency of Ohio's Unemployment Compensation Fund or changes that would either increase or reduce benefits paid from the fund.

Auditor's examination of the claims process

- Requires the Auditor of State to examine the unemployment benefit claims process and prepare a report containing specified information not later than July 1, 2021.

Local CARES Act revenue distribution

- Appropriates \$650 million of funding allocated to Ohio from the federal "Coronavirus Aid, Relief, and Economic Security Act" (CARES Act) to counties, municipalities, and townships to fund COVID-19 pandemic-related expenses.
- Distributes funds based on population (excluding local governments that receive direct federal funding under the CARES Act).
- Requires subdivisions to spend the funds only on pandemic-related expenses as required under the CARES Act.
- Changes procedures and defers deadlines prescribed by H.B. 481 of the 133rd General Assembly for redistributing unspent CARES Act funds to local subdivisions and, later, returning unspent funds to the state.

Workforce-education partnership programs

- Permits a college or university and employers to establish a workforce-education partnership program to assist students to graduate from college with no student debt.
- Requires the Chancellor of Higher Education to create a template for workforce-education partnership programs.

Concealed handgun licenses

- From October 1, 2020, until June 30, 2021, allows an Ohio resident applying for a concealed handgun license to file the application with any county sheriff, rather than only with the sheriff of the county of residence or an adjacent county.
- Further extends the concealed handgun license expiration date extended in H.B. 197 of the 133rd General Assembly so that any license that would have expired beginning on March 9, 2020, until June 30, 2021, is extended until June 30, 2021, or 90 days after the license would have expired, whichever is later.
- Allows a sheriff to designate up to eight additional hours during which only county residents may file applications for concealed handgun licenses.
- Clarifies that the 30-day grace period that applies to a concealed handgun license after expiration under continuing law also applies to an expiration that is extended under the act.

Other appropriations

- Appropriates an additional \$4 million in FY 2021 for Facilities Establishment Fund (Fund 7037) line item 195615, Facilities Establishment.
- Increases capital appropriations under the Parks and Recreation Improvement Fund (Fund 7035) capital appropriation item C725E2 by \$550,000 to support two community projects under the Department of Natural Resources.

Authorization to convey land

- Authorizes the conveyance of two tracts of state-owned land under the Department of Rehabilitation and Correction’s jurisdiction, in Madison and Warren counties.

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DETAILED ANALYSIS

Director of Job and Family Services duties

Staffing plan

Under the act, the Director of Job and Family Services must develop a written strategic staffing plan to be implemented whenever a substantial increase or substantial decrease in inquiries or in the number of claims for benefits under the Unemployment Compensation Law¹ occurs. The Director must develop the initial plan not later than six months after the first meeting of the Unemployment Compensation Modernization and Improvement Council created by the act and annually review and, if necessary, revise it. The Director must provide the initial plan and any revised plan to the Council, the Senate President, the Speaker of the House, and the Governor. The most recent version of the plan must be posted on a publicly viewable website maintained by the Director. The plan must include:

- An explanation of how, if at all, the Director will use employees who do not ordinarily perform services related to unemployment benefits;
- An explanation of how, if at all, the Director will use employees of other state agencies; and
- An explanation of how, if at all, the Director will use employees provided by private entities.²

Customer service complaint system

The act requires the Director to adopt rules, in accordance with the Administrative Procedure Act,³ creating a uniform process through which an applicant for or a recipient of unemployment benefits or an employer may submit a complaint related to the service the applicant, recipient, or employer received.⁴

Contact list

The act requires the Director to create, in a single place on the Director's website, a list of all of the points of contact through which an applicant for or a recipient of unemployment

¹ R.C. Chapter 4141.

² R.C. 4141.13(B).

³ R.C. Chapter 119.

⁴ R.C. 4141.13(B) and R.C. 5101.09, not in the act.

benefits or an employer may submit inquiries related to the Unemployment Compensation Law.⁵

Notice of unemployment benefits eligibility issues

Under continuing law, when the Director identifies an eligibility issue in an individual's initial claim for benefits or an additional claim, the Director must send notice of the issue to the individual and specify the week or weeks involved. The individual has a minimum of five business days after the notice is sent to respond to the information in the notice before the Director makes a determination on eligibility. Under the act, the Director must send the notice immediately after identifying the issue. The act also requires the notice to identify what the claimant must do to address the issue or who the claimant may contact for more information.⁶

Unemployment Compensation Modernization and Improvement Council

The act creates the Unemployment Compensation Modernization and Improvement Council. The Council must examine the process by which an individual files a claim for and receives unemployment compensation benefits, and any changes made to that process after the act's effective date. The scope of the Council's examination includes, but is not limited to, the following:

- The technological infrastructure used to file claims and pay benefits and the experience of individuals and employers who participate in the process;
- Possible improvements that will maximize responsiveness for individuals and employers;
- Methods for sharing data across systems related to unemployment compensation to maximize efficiency; and
- Methods for synergizing user experience across multiple programs administered or supervised by the Director.

The Council is prohibited from examining the solvency of Ohio's Unemployment Compensation Fund, which is used to pay benefits and provide refunds for contribution overpayments, or changes that would either increase or reduce benefits paid from the fund.⁷

Membership and operations

The Council consists of the following 11 members:

- Two members who on account of their vocation, employment, or affiliations can be classed as representative of employers, appointed by the Governor;

⁵ R.C. 4141.13.

⁶ R.C. 4141.28.

⁷ R.C. 4141.12(A), by reference to R.C. 4141.09, not in the act.

- Two members who on account of their vocation, employment, or affiliation can be classed as representatives of employees, appointed by the Governor;
- The chairpersons of the standing committees of the Senate and the House to which legislation pertaining to the Unemployment Compensation Law is customarily referred, as appointed by the Senate President and the Speaker of the House, respectively;
- Two members of the Senate appointed by the Senate President, one from each party;
- Two members of the House appointed by the Speaker, one from each party;
- The Director or a designee who has administrative responsibilities with respect to the unemployment compensation system.

All of the members appointed by the Governor serve for two years. Legislative members serve during the session of the General Assembly in which they are appointed to the Council, as long as they are General Assembly members. A vacancy on the Council is filled in the same manner as the original appointment but only for the unexpired part of a term.

Council members serve without compensation.

The standing committee chairpersons must jointly call the Council's first meeting. The Council must organize itself and select a chairperson or co-chairpersons. Six members constitute a quorum and the Council may act only on the affirmative vote of six members.⁸

Records, reports, and recommendations

The act grants the Council access to only the Department of Job and Family Services (ODJFS) records that are necessary for the administration of the Unemployment Compensation Law. The Council is prohibited from accessing sensitive or personally identifying information. It may request the Director, or any of the Director's employees, or any employer or employee subject to the law, to appear before it and to testify to relevant matters. At least once a year, the Council must allow members of the public to appear before it to testify to relevant matters.

Not later than six months after its first meeting, the Council must issue an initial report that, at minimum, describes the state of the claims process at the time the report is issued, as well as any planned improvements to the process. The Director must post all testimony and other relevant materials discussed, presented to, or produced for the Council on a publicly viewable website maintained by the Director.⁹

Notices provided to the Council

The Director must notify the Council chairperson or co-chairpersons of any unauthorized access to or acquisition of ODJFS records that are necessary for the administration of the

⁸ R.C. 4141.12(B) to (E).

⁹ R.C. 4141.12(F).

Unemployment Compensation Law. The Director must provide the notice not more than five days after the Director discovers or is notified of the unauthorized access or acquisition.

The Director must notify the Council members of any substantial disruption in the benefit application process. The Council must adopt and periodically review a definition of a substantial disruption that the Director must report.¹⁰

Auditor of State examination of claim process

The act requires the Auditor of State to examine the process by which an individual files a claim for and receives unemployment benefits. Not later than July 1, 2021, the Auditor must publish a report of the examination and submit it to the Speaker of the House, the Senate President, the Governor, the Director, the Legislative Service Commission, and the Council.¹¹ The Auditor must do all of the following in the report:

1. Create a breakdown of revenues and expenditures illustrating how funding for administering claims for benefits is received and spent;
2. Compare administrative funding and cost distributions to states that process a similar number of claims, on average, as Ohio;
3. Review trends in federal funding provided for administering claims for benefits over a period of time established by the Auditor and compare provided federal funding to the total cost of administering claims for benefits over the same time period;
4. Identify the amount of state funds necessary to supplement federal funding for administering claims for benefits;
5. Calculate the average amount of time that elapses between the date an individual files an application for a determination of benefit rights and the date the Director makes a determination on the application's validity;
6. Calculate the average amount of time that elapses between the date an individual files a first or additional claim for benefits and the date the Director makes a determination on the application's validity;
7. Calculate the average amount of time that elapses between the Director allowing benefits and the payment of the benefits;
8. Compare the times calculated in (5) through (7) above to the average amount of time the administrators of state unemployment laws that process a similar number of claims, on average, as Ohio take to make similar determinations and pay benefits;
9. Provide an overview of federal and state laws governing the claims process and the impact of those laws on the process;

¹⁰ R.C. 4141.12(G) and (H).

¹¹ Section 3(B) and (E).

10. Identify any provisions of Ohio's Unemployment Compensation Law that could be repealed or amended to increase efficiency or improve claim processing while maintaining compliance with the Federal Unemployment Tax Act;¹²
11. Identify any improvements that can be made to the system used to process claims for benefits, including improvements to individual and employer access or experience and improvements from automation;
12. Identify the advantages, if any, that could be realized from implementing an alternative system for filing a claim for benefits, including one in which an individual who wishes to file a claim by telephone can leave contact information and receive a return call;
13. Identify any improvements that could be made to the website that individuals use to file a claim for benefits online;
14. Describe the organization and staffing levels used to administer claims for benefits and compare those to the organization and staffing levels in states that process a similar number of claims, on average, as Ohio;
15. Identify any improvements that could be realized through changes in staffing levels;
16. Identify the best practices from other states' unemployment compensation laws that could be implemented in Ohio; and
17. Identify the most common complaints and problems applicants for or recipients of unemployment benefits identify when interacting with staff in the unemployment compensation division of ODJFS.

In addition to the findings and recommendations listed above, the Auditor's report must make recommendations on any additional matter discovered during the examination that the Auditor believes will improve the claims process.

The Director must cooperate promptly and fully with any request the Auditor makes that relates to the Auditor's examination of the process.¹³

Local CARES Act revenue distribution

The act appropriates \$650 million of the money allocated to Ohio under the federal "Coronavirus Aid, Relief, and Economic Security Act" (CARES Act) to counties, townships, and municipalities to fund necessary COVID-19 pandemic-related expenses. This appropriation is in addition to the \$350 million previously allocated by the state to counties, townships, and municipalities under H.B. 481 of the 133rd General Assembly and an additional \$175 million appropriation approved by the Controlling Board and allocated to those subdivisions on August 24, 2020.¹⁴ The act also changes procedures and defers deadlines prescribed by H.B. 481 for

¹² 26 United States Code (U.S.C.) 3301 to 3311.

¹³ Section 3(B) to (D).

¹⁴ See Fund/Appropriation Request No. OBM0100130, August 24, 2020, available [here](#).

redistributing unspent CARES Act funds by counties and, later, the return of unspent funds to the state.

Federal CARES Act

Among other provisions, the CARES Act directs federal money to states and more populous local governments to fund “necessary expenditures incurred due to the public health emergency” connected with the COVID-19 pandemic, provided those expenses are incurred between March 1 and December 30, 2020, and are not accounted for in the state’s or subdivision’s current budget.¹⁵

The state received approximately \$4.53 billion in CARES Act funding. Under the CARES Act, local governments with a population of 500,000 or more may receive a direct payment from the federal government out of their state’s allocation. Ohio has six of these subdivisions – the City of Columbus, and Cuyahoga, Franklin, Hamilton, Montgomery, and Summit counties – that received directly \$778 million altogether, accounting for 17% of Ohio’s total allocated share.¹⁶ Thus, the state treasury received approximately \$3.75 billion of the state’s total allocation.

Distribution to local governments

The act appropriates \$650 million of this state share for distribution to the counties, municipalities, and townships that did not receive direct federal CARES Act payments (which the act refers to as “eligible subdivisions”).¹⁷ The money is distributed on the basis of each eligible subdivision’s population. The money is first distributed to the 88 county treasuries from the state fund that receives CARES Act revenue – the Coronavirus Relief Fund – by the Director of Budget and Management. This distribution is deposited to each county’s coronavirus relief distribution fund – created pursuant to H.B. 481.¹⁸ The amount received by each county is based on the proportion that the sum of the populations of each eligible subdivision located in the county plus the population of the county (if the county is an eligible subdivision) bears to the sum of the populations of all eligible subdivisions in Ohio. Only the portion of a municipality’s or township’s population that resides in a county is included in computing that county’s coronavirus relief distribution fund payment. Even if a county is not an eligible subdivision, municipalities and townships in that county will still receive an allocation, as described below.¹⁹

Once the CARES Act revenue is paid to the county, the money is further divided between the county and its municipalities and townships, except for those that are not eligible

¹⁵ Section 5001 of the “Coronavirus Aid, Relief, and Economic Security Act,” as codified in 42 U.S.C. 801.

¹⁶ Grant A. Driessen, *The Coronavirus Relief Fund (CARES Act, Title V): Background and State and Local Allocations*, Congressional Research Service, p. 4 (August 25, 2020), available [here](#), pp. 4 and 7.

¹⁷ Section 4(A)(1); Section 8.

¹⁸ Section 27(B) of H.B. 481 of the 133rd General Assembly.

¹⁹ Section 4(B).

subdivisions. The amount distributed from the county coronavirus relief distribution fund to each eligible subdivision is based on the proportion that the population of the eligible subdivision bears to the sum of the populations of all eligible subdivisions located in the county plus the population of the county if the county is an eligible subdivision. Municipalities and townships that are eligible subdivisions receive CARES Act distributions from each county in which their population resides. Therefore, only the portion of a subdivision's population that resides in a particular county is included in computing that county's distribution to the subdivision.²⁰

For these computations, the populations of eligible subdivisions are based on the most recent estimates published by the Development Services Agency.²¹ The population of a township does not include persons who reside in its incorporated areas.²²

Once a subdivision receives its share of the CARES Act revenue it must deposit the money in its local coronavirus relief fund – also created pursuant to H.B. 481.²³ The subdivision must use the revenue solely for the purposes prescribed in the CARES Act. The Auditor must audit this fund during the subdivision's next regular audit to ensure the revenue was used properly.²⁴

Resolution requirement

The distribution of CARES Act funds under H.B. 481 was conditioned on the legislative authority of the recipient county, municipality, or township adopting a resolution or ordinance affirming that the revenue will only be used for the purposes prescribed in the CARES Act and certifying it to the Director of Budget and Management and the county auditor. The act extends this stipulation to all funds distributed through a county coronavirus relief distribution fund, including the amounts appropriated by the act and appropriations approved by the Controlling Board. Adopting one resolution or ordinance is sufficient to meet the act's requirement. A subdivision that adopted a resolution or ordinance under H.B. 481 is not required to do so again.

If a subdivision does not adopt a resolution or ordinance regarding its use of CARES Act funds, its share of funding is retained in the county coronavirus relief distribution fund until either the subdivision adopts the resolution or ordinance, or the unencumbered balance of the fund is redistributed to other subdivisions as described below.²⁵

²⁰ Section 4(C).

²¹ See, Ohio Development Services Agency, State and U.S. Population Estimates, available [here](#).

²² Section 4(A)(2).

²³ Section 27(E) of H.B. 481 of the 133rd General Assembly.

²⁴ Section 4(D).

²⁵ Section 4(G).

Redistribution of unused funds

The act modifies the rules prescribed by H.B. 481 for the return and redistribution of unspent funds and applies them to all local government CARES Act appropriations – including those made by the act and H.B. 481 and any such appropriation approved by the Controlling Board.

Under the modified rules, subdivisions must return to the county treasury any CARES Act funding that remains unencumbered as of November 20, 2020. (H.B. 481 required unencumbered funds to be returned by October 15, 2020.) If a subdivision is located in more than one county, it must divide and pay the unencumbered funds among those counties proportionally, based on the cumulative amount of CARES Act funds it received from each county. Returned revenue must then be redistributed by the county auditor no later than November 25, 2020. (H.B. 481 required redistribution of funds by October 22, 2020.)

The funds are redistributed to the county and municipalities and townships in the county that (1) did not receive a direct federal distribution of CARES Act funds, (2) spent 100% of all previous CARES Act distributions, and (3) adopted a resolution or ordinance pertaining to the use of CARES Act funds, as described above. Generally, one-quarter of the returned revenue is paid to the county, if eligible, and the remainder is paid to the other eligible municipalities and townships based on each subdivision's relative population. However, if fewer than one-quarter of municipalities and townships with a population that resides in the county qualify for a redistribution payment, the share of returned revenue paid to the county, if eligible, increases from one-quarter to one-half.²⁶

Reporting to OBM

Whenever a county auditor distributes or redistributes the CARES Act payments under the act to local subdivisions, the auditor must report the amount that is being paid to each subdivision to the OBM Director. In addition, any subdivision that receives CARES Act revenue under the act must comply with any request from the Director for information on how those funds were spent.²⁷

Return of unused funds

The act defers the date set by H.B. 481 by which a subdivision must return any unspent balance of its local coronavirus relief fund to the state treasury from December 28, 2020, to February 1, 2021, but specifies that, for the period beginning December 31, 2020, and ending February 1, 2021, the subdivision's fund may be held open for accounting purposes only. As discussed above, the CARES Act requires this money to be spent only for COVID-19 pandemic related costs incurred no later than December 30, 2020. The deferral applies to local CARES Act

²⁶ Sections 4(E) and 7; Section 27(A) and (F) of H.B. 481 of the 133rd General Assembly.

²⁷ Section 4(C) and (F).

funds appropriated by the act and H.B. 481, as well as any similar appropriations approved by the Controlling Board.²⁸

Workforce-education partnership programs

The act permits public and private colleges and universities and “employers” to establish workforce-education partnership programs, and requires the Chancellor of Higher Education to create a template for colleges and universities and employers to use to establish them. The goal of a workforce-education partnership program is to provide assistance to students so that they may graduate from a college or university with no student debt. In creating the template, the Chancellor must consult with state and local workforce and economic development agencies.²⁹

The template for the program must include the following:

1. The process for an employer to participate in the program;
2. A requirement that, to be eligible to participate in the program, a student be enrolled in a degree-granting program at a college or university on at least a half-time basis, as determined by the Chancellor, and be a paid employee of an employer participating in the program;
3. The process for an eligible student to enroll in the program;
4. Guidance for the college or university to designate a mentor to assist students within the college or university;
5. Guidance for an employer to designate a mentor to assist students at the employer’s workplace;
6. Guidance for the college or university and employers to create a process to make a housing stipend available to students enrolled in the program;
7. Guidance for the college or university and employers to make life management and professional skills training available to students enrolled in the program;
8. A requirement that an employer establish an educational assistance program in accordance with federal law and provide tuition assistance for a student enrolled at the college or university while working for the employer, up to the maximum amount that the employer may exclude from the employer’s gross income under that law,³⁰
9. A requirement that the college or university work with students enrolled in the program to ensure that they have applied for and are receiving the maximum financial aid, in the form of scholarships and grants, that they are eligible to receive to cover their costs to attend the college or university; and

²⁸ Sections 4(E) and 7; Section 27(G) of H.B. 481 of the 133rd General Assembly.

²⁹ R.C. 3333.93.

³⁰ See 26 U.S.C. 127.

10. A requirement that the college or university and employers seek out additional sources of funding to cover any remaining costs to attend the college or university that are not covered by tuition assistance or financial aid for students enrolled in the program.³¹

The Chancellor must evaluate the effectiveness of the workforce-education partnership programs to determine whether additional training and employment programs may use the Chancellor's template to establish workforce-education partnership programs.³²

As used by the act, the term "colleges and universities" includes any state institution of higher education and any private nonprofit or for-profit college or university.³³

Concealed handgun licenses

Extended expiration dates

The act extends the validity of a standard concealed handgun license that is scheduled to expire between March 9, 2020, and June 30, 2021, until 90 days after the expiration date or June 30, 2021, whichever occurs later. The extension applies even if the license's scheduled expiration date occurred before the act's October 1, 2020, effective date. This expands the extension passed in H.B. 197 of the 133rd General Assembly. H.B. 197 had extended the validity of concealed handgun licenses during the period of the emergency declared by Executive Order 2020-01D, issued March 9, 2020, for 90 days or until December 1, 2020, whichever occurs earlier.

The act also clarifies that the 30-day grace period under continuing concealed handgun licensing law applies to a license extended under the act. Consequently, a concealed handgun license extended under the act during the extension period described above and for 30 days after the extension period expires is valid for all purposes under Ohio law, and a person to whom the license was issued is considered to be a holder of a valid license to carry a concealed handgun.³⁴

Application procedures

From the act's October 1, 2020, effective date until June 30, 2021, the act allows an applicant for a concealed handgun license who is an Ohio resident to apply for a license to the sheriff of any county, rather than only to the sheriff of the applicant's county of residence or an adjoining county under continuing law. Similarly, the act allows an applicant for renewal of a concealed handgun license to file the application for renewal with the sheriff of any county,

³¹ R.C. 3333.93(B).

³² R.C. 3333.93(C).

³³ R.C. 3333.93(A). See R.C. 3345.011 and 3365.01, neither in the act.

³⁴ Section 14.

rather than in the county of residence, an adjacent county, or the county in which the original application was filed.³⁵

Resident-only licensing hours

The act allows a sheriff, until June 30, 2021, to provide up to eight hours each week during which the sheriff accepts concealed handgun applications or renewal applications only from county residents and provides information on concealed handgun applications only to county residents. For each hour of resident-only concealed handgun application time, the sheriff must extend the hours of general concealed handgun application time provided to all applicants. Under continuing law, the sheriff must provide at least 15 hours of general concealed handgun application time each week. As with the continuing law concealed handgun application hours, the sheriff must post notice of the concealed handgun application hours provided under the act.

Nothing in the act or in the continuing law is to be construed to prohibit the sheriff from offering more hours than are required by law for accepting concealed handgun license applications or providing information on concealed handgun licensing.³⁶

Other appropriations

The act makes a supplemental appropriation of \$4 million in FY 2021 for Facilities Establishment Fund (Fund 7037) line item 195615, Facilities Establishment.³⁷ The line item is primarily used to fund the 166 Direct Loan Program, under which businesses may receive loans to purchase machinery and equipment, land and buildings acquisition, or make other eligible capital improvements.

The act also amends H.B. 481 of the 133rd General Assembly to do the following:

- Increase capital appropriations under Parks and Recreation Improvement Fund (Fund 7035) capital appropriation item C725E2, Local Parks, Recreation, and Conservation Projects by \$550,000 to a total of \$20.7 million;
- Redirect a \$400,000 community project earmark under the Higher Education Improvement Fund (Fund 7034) capital appropriation item C38443, Central Ohio Job Skills and Workforce Developmental Center, a project in Whitehall, to Parks and Recreation Improvement Fund (Fund 7035) capital appropriation item C725E2, Local Parks, Recreation, and Conservation Projects, to support the Whitehall Community Park Extension Project; and
- Earmark \$150,00 to support Kamp Dovetail.³⁸

³⁵ Section 16(A) and (B).

