



OMA Government Affairs Committee

November 29, 2018

AGENDA

Welcome & Introductions

Chris Hess, Director of Public Affairs, Eaton
Committee Chair

Passing of the Gavel

Scott Corbitt, Region Vice President
Anheuser-Busch Companies

Staff Reports

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

OMA Counsel's Report

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

Special Guest

Lt. Governor-Elect Jon Husted
Current Ohio Secretary of State

Discussion Agenda

- Post-Election analysis
- Outlook for public policy 2019 and beyond
- Energy policy & costs for manufacturers
- Food & beverage labeling
- OMA workforce opportunities for engagement
- Ballot reform

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

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

Our thanks to today's meeting sponsor:



Jon Husted

Meet Ohio's Next Lt. Governor



Jon Husted currently serves as Ohio's Secretary of State and is a conservative Republican candidate for Lieutenant Governor of Ohio.

He describes himself as a Christian, an American, a Conservative, and a Republican – in that order.

Elected Secretary of State in 2010, Jon was re-elected in 2014 by a margin of 24 points and won 86 of Ohio's 88 counties.

Prior to beginning in public service, Jon worked with the Dayton-Area Chamber of Commerce and served as its Vice President for Economic Development. He was later elected to the Ohio House of Representatives where his Republican colleagues twice selected him to serve as Speaker of the House.

The oldest of three children, Jon was raised in Northwest Ohio's Williams County. He graduated from Montpelier High School and earned both his Bachelor's and Master's Degrees from the University of Dayton (UD). While at UD, Jon was an All-American Defensive Back for the Dayton Flyers and a member of the 1989 Division III National Championship Football Team.

Jon was named the 2017 Americans for Prosperity Torchbearer for his proven fiscal conservatism after announcing he would run the Secretary of State's Office without using taxpayer dollars for the remainder of his term. He was named one of the nation's top-ten rising stars in 2013 by the Washington Post's blog, The Fix. He has been honored by the National Association of the United States Army and Military Voter Protection Project for making it easier for active duty military members to cast their ballots. He is also a past recipient of the "Watchdog of the Treasury" award by the American Conservative Union and was named "Guardian of Small Business" by the National Federation of Independent Businesses.

Of all his responsibilities, Jon considers his most important role as that of husband to his wife Tina and father to Alex, Katie and Kylie.

Jon Husted

Meet Ohio's Next Lt. Governor

JON HUSTED

Cutting bureaucracy – Creating a leaner, more efficient government

As Secretary of State, Jon has employed nearly 40 percent fewer government staff than his predecessor and has reduced his office's spending by 16 percent – even as overall state spending increased by 17 percent. In his first term alone, he cut his budget by \$14.5 million. This allowed him to cut the cost of starting and maintaining a new business in Ohio by 21 percent and, most recently, announce he has eliminated his office's need for taxpayer dollars entirely for the remainder of his term.

As House Speaker, Jon led the passage of the most conservative state budget in 40 years, which included at the time, the largest income tax cut in Ohio's history.

JON HUSTED

A lifelong pro-life leader

Jon has been a steadfast pro-life leader. Having been adopted as a child, his own story inspired his unwavering support for the unborn. He has consistently backed the work of Ohio Right to Life and earned their endorsement during every race. As House Speaker, he also championed initiatives to encourage adoption in Ohio by pairing children with healthy families.

JON HUSTED

Supporting our 2nd Amendment rights

Jon Husted is the only Ohio statewide elected official to have ever earned an A+ rating from the National Rifle Association (NRA). As House Speaker, he spearheaded the passage of comprehensive reform to Ohio's concealed carry laws in order to protect law-abiding gun owners and put criminals on notice that their victims may not be defenseless. After the bill was vetoed, Jon stood up to the governor – of his own party – and courageously led the House's vote to override the veto. No gubernatorial veto has been overridden since.

JON HUSTED

Fighting Voter Fraud

As Secretary of State, Jon Husted has led the charge against elections fraud, removing the registrations of over 600,000 deceased voters and 1.7 million voters who were registered to vote at more than one address. He is the only Secretary of State to perform a voter fraud review after every election to hold cheaters accountable and he launched a system to keep non-citizens from voting in the state.

Under his leadership, Ohio also made it easier for service members and military families to cast their ballots – even earning Ohio All-Star State status from the Military Voter Protection Project.

Public Policy “Hot Topics” November 29, 2018

Overview

Policy activity took a back seat to campaign and election activity since July. Following the election, the post-election or “lame duck” session has been underway and will conclude by mid-December.