³⁶ Section 16(C) and (D).

³⁷ Section 9.

³⁸ Section 11.

The act authorizes the Treasurer of State to issue original obligations of not more than \$550,000, if needed, to provide sufficient moneys to the credit of Fund 7035 to support the costs of capital facilities for parks and recreation purposes.³⁹

For more information, see the [Fiscal Note for H.B. 614, as enacted](#).

Authorization to convey land

The act authorizes the conveyance of two tracts of state-owned land under the Department of Rehabilitation and Correction's (DRC's) jurisdiction. One tract is located in Madison County and consists of approximately 1,247 acres. The other is in Warren County and is approximately 296 acres. Proceeds from the sale of both tracts must be deposited in the state treasury, to the credit of the Adult and Juvenile Correctional Facilities Bond Retirement Fund. The authority to convey the Madison County tract expires on October 1, 2023. Authority to convey the Warren County tract expires on June 30, 2021.⁴⁰

Purchaser and real estate agreement

The Madison County tract may be offered for sale by the Director of Administrative Services and DRC Director through one of two means. Specifically, the property may be offered to a purchaser or purchasers, who are to be determined, through a negotiated real estate purchase agreement, with the price and terms and conditions to be acceptable to the Directors, and payment made at closing.

Alternatively, the DAS Director may conduct a sealed bid or public auction, with the property sold to the highest bidder, if the price is acceptable to both Directors. (The DAS Director may reject any or all bids.) If an auction is used, the DAS Director must advertise the auction by publication in a newspaper of general circulation in Madison County, once a week, for three weeks in a row, and DRC must pay advertising costs. If an auction is held and a bid is selected, a deposit must be paid no more than five business days after notice of an accepted bid is received, with the balance due no more than 60 business days after that notice. A provision is also made for contingent sales processes should a successful bidder not complete the purchase.⁴¹

The Warren County tract is to be offered to a grantee, who is to be determined through a real estate purchase agreement, for a price and at terms and conditions acceptable to the DAS and DRC Directors.⁴²

Conditions

Both tracts are to be conveyed subject to certain conditions. Those are:

³⁹ Section 13.

⁴⁰ Sections 17(A), (F), and (H) and 18(A), (F), and (H).

⁴¹ Section 17(C).

⁴² Section 18(D).

- The conveyances include improvements and chattels (personal property) on the conveyed property, and are subject to all easements, covenants, conditions, and restrictions of record; all legal highways and public rights-of-way; zoning, building, and other laws, ordinances, restrictions, and regulations; and real estate taxes and assessments not yet due and payable, and the property is to be conveyed in an “as-is, where-is, with all faults” condition.
- The deeds conveying the property may contain restrictions, exceptions, reservations, reversionary interests, and other terms and conditions the DAS Director determines to be in the best interest of the state.
- After the conveyances, any deed restrictions may be released by the state or DRC without further legislation.
- The deed or deeds must contain restrictions prohibiting the property’s use or sale if the use or sale will interfere with the quiet enjoyment of neighboring state-owned land.
- The property may only be conveyed if the DAS Director and DRC Director first determine the property is surplus property, no longer needed by the state, and that the conveyance is in the state’s best interest.⁴³

Warren County easement

The Warren County tract is to be conveyed subject to an easement, providing for ingress and egress to the DRC sewer treatment plant. The easement encompasses the existing drive to that plant.⁴⁴

Conveyance of whole or part

The Madison County tract may be conveyed as an entire tract or as multiple parcels, and to a single purchaser or multiple purchasers, as determined by the DAS Director and DRC Director. The Warren County tract must be sold as an entire tract.⁴⁵

Conveyance costs

The Madison County grantee must pay all costs associated with purchase, closing, and conveyance, except for advertising costs. The grantee of the Warren County tract must pay all costs associated with purchase, closing, and conveyance.⁴⁶

⁴³ Sections 17(B) and 18(C).

⁴⁴ Section 18(B).

⁴⁵ Sections 17(D) and 18(E).

⁴⁶ Sections 17(E) and 18(F).

HISTORY

Action	Date
Introduced	05-05-20
Reported, H. Ways and Means	06-11-20
Passed House (90-0)	06-11-20
Reported, S. Gov't Oversight & Reform	09-23-20
Passed Senate (32-0)	09-23-20
House concurred in Senate amendments (88-2)	09-23-20



FACT SHEET: Ohio's Manufacturing Mentorship Program Introduces Young People to Manufacturing Careers, Builds Workforce Pipeline

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

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

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

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

How does the program work?

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

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

The Ohio Department of Commerce has created [this document](#) for ease of compliance with any record requirements.

Specific training requirements for students in the program:

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

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

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

Ensuring safety: Restrictions on tools operated by minors

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

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

Tools permitted for Manufacturing Mentorship Program Participants

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

General tools:

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

Tools permitted with conditions:

1. Welding tools only while under direct supervision;
2. Waterjet cutting machines with devices for fully automatic feeding and ejection and with a fixed guard that prevents operators or helpers from placing any part of their bodies in the point-of-operation area;
3. Computer numerical control (CNC) machines while under direct supervision;
4. Production press machines that are not already listed as a specific prohibition or exception in Chapter 4101:9-2 of the Administrative Code, so long as those devices include fully automatic feeding and ejection and a fixed guard that prevents operators or helpers from placing any part of their bodies in the point-of-operation area;
5. Plastics molding machines when fitted with the proper guarding (not manually fed);
6. Plastics extruders while under direct supervision; and
7. Soldering irons while under direct supervision.

Tools restricted by type of use:

1. Certain tools that require the placing of material on a moving chain or in a hopper or slide for automatic feeding, such as:
 - a. Band resaw only when it incorporates the use of a chain feed and there is no direct interaction with the tool;
 - b. Automatic nailing machine only when it incorporates the use of a hopper, belt, or chain feed, and there is no direct interaction with the tool;
2. Automatic wire-stitching machines only when it incorporates the use of a hopper or chain feed and there is no direct interaction with the tool; and
3. Tools designed for carrying or moving nonhazardous material from one machine to another (hike-a-way).

Miscellaneous Tools:

Any other tools that are permitted under the Fair Labor Standards Act and are not specifically prohibited by section 4109.05 or the Revised Code or the rules adopted thereunder.

Starting Your Manufacturing Mentorship Program

Manufacturers that are ready and willing to follow the Manufacturing Mentorship Program requirements described in this document and in Section 4109.22 of the Ohio Revised Code may implement their programs.

Human Resources

How Employee Benefits Are Changing During COVID-19 October 30, 2020

The impact of COVID-19 has forced human resources leaders to evaluate their benefits and think beyond traditional offerings. Check out **this infographic** by OMA Connections Partner Paycor highlighting emerging benefits being provided by employers during the pandemic. *10/27/2020*

Get Briefed on Ohio's Employment Law Landscape October 30, 2020

Election Day could bring some big changes to the nation's labor laws. OMA Connections Partner Roetzel will host its complimentary 2020 Employment Law Briefing on Tuesday, Nov. 10 from 9 a.m. to 12:15 p.m. This virtual event will provide employers an overview of Ohio's employment law as it stands today — and what might be coming in the near future. To see the schedule or register, **click here**. *10/28/2020*

Measuring the Emotional Impact of COVID-19 October 23, 2020

While COVID-19 has negatively impacted human health, the economy, and businesses operations, it has also affected the mental health of millions — including some of your workers. **This infographic** published by VisualCapitalist.com uses survey data to illustrate levels of emotional distress based on factors such as age, race, education level, parental status, and community size.

Meanwhile, Cleveland Clinic has **published this guide** to help employers communicate and manage with empathy in a time of crisis. *10/22/2020*

Debating Whether to Implement a Vaccine Policy at Your Business? October 23, 2020

At the next OMA Safety and Workers' Compensation Committee meeting, set Nov. 4, OMA Connections Partner Fisher Phillips will present information on what employers need to know about flu shots and a forthcoming COVID-

19 vaccine — including whether and how to implement a mandatory vaccination program. **Register here**. *10/22/2020*

How Does Your Small Business Health Plan Stack Up? October 23, 2020

Mercer recently conducted a **nationwide survey** of employer-sponsored health plans, reflecting the practices of small businesses, including manufacturers. The study found:

- For manufacturing employers with fewer than 50 workers, the 2019 average cost of a PPO was \$9,806 per capita, and \$9,038 for an HSA.
- Under PPOs, the average small manufacturer pays 38% of the individual premium and 65% of the family premium.
- The most prevalent individual deductible is \$2,500 for PPOs and \$5,000 for HSAs.

• If you want to ensure that you are offering the best benefits you can afford to attract and retain talent, **explore health care plans for OMA members**. Watch this **30-minute Q&A session** about plans available as an OMA member through NAM Health Care (use passcode **pphSme7%**). *10/21/2020*

How the 2020 Election Could Impact HR Leaders October 23, 2020

Because human resources practices are heavily regulated, election years always bring a degree of uncertainty for HR managers. OMA Connections Partner Paycor has made available this **on-demand webinar** to examine possible HR changes and provide guidance on how companies can ensure that their "HR house" is in order. *10/21/2020*

Seminar Will Address 'Hot Topics' in Employment

October 23, 2020

On Tuesday, Oct. 27, OMA general counsel Bricker & Eckler will conduct its free “Hot Topics” seminar to provide insight into ongoing and emerging labor and employment issues during COVID-19. The seminar is 100% online. See the session lineup or register by [clicking here](#). 10/22/2020

Navigating the Stormy Waters of Political Speech in the Workplace October 23, 2020

With the upcoming election, tensions could run high at workplaces across the nation due to differences in political opinion. OMA Connections Partner Dinsmore is offering a free webinar Tuesday, Oct. 27 to help employers develop safe (and lawful) strategies that can ensure a productive and peaceful work environment. [Learn more or register here](#). 10/22/2020

Workplace Issues Webinar: COVID-19 and Beyond October 16, 2020

At 9 a.m. Thursday, Oct. 29, OMA Connections Partner Calfee is offering a 75-minute complimentary webinar to address key workplace issues facing employers during the pandemic and beyond. Topics include managing COVID-19; planning for mandatory vaccinations; Ohio’s new civil immunity law; and potential workplace disruptions due to organized labor. [Learn more or register](#). 10/14/2020

Court Weighs in on Employee’s Termination After Use of Racial Slur on Social Media October 16, 2020

The Sixth Circuit Court of Appeals recently ruled that an employee’s use of a racial slur on Facebook was not sufficiently protected by the First Amendment, and that her employer had the right to terminate employment. This decision could potentially impact disciplinary situations in the workplace. OMA Connections Partner Roetzel has published [this insight](#) into the decision. 10/14/2020

Best Practices for Manufacturers to Increase Diversity October 16, 2020

In its latest [newsletter for manufacturers](#), OMA Connections Partner Gilmore Jasion Mahler writes about the benefits of a diverse workforce. Among other things, “expanding recruitment efforts to reach a more diverse audience can help close the skills gap,” the firm writes. Here are some [best-practice tips for manufacturers](#) to enhance their diversity efforts. 10/14/2020

Virtual STEP Forward: The Current State of Women in Manufacturing October 16, 2020

The Manufacturing Institute’s **STEP Forward program** aims to provide women in manufacturing with an opportunity to hear from industry leaders, connect with their peers in industry, and learn best practices. On Tuesday, Oct. 20, from 3 to 4:30 p.m. STEP Forward will host a webinar titled “The Current State of Women in Manufacturing.” [Register here](#). 10/14/2020

EEOC Proposes New Rules Regarding Conciliation October 16, 2020

The Equal Employment Opportunity Commission (EEOC) has announced [proposed changes to its conciliation process](#), according to OMA Connections Partner Frantz Ward. Unlike mediation — which occurs after a charge of discrimination has been filed against an employer — conciliation is a voluntary alternative to litigation. 10/14/2020

Webinar Series Will Spotlight ‘Hot Topics’ in HR October 9, 2020

OMA general counsel Bricker & Eckler has announced its 2020 Hot Topics in Employment webinar series. The free webinars, all of which begin at noon (ET), are set for the following dates:

- **Oct. 20:** COVID-19-related employment issues, including leave laws, accommodation requests, and employee testing.
- **Oct. 27:** Reducing workers’ compensation and OSHA liability.

- **Nov. 10:** HR benefits and tax opportunities during COVID-19.
- **Nov. 17:** New developments and FAQs in wage and hour law.

Register here for any or all of these webinars. *10/6/2020*

Thoughts on the New U.S. Supreme Court Nomination October 9, 2020

President Trump recently nominated Amy Coney Barrett to replace the late Justice Ruth Bader Ginsburg. A conservative justice serving for the Court of Appeals covering Illinois, Indiana, and Wisconsin, Judge Barrett aligns herself as a textualist judge — one who reads and interprets the law as it is written.

What would it mean for employers if she's confirmed? According to **this analysis** by OMA Connections Partner Frantz Ward, Barrett's employment law decisions have resulted in significant victories for employers. *10/8/2020*

Employment Law Briefing Set for Nov. 10 October 9, 2020

OMA Connections Partner Roetzel will host its **2020 Employment Law Briefing** on Tuesday, Nov. 10 from 9 a.m. to 12:15 p.m. (ET). This complimentary virtual event will allow employers to catch up on Ohio's employment law landscape. *10/8/2020*

Webinar: How to Counter Union Strikes and Pickets October 9, 2020

Whether you are a non-union company or a business with a longstanding relationship with a union, strikes and picketing activity have increased dramatically over the last couple of years.

At noon (ET) on Thursday, Oct. 15, OMA Connections Partner Fisher Phillips is **offering a two-hour labor relations program** on how to prepare for potential strikes, pickets, and boycotts. The program will examine what kinds of activity is lawful and how to equip your company with contingency plans. *10/8/2020*

Webinar: Tensions in the Workplace October 2, 2020

Every four years, American businesses face a special workplace challenge of a presidential election. This year, the potential for employment disputes over politics is greater due to COVID-19 and heightened attention on social issues.

On Wednesday, Oct. 7 — at three different times during the day — OMA Connections Partner Fisher Phillips is offering a **free webinar** to provide crucial best practices to help employers maintain a peaceful work environment. *10/1/2020*

Webinar: Safety Regs, Labor Law During COVID-19 October 2, 2020

On Thursday, Nov. 5, OMA Connections Partner Thompson Hine will host a **free webinar** to address issues facing employers that are struggling to manage employees both inside and outside the workplace during the pandemic, while complying with new laws and regulations regarding workplace safety, paid leave, and other matters.

This will be the first of three upcoming webinars that the firm is offering to provide guidance on labor law and employee benefits issues. You can also register for the **Nov. 12 webinar** and **Nov. 19 webinar**. *10/1/2020*

Manufacturers' Average Total Compensation Costs Are Nearly \$40 an Hour October 2, 2020

According to a **new study** by the U.S. Bureau of Labor Statistics, compensation costs for U.S. employers in private industry averaged \$35.96 per hour worked in June 2020.

Total compensation costs for manufacturers averaged \$39.86 an hour, with wages and salaries accounting for 66.4% (\$26.48) and total benefits accounting for 33.6% (\$13.38) of total compensation costs. Among major industry groups, average health insurance benefits costs were highest for manufacturers when factored as a percentage of total compensation (9.3%). *9/30/2020*

Webinar Will Address Employer Questions on Mandatory Vaccination Policies
October 2, 2020

Employers need to consider several factors when deciding whether and how to implement a mandatory vaccination program, including for the inevitable COVID-19 vaccine once approved. On Tuesday, Oct. 13, at 1 p.m. (ET), OMA Connections Partner Fisher Phillips will host a **free webinar** titled, "What Employers Need To Know About Flu Shots and COVID-19 Vaccines." *9/30/2020*

Keeping Politics Out of the Workplace
September 25, 2020

In this election season, employers are facing the daunting challenge of keeping peace among employees with differing political views. OMA Connections Partner Frantz Ward has published **this guidance** to help employers update their policies on political speech in the workplace — including bans on political hats, buttons, clothes, and banners. *9/21/2020*

Open Q&A Sessions About NAM Health Care Benefits
September 25, 2020

There are two opportunities to learn how the **OMA helps members** offer their employees affordable, comprehensive health care plans similar to what much larger companies offer. A collaboration of the OMA, the National Association of Manufacturers, Mercer and UnitedHealthcare allows small and mid-sized businesses to offer easy and convenient, Fortune 500-type benefits and enrollment to employees and their families.

- Register **here** for the briefing on Wednesday, Sept. 30 at 1:30 p.m. (ET).
- Register **here** for the briefing on Tuesday, Oct. 6 at 3 p.m. (ET).

Or contact **One Source Advisors**, OMA's endorsed health care broker, to learn more right now. *9/20/2020*

New Analysis of Ohio Supreme Court's Drug Testing Decision
September 18, 2020

As we reported earlier this month, the Supreme Court of Ohio recently held that the privacy of an at-will employee is not invaded when the employee is required to produce a urine sample while being monitored by a same-sex employer representative.

OMA General Counsel Bricker & Eckler has published **this analysis** of the decision. According to the firm, while the ruling strengthens an employer's ability to effectively maintain a drug-free workplace, employers that intend to use the direct observation method may wish to update their substance abuse policies to notify employees of when they may use this method. *9/16/2020*

OMA Testifies on Unemployment Compensation System Review Bill
September 18, 2020

This week, the OMA provided **testimony** to Senate lawmakers regarding **House Bill 614**, legislation that aims to study and reform Ohio's unemployment compensation system. HB 614 passed the House in May. The bill would create new operations for inquiries and notifications, while also creating the Unemployment Compensation Modernization and Improvement Council to review and research current Ohio unemployment compensation administrative practices. Interestingly enough, the council would not be allowed to review solvency issues. As OMA members know, Ohio's unemployment system solvency has been in question for some time. *9/17/2020*

Webinar Will Offer Tips for Navigating Unemployment System
September 18, 2020

At 11 a.m. (ET) on Wednesday, Sept. 30, OMA Connections Partner Roetzel will host a free webinar to help businesses navigate Ohio's unemployment insurance (UI) system. The webinar will offer tips and best practices for administering a company's UI claims, including strategies for responding to a former (or current) employee's claim, as well as guidance on deciding whether to appeal an adverse ruling. **Register here.** *9/14/2020*

Revised DOL Rule Addresses COVID-19 Leave
September 18, 2020

In response to a legal challenge, the U.S. Department of Labor (DOL) recently issued a new temporary rule interpreting the Families First Coronavirus Response Act and its provisions addressing employee leave during COVID-19. The new rule was issued to revise and clarify several parts of an earlier DOL rule that were struck down by a New York federal court.

Read this summary by OMA Connections Partner Thompson Hine, as well as **this summary** by OMA Connections Partner Roetzel. *9/14/2020*

Court Says NLRB Was Too Hard on Company for Blunders Before Union Election
September 18, 2020

A federal appeals court has ruled that an employer unlawfully fired a union supporter and made coercive threats to workers before a union election, but determined the National Labor Relations Board's remedies for those infractions were too harsh. For more on the court's decision, **read this summary** by OMA Connections Partner Dinsmore. *9/14/2020*

Employer Checklist: Returning Employees to the Workplace
September 11, 2020

Are you bringing your employees — or additional employees — back to the workplace? Now is time to ensure your business has best practices in place for employee health. OMA Connections Partner Clark Schaefer Hackett has published **this printable checklist** of key items to include in your planning. *9/10/2020*

EEOC Provides New Guidance on Compliance During COVID-19
September 11, 2020

The Equal Employment Opportunity Commission has **again updated its guidance** regarding employees returning to work during the pandemic. A revised **Q&A document** published this week addresses another set of common questions that have arisen under the ADA and other anti-discrimination laws.

Read this analysis from OMA Connections Partner Roetzel for more on this development. *9/9/2020*

Addressing Election-Season Workplace Tensions
September 11, 2020

As if 2020 hasn't been challenging enough for employers, we've now entered the final two months of a contentious presidential election. OMA Connections Partner Fisher Phillips has published **this article** addressing some common misconceptions held by employees and employers when it comes to political speech — and how to respond to problems should they arise. *9/9/2020*

New Rule Requires Lifetime Benefit Illustrations for Retirement Plans
September 11, 2020

The U.S. Department of Labor recently issued an interim final rule requiring 401(k) and other individual account plans to annually provide participants with lifetime income illustrations of their account balances. In its **new analysis** of the rule, OMA Connections Partner Thompson Hine advises plan fiduciaries to reach out to their recordkeepers and third-party administrators to discuss future compliance. *9/10/2020*

Employee Drug Tests in Ohio Found Not to Violate Employee Privacy
September 4, 2020

OMA Connections Partner **Frantz Ward posted** that recently, the Ohio Supreme Court held that employers can use the direct-observation method of drug testing, without violating an employee's privacy rights, provided that the employee consents to the test. The court also noted that an employer can terminate an employee for refusing to consent to that drug test. *8/28/2020*

Medicare Part D Notices Are Due Before Oct. 15, 2020
September 4, 2020

Medicare Part D requires group health plan sponsors to annually disclose to individuals who are eligible for Medicare Part D and to the Centers for Medicare and Medicaid Services (CMS) whether the health plan's prescription drug coverage is creditable.

Plan sponsors must provide the annual disclosure notice to Medicare-eligible individuals before Oct. 15, 2020—the start date of the annual enrollment period for Medicare Part D. CMS has provided model disclosure notices for employers to use.

There are no specific penalties associated with this notice requirement, but failing to provide the notice may be detrimental to employees. Medicare beneficiaries who are not covered by creditable prescription drug coverage and do not enroll in Medicare Part D when first eligible will likely pay higher premiums if they enroll at a later date. Direct questions to OMA Connections Partner **One Source Advisors**. *9/1/2020*

Labor Department Answers Questions About Paid Leave Requirements August 28, 2020

The U.S. Department of Labor's Wage and Hour Division (WHD) has published **new FAQs for workers and employers** regarding paid leave under the Families First Coronavirus Response Act (FFCRA) during the reopening of schools — including schools with blended in-person and remote learning.

WHD says it is offering employees and employers “a growing library of tools” to help navigate changes in the workplace brought by COVID-19 — including **questions and answers, short videos and infographics** explaining FFCRA benefits. **Visit this website** for more information

on current paid leave requirements under federal law. *8/27/2020*

Ohio Child Care Providers Can Watch Remote Learners When Parents Are at Work August 28, 2020

To provide relief for working parents, the DeWine administration this week **announced** a new program to ensure that students learning remotely have a safe place to go during their normal school day if their parents are at work. Licensed providers will be able to receive funding to cover the cost of care for economically eligible children.

To help employers address workforce issues during the back-to-school season, OMA Connections Partner Fisher Phillips has compiled **this list of answers** to frequently asked questions. *8/25/2020*

U.S. Labor Department Issues Guidance for Tracking Teleworkers' Hours August 28, 2020

With telework arrangements expanding due to the pandemic, the U.S. Department of Labor's Wage and Hour Division **has issued a bulletin** to clarify an employer's obligation to track the number of hours of compensable work by employees who are working remotely. **Here is guidance** from OMA Connections Partner Fisher Phillips. *8/24/2020*

Human Resources, Health Care & Employment Law Legislation
Prepared by: The Ohio Manufacturers' Association
Report created on November 9, 2020

- HB21** **MASS LAYOFFS-UNEMPLOYMENT COMP** (HOLMES G, MILLER A) Regarding notices, resources, and benefits under the Unemployment Compensation Law when a mass layoff occurs.
Current Status: 2/12/2019 - Referred to Committee House Commerce and Labor
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-21>
- HB34** **STATE-LOCAL MINIMUM WAGE** (KELLY B) To increase the state minimum wage and to allow municipalities, townships, and counties to establish higher minimum wage requirements.
Current Status: 1/22/2020 - House Commerce and Labor, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-34>
- HB38** **COMMERCIAL CREDIT REPORTING** (HILLYER B) To require a commercial credit reporting agency to provide credit reports to businesses and to establish a procedure whereby a business may dispute statements on the report.
Current Status: 11/10/2020 - Senate Insurance and Financial Institutions, (Fourth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-38>
- HB78** **PREVAILING WAGE-PUBLIC IMPROVEMENTS** (RIEDEL C, MANCHESTER S) To allow political subdivisions, special districts, and state institutions of higher education to elect to apply the Prevailing Wage Law to public improvement projects.
Current Status: 12/11/2019 - House Commerce and Labor, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-78>
- HB91** **FAMILY-MEDICAL LEAVE** (BOGGS K, BOYD J) To establish family and medical leave insurance benefits.
Current Status: 2/12/2020 - House Insurance, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-91>
- HB221** **WAGE DISCRIMINATION COMPLAINTS** (BOYD J, CRAWLEY E) To require the Ohio Civil Rights Commission to establish a system for individuals to make anonymous complaints regarding wage discrimination.
Current Status: 9/23/2020 - **PASSED BY SENATE**; Vote 33-0
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-221>
- HB268** **VACCINES-EMPLOYMENT** (HOOD R, KENT B) To enact the "Medical Consumer Protection Act" to prohibit an employer from taking an adverse employment action against a person who has not been or will not be vaccinated.
Current Status: 6/4/2019 - Referred to Committee House Commerce and Labor
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-268>

- HB292** **UNIVERSAL HEALTH CARE COVERAGE** (SKINDELL M, KENT B) To establish and operate the Ohio Health Care Plan to provide universal health care coverage to all Ohio residents.
Current Status: 9/10/2019 - House Health, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-292>
- HB304** **ELIMINATE SEX-BASED WAGE DISPARITIES** (CLITES R, HOWSE S) To enact the Ohio Equal Pay Act to require state contractors and economic incentive recipients to obtain an equal pay certificate, to require public employers to establish a job evaluation system to identify and eliminate sex-based wage disparities, to prohibit employers from seeking a prospective employee's wage or salary history, and to prohibit employer retaliation against an employee who discusses salary or wage rates with another employee.
Current Status: 6/30/2019 - Referred to Committee House Commerce and Labor
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-304>
- HB352** **CIVIL RIGHTS EMPLOYMENT LAWS** (CROSS J, LANG G) To modify Ohio civil rights laws related to employment.
Current Status: 5/12/2020 - **REPORTED OUT AS AMENDED**, House Civil Justice, (Fourth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-352>
- HB369** **SEXUAL, GENDER DISCRIMINATION** (HILLYER B, SKINDELL M) To enact the Ohio Fairness Act to prohibit discrimination on the basis of sexual orientation or gender identity or expression, to add mediation as an informal method that the Ohio Civil Rights Commission may use, and to uphold existing religious exemptions under Ohio's Civil Rights Law.
Current Status: 2/4/2020 - House Civil Justice, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-369>
- HB378** **STRIKING WORKER UNEMPLOYMENT BENEFIT** (CROSSMAN J, LEPORE-HAGAN M) To provide unemployment benefits to striking workers and to declare an emergency.
Current Status: 10/23/2019 - Referred to Committee House Insurance
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-378>
- HB469** **HEALTH INSURANCE COST-SHARING** (MANCHESTER S, WEST T) To prohibit certain health insurance cost-sharing practices.
Current Status: 11/10/2020 - House Health, (Fourth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-469>
- HB508** **UNEMPLOYMENT COMPENSATION - DOMESTIC VIOLENCE VICTIMS** (CERA J, SWEENEY B) To allow an individual to be eligible for unemployment compensation benefits for unemployment due to domestic violence.
Current Status: 2/19/2020 - Referred to Committee House Criminal Justice
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-508>

- HB512 INSURANCE COVERAGE - EPINEPHRINE, GLUCAGON (ROGERS J)** Regarding insurance and Medicaid coverage of epinephrine and glucagon.
Current Status: 6/3/2020 - House Insurance, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-512>
- HB574 TRANSFER FUNDS - UNEMPLOYMENT COMPENSATION FUND (MILLER J)** To transfer moneys to the Unemployment Compensation Special Administration Fund, to make an appropriation, and to declare an emergency.
Current Status: 5/19/2020 - House Insurance, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-574>
- HB584 WORK SEARCH REQUIREMENTS - COVID-19 (CRAWLEY E, LELAND D)** To temporarily change eligibility and work search requirements under the Unemployment Compensation Law and to declare an emergency.
Current Status: 5/5/2020 - Referred to Committee House Insurance
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-584>
- HB588 PUBLIC ASSISTANT PROGRAMS - COVID-19 (RUSSO A, SOBECKI L)** To delay eligibility redeterminations for certain public assistance programs, temporarily modify income eligibility requirements for certain public assistance programs, and to declare an emergency.
Current Status: 5/5/2020 - Referred to Committee House Health
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-588>
- HB593 REQUIRED PAID LEAVE - COVID-19 (BOYD J, BOGGS K)** To require paid leave for an employee who is unable to work due to quarantine or mandatory isolation, to create a grant program to compensate contract workers who cannot perform services during public health emergencies, to make an appropriation, and to declare an emergency.
Current Status: 5/5/2020 - Referred to Committee House Commerce and Labor
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-593>
- HB607 GENDER PAY DISPARITY TASK FORCE (HOWSE S, LEPORE-HAGAN M)** To create the Gender Pay Disparity Task Force.
Current Status: 5/5/2020 - Referred to Committee House Commerce and Labor
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-607>
- HB672 WORKER PROTECTION ACT (LELAND D, SOBECKI L)** To enact the "Worker Protection Act" to require the Director of Job and Family Services to consider certain factors related to COVID-19 when determining, for purposes of unemployment benefit eligibility, whether an individual had just cause to quit work or refuse employment and to declare an emergency.
Current Status: 5/27/2020 - Referred to Committee House Insurance
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-672>

- HB679 TELEHEALTH SERVICE REQUIREMENTS (FRAIZER M, HOLMES A)** To establish and modify requirements regarding the provision of telehealth services and to declare an emergency.
Current Status: 11/10/2020 - Senate Insurance and Financial Institutions, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-679>
- HB771 UNEMPLOYMENT OVERPAYMENTS DURING COVID-19 (CUTRONA A)** To prohibit the collection of certain unemployment benefit overpayments during the COVID-19 state of emergency and to declare an emergency.
Current Status: 9/30/2020 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-771>
- HCR17 EXPAND SNAP TO STRIKERS (SOBECKI L, RUSSO A)** Urging Congress to expand Supplemental Nutrition Assistance Program eligibility to include the households of striking workers.
Current Status: 2/11/2020 - House Health, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HCR-17>
- HCR35 AFRICAN AMERICAN REPRESENTATION IN BUSINESS (INGRAM C)** To encourage representation of African Americans on the boards and in senior management of Ohio companies and institutions.
Current Status: 8/31/2020 - Referred to Committee House Economic and Workforce Development
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HCR-35>
- SB9 HEALTH PLAN CLAIM INFORMATION (HUFFMAN M)** To require health plan issuers to release certain claim information to group plan policyholders.
Current Status: 6/30/2020 - , (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-9>
- SB11 PROHIBIT DISCRIMINATION-SEXUAL ORIENTATION, GENDER IDENTITY (ANTONIO N)** To enact the Ohio Fairness Act to prohibit discrimination on the basis of sexual orientation or gender identity or expression, to add mediation as an informal method that the Ohio Civil Rights Commission may use, and to uphold existing religious exemptions under Ohio's Civil Rights Law.
Current Status: 5/22/2019 - Senate Judiciary, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-11>
- SB91 FAMILY AND MEDICAL LEAVE (MAHARATH T)** To establish family and medical leave insurance benefits.
Current Status: 9/25/2019 - Senate Insurance and Financial Institutions, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-91>

- SB92** **WAGE DISCRIMINATION** (MAHARATH T) To enact the "Fair and Acceptable Income Required (FAIR) Act" and to revise the enforcement of the prohibitions against discrimination in the payment of wages.
Current Status: 3/20/2019 - Senate General Government and Agency Review , (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-92>
- SB94** **PREGNANT WORKERS** (MAHARATH T) To enact the "Ohio Pregnant Workers Fairness Act" to generally require employers to make reasonable accommodations for employees who are pregnant or breastfeeding.
Current Status: 9/10/2019 - Senate Government Oversight and Reform, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-94>
- SB149** **EMPLOYEE WAGE HISTORY** (MAHARATH T) To prohibit employers from seeking a prospective employee's wage or salary history.
Current Status: 1/29/2020 - Senate Transportation, Commerce and Workforce, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-149>
- SB201** **ALTERNATE EMPLOYER ORGANIZATIONS** (DOLAN M) To create alternate employer organizations.
Current Status: 9/23/2020 - **PASSED BY SENATE**; Vote 32-0
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-201>
- SB207** **DRUG TESTS-UNEMPLOYMENT BENEFITS** (SCHAFFER T) To require unemployment benefit applicants to take a drug test under certain circumstances, to create the Ohio Works First drug testing pilot program, and to make an appropriation.
Current Status: 11/13/2019 - Senate General Government and Agency Review , (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-207>
- SB254** **MENTAL HEALTH BENEFIT PARITY** (GAVARONE T, O'BRIEN S) Regarding mental health and substance use disorder benefit parity.
Current Status: 2/12/2020 - Senate Insurance and Financial Institutions, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-254>
- SB259** **STATE-OWNED REAL PROPERTY** (SYKES V) To authorize the conveyance of state-owned real property.
Current Status: 6/3/2020 - Referred to Committee House State and Local Government
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-259>

SB282

UNEMPLOYMENT COMP COMPLAINTS (HOAGLAND F) To require the Director of Job and Family Services to establish a process for employers to make complaints regarding unemployment compensation benefits.

Current Status: 9/22/2020 - Senate Insurance and Financial Institutions, (Third Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-282>

TO: OMA Government Affairs Committee
FROM: Ryan Augsburger / Rob Brundrett
RE: Safety and Workers' Compensation Public Policy Report
DATE: November 10, 2020

Overview

Stephanie McCloud stepped left the BWC to take over Ohio's Department of Health. In her place Governor DeWine announced that John Logue, the BWC's Chief of Strategic Direction, will become the new administrator effective November 16. Logue has worked for 26 years in the workers' comp industry. Prior to returning to the BWC in 2019, he most recently served as the vice president of client services for International Absence Management Company where he focused on Ohio workers' compensation.

The BWC also approved a new \$5 billion dividend for state fund employers. This is the third BWC dividend of more than \$1 billion this year. The BWC distributed \$1.54 billion in April and \$1.34 billion in October. The \$5 billion is approximately four times the total premiums BWC collected from its employer members in policy year 2019.

Workers' compensation law continues to be a legislative hotspot even amid COVID-19. Under the Householder regime the House made workers' compensation expansion a priority. PTSD was recently passed from the House and is now being heard in the Senate.

The long awaited COVID-19 immunity bill was bogged down due to an unwanted and bad workers' compensation amendment. The OMA was able to work with allies to remove the amendment but only after the dust settled on the Householder scandal.

A plethora of new workers' compensation legislation was introduced because of the pandemic. The OMA continues to work with allies to fight back against these attacks on workers' compensation law.

The Governor announced yet another billion back for state fund employers for the 2019 premium year.

Legislation and Rules

House Bill 81 – Workers' Comp for Bodily Fluid Exposure

Originally the bill provided workers' compensation coverage of post-exposure medical diagnostic services for a detention facility employee's exposure to blood or bodily fluids.

The House expanded the bill to include several additional workers' compensation provisions that were in its version of the workers' comp budget bill before the Senate striped the bill to budget provisions only. Included in HB 81 by the House were:

- reducing the statute of limitations for violations of a specific safety rule (VSSR) from two years to one year;
- increasing the funeral expense benefit cap for inflation;
- changing rules for final claim settlement agreements;
- continuing jurisdiction changes; and
- clarifying the voluntary abandonment doctrine.

The OMA provided proponent testimony for these changes in both the House and Senate. The bill passed both chambers and was signed by the Governor back in June.

House Bill 197 – Pandemic Emergency Legislation

Earlier this year, Gov. DeWine signed into law House Bill 197 in response to the COVID-19 pandemic. Among the legislation's many provisions is one that tolls the statute of limitations for any administrative action or proceeding set to expire between March 9, 2020, and July 30, 2020. This included workers' compensation timelines.

House Bill 308 – PTSD First Responders

Earlier this year, on a 74-22 vote, the Ohio House passed House Bill 308, legislation that would provide first responders with workers' compensation benefits to treat post-traumatic stress disorder (PTSD) even when there's no physical injury. Under current Ohio law, only mental conditions stemming from on-the-job physical injuries/illnesses are eligible for workers' compensation benefits.

Due to the risk of substantial premium increases for employers, the OMA has long opposed any legislation that would permit PTSD compensation or other mental claims when there is no associated physical injury or illness. As the OMA noted in its "key vote alert" to House members, HB 308, if enacted, "will inevitably result in increased workers' compensation costs for both public and private employers. The consequences of those cost increases will be felt across the Ohio economy and will negatively impact Ohio's business climate."

The OMA and other business allies crafted a competing plan that would have provided first responders with the same coverages they would receive under workers' compensation that was more streamlined (See HB 556 below).

The bill now pending in the Senate, where Senate President Larry Obhof (R-Medina) has already been quoted saying he supports the legislation. Members who are concerned with this precedent setting legislation should reach out to their Senators and urge them to vote no on the bill. The OMA and like-minded groups sent a letter to the committee chairman reiterating our opposition to the bill. The OMA provided opponent testimony in the Senate committee over the summer.

House Bill 556 – PTSD-Emergency First Responders

The provides for a business supported alternative to ensure that Ohio first responders receive treatment for PTSD. Treatment would occur outside the Ohio workers' compensation system. This would protect both workers and the system. OMA is supportive of the bill and worked to help create this solution.

House Bill 571 – COVID-19 Occupational Disease First Responders

The bill makes COVID-19 contracted by a peace officer, firefighter, or emergency medical worker an occupational disease under the Workers' Compensation Law under certain circumstances and declares an emergency. The bill has had one hearing.

House Bill 573 – COVID-19 Occupational Disease Workers

The bill makes COVID-19 contracted by any worker required to work during the pandemic an occupational disease under Ohio's workers' compensation laws. The bill has had one hearing.

House Bill 605 – COVID-19 Occupational Disease Food Workers

The bill makes COVID-19 contracted by a food worker including a food manufacturer during the pandemic and occupational disease. The bill has had one hearing. The bill in amendment form was included in the House passed COVID-19 liability bill. This was a major concern for food manufacturers as it changed current Ohio workers' comp law and put the burden of proof on the employer. The OMA and its members were able to kill the amendment.

BWC Agency Notes

Governor Asks BWC to Send \$1.5B in Dividend Payments to Ohio Employers This Fall

To provide economic relief to employers amid the ongoing pandemic, Gov. Mike DeWine asked the Ohio Bureau of Workers' Compensation (BWC) board of directors to send up to \$1.5 billion in dividend payments to Ohio employers this fall. This dividend would equal approximately 100% of the premiums paid in policy year 2019. Checks started going out in late October. If you are a state fund employer be on the lookout.

This is the second dividend of \$1 billion or more since April and the third dividend since 2019.

Additionally, Gov. DeWine asked the BWC board to approve a second distribution of face coverings to Ohio employers and their employees. In the first distribution, BWC shipped 20.6 masks to 197,000 employers.

Senate Confirms Harris as BWC COO

A Cincinnati native and longtime veteran of the Ohio Bureau of Workers' Compensation (BWC) assumed the role of chief operating officer following her confirmation by the Ohio Senate.

Patricia "Trish" Harris, who joined BWC as an intern in 1991, succeeds Kevin Abrams, who retired Monday after nearly four decades with the agency.

BWC Names New Claims Chief

The Ohio Bureau of Workers' Compensation (BWC) named Shawn Crosby as its new chief of claims services. A Cincinnati resident who joined the BWC as a front-line clerk in 1993, Crosby most recently served as Cincinnati claims director. She replaces former claims chief Patricia Harris, who was recently promoted to chief operating officer.

Ohio Safety Congress Will Be Virtual in 2021

The Ohio Bureau of Workers' Compensation has announced that the 2021 Ohio Safety Congress and Expo will be online only. Set for March 10-11, the event will feature dozens of learning sessions and a digital expo, allowing participants to chat virtually with vendors about new and existing products and services.

As always, the event will be free for Ohio employers. Registration will open in January.

BWC Extends PAR Program for Small Employers

The Bureau of Workers' Compensation (BWC) has extended the Policy Activity Rebate (PAR) program for another year. PAR provides eligible employers an opportunity to earn a 50% premium rebate, up to \$2,000. The program promotes a safe work environment and raises awareness about the most important aspects of workers' compensation.

Workers' Comp Implications of COVID-19 for Employers

OMA legal counsel Bricker & Eckler notes that the BWC has not provided a specific stance regarding compensability of COVID-19. The firm notes that claims of exposure to viruses or other potentially dangerous substances are generally not covered by workers' compensation unless an injury or occupational disease results from such exposure. Therefore, a claim of exposure to COVID-19 at work is not, in itself, a compensable injury or disease. Each claim will need to be evaluated on a case-by-case basis.

Safety Issues

OSHA Revises Enforcement Policies

As states begin reopening their economies, OSHA has issued two revised enforcement policies to "ensure employers are taking action to protect their employees."

First, OSHA is increasing in-person inspections at all types of workplaces. Second, OSHA is revising its previous enforcement policy for recording cases of coronavirus. Under OSHA's recordkeeping requirements, coronavirus is a recordable illness, and employers are responsible for recording cases of the coronavirus, if the case:

- Is confirmed as a coronavirus illness;
- Is work-related as defined by 29 CFR 1904.5; and
- Involves one or more of the general recording criteria in 29 CFR 1904.7, such as medical treatment beyond first aid or days away from work.

Coronavirus (COVID-19) Frequently Asked Questions

To minimize the spread of coronavirus (COVID-19) and continue business operations, our BWC staff is teleworking. While we may be operating from a different physical location, we do not currently anticipate major issues with continuing to provide our employers, injured workers, and the many others we serve, with service. Phone numbers and email addresses for our customer service representatives remain the same.

We are monitoring the situation closely and will provide updates as necessary. We know you may have questions that we are just not able to immediately answer. We promise to keep you updated and share information as we have it. In the meantime, thank you for your patience as we all work through COVID-19 together.

For the latest information on coronavirus (COVID-19) visit coronavirus.ohio.gov. For questions about COVID-19's effect on BWC not listed here, you can email BWCCOVID19@bwc.state.oh.us.

Last updated at 9/22/2020 4:01 PM

New! See Q 2 about COVID-19 claims and experience rating.

Note to Medical Providers: BWC has developed an FAQ document specifically for medical providers that addresses COVID-19 issues. To download, click [here](#).

Face Coverings for Employers and Workforce: For FAQs related to our [Protecting Ohio's Workforce — We've Got You Covered](#) plan, [visit this link](#).

Frequently Asked Questions

Note: This is a "living" document. The following is updated routinely to reflect our most recent policy changes and initiatives, with new Q&As at the end.

Claims and Policy Processing

Q 1: What is BWC doing to help employers during this unprecedented time?

A: At the request of Ohio Governor Mike DeWine, in late April we sent up to \$1.6 billion to Ohio employers to ease the economic impact of the coronavirus (COVID-19) on Ohio's economy and business community. This dividend equals approximately 100% of the premiums employers paid in policy year 2018. BWC applied the dividend to an employer's outstanding balances first, including the recent installment deferrals. Any amounts exceeding outstanding balances were sent to the employer. For those employers, it means one less bill to worry about. As in previous years, the dividend is possible due to strong investment returns on employer premiums, a declining number of claims each year, and prudent fiscal management. It's also due to employers who work hard to improve workplace safety and reduce injury claims. Even with the downturn in the market, BWC is able to provide this important dividend to employers while maintaining funds to take care of injured workers for years to come. All checks were issued by the end of April. **Employers: For frequently asked questions about the dividend, [visit this link](#).**

Q 2: Will BWC exclude the cost of claims related to COVID-19 from experience rating?

A: As of Aug. 10, 2020, BWC has not decided whether to exclude the cost of allowed COVID-19 claims from an employer's experience calculation. BWC is still evaluating the impact, costs, and longevity of COVID-19. With these unknowns, BWC is not prepared to make a decision at this point.

Since the Public Employer – State Agencies program operates on a pay-as-you-go basis, BWC will include any costs related to COVID-19 claims in the development of their contribution rates.

Q 3: Will BWC allow employers to delay installment payments due to COVID-19's hardship?

A: To ease the continuing financial impact on Ohio businesses due to the COVID-19 pandemic, BWC is deferring installment payments for Policy Year 2020 for June, July, and August to Sept. 1, 2020. If employers are able to follow the normal installment payment scheduled due date, such payments may still be submitted. BWC will not lapse coverage or assess penalties for unpaid installments during this deferral period.

We previously deferred installments for March, April, and May until June 1, 2020. Following that decision, we gave Ohio employers nearly \$1.6 billion in dividends, but for most employers, we first applied the dividends to the unpaid balance for March, April, and May.

Q 4: How does BWC's deferral of premium installment payments apply to state fund employers that are Professional Employer Organizations (PEOs)?

A: PEO employers are required to report actual payroll and pay premiums on a monthly basis, but as state fund employers operating under the COVID-19 climate, they may defer reporting and payments for March through July until Sept. 1, 2020. As for the August payroll report and premium payment, it will be due as normally scheduled, on or before Sept. 15, 2020. The deferral is automatic, there is no "opt in" requirement to take advantage of this option.

Q 5: How does this impact state fund clients of PEO employers?

A: A client of a PEO employer must maintain active workers' compensation coverage throughout the duration of any type of PEO agreement. Client employers will be treated the same as all other state fund employers and will have the option to defer payments until Sept. 1 without a lapse in coverage.

Q 6: If I contract COVID-19, is it a compensable workers' compensation claim?

A: It depends on how you contract it and the nature of your occupation. Generally, communicable diseases like COVID-19 are not workers' compensation claims because people are exposed in a variety of ways, and few jobs have a hazard or risk of getting the diseases in a greater degree or a different manner than the general public. However, if you work in a job that poses a special hazard or risk and contract COVID-19 from the work exposure, BWC could allow your claim.

Q 7: If I am quarantined due to COVID-19 can I receive workers' compensation wage replacement benefits?

A: BWC can only pay compensation in an allowed claim for disability resulting from the allowed conditions. An executive order issued by Governor DeWine, however, expands flexibility for Ohioans to receive unemployment benefits during Ohio's emergency declaration period. For more information on unemployment benefits go to the [Ohio Department of Job and Family Services](#).

Q 8: Are you making determinations on new claims?

A: Yes. Our staff is teleworking and has access to our systems.

Q 9: How will my benefits be extended when my doctor's office is closed, and they haven't completed my Medco-14?

A: BWC and the Managed Care Organizations are working with your physicians to ensure medical care and any necessary paperwork are completed so that benefits can continue uninterrupted. You may want to check with your treating provider to determine if telemedicine is available. Telemedicine can be an effective treatment tool and can be used when a new MEDCO-14 is needed.

Q 10: Will my benefits be extended if I am participating in a rehab program?

A: BWC is working with the vocational rehabilitation providers to ensure that those injured workers who are participating in a rehab program have the necessary documentation submitted to continue benefits.

Q 11: Will my wage-loss benefits be discontinued if I'm unable to complete the job searches?

A: BWC is working with injured workers to complete online job searches. Information about job postings is also available on the JobSearch.Ohio.Gov website. We encourage individuals who have been affected by COVID-19 to visit the website and apply for a position. Job search activities could also include the injured worker submitting resumes, taking online interviewing or resume tutorials, or working on sharpening their interview skills.

Q 12: I have an Independent Medical Exam (IME) scheduled and it has been cancelled, will my benefits be suspended?

A: If the examining physician has cancelled your examination, your benefits will not be suspended. Another examination will be scheduled at a later date.

Q 13: How will BWC be handling 90-day and extent of disability IMEs?

A: BWC has resumed scheduling examinations. We are asking injured workers and examining physicians to follow protocols outlined by the Ohio Department of Health to ensure the health and well-being of all who enter the facilities.

Q 14: Will I be able to speak with my claim representative?

A: If you are represented by an attorney, call your attorney first. Staff will be monitoring voice mail on a limited basis, but the most efficient method of communication will be via email messaging. The email address for your claims service specialist (CSS) can be found on the bottom of any correspondence you have previously received or look up your claim [here](#). For general questions, you may also call our call center at 1-800-OHIOBWC.

Q 15: What happens if my claim is denied or my employer does not agree with my claim?

A: Parties to the claim can still file an appeal if they disagree with the decision on a claim. The Ohio Industrial Commission (IC) will continue to have hearings. For the latest information visit the IC website at www.ic.ohio.gov.

Q 16: Will my Ohio Industrial Commission hearing be cancelled?

A: Please feel free to visit the IC website at www.ic.ohio.gov to view updated information and press releases.

Q 17: Will I be able to pick up a check for a compensation payment in a local service office?

A: After March 18, 2020, you will no longer be able to pick up your check from a local service office. We will address requests for overnight delivery on a case by case basis.

Q. 18: I have questions about the electronic delivery of my benefits, but I can't reach Key Bank.

Where do I turn?

A. Key Bank is BWC's vendor that provides electronic delivery of funds through electronic fund transfers (EFT) and electronic benefit transfer (EBT) cards to our workers' compensation claimants. Key Bank's call center is currently experiencing an extremely high call volume that has resulted in difficulty reaching a Key Bank agent. Key Bank has notified BWC of this issue and has assured BWC they are taking corrective steps. Meanwhile, if you continue having difficulty reaching Key Bank, try calling Key Bank's call center during off hours. Their call center is currently open 24/7, and call volume is much lower outside normal business hours.

Q 19: How will BWC handle additional allowance and Temporary Total (TT) entitlement requests that would ordinarily require an IME?

A: BWC continues to process additional allowance and TT entitlement requests but is using physician file reviews instead of in-person examinations whenever possible. In some cases, BWC will schedule an in-person examination. We are asking injured workers and examining physicians to follow protocols outlined by the Ohio Department of Health to ensure the health and well-being of all who enter the facilities.

Q 20: How is BWC addressing C-92 applications?

A: BWC has resumed scheduling examinations. We are asking injured workers and examining physicians to follow protocols outlined by the Ohio Department of Health to ensure the health and well-being of all who enter the facilities. However, if injured workers prefer to schedule their examination at a later date due to COVID-19 concerns, no penalties will be assessed.

Q 21: Will BWC be extending program reporting/requirement completion deadlines?

A: BWC waived all safety education and training requirements for the July 1, 2019 - June 30, 2020 private employers policy year for participants in the following programs:

- Drug Free Safety Program.
- EM Cap Program.
- Grow Ohio.
- Industry Specific Safety Program.
- One Claim Program.
- Policy Activity Rebate Program.

Discounts offered through these programs will be applied automatically.

Public Employers (PEC) participating in the Drug-Free Safety Program, One Claim or EM Cap programs for the Jan. 1, 2020 policy year will be permitted to complete online safety training to satisfy in-person training.

Private Employers (PA) participating in the Drug-Free Safety Program, One Claim or EM Cap programs for the July 1, 2020 policy year will be permitted to complete online safety training to satisfy in-person training.

More on these programs can be found at bwc.ohio.gov.

Q 22: Will BWC be suspending audits of self-insuring (SI) and state fund (SF) employers?

A: Yes, BWC has suspended face-to-face audits for both SI and SF employers. Paper and virtual audits will continue. We will be issuing temporary certificates to SI employers.

Q 23: What are employers supposed to do about the classes that were cancelled? What about the ½ day classroom training?

A: We have waived several requirements for many of our programs (see Q 21), but we encourage employers to take advantage of online classes while we continue to assess other training options.

Q 24: Will BWC extend the public employer taxing district (PEC) true-up grace period that ended March 16?

A: We extended the grace period to June 1, 2020.

Q 25: Is emergency sick leave and expanded FMLA paid to employees under the Families First Coronavirus Response Act reportable when submitting true-up payroll?

A: No. Emergency sick leave and expanded FMLA paid to employees under the Families First Coronavirus Response Act are not reportable to BWC for premium purposes. While regular paid sick leave (including third-party sick pay) is reportable to BWC, emergency sick leave and expanded FMLA paid under this act are not reportable.

Effective April 1, 2020, through Dec. 31, 2020, wages companies pay under the act for sick leave related to COVID-19 are not reportable to BWC. Also, leave time to care for a child whose school or childcare provider is closed or unavailable for COVID-19-related reasons is not reportable to BWC. Employers must follow the federal government’s eligibility and documentation guidelines to exclude these wages from their reportable payroll and premium calculation at true-up. Wages reported to BWC for premium calculation purposes are subject to verification by a premium audit.

Q 26: How will employers report wages at true-up for operational employees who are teleworking as a result of Governor Mike DeWine’s State of Emergency order (Executive Order 2020-01D) while receiving wages from the employer?

A: To ease the economic impact of the COVID-19 crisis on businesses, private employers may report operational staff currently teleworking to class code **8871 – Clerical Telecommuter** during a declared state of emergency. For public employer taxing districts, we created a new class code, **9444 - Public Employee Clerical Telecommuter**, to report staff currently teleworking.

- The employer must contact BWC to request the addition of classification code 8871 – Clerical Telecommuter for private policies and 9444 - Public Employee Clerical Telecommuter for public employer taxing districts to their policy. This will allow the employer to report teleworking wages to class code 8871 or 9444 during the true-up period.
- Sole Proprietors and Partners who have elected to cover themselves will continue to report their wages to the assigned operating class code.
- Private employer staff currently reported under class code 8810-Clerical will continue to be reported under class code 8810, not 8871.
- The employer is responsible for recording, tracking, and documenting the wages associated with the operational employees now teleworking for premium audit purposes.
 - If the worker performs their regular duties on an intermittent basis, such as working at the employer location Monday, Wednesday and Friday and is paid to stay home Tuesday and Thursday, all wages are to be reported to the operating class code and not to class code 8871 or 9444.
- If a worker continues to perform the same duties from home while teleworking, the employer will continue reporting that worker’s wages to the appropriate operational classification code, not to the class code for teleworking.

- For example: the private employer manufactures surgical masks. The employer has sent workers home with the equipment and materials to continue making masks. These workers are not 8871 Clerical Telecommuter employees. They would remain under classification **2501 – Cloth, canvas and related products manufacturing**. The exposures for them do not change.

Examples relating to public employer taxing districts

- Any public employees performing clerical duties while working from home are reportable to 9444 during the emergency period.
 - Public employee teachers who conduct classes on-line working from home are reportable to classification 9444 during the emergency period. If tutoring is done by the teacher away from the teacher's home, then their entire payroll is reported to the operational classification.
 - Public employee teachers who ended the previous school year working from home are reportable to 9444 during the emergency period, including summer break, and as long as the schools remain closed.
 - After a public school has students return to in-school classes, all payroll for teachers will be reportable to the operational classification code again.
- This temporary revision to the class code assignment rule only applies during the time of Governor DeWine's State of Emergency order, which he initiated March 9, 2020.
 - The employer is to cease reporting operational employees' wages to teleworking class code 8871 or 9444 once the State of Emergency order has ended or if the operational employee(s) return to performing their previous job duties.

To request the addition of class code 8871 - Clerical Telecommuter or 9444 for public employer taxing districts to your policy, please call 1-800-644-6292 or send an email to RTSclass@ohiobwc.com. Remember to include your policy number in your email request.

Q 27: How will BWC address late payments for Self-Insured employer assessments?

A: As you are aware, assessment payments for the July 1, 2019, to Dec. 31, 2019, period were due by Feb. 28, 2020. Normally, payments not received by the due date are subject to additional late payment penalty fees.

However, to provide financial relief to employers amid the coronavirus (COVID-19) pandemic, we are waiving the late payment penalty fees applicable to the semi-annual assessments that were due Feb. 28, 2020. We also are reimbursing employers who had submitted late payment penalty fees levied for the assessment period.

This waiver does not apply to future semi-annual assessment invoice payments. **It is only for the assessment period of July 1, 2019, to Dec. 31, 2019.**

Q 28: Will BWC continue to assess increases in security and require Letters of Credit as a result of annual reviews?

A: BWC is continuing its annual review of Self-Insured employers' workers compensation policies. A satisfactory review permits renewal for the next policy year. BWC will perform its annual financial analysis in accordance with its normal procedures and financial analysis parameters. BWC has a responsibility to protect the Self-Insuring Employers Guaranty Fund (SIEGF) and is continuing to require Letters of Credit for Self-Insuring employers that are deemed to pose risk to the SIEGF.

Q 29: I am a self-insuring (SI) employer or a client of a self-insuring Professional Employer Organization (PEO). Why don't I receive a dividend payment like the state fund employers?

A: The recent dividend announcement was made possible for state insurance fund employers because of strong investment returns on the premiums BWC collects and lower than expected claims costs in recent policy periods. Self-insuring employers and self-insuring Professional Employer Organization(s) (PEO) do not pay premiums to the state insurance fund. Thus, the SI community has not provided the premium dollars that through the strong investment returns allow the payment of dividend dollars back to the state insurance fund premium payers.

SI assessments are used to cover the cost of the annual involvement of the BWC and the Industrial Commission in self-insured employer and claim issues as well as the cost related to previous SI employers that have defaulted on their workers' compensation claim obligations. These assessments are used within the year of collection with very little money available for investment. Any investment on SI provided money is used to lower the annual assessment rates.

Q 30: Will employers who have suspended operations due to the COVID-19 who are paying employees while they are idle at home need to report the payments as payroll?

A: No. Employers are not required to report to BWC the wages paid to employees who are idle at home because of the COVID-19 pandemic. We encourage employers to keep track of such payments, however, for purposes that might surface during potential audits.

Q 31: Has BWC modified its delivery of care for injured workers through telemedicine and telephone services?

A: Yes. BWC released three policy alerts to date to address the expanded use of telemedicine and telephone services.

- Policy alert [2020-01](#) announces a more flexible use of telemedicine and expands the site of care delivery to the injured worker's home, as well as relaxing the requirements for using a secure platform of communication. It also reduces some administrative burden to notify or request additional authorization from the managed care organization (MCO) to change the care-delivery method.
- Policy alert [2020-02](#) permits telephonic communication as a temporary substitute for some vocational rehabilitation services.
- Policy alert [2020-03](#) expands the service providers eligible to provide and bill for virtual check in and/or telephone services (audio only).

Q32: Will BWC reimburse for COVID-19 testing prior to an elective surgery?

A: Yes. Generally, COVID-related testing would not be covered or reimbursable unless COVID-19 was allowed in the claim. However, BWC recognizes that an injured worker who is positive for COVID-19 may be at greater risk for negative surgical complications, such as deep vein thrombosis (DVT), secondary pulmonary infections, unexpected progression to acute respiratory distress syndrome, cardiac injury, kidney failure and even death following the scheduled surgery. Therefore, to enable the Managed Care Organization, surgeon and injured worker to determine if surgery postponement is appropriate and to prevent greater risk for negative health consequences during or following surgery, **one pre-surgical COVID-19 test may be authorized when the injured worker is scheduled for an inpatient or outpatient surgery to be performed at a hospital or Ambulatory Surgical Center (ASC).** For additional information regarding reimbursement for this testing, providers can refer to Policy Alert #2020-04.

Q33: Will BWC extend the Public Employer Group-Experience Rating program roster filing deadline?

A: Yes. Normally, PEC employers would need to apply for a group rating plan by the last business day of May (May 29th this year). We have approved an extension of this deadline to June 12, 2020, with consideration that many PEC may not have had the opportunity to perform normal work duties that would require attention to such applications and deadline dates.

Q34: Will BWC extend the Private Employer (PA) Industry-Specific Safety Program (ISSP), Drug-Free Safety Program (DFSP) and Transitional Work Bonus (TWB) program enrollment deadlines?

A: Yes. Normally, the deadline for PA employers to apply for ISSP, DFSP, and TWB would be the last business day of May (May 29th this year). We have approved an extension of this deadline to June 30, 2020, for new employers, as well as those employers who withdrew from the program previously, to apply for these programs with consideration that many employers may not have been working and able to submit applications timely.

Q35: Is COVID-19 bonus pay to workers reportable when submitting true-up payroll?

A: Yes, any form of bonus pay is considered reportable wages and therefore must be included in the true-up payroll. This includes bonus pay to essential workers' who are required or mandated to work during the COVID-19 pandemic and any increase in pay to working employees as an incentive to work during COVID-19.

Please continue to monitor bwc.ohio.gov for updated information.

\$5 billion dividend for Ohio employers

BWC delivers third dividend this year to ease COVID-19's impact

Frequently Asked Questions for Employers

Why is BWC giving a dividend?

We are issuing a \$5 billion dividend to ease the financial pressures your organization may be experiencing amid the coronavirus (COVID-19) pandemic. Gov. DeWine has asked his agencies to do everything they can to ease the strain of COVID-19 on Ohioans. Even after this dividend, the net position of the State Insurance Fund for injured workers remains strong due to investment returns, declining injuries, and decreasing reserves.

How much will an employer receive?

BWC defines the private employer dividend as 372% of billed premium for eligible employers for the policy period of July 1, 2019, through June 30, 2020. BWC will apply the percentage to the blended premium amount. BWC defines the public employer dividend as 372% of billed premium for eligible employers for the policy period of Jan. 1, 2019, through Dec. 31, 2019. BWC will apply the percentage to the blended premium amount.

When will I receive my dividend?

BWC will mail dividend checks to eligible employers in mid-December.

What are the tax implications of this dividend?

Please consult your tax advisor to determine the tax implications on your unique situation. Please review your policy on bwc.ohio.gov to ensure that you have provided BWC the most up-to-date tax identification information for your policy.

I have an outstanding balance on my account. How will this impact my dividend?

An employer who has an outstanding balance — including but not limited to deferred installments, balances in an appeal status and balances owed resulting from a transfer of experience or liability from a predecessor entity — will have its dividend payment reduced by the amount of the outstanding balance. If an employer's outstanding balance exceeds the dividend amount, BWC will offset the employer's account by the amount of the dividend.

An employer whose dividend is applied to an outstanding balance will receive detail regarding how the dividend was applied on their next scheduled invoice. Employers will be able to see their updated account information at any time on bwc.ohio.gov.

Is BWC issuing a check like they have done in the past or providing a credit on employers' policies?

We will issue paper checks as we have done in the past.

Where will my check be sent?

We will send dividend checks to the current address we have on file. Please review your information on bwc.ohio.gov to ensure we have the most current operating name of your business, tax identification number, physical location, mailing address, telephone number, e-mail and/or web site.

Can I receive my dividend electronically?

No. We are sending paper checks by mail only. In the event you lose your check and fail to cash one we re-issue, we will credit your BWC account.

Who is eligible for the dividend?

BWC defines eligibility as follows.

1. State Insurance Fund employers (private employers or public employer taxing districts only).
2. The employer must have reported payroll greater than zero for the applicable policy period.
3. The employer must have been billed premium for the applicable policy period.
4. Employers must have completed their payroll true-up for policy year 2019 as of October 2, 2020.
5. The employer must be in an active, reinstated, combined, cancelled – business sold, or debtor-in-possession status or, in a lapsed status with a lapse date of Jan. 1, 2020 or later as of October 2, 2020.

Employers who do not meet all the criteria listed above will not be eligible to receive a dividend.

When will BWC determine eligibility?

Eligibility was based on an employer's status (active, lapsed) with us as of October 2. BWC will not make changes to eligibility after this date.

How will this impact BWC's finances and the State Insurance Fund?

BWC and the State Insurance Fund will remain in a strong financial position after payment of this dividend.

I am in an individual-retrospective-rating program. How will BWC calculate my dividend?

BWC defines premium for private, individual-retrospective-rated employers as minimum premium, plus the impact of retrospective claim-loss premium billed for policy year July 1, 2019, through June 30, 2020, as of October 2, 2020.

BWC defines premium for public, individual-retrospective-rated employers as minimum premium, plus the impact of retrospective claim-loss premium billed for policy year Jan. 1, 2019, through Dec. 31, 2019, as of October 2, 2020.

I paid retrospective claim-loss premium for other policy periods during the eligible policy period. Will BWC consider these payments in my dividend calculation?

No. Payments received from private employers from July 1, 2019, through June 30, 2020, that are not applicable to that policy year will not be considered in the dividend calculation. Payments received from public taxing districts from Jan. 1, 2019, through Dec. 31, 2019, that are not applicable to that policy year will not be considered in the dividend calculation.

I am in a group-retrospective-rating program. How will BWC calculate my dividend?

BWC defines premium for private and public group-retrospective-rated employers as individual, experience-rated premium.

I am in a Deductible Program. How will BWC calculate my dividend?

BWC defines premium for private employers participating in a Deductible Program as discounted, blended premium.

I received a discount on my premium for Go-green, Lapse-free or Safety Council. Will this reduce my dividend?

Yes. BWC will reduce the dividend amount by premium-based discounts already earned, including, but not limited to Go-green, Lapse-free, and Safety Council.

I reported zero payroll but paid the minimum administrative charge. Will I receive a dividend?

No. Employers reporting zero payroll are not eligible.

I had a no coverage penalty during the period upon which the dividend is being calculated, but formally took out coverage after the conclusion of the applicable period. Will I receive a dividend?

No. BWC will not include no coverage penalties in the premium base it uses to calculate the dividend.

I canceled my coverage but paid premium during July 1, 2019, to June 30, 2020. Will I be eligible for a dividend?

No. A private or public employer that cancels coverage prior to October 2, 2020, is not eligible for the dividend. BWC will not make account adjustments to give these employers the dividend.

I purchased a company that was billed premium for the July 1, 2019, through June 30, 2020, policy year. How will this impact my dividend?

BWC will determine eligibility based on the status of the predecessor policy. If the predecessor policy would have been eligible for the dividend, the successor will receive the applicable dividend.

If the predecessor policy was canceled, the successor will not be eligible for the dividend. If the predecessor policy was in a lapsed status prior to the combination, the successor will not be eligible for a dividend. If there is existing debt on the predecessor policy, BWC will reduce the successor dividend by the amount of the outstanding balance.

I just went self-insured. Will I receive a dividend?

Private employers that paid premium for the policy reporting period of July 1, 2019, through June 30, 2020, but were granted the privilege of self-insurance before October 2, 2020, are eligible for the dividend based upon the billed premiums during the July 1, 2019, through June 30, 2020, policy period.

Public employer taxing districts that paid premium for the policy reporting period of Jan. 1, 2019, through Dec. 31, 2019, but were granted the privilege of self-insurance before October 2, 2020, are eligible for the dividend based upon the billed premiums during the Jan. 1, 2019, through Dec. 31, 2019, policy period.

I used a Professional Employer Organization (PEO) during the July 1, 2019, through June 30, 2020, policy period. Will I receive a dividend?

PEOs that receive a dividend must provide notice of the dividend to their client employers of record for the July 1, 2019, through June 30, 2020, policy period. BWC will also notify PEO client employers that it sent a dividend to their PEO. The amount PEOs pay to their client employers must be equal to 100% of the blended premium paid by the PEO to BWC on behalf of the client employer for the July 1, 2019, to June 30, 2020, policy period less the permissible administrative fee discussed herein.

The PEO shall calculate the client employers' share of the dividend based on the full amount of the dividend BWC issued it. The PEO shall not reduce the employers' share of the dividend by any credit applied to the PEO policy as a result of non-pending, outstanding balances. The PEO may retain up to 6% of the client employers' dividend as an administrative fee. PEOs must issue dividends to clients within 30 days of BWC's issuance of the dividends.

The PEO may not withhold or offset payment of the dividend based on any contractual obligation and must issue the dividend regardless of whether the client employer continues as a client employer of the PEO.

I now use a Professional Employer Organization. Will I receive a dividend?

Private employers that paid premium for the policy period of July 1, 2019, through June 30, 2020, but entered into a PEO relationship before October 2, 2020, will be eligible for the dividend based upon the billed premiums during the July 1, 2019, through June 30, 2020, policy period. BWC will send these dividends directly to the employer, not to the current PEO.

I made payments from July 1, 2019, through June 30, 2020, for other coverage periods. Will BWC consider these payments in the dividend calculation?

No. BWC will not consider payments it received from private employers from July 1, 2019, through June 30, 2020, that are not applicable to that policy year in the dividend calculation. Payments received by BWC from public employer taxing districts from Jan. 1, 2019, through Dec. 31, 2019, that are not applicable to that policy year will not be considered in the dividend calculation.

I am on a payment plan. How will this impact my dividend?

BWC will reduce the dividend payment to an employer that has a non-pending, outstanding balance including, but not limited to, balances in an appeal status and balances owed resulting from a transfer of experience or liability from a predecessor entity, by the amount of the outstanding balance. If an employer's non-pending, outstanding balance exceeds the dividend amount, BWC will offset the employer's account by the amount of the dividend.

An employer whose dividend is applied to an outstanding balance will receive detail regarding how the dividend was applied on their next scheduled invoice. Employers will be able to see their updated account information at any time on bwc.ohio.gov.

Will BWC adjust the dividend if it audits me in the future or if it adjusts my rate?

The dividend is a one-time payment. BWC will not adjust the dividend amount for any reason, including, but not limited to, audits, rate adjustments, appealed balances, changes in lapse status retrospective claim billings, etc. after October 2, 2020.



Bureau of Workers'
Compensation

Governor Mike DeWine
Administrator/CEO Stephanie McCloud

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October 2020

Safety & Workers' Compensation

BWC Administrator McCloud Addresses OMA Committee

November 6, 2020

The OMA Safety & Workers' Compensation Committee convened yesterday via Zoom, as are all OMA committee meetings through at least Q2 of 2021. Chaired by Matt Schurte, General Counsel, **Lancaster Colony Corp.**, the committee had a packed agenda.

Bureau of Workers' Compensation (BWC) Administrator Stephanie McCloud was on hand to provide an update from the agency. She detailed the recently approved \$5 billion employer dividend to be issued in December (see separate story). The administrator also reported on **COVID-19 claims activity** and the purchase of PPE for Ohio employers.

Committee member Bob Robenalt, a partner with OMA Connections Partner, **Fisher Philips**, offered **employers guidance on vaccine policies** as the current availability of flu vaccine and the coming availability of COVID-19 vaccines have become a workplace matter. Members engaged in a roundtable discussion on how they are managing through the pandemic. Make sure you are **subscribed** to the OMA's Safety and Workers' Compensation Committee so you receive meeting invitations and committee materials next year. 11/5/2020

BWC to Send \$5B to Employers in December

November 6, 2020

This week the Ohio Bureau of Workers' Compensation (BWC) board of directors **approved Gov. DeWine's request** to send \$5 billion in dividends to Ohio employers to ease the impact COVID-19 on the state's business community and workforce.

BWC will apply the dividend to an employer's unpaid balances first, then send a check for the remainder in mid-December. The agency issued a \$1.54 billion dividend in late April and \$1.34 billion in October.

Employers eligible to receive this latest dividend are limited to the employers that were eligible to receive the October 2020 dividend. The amount of each dividend will be calculated as: the dividend paid to each employer in October 2020

multiplied by a factor of 3.7246. The dividend value equals approximately 372 percent of the policy year 2019 premium paid by eligible employers. 11/3/2020

Governor Requests \$5 Billion BWC Dividend for Employers

October 30, 2020

Gov. Mike DeWine **this week announced** he would ask the Ohio Bureau of Workers' Compensation (BWC) board to approve a \$5 billion dividend — the largest in the state's history. The BWC board **must first approve** the request before checks are sent to employers. The dividend request comes **just one week** after the BWC began sending checks from an earlier \$1.34 billion payout. The newly proposed dividend **would be the third** issued in 2020, and would bring this year's dividend total to nearly \$8 billion. If approved, the new round of checks would be distributed in December. "This isn't deficit spending," Lt. Gov. Jon Husted said. "This is money the businesses paid in and the BWC managed well. There's no stimulus right now and this is a way to inject a lifeline for people during a difficult time." 10/28/2020

List of Approved COVID-19 Disinfectants Grows to More Than 500

October 30, 2020

The U.S. EPA has approved more than 500 surface disinfectant products for use against SARS-CoV-2, the coronavirus that causes COVID-19. **The list** of approved disinfectants continues to be updated on a weekly basis. It includes **helpful tips** on how to use disinfectants properly, as well as **FAQs** to ensure correct product usage. The EPA notes that if an approved disinfectant is not available, diluted household bleach can be used to disinfect surfaces. Users should closely follow the bleach **dilution directions** from the CDC. Alcohol solutions with at least 70% alcohol may also be used. 10/28/2020

Analysis: Policies Must Be in Place to Protect Workers Despite Ohio's COVID-19 Liability Law

October 30, 2020

Last month, Gov. Mike DeWine **signed House Bill 606**, OMA-supported legislation that provides legal liability protections to businesses and others during COVID-19.

In **this updated insight**, Connections Partner Roetzel writes that “the caveat to HB 606 is that it will still allow plaintiffs’ lawsuits to go forward if they allege that an ‘intentional, willful, or reckless’ action or inaction by the defendant business led to the COVID-19 transmission(s) on which the plaintiff bases its claim.” The firm urges businesses to consult “with legal counsel and experts to put reasonable policies and procedures in place to limit the risks of COVID-19 exposure and spread at your business locations.” *10/27/2020*

Here Are the BWC’s Safety Webinars for November

October 30, 2020

The Ohio Bureau of Workers’ Compensation (BWC) provides weekly webinars to address different safety and health topics. In these webinars, subject matter experts share their knowledge and provide an opportunity for participants to ask questions. Here’s the **BWC safety webinar lineup for November**, complete with details on how to register. *10/29/2020*

BWC Dividend Payment: Check Is in the Mail

October 23, 2020

Approximately \$1.3 billion in dividend checks from the Ohio Bureau of Workers’ Compensation (BWC) **will be mailed** to employers statewide beginning today (Friday, Oct. 23). Look for the white BWC envelope in your mail since the payments will not be electronically deposited. See **this FAQ document** for more information.

Also, the BWC will soon be sending 23 million additional face masks to employers. Virtually all these masks are made in Ohio, the BWC says. *10/23/2020*

Deadline Nears for Group Experience Rating Program

October 23, 2020

The enrollment deadline to participate in the OMA’s Workers’ Compensation Group Experience Rating program for the 2021/22 policy year is Nov. 16. The OMA has posted 2020/21 Workers’ Compensation Services offers

to members’ workers’ comp dashboards. Contact OMA’s **Brian Jackson** or your **account manager** with questions. *10/21/2020*

When Choosing Who Takes Drug Tests, Random Is Random

October 23, 2020

How does your company decide who takes a random drug test? Drawing a name out of a fishbowl until you get someone you can afford to send isn’t the answer. In **this video** by OMA Connections

Partner *Working Partners®*, you’ll learn how to keep random drug tests random. *10/22/2020*

OSHA Publishes Daily COVID-19 Safety Tips

October 23, 2020

OSHA has published approximately **200 COVID-19 tips** on its homepage. Tips cover issues such as use of PPE, training employees on safety protocols, and assigning work shifts. OSHA has also published a **set of FAQs** on how N95 respirators protect wearers from coronavirus exposure. *10/21/2020*

Campaign Focuses on Fighting COVID-19 Outside the Workplace

October 23, 2020

With the uptick in COVID-19 cases, let your employees know about the National Association of Manufacturers’ “Creators Respond Commitment.” This campaign encourages employees to follow safety practices *outside* the workplace since experts indicate that community spread is happening largely as the result of social gatherings, including family get-togethers. **Learn more.** *10/20/2020*

Two-Day Virtual Safety Symposium, Nov. 17-18

October 16, 2020

OMA Connections Partner Fisher Phillips is conducting a two-day virtual safety symposium Nov. 17-18. Topics include COVID-19 wrongful death lawsuits, best practices in workplace safety, and a post-pandemic outlook. **Learn more.** *10/13/2020*

Learn About BWC’s Better You’ Program on Oct. 27

October 16, 2020

On Tuesday, Oct. 27, at 1 p.m. (ET), the Ohio Bureau of Workers' Compensation will conduct a **free 25-minute webinar** to learn more about the Better You, Better Ohio! Program. This free health-and-wellness program is for workers of businesses with 150 or fewer employees who are engaged in higher-risk industries, including manufacturing. **Learn more here.** 10/15/2020

Air Filtration, Ventilation Get More Attention After CDC's Revised Guidance

October 9, 2020

Earlier this week, the CDC revised its **guidance** on how the coronavirus spreads to include airborne transmission. As **reported** by EHS Today, the updated guidance notes that "poorly ventilated and enclosed spaces" may contribute to the buildup of virus-carrying particles. Air filtration and ventilation systems could be an important piece of the puzzle as social distancing and limiting interactions isn't always possible at work sites, the article notes. 10/7/2020

BWC Employer Update Webinar Will Spotlight Dividend Payment, Face Masks

October 9, 2020

The Ohio Bureau of Workers' Compensation (BWC) will conduct its 25-minute monthly Employer Update Webinar on the following days:

- **Tuesday, Oct. 13** (1:30 p.m.); and
- **Thursday, Oct. 29** (11:30 a.m.).

Among the topics covered will be the recently approved premium dividend, additional face masks for employers, payment plans, and tips for identifying fraud. If you're unable to watch the event live, a recording of the webinar will be **available here.** 10/5/2020

BWC Names New Claims Chief

October 9, 2020

The Ohio Bureau of Workers' Compensation (BWC) has named **Shawn Crosby** as its new chief of claims services today. A Cincinnati resident who joined the BWC as a front-line

clerk in 1993, Crosby most recently served as Cincinnati claims director. She replaces former claims chief Patricia Harris, who was recently promoted to chief operating officer. 10/7/2020

\$1.5 Billion to Be Sent to Ohio Employers This Month

October 2, 2020

Up to \$1.5 billion in premium rebate checks are scheduled to be mailed to eligible employers in late October and early November after the Ohio Bureau of Workers' Compensation (BWC) board voted last Friday, Sept. 25 to approve the latest dividend payout. The dividend equals the full premium that employers paid in policy year 2019.

Here is the BWC's FAQ document regarding the new payout. This rebate and the \$1.6 billion rebate issued earlier this year are the seventh and eighth dividends worth \$1 billion-plus since 2013. 9/28/2020

Webinar: Workplace Safety During (and After) COVID-19

October 2, 2020

OMA Connections Partner Frantz Ward will host a **free webinar** at noon (ET) Wednesday, Oct. 7 to address workplace safety during and after the pandemic. This one-hour webinar will provide a review of new Ohio, OSHA, and other regulatory requirements and guidance, while also covering best practices for staying compliant, dealing with difficult employees, and striving to keep employees safe. 10/1/2020

To Fight COVID-19, This Campaign is Focused on Employee Practices Outside the Workplace

October 2, 2020

As the nation prepares for a potential uptick in COVID-19 cases, the National Association of Manufacturers recently launched the "**Creators Respond Commitment**" to help employers encourage wider outside-of-work compliance with safety practices. You can access **email templates** to share this campaign with your employees. 10/1/2020

BWC Board to Vote on \$1.5B in Dividends for Employers

September 25, 2020

The Ohio Bureau of Workers' Compensation board is expected to vote today, Sept. 25, to provide Ohio employers up to **\$1.5 billion in dividends**. (To be eligible for the dividend, make sure you have performed your true-up for the 2019 policy year by Friday, Oct. 2.) The dividend would equal the full premium that employers paid in policy year 2019. If approved, checks could be mailed as soon as late October. *9/25/2020*

Ohio Safety Congress Will Be Virtual in 2021

September 25, 2020

The Ohio Bureau of Workers' Compensation has announced that the **2021 Ohio Safety Congress and Expo** will be online only. Set for March 10-11, the event will feature dozens of learning sessions and a digital expo, allowing participants to chat virtually with vendors about new and existing products and services. As always, the event will be free for Ohio employers. Registration will open in January. *9/23/2020*

Analysis: Safety Incentive Programs Can Backfire

September 25, 2020

In the wake of a workplace incident, an incentive program sounds like an appealing solution to improve worker safety. Unfortunately, you can't buy a good safety culture.

OMA Connections Partner Safex has published **this insight** to help you achieve a culture you want with actions that reinforce your company's commitment to improvement. *9/21/2020*

Airflow Considerations During COVID-19

September 18, 2020

Public health experts have indicated that airborne transmission of the coronavirus may be possible in certain settings. McKinsey & Company has published **this infographic** to provide guidance on HVAC and ventilation — based on input from public health agencies and industry groups — in the context of three settings: manufacturing, offices, and retail stores. *9/17/2020*

OMA Uses Technology to Find Handicap Reimbursement Opportunities

September 18, 2020

The OMA Workers' Compensation Services team will soon present arguments to the Ohio Bureau of Workers' Compensation (BWC) legal department in support of employer applications for reimbursement of claims costs under the **BWC Handicap Reimbursement policy**. Handicap reimbursement is a BWC provision designed to allow employers to gain claim-cost relief when certain pre-existing medical conditions among injured workers add recovery time and cost to a claim.

In 2020, OMA account managers reviewed more than 1,000 claim files for handicap reimbursement potential using a new, technology-driven process that monitors claims for potential triggers. This new process allows for more efficient claims management, as well as full transparency to the employer.

If you have questions, please **contact your OMA account manager** or see the "Company Claims" tab on your WCS Dashboard. To see how OMA Workers' Compensation Services can lighten your load when it comes to claims management, **click here** — or contact **Crissy Roach**. *9/17/2020*

Summary of BWC Assistance for Employers During COVID-19

September 18, 2020

The pandemic has presented unique issues in the workforce and to employers. Fortunately, the Ohio Bureau of Workers' Compensation (BWC) has implemented policies and programs over the last several months to reduce employer hardships. OMA Connections Partner Dinsmore has compiled a **summary of pandemic-related BWC policies** and how they apply to your business. *9/16/2020*

Ohio Workers' Comp Changes Go Into Effect

September 18, 2020

A new, comprehensive workers' compensation law went into effect this week. Ohio's **House Bill 81**, OMA-supported legislation that was passed and signed earlier this year, contains several

significant changes. For details on the new law, read **this analysis** from OMA Connections Partner Frantz Ward. *9/15/2020*

1988 Bengals: Beat COVID-19! Wear a Mask in Public September 11, 2020

The **1988 Cincinnati Bengals** — AFC Champions, Super Bowl XXIII participants, and one of the most memorable teams in NFL history. Members of that standout squad have teamed up again in a new public service announcement from the National Association of Manufacturers and the OMA. The video, which can be seen on **Twitter** and **LinkedIn**, serves as a timely reminder that beating COVID-19 will require continued teamwork — including wearing a face covering in public. *9/10/2020*

OSU's Wexner Medical Center to Host Free COVID-19 Employer Webinar, Sept. 16 September 11, 2020

The Ohio State University's Wexner Medical Center will host a **free COVID-19 employer webinar** on Wednesday, Sept. 16, from 1:30 to 2:30 p.m. (ET). The webinar will include a vaccine development update, as well as real-time pandemic data and advice to help protect your employees and customers. *9/10/2020*

OSHA Releases Work-Related Injury, Illness Data September 11, 2020

OSHA recently released work-related **injury and illness data** that was electronically submitted by employers for 2016, 2017 and 2018. According to the agency, the release follows two rulings in Freedom of Information Act cases. *9/8/2020*

Senate Confirms Harris as BWC COO September 4, 2020

A Cincinnati native and longtime veteran of the Ohio Bureau of Workers' Compensation (BWC) **assumes the role of chief operating officer** this week following her confirmation by the Ohio Senate today. **Patricia "Trish" Harris**, who joined BWC as an intern in 1991, succeeds Kevin Abrams, who

retired Monday after nearly four decades with the agency. *9/3/2020*

BWC Sets Sept. Employer Update Webinar Dates September 4, 2020

In its September Employer Update Webinar, the BWC will cover COVID-19, the proposed premium dividend, non-compliance claim resolution, transitional work bonus program and grant, important dates, and the monthly safety tip. The webinar will last about 25 minutes. Click these links to register:

- 1:30 p.m. on **Tuesday, Sept. 8**
- 11:30 a.m. on **Thursday, Sept. 24**

The recorded webinar will be available for **future viewing here**. *9/2/2020*

BWC Extends PAR Program for Small Employers September 4, 2020

The Bureau of Workers' Compensation (BWC) has extended the **Policy Activity Rebate (PAR) program** for another year. PAR provides eligible employers an opportunity to earn a 50% premium rebate, up to \$2,000. The program promotes a safe work environment and raises awareness about the most important aspects of workers' compensation.

BWC is conducting a free 15-minute **educational webinar on October 7** at 1:30 for employers to learn more about the PAR program. *8/28/2020*

House Bill 81 Updates Ohio Workers' Compensation Law September 4, 2020

As Ohio House Bill 81 goes into effect on September 15, 2020, OMA Connections Partner Calfee **summarizes four substantial changes** the bill makes to Ohio workers' compensation law. This bill had the support of OMA. *9/2/2020*

OSHA Responds to Enforcement Question Re. Training Requirements September 4, 2020

Q. Will employers have additional time to complete annual training requirements because of mandated social distancing and other restrictions enacted during the coronavirus pandemic?

A. OSHA issued interim guidance on using discretion in enforcement when employers make good faith efforts to comply with OSHA standards during the pandemic. *9/1/2020*

BWC Board Will Consider \$1.5B Dividend Proposal on Sept. 25

August 28, 2020

The Ohio Bureau of Workers' Compensation (BWC) board will vote Sept. 25 on Gov. Mike DeWine's proposal to send Ohio employers up to \$1.5 billion in dividends to ease the impact of COVID-19. If approved, the dividend would be the second payment of that magnitude this year — and the third since 2019.

This proposed dividend equals approximately 100% of the premiums that employers paid in policy year 2019. Checks could start going out in late October. (To be eligible for the dividend, make sure you have performed your true-up for the 2019 policy year by Oct. 2.)

Click here for BWC's fact sheet on the dividend and masks initiative. *8/26/2020*

Ohio BWC Reimburses Employers in Select Counties for Drug-Free Operations

August 28, 2020

OMA Connections Partner *Working Partners*[®] reports that the Ohio Bureau of Workers' Compensation (BWC) — in its efforts to respond to substance use in the workplace — has \$15 million to help employers hire, manage and retain employees in recovery. **Learn about** the BWC's Substance Use Recovery and Workplace Safety Program. *8/25/2020*

Workers' Compensation Legislation
Prepared by: The Ohio Manufacturers' Association
Report created on November 9, 2020

- HB79** **INDUSTRIAL COMMISSION BUDGET** (OELSLAGER S) To make appropriations for the Industrial Commission for the biennium beginning July 1, 2019, and ending June 30, 2021, and to provide authorization and conditions for the operation of Commission programs.
Current Status: 6/27/2019 - **SIGNED BY GOVERNOR**; eff. 6/27/19
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-79>
- HB80** **BWC BUDGET** (OELSLAGER S) To make appropriations for the Bureau of Workers' Compensation for the biennium beginning July 1, 2019, and ending June 30, 2021, and to provide authorization and conditions for the operation of the bureau's programs.
Current Status: 7/22/2019 - **SIGNED BY GOVERNOR**; Eff. 7/22/19. Certain provisions effective 10/21/19
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-80>
- HB81** **WORKERS COMP-BODILY FLUID EXPOSURE** (PERALES R) Regarding Workers' Compensation coverage of post-exposure medical diagnostic services for a detention facility employee's exposure to another person's blood or bodily fluids.
Current Status: 6/16/2020 - **SIGNED BY GOVERNOR**; eff. 9/15/20
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-81>
- HB167** **OCCUPATIONAL LUNG CONDITIONS** (CERA J) To modify workers' compensation benefit amounts for occupational pneumoconiosis claims and to create the Occupational Pneumoconiosis Board to determine medical findings for such claims.
Current Status: 2/12/2020 - House Commerce and Labor, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-167>
- HB308** **PTSD COVERAGE - FIRST RESPONDERS** (PATTON T) Concerning workers' compensation and disability retirement for peace officers, firefighters, and emergency medical workers diagnosed with posttraumatic stress disorder arising from employment without an accompanying physical injury.
Current Status: 6/3/2020 - Senate General Government and Agency Review , (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-308>
- HB330** **FIREFIGHTER CANCER CLAIMS** (PATTON T) Regarding charging workers' compensation experience in firefighter cancer claims.
Current Status: 6/3/2020 - House Insurance, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-330>
- HB571** **COVID-19 - OCCUPATIONAL DISEASE** (BOGGS K) To make COVID-19 contracted by a peace officer, firefighter, or emergency medical worker an occupational disease under the Workers' Compensation Law under certain circumstances and to declare an emergency.

Current Status: 5/19/2020 - House Insurance, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-571>

HB573 COVID-19 - OCCUPATIONAL DISEASE (SOBECKI L, BOGGS K) To make COVID-19 an occupational disease under the Workers' Compensation Law under certain circumstances and to declare an emergency.

Current Status: 5/12/2020 - House Insurance, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-573>

HB605 COVID-19 - OCCUPATIONAL DISEASE (KELLY B, PATTON T) To make COVID-19 contracted by an employee of a retail food establishment or food processing establishment an occupational disease under the Workers' Compensation Law under certain circumstances and to declare an emergency.

Current Status: 5/28/2020 - House Insurance, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-605>

HB633 COVID-19 - OCCUPATIONAL DISEASE (BOGGS K) To make COVID-19 contracted by specified types of employees an occupational disease under the Workers' Compensation Law under certain circumstances and to declare an emergency.

Current Status: 5/19/2020 - Referred to Committee House Insurance

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-633>

HB667 COVID-19 OCCUPATIONAL DISEASE - CORRECTIONS OFFICER (BALDRIDGE B) To make COVID-19 contracted by a corrections officer an occupational disease under the Workers' Compensation Law and to declare an emergency.

Current Status: 5/27/2020 - Referred to Committee House Insurance

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-667>

HB668 COVID-19 OCCUPATIONAL DISEASE - EMERGENCY WORKER (BALDRIDGE B) To make COVID-19 contracted by a peace officer, firefighter, or emergency medical worker an occupational disease under the Workers' Compensation Law and to declare an emergency.

Current Status: 5/27/2020 - Referred to Committee House Insurance

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-668>

TO: OMA Government Affairs Committee
FROM: Ryan Augsburger / Rob Brundrett
SUBJECT: Tax Public Policy Report
DATE: November 10, 2020

Overview

Prior to the pandemic Ohio's fiscal outlook was positive. With the economic shutdown in the spring, Ohio's tax revenue plunged. Revenue has begun to bounce back but the state is looking at massive deficits for fiscal year 2021. In may state agencies shave \$775 million from their budgets to keep Ohio in the black for 2020.

OMA worked with the General Assembly to ease certain tax deadlines. While successful working with legislative leaders to provide authority to move deadlines, the administration only used the power sparingly. While the income tax deadline was moved back to coincide with the federal tax deadlines, the state refused to defer CAT or excise tax deadlines. The state did keep local withholding laws in place to ease the burden of a new regulatory compliance issue for companies as employees were sent home to work. This has become a hot button issue over the summer generating repeal legislation and lawsuits.

Aggressive tax relief legislation will become much harder to pass. OMA is working with Development Services Agency to ensure that manufacturers receiving tax credits will not be penalized in the coming year because of COVID-19.

Tax Legislation

Senate Bill 37 – Motion Picture Tax Credit

The bill makes a variety of changes to the current motion picture tax credit and expands it to allow for more types of entertainment productions. There is no new money tied with this bill, however its sponsor, Senator Schuring has indicated he would like to see the credit more than double to \$100 million. The Senate voted out the bill after six hearings. No new money was included in the bill. The OMA continues to be a vocal opponent over such tax credits.

House Bill 92 – County Sales Tax Voting

The bill would require voter approval of any increase in the rate of a county sales tax. The bill has had one hearing.

Senate Bill 95 – State and Local Tax Inducements

The bill will enhance state and local tax inducements for businesses making substantial fixed asset and employment investments and their suppliers. The bill provides a CAT credit the integrated supply chain to a qualifying project. The OMA submitted a letter with likeminded allies regarding protecting the integrity of the CAT. The Senate passed the bill. The House Ways and Means Committee has had three hearings on the bill. Again the OMA submitted interested party testimony warning about carving up the CAT.

Senate Bill 109 – Workforce Scholarship Program

SB 109 establishes the Workforce Scholarship Program. The bill would terminate the provisions of the Scholarship Program on December 31, 2023 and authorize tax credits for graduates of the Scholarship Program and their employers. The bill includes a CAT credit. It had its second hearing in early October of 2019.

House Bill 134 – March Sales Tax Holiday

The bill provides a three-day sales tax "holiday" each March during which sales of qualifying Energy Star products are exempt from sales and use taxes. The bill had its first hearing in October.

House Bill 175 – Tax Exemption on Goods Movement

The bill provides an exemption from sales and use tax for things used primarily to move completed manufactured products or general merchandise. The bill has been referred to the House Ways and Means Committee and has had two hearings this fall.

House Bill 197 – Pandemic Emergency Legislation

House Bill 197 became the pandemic emergency legislation bill back in March. Among the items included in the bill was a provision that gave the Tax Commissioner the authority to change deadlines for a variety of state taxes. The OMA worked with the House and Senate to include a provision that would allow companies to continue their previous withholding practices during the state of emergency.

House Bill 222 – CDL Training Tax Credit

The bill provides an income tax credit for an employer's expenses to train a commercial vehicle operator. The bill passed the House 91-1. It has had one hearing in the Senate.

Senate Bill 257 – Electric Vehicle Tax Credit

Earlier this month, Sens. Michael Rulli (R-Salem) and Sean O'Brien (D-Bazetta) introduced Senate Bill 257, designed to make Ohio — and particularly the Mahoning Valley — the nation's leader in the electric vehicle revolution. The bill would create two different tax credits:

- A sales tax credit for the purchase of an electric vehicle; and
- An income tax and commercial activity tax credit for the purchase and installation of a charging station for an electronic vehicle.

The bill has had three hearings in the Senate.

Senate Bill 352 – Municipal Income Tax Withholding

Sen. Kristina Roegner (R-Hudson) introduced her long-anticipated Senate Bill 352, which would repeal Sec. 29 from House Bill 197. That section has allowed manufacturers and other Ohio businesses to continue withholding employees' income tax from the business' principal location and not employees' homes.

With many Ohioans working remotely due to COVID-19, the General Assembly acted wisely to save businesses the burden, expense and compliance nightmare of revamping their tax systems in the midst of the pandemic.

Over the summer, Sen. Roegner and others have discussed repealing the provision in HB 197 so that withholdings would be redirected to the local governments of an

employee's home address if he/she is working remotely. The bill comes on the heels of the Buckeye Institute's lawsuit over the provision in HB 197.

The OMA has a small working group discussing longer term solutions regarding this issue.

House Bill 378 – Striking Worker Unemployment Benefit

The bill would provide unemployment benefits to striking workers. This adds a new group of workers eligible to receive benefits in Ohio and would put even more stress on the system.

House Bill 440 – Abolish Tax on Manufacturing Temp Labor and Sales Tax on Manufacturing Janitorial Supplies and Equipment

House Bill 440 is an OMA-sponsored bill to eliminate the sales tax on temporary workers, while also eliminating the sales tax on industrial janitorial services purchased to clean machinery in a manufacturing facility.

Both provisions — longtime priorities of the OMA Tax Committee — are contained House Bill 440, bipartisan legislation offered by State Reps. Sara Carruthers (R-Hamilton) and Jessica Miranda (D-Forest Park). HB 440 was referred to the House Ways and Means Committee; and had its first hearing in January.

Ohio remains one of a handful of states that taxes temporary workers and is the only state that double taxes those workers on both the service fee and wages. Eliminating the sales tax on janitorial services would bring much-needed certainty for manufacturers and this type of service, which is often contested under the manufacturing sales and use tax exemption.

A second hearing was set for April. However that hearing was canceled due to the pandemic. Like many other tax provisions with a price tag, this bill loses its momentum due to COVID-19.

House Bill 467 – Pass-Through Entity Tax Reduction

The bill reduces the pass-through entity withholding tax rate to four percent. The bill was expected to clear the House Ways and Means Committee this winter. Like so many other pieces of legislation it has fallen victim to both COVID-19 and the Speaker's bribery scandal.

House Bill 754 – Municipal Income Tax Withholding

Rep. Jordan's companion bill to Sen. Roegner's Senate Bill 352. The bill repeals Sec. 29 from House Bill 197. That section allowed manufacturers and other businesses to continue withholding employees' income tax from the business' principal location and not employees' homes.

The OMA has a small working group discussing longer term solutions regarding this issue.

Senate Joint Resolution 3 – Require a Supermajority for an Income Tax Increase

Proposing to enact Section 7 of Article XII of the Constitution of the State of Ohio to require that any increase in income tax rates be approved by a supermajority of the

membership of each house of the General Assembly. The resolution was reported out of the Senate Ways and Means Committee.

Senate Joint Resolution 4 – Unemployment Compensation Bonding

Proposes to allow the state to bond future unemployment compensation debt, allowing the state to either pay off the federal loan directly or issues bonds to the pay the debt. The OMA has been supportive of such a method and testified in support of the plan. The resolution passed the Senate.

Tax News

Legal Challenge Posed to Ohio's Local Income Tax

A conservative think tank in Ohio has challenged a recent state law intended to protect local income tax revenue during a time when many employees are working from a different municipality than their employer's workplace.

Earlier this year, the OMA and numerous other business interests supported House Bill 197, bi-partisan legislation that contained numerous COVID-19 relief measures. HB 197 won unanimous approval in the General Assembly in late March and contained a provision to extend Ohio's "20-day rule" for municipal tax withholding for employees who are now working from home.

The Buckeye Institute argues that allowing cities to continue collecting taxes from employees who are now working in other municipalities is an unconstitutional expansion of their taxing authority. The lawsuit is pending in the Franklin County Common Pleas Court. The OMA Tax Committee will discuss the issue at its next meeting.

Many Employers Likely to See Unemployment Tax Rate Increases

With more than 40 million Americans having filed for unemployment insurance (UI) since mid-March, many states could be forced to borrow federal dollars to meet their UI obligations, as Ohio already has.

Assuming Ohio's loan balance is still outstanding as of Nov. 10, 2022, manufacturers in Ohio could be subject to a 0.30% increase in their FUTA tax rate for all of 2022, increasing the rate from 0.60% to 0.90%. FUTA tax rates can increase further — in increments of 0.30% per year — should loans remain outstanding in subsequent years.

Governor Announces \$775M Reduction in State Spending

Gov. DeWine announced a \$775 million reduction in planned state spending for the remainder of Fiscal Year 2020, which ends June 30. The cuts, which are due to a \$1 billion swing in the state's coffers since late February, will impact:

- Medicaid spending (approximately \$210 million);
- K-12 foundation payments (\$300 million);
- Other education line items (\$55 million);
- Higher education (\$110 million);
- All other state agencies (\$100 million).

Sales Tax Exemption for All Food Manufacturers Now in Effect

Good news for all food manufacturers! During last summer's debate on the state budget (House Bill 166), the OMA led tax changes for food manufacturers as lawmakers

approved an expanded sales-and-use tax exemption for equipment and supplies used to clean equipment that produces or processes food for human consumption. (Previously, the exemption applied only to dairy food processors. Now it applies to all Ohio food manufacturers.)

The expanded exemption went into effect Oct. 1, 2019. Make sure you are tracking the necessary information.

Ohio Supreme Court Hears Muni Tax Case

In May the Ohio Supreme Court held oral arguments on the municipalities' appeals to the municipal income tax cases. The OMA joined a business group coalition and filed an amicus brief.



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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

S.B. 352
133rd General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsor: Sen. Roegner

Mackenzie Damon, Attorney

SUMMARY

- Repeals a temporary municipal income taxation rule for employees who are working from home due to COVID-19.

DETAILED ANALYSIS

Municipal income taxation during the COVID-19 pandemic

The bill repeals a temporary rule governing the municipal income taxation of employees who are working at a temporary worksite – including their home – due to the COVID-19 pandemic.¹ The temporary rule is set to expire 30 days after the end of the Governor’s COVID-19 emergency declaration, but the bill would repeal it sooner if the bill’s 90-day effective date arrives first.²

Under the temporary rule, if an individual has to work at a temporary worksite because of the COVID-19 emergency, that employee is still considered to be working at his or her regular place of employment, or principal place of work. This treatment affects which municipality the employer must withhold income taxes for, which municipality may tax the employee’s pay, and whether and how much of the employer’s own income is subject to a municipality’s income tax.

Considering this income to be earned at the employee’s principal place of work potentially allows the employer to avoid withholding taxes for that employee in the municipality where the employee’s temporary worksite is located and prevents the employer from becoming subject to that municipality’s income tax. It also potentially prevents the

¹ Section 1. The temporary rule was enacted in Section 29 of Am. Sub. H.B. 197 of the 133rd General Assembly.

² The current state of emergency was declared in Executive Order 2020-01D, issued on March 9, 2020.

employee from being taxed on that income by that municipality, unless the employee is a resident of that municipality. (Resident municipalities may tax individual taxpayers on their entire income, regardless of where the income is earned.³) The full effect of the provision is not clear, however, because courts have generally found that a municipality cannot tax a nonresident's income that is not earned in that municipality and that taxpayers are entitled to a refund of tax withheld on that income.⁴ This prohibition arises from due process protections – the Ohio Supreme Court has held that a municipal corporation taxing nonresident income may violate constitutional due process if there is no “fiscal relation” between the tax and the protections, opportunities, and benefits provided by the taxing municipality to the nonresident (e.g., police and fire protection).⁵

Under continuing law, a nonresident employee may work in a municipality for up to 20 days per year without the employer becoming subject to that municipality's tax withholding requirements and the employee becoming subject to that municipality's income tax. And, if an employee does not exceed the 20-day threshold, that employee's pay is not counted toward the business's payroll factor, one of three factors – along with property and sales – that determines whether, and the extent to which, an employer's own income is subject to the municipality's tax on net profits.⁶

HISTORY

Action	Date
Introduced	08-11-20

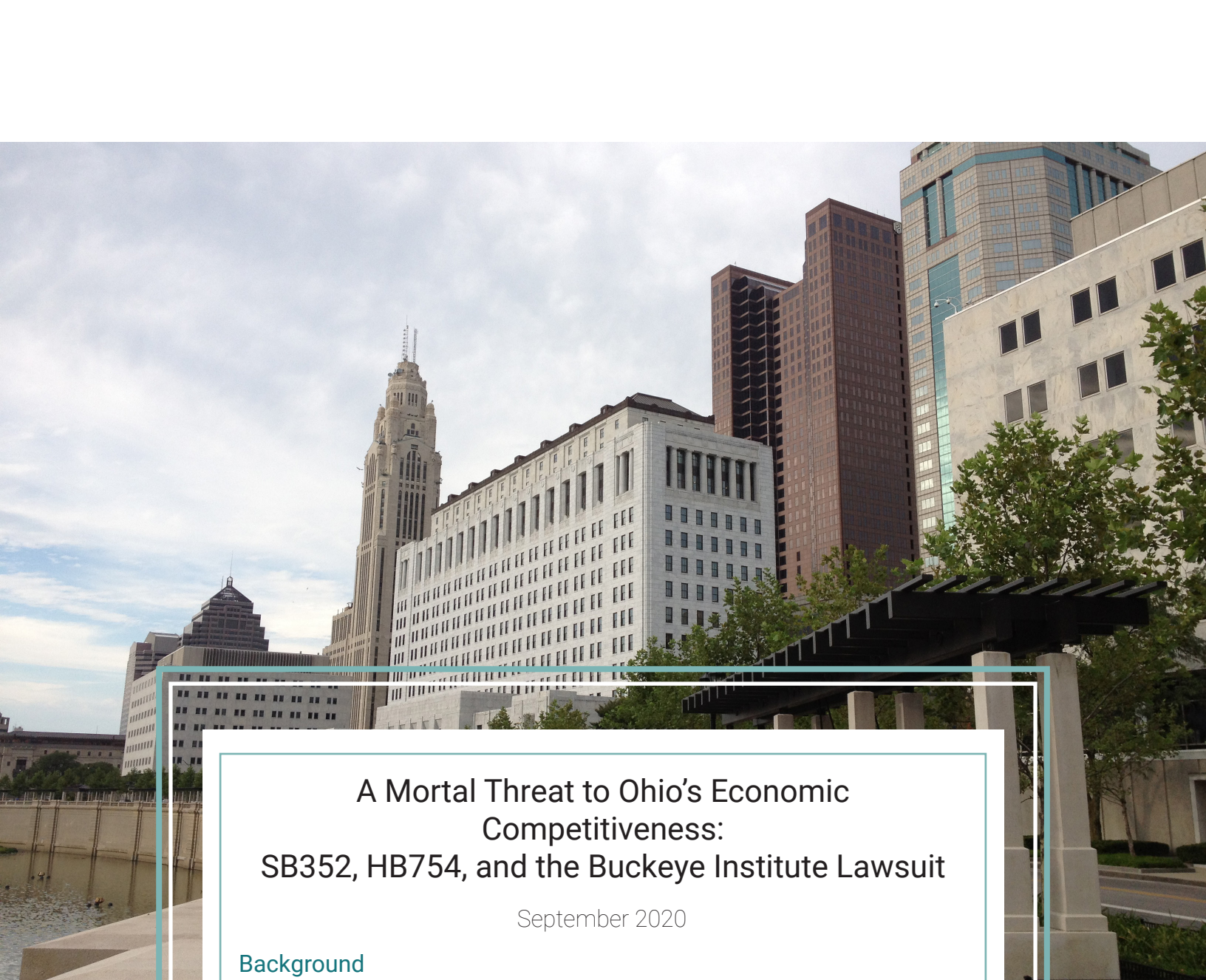
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³ R.C. 718.01(A)(1)(b), not in the bill.

⁴ See, e.g., *Miley v. City of Cambridge*, No. 96 CA 44, 1997 Ohio App. LEXIS 3243 (5th Dist. June 25, 1997) (granting refund where city ordinance was held unconstitutional because it taxed nonresidents for work outside the city if the employer's principal place of work was in the city).

⁵ *McConnell v. Columbus*, 172 Ohio St. 95, 99-100 (1961).

⁶ R.C. 718.01(C)(16) and (17), 718.011, 718.02, and 718.82, not in the bill.



A Mortal Threat to Ohio's Economic Competitiveness: SB352, HB754, and the Buckeye Institute Lawsuit

September 2020

Background

On March 27, 2020 Ohio Governor Mike DeWine signed into law HB197, providing emergency relief to Ohioans in light of the coronavirus pandemic. Section 29 of this bill states that during the pandemic state of emergency, income tax shall be collected by the jurisdiction where the employer is located, not an employee's work-from-home location. In July 2020, the Buckeye Institute filed a lawsuit in the Franklin County Court of Common Pleas challenging Section 29 of HB197. In August 2020, SB352 and HB754 were introduced. These bills intend to repeal Section 29 of HB197 and allow the jurisdiction of residence to collect income tax from employees working from home instead of the jurisdiction where the employer is located.¹



GREATER OHIO POLICY CENTER

The Buckeye Institute lawsuit, SB352, and HB754 are short-sighted and mortally jeopardize Ohio’s economic competitiveness. These efforts threaten the ability of Ohio’s largest economic centers to pay debt service on past strategic investments, envision future ones, and maintain critical services, thereby hampering their ability to drive economic growth, retain existing employers, and attract new ones.

Repealing Section 29 will cause dramatic drops in revenue for Ohio’s largest cities; we estimate it would cause a net decrease of \$306 million total revenue to Ohio’s 6 largest cities alone. It would also set off a cascade of unintended consequences through Ohio’s tax system and undo at least sixty years of precedent in Ohio’s tax policy. Without a comprehensive restructuring to address its consequences, repealing Section 29 will be devastating to the financial health of Ohio’s cities and thus the state.

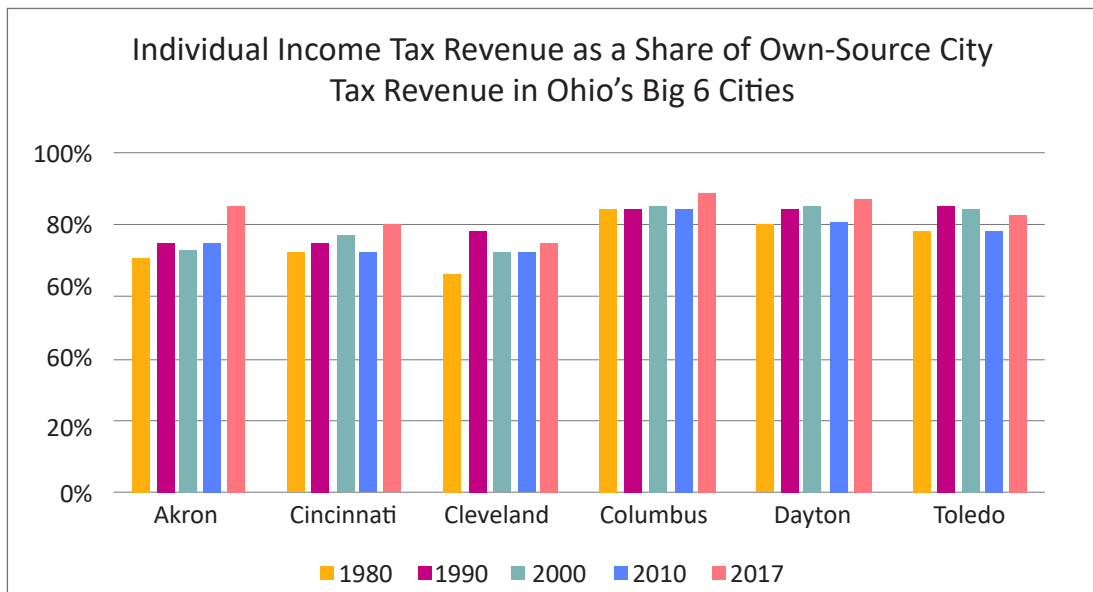
Individual income tax revenue has comprised an extremely large share of city tax revenue in Ohio for decades. For nearly a half century, individual income taxes have generated the vast majority of own-source city tax revenue in Ohio.ⁱⁱ

For nearly a half century, individual income taxes have generated the vast majority of city-controlled tax revenue in Ohio.

Newly released data compiled by the Lincoln Institute of Land Policy demonstrates this trend has held in Ohio’s six largest cities by population (hereafter referred to as the “Big 6”) for the last forty years, the entirety of the data set. In fact, the preeminence of municipal income tax collections predates the Lincoln Institute’s data. Toledo passed the first municipal income tax ordinance in 1946; by 1957 the Ohio General Assembly had enacted a uniform municipal income tax law in response to the growing number of cities that were establishing income tax ordinances.ⁱⁱⁱ

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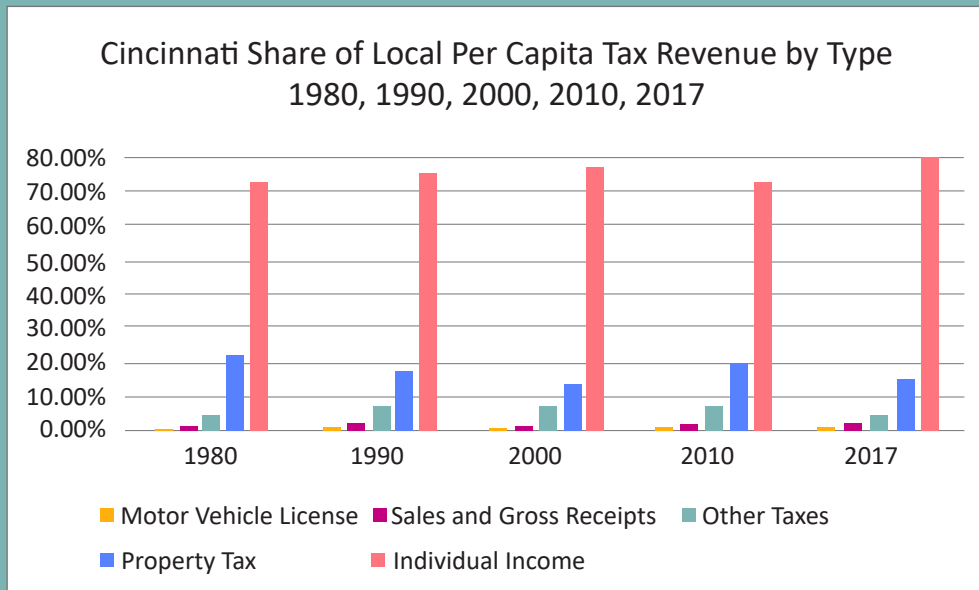
The chart below demonstrates the steady reliance on individual income tax revenue as a share of city-generated taxes for 1980, 1990, 2000, 2010 and 2017, the most recent year data are available.



Source: GOPC, Lincoln Institute of Land Policy. Fiscally Standardized Cities database.

By 2017, individual income tax comprised over 82% of own-source city tax revenue for all six of Ohio's largest cities compared with 74% in 1980. In 1980, Cleveland was the least reliant city on individual income tax with 65% of own-source city tax revenue generated via individual income tax. In 2017, Cleveland was still the least reliant with 75% of all own-source city tax revenue generated by individual income, and Columbus was the most reliant with 88% of own-source city tax revenue generated through this source.

A Closer Look at Own-Source City Tax Revenue: Cincinnati Example

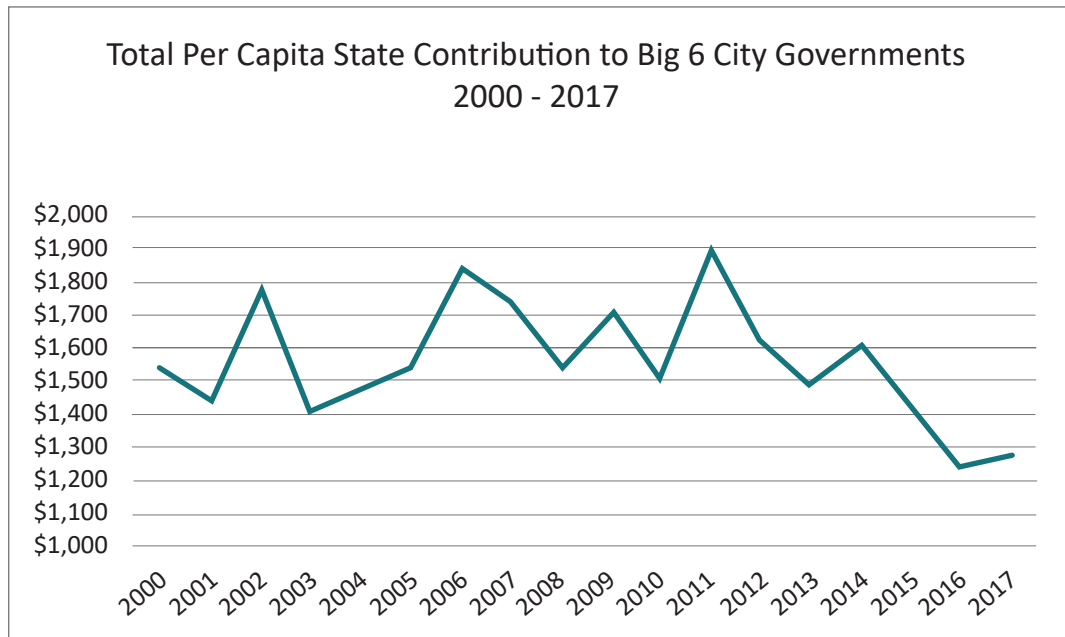


Source: GOPC, Lincoln Institute of Land Policy. Fiscally Standardized Cities database.

Cincinnati's own-source city tax revenue demonstrates the importance of individual income tax relative to other forms of tax revenue with the city budget. In 2017, individual income tax comprised nearly 80% of all city taxes, generating almost 6 times as much revenue as property taxes and more than 50 times sales and gross receipts to the city of Cincinnati.

The importance of income tax revenue to cities has only increased in recent years as funds from the State to local government entities have waned since the 2000s. Between 2000 and 2017, state contributions to local governments with geographic territories in the Big 6 Cities^{iv} decreased by 8% and the state funds directed specifically to city government decreased by 17% (from \$1,531 per capita in 2000 to \$1,277 per capita in 2017 in adjusted 2017 dollars).

During this period, the Local Government Fund was reduced, the estate tax was repealed and the tangible personal property tax was repealed. The reduction in these former sources of revenue to all types of local governments (e.g. cities, counties, school districts, special districts) increases the importance of the remaining sources of locally-sourced funds.



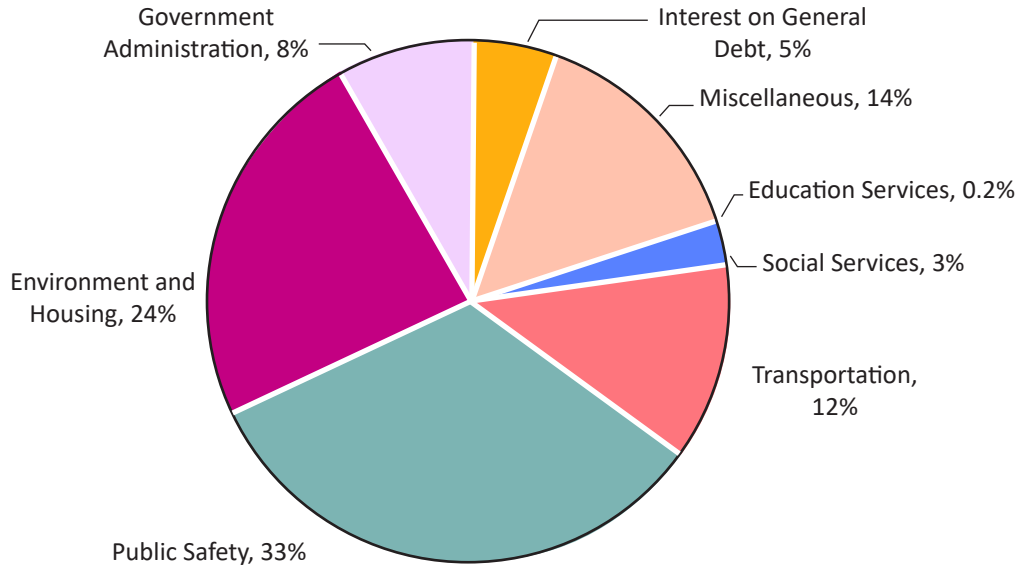
Source: GOPC, Lincoln Institute of Land Policy. Fiscally Standardized Cities database.

Income tax revenue funds city services essential for maintaining the health, safety, and well-being of residents and visitors, as well as maintaining the infrastructure that supports economic development and jobs. Cities in Ohio use their income tax revenue to fund a large array of community and economic development services, including, but not limited to:

- animal control
- construction and maintenance of sanitary and storm sewers
- construction and maintenance of many aspects of the highway/road network
- fire protection
- garbage collection
- government-wide insurance
- health inspections
- home ownership programs
- home repair programs
- policing and law enforcement activity
- public health
- regulation of air and water quality premiums
- sewage treatment
- snow and ice removal on roads
- In Columbus, school districts receive a small amount of Individual Income tax revenue

In 2017, Public Safety (which includes Police, Fire, Corrections, and Inspections) accounted for 33% of Big 6 City general expenditures^{vi} followed by Environment and Housing, which includes Parks and Recreation, Community Development, Sewerage, and Waste Management.^v

Big 6 City General Expenditures, 2017



Source: GOPC, Lincoln Institute of Land Policy. Fiscally Standardized Cities database.

City services are not all cash-in, cash-out propositions amenable to rapid reallocation as proponents of the repeal of Section 29 suggest. This is particularly true of the strategic infrastructure investments cities make that drive regional economic health. The infrastructure employers relied on to get employees to their workplaces still has pre-pandemic bond debt that needs to be retired, even if work-from-home commuters haven't used roads or bridges within our Big 6 Cities in the last five months,

Reliance on long-term debt has increased in the last 40 years for Ohio's Big 6. From 1977 to 2017, the average per capita amount of outstanding debt doubled from \$1,596 to \$3,222.

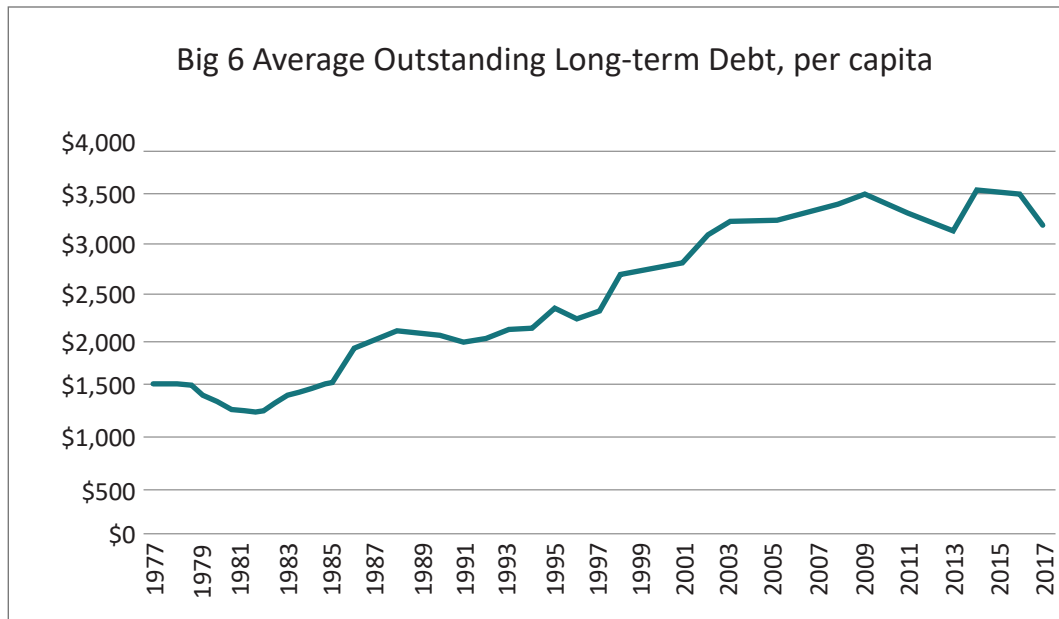
City street resurfacing and improvements are required investments for a city to maintain its street network, and, by extension, maintain the regional and state transportation networks that are key components of Ohio's economy. Like roads, many other capital investments are financed over many years by revenue collected annually. It is logical that many of

the services mentioned above rely on periodic investments and not simply small, proportionate expenditures. Often these investments are made via municipal bonds.

City services are not all cash-in, cash-out propositions amenable to rapid reallocation

Most cities in Ohio dedicate a portion of their income tax collections to capital and infrastructure debt. As one example, one-fourth

of Columbus's income tax collections are used to pay its bond obligations, which finance infrastructure projects that are too large to be financed in one payment. This bond debt is typically redeemed within 10 years, meaning the City is still paying off its 2013, 2016, and 2019 bonds. Other cities have similar timelines for capital and infrastructure debt, and most cities rely on their income taxes to help service that debt.^{vii}



Source: GOPC, Lincoln Institute of Land Policy. Fiscally Standardized Cities database.

A Closer Look at the Advantages of Municipal Bonds: Columbus Example

In 2019, citizens of the City of Columbus voted and approved a billion dollar bond program to pay for major investments in street and utility improvements, among other capital projects. The 2019 bond packages invest nearly \$70 million over the next two years on street resurfacing projects. A study done 10 years earlier concluded that the city would have to spend \$60 million per year on resurfacing to maintain roadways, nearly double what it spends now. Bond programs provide a means to finance expensive, but necessary, projects across a municipality.

Ohio Cities have large shares of city workers who reside outside the city, which means cities stand to lose significant revenue if income tax is restructured in light of the unforeseen pandemic. In 2017, Columbus had the largest share of workers who also reside in the city with 41.3%, while Dayton had the largest number of city workers who reside outside the city at 81.6% of all workers working in the city.

City	Share of City Workers who reside Outside the City	Share of City Workers who reside Within the City
Akron	72.8%	27.2%
Cincinnati	76.0%	24.0%
Cleveland	77.4%	22.6%
Columbus	58.7%	41.3%
Dayton	81.6%	18.4%
Toledo	57.6%	42.4%

Source: GOPC, On the Map, United States Census, Data from 2017

Repealing Section 29 could cost Ohio's six largest cities alone an estimated net loss of \$306 million

Repealing Section 29 could cost Ohio's six largest cities alone an estimated net \$306 million in revenue and will have similarly negative impacts on other cities in Ohio that rely heavily on income tax revenue. The following table illustrates the potential financial impact of this policy on Ohio's Big 6 cities. For the purposes of a gross estimate, we estimated that revenue will decrease proportionally to the percentage of workers who reside outside the city, and that 30% of those workers will work from home.^{viii}

How much do cities stand to lose by repealing Section 29?	
Big 6 Income Tax Revenue, 2017	\$ 2,112,876,523
Share of Big 6 Workers that Reside <i>Outside</i> the City	69%
Share of Workers now Working From Home	30%
Potential decrease in revenue (rounded)	\$ (437,000,000)

Source: GOPC, Lincoln Institute of Land Policy; On the Map, United States Census, Data from 2017

Cities also stand to gain revenue by collecting income tax revenue from city residents employed outside the city who are now working from home. To approximate this impact, we estimated the total income that city residents who work elsewhere would earn based on city median household incomes. We then applied the average effective income tax rate of the Big 6 and estimated the potential increase in income tax revenue, assuming 30% of these workers are working from home.

How much do cities stand to gain by repealing Section 29?	
Average Median Household Income of Big 6 Residents	\$ 35,987
Number of Big 6 Residents that Work Outside the City	510,614
Total Est. Income of Big 6 Residents Working Outside the City	\$ 18,375,295,813
Share of Workers now Working From Home	30%
Total Est. Income of Big 6 Residents now Working From Home	\$ 5,512,588,744
Average Effective Income Tax Rate of the Big 6 Cities	2.39%
Potential increase in revenue (rounded)	\$ 131,000,000

Source: GOPC, Lincoln Institute of Land Policy; On the Map, United States Census, Data from 2017; Ohio Department of Taxation, Municipal Income Tax Rate Database

The potential net impact of repealing Section 29 is \$306 million. This was calculated by adding the potential revenue lost from former commuters into the city now working from home, to the revenue gained by city residents working from home who previously worked elsewhere. The resulting estimated figure demonstrates an order of magnitude and is not precise because: 1) the percentage of people actually working from home is in flux; 2) income tax revenue collections are based on incomes that aren't factored into this estimate; and 3) recent changes in unemployment rates are also not reflected. However, higher income workers are more likely to hold jobs that allow for remote work, and are more likely to commute.^x

What is the estimated potential impact of repealing Section 29?		
Potential decrease in revenue	\$	(437,000,000)
Potential increase in revenue	\$	131,000,000
Net Impact on Big 6 income tax revenue	\$	(306,000,000)

Source: GOPC, Lincoln Institute of Land Policy; On the Map, United States Census, Data from 2017

A loss of \$306 million from Ohio's Big 6 Cities would have extraordinary consequences for Ohio's major metro regions, which would not be limited just to the 6 Big Cities. For example, the roadway systems in Ohio's Big 6 Cities are part of larger regional and state networks. Poor road conditions within the city's jurisdiction, due to insufficient funds, would slow commerce and shipping and increase accidents and fatalities for the entire region.^x This will severely hamper the state's economic competitiveness as it works to retain and attract employers.

Potential Impacts from Losing \$306 million	
77	fewer miles of expanded interstate highway
245	fewer miles of milled and resurfaced road
77	fewer miles of new 2-lane road
38	fewer miles of 4-lane road

Source: GOPC, American Road & Transportation Builders Association

Ohio's income tax structure should not be changed. Using a temporary pandemic to justify changes to a long-term tax structure would unfairly penalize cities who have long supported Ohio's economic competitiveness and made investment decisions based on the expectation of this structure's existence. No one had predicted a pandemic; it would be patently unfair to Ohio's cities to change the income tax structure at this juncture.

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About the Greater Ohio Policy Center

The Greater Ohio Policy Center (GOPC) is a statewide non-profit organization with a mission to improve Ohio's communities through smart growth strategies and research. Our vision is a revitalized Ohio. GOPC is highly respected for its data-driven, nonpartisan policy analysis, research expertise, and policy development, and regularly provides expert analyses to public, private and nonprofit leaders at the local, state and national level.

This brief was researched and written by Erica Spaid Patras with assistance from Maria Walliser-Wejebe and Alison Goebel.

Endnotes

- i House Bill 197 (133 GA) <https://www.legislature.ohio.gov/legislation/legislation-documents?id=GA133-HB-197> Senate Bill 352 (133 GA) <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-352>
- ii We use "own-source city tax revenue" to indicate the funds the city has jurisdiction over to set rates for and collect. Cities receive additional dollars from state and federal formulas, as well as from user fees, fines and charges, like utility fees or transit revenue that is automatically funneled back into service operation; the majority of this brief focuses only on the revenue Ohio cities can actually control. Additionally, this nomenclature differentiates between revenue within the city's purview and revenue available to other local jurisdictions operating within the geographic boundaries of the city. For example, income tax revenue generally funds city government, while property tax revenue generally flows to school districts; while property tax revenue may be spent within city boundaries, decisions about how it is used are not made by city leaders.
- iii Ohio Department of Taxation, Fiscal Year 2019 Annual Report; Municipal Income Section, p 118 https://tax.ohio.gov/static/communications/publications/annual_reports/2019AnnualReport/AR2019.pdf#page=118
- iv County government, city government, school districts, and special districts, like libraries.
- v The uses of funds are included within the Lincoln Institute for Land Policy Fiscally Standardized Cities database and were constructed using data for individual local governments from the U.S. Census Bureau's quinquennial Census of Government Finance and the Annual Surveys of State and Local Government Finance. Detailed definitions for all fiscal variables are available in the Census Bureau's Government Finance and Employment Classification Manual, which is available at: <http://www.census.gov/govs/classification/>
- vi General Expenditures refers to all city spending categories, except for intergovernmental expenditures, utility expenditures, liquor store expenditures, and employee retirement trust expenditures.
- vii <https://www.ohioauditor.gov/auditsearch/Search.aspx>; select "financial audit" for the city you wish to research; select a recent audit. Information provided in "Notes to the Basic Financial Statements" section.
- viii At the time of this writing, a Gallup poll found 62% of workers reported working from home (<https://news.gallup.com/poll/306695/workers-discovering-affinity-remote-work.aspx>), Forbes reported on two studies which found 36% and 37% of jobs, respectively, could be done from home (<https://www.forbes.com/sites/traversmark/2020/04/24/what-percentage-of-workers-can-realistically-work-from-home-new-data-from-norway-offer-clues/#4a7d8f2f78fe>), and Stanford's Institute for Economic and Policy Research reported 42% of workers working from home. We considered all of these, the timeframes they were generated, and opted for an even lower 30% to account for some additional unemployment that may not be adequately reflected in the earlier figures.
- ix "Workers who could work at home, did work at home, and were paid for work at home, by selected characteristics, averages for the period 2017-2018" (Table 1 continued) page 10. <https://www.bls.gov/news.release/pdf/flex2.pdf>
- x Ohio cities maintain local and state routes within their jurisdiction. ODOT maintains federal interstate freeways.

Tax

Supreme Court of Ohio Upholds Centralized Tax Collection

November 6, 2020

In a welcome **decision** authored by Justice Michael P. Donnelly, a majority of the Supreme Court of Ohio upheld the legality of state legislation that created a centralized system for the collection of all municipal business income taxes.

Municipalities argued the effort to centralize collections violated home-rule, but the Court found otherwise. The Court blocked the imposition of a small administrative fee to be levied on municipalities by the Ohio Department of Taxation.

The OMA has supported centralized collection of local taxes to promote tax simplicity. Here's a **short analysis of the decision** by OMA tax counsel Justin Cook of Bricker & Eckler. *11/5/2020*

RSM Offers Multi-Day Virtual Tax Summit

November 6, 2020

OMA Connections Partner **RSM** has planned a **virtual and interactive tax summit Nov. 9-13**. Over the course of a week, 16 plenary sessions are scheduled, focusing on post-election perspectives, changes in the world and business models due to recent events, and considerations for business owners and tax professionals for closing out 2020 as well as preparing for 2021.

There will be Ask the Expert chat sessions and the event may qualify for up to 16 hours of CPE credit. **More information here.** *11/2/2020*

Durable Goods Orders Rise for Fifth Straight Month

October 30, 2020

Nationwide, orders for durable goods increased for the fifth consecutive month in September, according to data released this week. OMA Connections Partner **RSM reports** that the increase was driven by a 4.1% rebound in orders for transportation equipment. *10/29/2020*

Year-End Tax Planning Guidance Available

October 30, 2020

Just in time for year-end tax preparation, OMA Connections Partner Clark Schaefer Hackett has published **this list of tax planning strategies** to account for business turbulence and federal relief provisions. Also, the firm will host a free **year-end tax planning webinar** on Thursday, Dec. 3.

Meanwhile, CliftonLarsonAllen, also an OMA Connections Partner, will conduct a **free webinar** on Wednesday, Nov. 11 to discuss year-end tax strategies related to COVID-19, including PPP loan forgiveness, tax credits, and incentives. *10/28/2020*

Tax Foundation: Biden Estate Tax Increase Would Reduce Economic Activity by \$46B Annually

October 30, 2020

The non-partisan Tax Foundation reports that Democratic presidential candidate Joe Biden's proposals would "tax wealth at death — by as much as 67%."

According to the Foundation, this would be accomplished by taxing unrealized capital gains at death for certain taxpayers, and by reducing the estate tax exemption to \$3.5 million and increasing the estate tax's top rate to 45%. Biden's estate tax plan would reduce economic activity by \$46 billion annually, the Foundation says. *10/28/2020*

Five Strategies to Cut Inventory Costs

October 30, 2020

Manufacturers and supply chain management professionals are taking steps to lower inventory costs to stay ahead of the competition. If you're struggling to trim inventory spending, OMA Connections Partner Clark Schaefer Hackett offers **these five strategies**. *10/27/2020*

Renewed Focus on Taxes as Election Day Nears

October 23, 2020

As Election Day nears, more attention is being paid to the tax plans of both presidential candidates.

The non-partisan Tax Foundation reports that if **Joe Biden's proposed tax increases** were implemented, the **U.S. would drop** from its current No. 21 to No. 30 in the International Tax Competitiveness Index.

For members concerned about this year's taxes, OMA Connections Partner RSM has published **this insight** addressing year-end tax considerations for businesses. On Nov. 9, RSM will host its complimentary **Tax Summit 2020**, focused on post-election analysis and considerations for business owners. *10/22/2020*

OBM: Smaller Revenues Could Mark 'New Stage' in Economic Recovery

October 16, 2020

This week, the Ohio Office of Budget and Management released its **monthly financial report for September 2020**. It noted that General Revenue Fund (GRF) revenue — the largest funding source for the state — was “less exuberant” than in previous months, and that September “could be first evidence of a new stage in the economic recovery.”

At \$2.9 billion, September's GRF receipts were -4.9% below estimates. Tax revenues were 0.5% above projections, while non-tax receipts — largely driven by federal grants — and transfers were -13.7% below estimates. For the month, spending from the GRF was below estimates by \$230.1 million (6.9%), largely due to Medicaid trends. *10/13/2020*

How Could the 2020 Election Impact Your Taxes?

October 16, 2020

OMA Connections Partner Gilmore Jason Mahler recently presented a webinar to provide insight into how the Nov. 3 election could impact the taxes your business pays. The webinar is **available now on demand**, as are these **accompanying slides**. *10/12/2020*

Great News for PPP Loans of \$50,000 or Less

October 16, 2020

The Small Business Administration has issued a streamlined loan forgiveness application for Paycheck Protection Program (PPP) loans of \$50,000 or less. This is good news for many borrowers since loans totaling \$50,000 or less comprise about two-thirds of all PPP loans.

OMA Connections Partner CliftonLarsonAllen has published **this insight** regarding this development. *10/14/2020*

State Revenue Continues to Exceed Estimates

October 9, 2020

Ohio's total revenue collections in September exceeded projections by half a percent, but the two largest tax revenue sources — the non-auto sales tax and personal income tax — lagged forecasts.

Preliminary revenue data from the Office of Budget and Management show that September's total tax collections reached \$1.92 billion, versus \$1.91 billion expected.

For the fiscal year so far, tax receipts have surpassed estimates by 4.1% (\$262.3 million), with income taxes up 3%, non-auto sales tax up 4.5%, and auto sales tax up nearly 19%. *10/6/2020*

Helping Businesses Maximize Depreciation Deductions

October 9, 2020

Many businesses focus so much on generating income from fixed assets that they miss opportunities to maximize depreciation deductions. OMA Connections Partner Plante Moran has published **this article** on fixed asset and cost segregation studies that can make a significant difference in your after-tax financial position. *10/8/2020*

New Guidance on PPP Loans Provided to Businesses Changing Ownership

October 9, 2020

Last week, the U.S. Small Business Administration released a procedural notice related to Paycheck Protection Program (PPP) loans and changes of ownership. OMA Connections Partner GBQ Partners has published **this analysis** of the SBA's new

guidance and the steps a buyer and seller must take in order to obtain approval or affect a change in ownership for a company with a PPP loan. *10/8/2020*

How Do the Trump and Biden Tax Plans Differ?

October 2, 2020

With the presidential election just weeks away, many voters are beginning to pay closer attention to President Trump and former Vice President Biden's positions on key issues — including taxes. OMA Connections Partner Clark Schaefer Hackett has published **this insight** to compare and contrast the tax plans of both candidates. *10/1/2020*

Federal Program Aims to Help Manufacturers Hurt by Imports

October 2, 2020

The **Great Lakes Trade Adjustment Assistance Center** (GLTAAC) is “a bit of secret to many small manufacturers,” according to a report in **MiBiz**, a business publication from the state up north. But for 36 years, GLTAAC has helped import-challenged manufacturers in Ohio, Indiana and Michigan via the **Trade Adjustment Assistance for Firms** (TAAF) program to enhance their competitiveness.

The GLTAAC works with small manufacturers, providing general consultation and funds up to \$75,000 that must be matched by the company itself. The quickest way to learn more about TAAF benefits and eligibility is to contact GLTAAC Project Manager Scott Phillips by **email** or at (734) 787-7509. *9/28/2020*

Export Assistance Grants for Ohio Businesses

October 2, 2020

The Ohio Development Services Agency has announced that applications are **now being accepted** for the Ohio International Market Access Grant for Exporters (IMAGE) program. Supported by U.S. Small Business Administration through the State Trade Expansion Program, IMAGE provides eligible companies a 50% reimbursement of up to \$10,000 in grant funds to engage in activities that increase export sales. *9/28/2020*

Report: Final 163(j) Rules a Win for Manufacturers

October 2, 2020

In late July, the IRS issued final regulations on Internal Revenue Code Section 163(j), which limits the deductibility of business interest expense under the Tax Cuts and Jobs Act of 2017. According to OMA Connections Partner Schneider Downs, the final regulations provide manufacturers relief in the area of depreciation expense. **Read more here.** *9/29/2020*

Ohio Minimum Wage to Increase on Jan. 1

October 2, 2020

Ohio's minimum wage **will increase** from \$8.70 an hour to \$8.80 on Jan. 1. The minimum wage will apply to employees of businesses with annual gross receipts of more than \$323,000 per year. Employers can access the **2021 Minimum Wage poster for display** via the Ohio Department of Commerce's website. *10/1/2020*

Bill to Repeal Emergency Withholding Tax Provision Gets Hearing

September 25, 2020

This week, Sen. **Kristina Roegner** (R-Hudson) gave **sponsor testimony** on **Senate Bill 352**, which would repeal the temporary municipal income taxation rule for employees who are working from home due to COVID-19. That provision, **passed early in the pandemic** to protect cities' income tax revenues, allowed employers to continue to send withholdings to an employee's principal city of work rather than to the city in which the employee lives.

The issue has created much conversation since Ohio's state of emergency remains in place. The OMA fought for the creation of the temporary provision so employers' tax systems would not be overwhelmed as many employees work remotely for an indefinite period of time. The OMA created a tax working group to address the issue, which will be discussed at the **next OMA Tax Committee meeting.** *9/24/2020*

IRS Issues Notices on Deadline to File, Home Office Deduction

September 25, 2020

The Internal Revenue Service is **reminding** taxpayers who filed an extension that the Oct. 15 due date to file 2019 tax returns is approaching. The agency has also issued a reminder about the **home office deduction**, which may allow taxpayers working from home to deduct certain expenses. *9/23/2020*

Policy Group: Ohio's Largest Cities Could Lose \$300M If Income Tax Law Is Changed

September 18, 2020

A group that advocates for Ohio municipalities is concerned about two legislative proposals that seek to make changes in how income taxes are collected.

According to a **report** by the Statehouse News Bureau, **House Bill 754** and **Senate Bill 352** would repeal a **provision** in House Bill 197 passed early in the pandemic to protect cities' income tax revenues. That provision was spearheaded by the OMA and its allies to ensure Ohio's businesses would not have to worry about new withholdings in addition to COVID-19 challenges. HB 754 and SB 352 would instead redirect local income taxes paid by employees working from home to where they live — not the cities in which their normal workplaces are located.

The Greater Ohio Policy Center says the bills would cost Ohio's six largest cities, which generate more than half of the state's GDP, more than \$300 million a year. The issue remains a top concern for manufacturers with so many office workers continuing to work from home. *9/16/2020*

Ohio's August Tax Receipts Stronger Than Expected

September 18, 2020

Preliminary data from Ohio's Office of Budget and Management (OBM) show that August tax receipts to the state's general revenue fund (GRF) exceeded estimates. Total tax receipts beat estimates by 3.2%, or \$69 million above the budget forecast.

In its **monthly report**, OBM said the commercial activity tax (CAT) fell below estimates by 9.9%, but this period reflects the second quarter, which included the most severe drop in economic

activity during COVID-19. In August, personal income tax saw a year-over-year increase of \$116.5 million (16.2%). Non-auto sales tax increased by \$17.3 million (2.2%), and auto sales grew by \$11 million (7.6%). Year to date, Ohio's overall tax receipts are \$830.4 million (21.6%) above last year. *9/15/2020*

Study: Ohio a High Property Tax State

September 11, 2020

According to a **new comparison** by the Tax Foundation, Ohio's property taxes — levied and collected by local governments — are ninth highest in the U.S. when taken as a percentage of owner-occupied housing value.

Roughly two-thirds of Ohio's property taxes go to school districts, according to the County Commissioners Association of Ohio. The Ohio Department of Taxation reports that in tax year 2019, Ohio school districts' operating levies yielded approximately **\$11 billion** in taxes on property. *9/9/2020*

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September 11, 2020

OMA Connections Partner Crowe LLP has developed a series of scorecards to help compare the presidential candidates' tax positions. **Here is Crowe's first scorecard** covering the candidates' proposals on individual tax issues, including capital gains, deductions, and credits. **Click here** for additional scorecards. *9/10/2020*

House Introduces Its Withholding Repeal Bill

September 4, 2020

This week Rep. **Kris Jordan** (R-Ostrander) introduced **House Bill 754** which would repeal Sec. 29 from House Bill 197. That section has allowed manufacturers and other Ohio businesses to continue withholding employee income tax from the company's principal location and not employees' home jurisdictions.

With many Ohioans working remotely due to COVID-19, the General Assembly acted wisely to save businesses the burden, expense and compliance nightmare of revamping their tax systems in the midst of the pandemic.

The bill is a companion to Sen. Kristina Roegner's (R-Hudson) Senate Bill 352 which also repeals Sec. 29. The provision has garnered attention as the pandemic continues to drive employers' work-from-home policies.

The OMA is tracking the matter and will be discussing it in its **November 18 Tax and Finance Committee**. *9/3/2020*

Accounting Guidance for PPP Loans

September 4, 2020

In Ohio, nearly **150,000 loans** were made to small businesses under the federal Paycheck Protection Program (PPP). Currently there is no specific guidance in U.S. generally accepted accounting principles (GAAP) that addresses when a business entity obtains a loan that is forgivable by a government entity. OMA Connections Partner RSM has prepared **this white paper** to provide borrowers with accounting guidance for PPP loans. *9/1/2020*

SBA Issues Additional PPP Loan Forgiveness Guidance

August 28, 2020

This week, the Small Business Administration (SBA) released additional guidance related to loan forgiveness under the Paycheck Protection Program (PPP). Under the SBA's interim final rule, an owner-employee with less than a 5% ownership stake in a C- or S-corporation is not subject to the owner-employee compensation limitation. Also, guidance was issued for forgiveness eligibility for related-party rent payments. Read more in **this analysis** by OMA Connections Partner RSM. *8/26/2020*

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Webinar Will Address State & Local Tax Developments

September 11, 2020

On Thursday, Sept. 24, from 11:30 a.m. to 12:30 p.m. (ET), OMA Connections Partner GBQ Partners will host a free webinar to review the flurry of tax-related activity at the state and local levels. This webinar will qualify for one hour of continuing professional education based on Ohio CPE requirements. **Learn more.** *9/10/2020*

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Taxation Legislation
Prepared by: The Ohio Manufacturers' Association
Report created on November 9, 2020

- HB17** **SURVIVING SPOUSES-HOMESTEAD EXEMPTION** (GINTER T) To allow an enhanced homestead exemption for surviving spouses of public safety personnel killed in the line of duty.
Current Status: 10/15/2020 - **SIGNED BY GOVERNOR**; eff. 90 days
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-17>
- HB19** **PINK TAX EXEMPTION** (ANTANI N, KELLY B) To exempt from sales tax the sale of tampons and other feminine hygiene products associated with menstruation.
Current Status: 5/7/2019 - House Ways and Means, (Fourth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-19>
- HB46** **STATE GOVT EXPENDITURE DATABASE** (GREENSPAN D) To require the Treasurer of State to establish the Ohio State Government Expenditure Database.
Current Status: 1/22/2020 - **SUBSTITUTE BILL ACCEPTED**, Senate General Government and Agency Review , (Seventh Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-46>
- HB47** **TAX COMPLAINTS-LEGAL ASSISTANCE FOUNDATION** (GREENSPAN D) To increase the time within which property tax complaints must be decided.
Current Status: 10/22/2019 - Senate Ways and Means, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-47>
- HB54** **LGF TAX REVENUE INCREASE** (CERA J, ROGERS J) To increase the proportion of state tax revenue allocated to the Local Government Fund from 1.66% to 3.53% beginning July 1, 2019.
Current Status: 2/12/2019 - Referred to Committee House Ways and Means
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-54>
- HB56** **MINE SAFETY EXCISE TAX** (CERA J) To allocate 3.75% of kilowatt-hour excise tax revenue for mine reclamation, mine drainage abatement, and mine safety.
Current Status: 2/26/2019 - House Energy and Natural Resources, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-56>
- HB57** **HEATING SOURCES TAX EXEMPTION** (PATTERSON J, CERA J) To exempt certain heating sources from sales taxation and to hold local governments and libraries harmless from the revenue effect.
Current Status: 2/4/2020 - House Ways and Means, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-57>

- HB60** **DIAPER SALES TAX EXEMPTION** (ANTANI N, KELLY B) To exempt from sales and use tax the sale of child and adult diapers.
Current Status: 3/19/2019 - House Ways and Means, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-60>
- HB62** **TRANSPORTATION BUDGET** (OELSLAGER S) To increase the rate of and modify the distribution of revenue from motor fuel excise taxes, to make appropriations for programs related to transportation and public safety for the biennium beginning July 1, 2019, and ending June 30, 2021, and to provide authorization and conditions for the operation of those programs.
Current Status: 4/3/2019 - **SIGNED BY GOVERNOR**; Various effective dates; taxes eff. 7/1/19
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-62>
- HB75** **PROPERTY VALUE CONTESTS** (MERRIN D) To require local governments that contest property values to formally pass an authorizing resolution for each contest and to notify property owners.
Current Status: 9/22/2020 - Senate Local Government, Public Safety and Veterans Affairs, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-75>
- HB92** **VOTE ON COUNTY SALES TAX** (ANTANI N, SMITH J) To require voter approval of any increase in the rate of a county sales tax.
Current Status: 3/13/2019 - House State and Local Government, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-92>
- HB109** **SAP EXTRACTION TAX BREAK** (PATTERSON J, LATOURETTE S) To authorize a property tax exemption for land used for commercial maple sap extraction.
Current Status: 1/28/2020 - House Ways and Means, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-109>
- HB112** **TAX REMITTANCE-BAD DEBTS** (SCHAFFER T) To allow vendors to receive a refund of sales tax remitted for certain bad debts charged off as uncollectible by credit account lenders.
Current Status: 5/14/2019 - House Financial Institutions, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-112>
- HB121** **TAX CREDIT-CLASSROOM MATERIALS** (SCHAFFER T) To allow a credit against the personal income tax for amounts spent by teachers for instructional materials.
Current Status: 3/19/2019 - House Primary and Secondary Education, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-121>

- HB134** **MARCH SALES TAX HOLIDAY** (ANTANI N, WEINSTEIN C) To provide a three-day sales tax "holiday" each March during which sales of qualifying Energy Star products are exempt from sales and use taxes.
Current Status: 10/29/2019 - House Ways and Means, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-134>
- HB135** **SALES TAX HOLIDAY EXPANSION** (ANTANI N) To expand the class of products exempt from sales tax if bought during a sales tax holiday.
Current Status: 11/5/2019 - House Ways and Means, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-135>
- HB162** **MOTION PICTURE TAX CREDIT** (PATTON T) To increase the overall cap on the motion picture tax credit from \$40 million per fiscal year to \$100 million per fiscal biennium.
Current Status: 3/26/2019 - Referred to Committee House Finance
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-162>
- HB166** **OPERATING BUDGET** (OELSLAGER S) To make operating appropriations for the biennium beginning July 1, 2019, and ending June 30, 2021, and to provide authorization and conditions for the operation of state programs.
Current Status: 7/18/2019 - **SIGNED BY GOVERNOR**; Operating appropriations and tax levy generally effective 7/18/19. Some provisions subject to special effective dates.
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-166>
- HB175** **TAX EXEMPTION-GOODS MOVEMENT** (ANTANI N) To exempt from sales and use tax things used primarily to move completed manufactured products or general merchandise.
Current Status: 10/22/2019 - House Ways and Means, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-175>
- HB183** **TAX CREDIT-BEGINNING FARMERS** (MANCHESTER S, PATTERSON J) To allow income tax credits for beginning farmers who participate in a financial management program and for businesses that sell or rent agricultural land, livestock, facilities, or equipment to beginning farmers.
Current Status: 11/19/2019 - **REPORTED OUT AS AMENDED**, House Agriculture and Rural Development, (Fifth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-183>
- HB187** **TAX ISSUES-AUGUST** (MERRIN D, WIGGAM S) To prohibit local tax-related proposals from appearing on an August special election ballot.
Current Status: 4/10/2019 - Referred to Committee House State and Local Government
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-187>

- HB197** **OMNIBUS MEASURES ON CORONAVIRUS** (POWELL J, MERRIN D) To continue essential operations of state government and maintain the continuity of the state tax code in response to the declared pandemic and global health emergency related to COVID-19, to make appropriations, and to declare an emergency.
Current Status: 3/27/2020 - **SIGNED BY GOVERNOR**; Emergency: effective 3/27/20
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-197>
- HB222** **CDL TRAINING TAX CREDIT** (STOLTZFUS R, HOWSE S) To authorize an income tax credit for an employer's expenses to train a commercial vehicle operator.
Current Status: 6/9/2020 - Senate Ways and Means, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-222>
- HB245** **PROPERTY TAX EXEMPTION TIMELINES** (SMITH J) To remove the current deadlines by which an owner or lessee of a qualified energy project must apply for a property tax exemption.
Current Status: 5/21/2019 - Referred to Committee House Energy and Natural Resources
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-245>
- HB382** **PROHIBIT INCOME TAX-MUNICIPAL NONRESIDENTS** (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: 11/6/2019 - Referred to Committee House Ways and Means
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-382>
- HB410** **SALES TAX EXEMPTION - COLLEGE TEXTBOOKS** (SWEENEY B, ANTANI N) To exempt from sales and use tax textbooks purchased by post-secondary students.
Current Status: 12/10/2019 - House Ways and Means, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-410>
- HB440** **SALES TAX EXEMPTIONS-MANUFACTURING** (MIRANDA J, CARRUTHERS S) To authorize sales tax exemptions for property and services used to clean or maintain manufacturing machinery and for employment services used to operate manufacturing machinery.
Current Status: 1/28/2020 - House Ways and Means, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-440>
- HB467** **PASS-THROUGH ENTITY TAX REDUCTION** (SCHERER G) To reduce the pass-through entity withholding tax rate to four percent.
Current Status: 11/10/2020 - House Ways and Means, (Fifth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-467>

- HB479** **BASEBALL STADIUMS - PROTECTIVE NETTING** (PATTERSON J, PERALES R) To require certain baseball stadiums to install protective netting.
Current Status: 1/28/2020 - Referred to Committee House State and Local Government
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-479>
- HB490** **ELECTRIC/ HYBRID VEHICLE REGISTRATION FEES** (GREENSPAN D, SHEEHY M) To provide for the proration of the plug-in electric and hybrid motor vehicle registration fees.
Current Status: 2/11/2020 - Referred to Committee House Finance
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-490>
- HB507** **DELINQUENT TAX LIEN PAYMENTS** (MANNING D) To prohibit enforcement of delinquent property tax liens against owner-occupied homesteads and to require that any delinquent tax be paid before the title to a homestead may be transferred.
Current Status: 2/19/2020 - Referred to Committee House Ways and Means
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-507>
- HB523** **STEM DEGREE LOAN REPAYMENT PROGRAM** (PATTERSON J, CARFAGNA R) to establish theSTEM Degree Loan Repayment Program, to authorize a refundable tax creditfor employers who make payments on student loans obtained by a graduate toearn a STEM degree, and to make an appropriation.
Current Status: 2/21/2020 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-523>
- HB565** **EXTEND INCOME TAX FILING DEADLINE** (ROGERS J, CROSSMAN J) To extend the filing and payment dates for state, municipal, and school district income taxes by the same period as any federal income tax extension granted in response to the COVID-19 disease outbreak and to declare an emergency.
Current Status: 5/5/2020 - Referred to Committee House Ways and Means
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-565>
- HB567** **PARTIALLY REFUNDABLE INCOME TAX CREDIT** (ROGERS J, CROSSMAN J) To temporarily authorize a partially refundable earned income tax credit and to declare an emergency.
Current Status: 5/5/2020 - Referred to Committee House Finance
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-567>
- HB582** **MAKE APPROPRIATIONS, REAPPROPRIATIONS** (CALLENDER J) To make appropriations for the biennium ending June 30, 2021, and capital reappropriations for the biennium ending June 30, 2022.
Current Status: 5/5/2020 - Referred to Committee House Finance
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-582>

- HB591** **SUSPEND EMPLOYER MUNICIPAL INCOME TAX** (ROGERS J) To suspend some employer municipal income tax withholding requirements during the COVID-19 state of emergency and to declare an emergency.
Current Status: 5/5/2020 - Referred to Committee House Ways and Means
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-591>
- HB614** **UNEMPLOYMENT COMPENSATION, COVID RELIEF** (FRAIZER M, RICHARDSON T) To create the Unemployment Compensation Modernization and Improvement Council, to revise the claims process and duties related to that process, to require the Auditor of State to examine and make recommendations on the efficiency of the process, to require the Director of Job and Family Services to create a strategic staffing plan for employees who handle inquiries and claims for unemployment benefits, to require the Chancellor of Higher Education to create a template for workforce-education partnership programs, to provide for the distribution of some federal coronavirus relief funding to local subdivisions, to extend the renewal deadline for concealed handgun licenses for ninety days or until June 30, 2021, whichever is later, to allow licensees to apply for or renew licenses with any county sheriff until that date, to authorize the conveyance of certain state-owned land, to provide funding for community projects, to make appropriations, and to declare an emergency.
Current Status: 10/1/2020 - **SIGNED BY GOVERNOR**; eff. 10/1/20.
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-614>
- HB754** **REMOTE WORK TAX RULES** (JORDAN K) To modify municipal income tax employer withholding rules for COVID-19-related work-from-home employees.
Current Status: 8/31/2020 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-754>
- SB1** **REDUCE REGULATORY RESTRICTIONS** (MCCOLLEY R, ROEGNER K) To require certain agencies to reduce the number of regulatory restrictions and to continue the provision of this act on and after August 18, 2019.
Current Status: 6/4/2020 - House Appoints Managers; S. Wiggam, B. Seitz & B. Kelly Named as House Conferees
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-1>
- SB8** **TAX CREDITS-OHIO OPPORTUNITY ZONE** (SCHURING K) To authorize tax credits for investments in an Ohio Opportunity Zone.
Current Status: 5/8/2019 - House Economic and Workforce Development, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-8>
- SB37** **MOTION PICTURE TAX CREDIT** (SCHURING K) To extend eligibility for and make other changes to the motion picture tax credit.
Current Status: 6/30/2019 - Referred to Committee House Finance

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-37>

SB39 **MIXED USE DEVELOPMENT PROJECTS-TAX CREDIT** (SCHURING K) To authorize an insurance premiums tax credit for capital contributions to transformational mixed use development projects.

Current Status: 2/12/2020 - **BILL AMENDED**, House Economic and Workforce Development, (Seventh Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-39>

SB95 **STATE AND LOCAL TAX INDUCEMENTS** (KUNZE S, PETERSON B) To enhance state and local tax inducements for businesses making substantial fixed asset and employment investments and their suppliers.

Current Status: 5/19/2020 - House Ways and Means, (Third Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-95>

SB109 **WORKFORCE SCHOLARSHIP PROGRAM** (SCHURING K) To establish the Workforce Scholarship Program, to terminate the provisions of the Scholarship Program on December 31, 2023, to authorize tax credits for graduates of the Scholarship Program and their employers, and to make an appropriation.

Current Status: 10/8/2019 - Senate Finance, (Second Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-109>

SB125 **TAX DEDUCTION-529 PLANS** (HOTTINGER J, BRENNER A) To expand the income tax deduction allowed for contributions to Ohio's 529 education savings plans to include contributions to 529 plans established by other states.

Current Status: 6/10/2020 - House Ways and Means, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-125>

SB132 **GAS TAX-LOCAL GOVERNMENT ALLOCATION** (WILLIAMS S) To modify the amount of revenue derived from any increase in the motor fuel tax rate that is allocated to local governments and to change the manner in which that revenue is divided between municipal corporations, counties, and townships.

Current Status: 5/1/2019 - Referred to Committee Senate Transportation, Commerce and Workforce

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-132>

SB153 **JOB RETENTION TAX CREDIT-ALTERNATIVE REQUIREMENTS** (DOLAN M) To permit manufacturers to meet alternative minimum employment and investment requirements to qualify for the Job Retention Tax Credit.

Current Status: 6/4/2019 - Senate Ways and Means, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-153>

SB268 **CAPITAL APPROPRIATION** (SYKES V) To modify the purpose of a capital appropriation.

Current Status: 2/25/2020 - Senate Finance, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-268>

SB307 SALES TAX EXEMPTION-PPE (GAVARONE T) To authorize a temporary sales and use tax exemption for personal protective equipment and to declare an emergency.

Current Status: 6/9/2020 - Senate Ways and Means, (Second Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-307>

SB310 FEDERAL COVID FUNDING (DOLAN M) To provide for the distribution of some federal coronavirus relief funding to local subdivisions, to make an appropriation, and to declare an emergency.

Current Status: 6/10/2020 - Consideration of House Amendments; Senate Does Not Concur, Vote on Emergency Clause 10-22

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-310>

SB316 CAPITAL REAPPROPRIATIONS (DOLAN M) To make capital reappropriations for the biennium ending June 30, 2022, and to declare an emergency.

Current Status: 6/3/2020 - **REPORTED OUT**, Senate Finance, (Second Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-316>

SB352 MUNICIPAL INCOME TAX WITHHOLDING (ROEGNER K) To modify municipal income tax employer withholding rules for COVID-19-related work-from-home employees.

Current Status: 9/22/2020 - Senate Local Government, Public Safety and Veterans Affairs, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-352>

SJR3 REQUIRE SUPERMAJORITY-INCOME TAX INCREASE (BURKE D) Proposing to enact Section 7 of Article XII of the Constitution of the State of Ohio to require that any increase in income tax rates be approved by a supermajority of the membership of each house of the General Assembly.

Current Status: 6/9/2020 - **REPORTED OUT**, Senate Ways and Means, (Sixth Hearing)

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