Ohio’s eight-year chapter of the John Kasich years is concluding and the Mike DeWine – Jon Husted era is beginning. A nasty undercurrent in the Republican caucus of the House of Representatives continues to linger and carries some uncertainty.

Post-Election

Transition committee activity is underway among statewide executives most notably Governor-Elect Mike DeWine. The OMA is providing input. Inaugural activity is also underway with plenty of opportunities for manufacturing sponsorship. Governor-Elect DeWine will publicly be sworn in on Monday January 14. See enclosed post-election report as well as counsel’s report. Other down ticket officeholders will also hold swearing-in events and celebrations in January. Contact OMA staff to learn more.

General Assembly

House and Senate Republicans retained majority control of their chambers but Democrats did unseat some Republicans. Issues addressed in lame duck are less significant than if Democrats had captured the Governor’s Mansion. All eyes are focused on House Republican leadership elections. Speaker Ryan Smith has a solid majority of the caucus behind him. See enclosed Columbus Dispatch article describing the race.

Gubernatorial Election Aftermath

2018 may be a presidential mid-term, but for Ohio, a major new chapter now lies ahead following the November General Election. Republican Attorney General Mike DeWine and his running mate Secretary of State Jon Husted defeated Democrat standard bearer Richard Cordray and running mate Betty Sutton for the privilege of serving as Ohio’s next governor and lieutenant governor. The OMA PAC over the summer announced its endorsement of Mike DeWine. OMA staff has been in regular communication with Mike DeWine and Jon Husted as well as their campaign and now transition staff. OMA is looking forward to working with the DeWine/Husted team as the transition committee continues its work. In the coming sixty days, we will see changes at the top of all Ohio cabinet agencies as DeWine-Husted make their appointments. Administrative agencies such as the PUCO and BWC have great ability to impact business costs and burdens.

Issue One

Voters soundly struck down a constitutional amendment to revise criminal sentencing laws. Financed by out of state interests, the amendment would have relaxed corrections policies for the state. The OMA joined a chorus of others in opposing the misguided amendment. Aside from the merits, utilizing the Constitution to override Ohio’s “tough on crime” statutes is problematic. The Constitution is Ohio’s supreme governing document and was never envisioned for tactical law changes. 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. What next? Expect a proposal to reform the ballot process to make it harder to amend the Constitution.

Workforce Development

This November, the OMA hosted nearly 500 members, manufacturers and their workforce suppliers, including government, education and training, and economic development professions to work on improving the talent pipeline for Ohio's leading industry: manufacturing. A third summit is being planned for fall of 2019 to continue to build on the workforce successes over the past several years. Make sure your company is plugged in.

The OMA is supporting an industry sector partnership model on a regional basis. Your company is invited to opt-in to next steps and participate in 2019 activity. Please contact the OMA staff to get your local facilities to engage in this regional effort to develop a modern manufacturing workforce.

Federal Government Intervenes in Electric Generation Marketplace

Early summer media reports describe Trump Administration action to order customers to subsidize uneconomic nuclear and certain coal plants under the guise of national security. More recently in September reports that the Administration has abandoned the unprecedented effort due to legal complications. Federal subsidy activity impacts state subsidy activity. See energy section.

State Government Continues to Consider FirstEnergy

While state regulators over the past few years have opened the door to billion-dollar subsidies for Ohio's utilities, the utilities were not satisfied and have been lobbying for legislation to force customers to pay even more. In large part due to OMA-led opposition, legislation has stalled, but support continues especially in communities where former FirstEnergy power plants are located.

Protect Competitive Electric Markets

The OMA has been a proponent of markets, supporting the original deregulation legislation. Several noteworthy studies have demonstrated how the market delivers lower prices, choice and innovation while increasing grid reliability. But, customers have been denied the low cost benefits of competition due to proliferating above-market charges approved by state regulators. The OMA is supporting a legislative reform package to empower market forces to set power costs in Ohio. See Energy Section to learn more about HB 247.

Environment

Ohio EPA failed to gain traction in the General Assembly with their legislation that would have mandated a statewide monthly average phosphorus limit for all Ohio treatment works, including manufacturing direct dischargers and defining fertilizer as a pollutant. Instead the General Assembly passed a Lake Erie spending bill during the waning days of session prior to the summer recess. Over the summer the Governor issued an Executive Order requiring state agencies to act on the Lake Erie algal blooms. These efforts have been stalled by stakeholders and the General Assembly has created another taskforce to more closely examine the situation. Earlier this fall a frustrated Governor Kasich fired Department of Agriculture Director Dave Daniels over difference on how to execute the Executive Order.

Unemployment Compensation

The legislature failed to pass an unemployment solvency package in the waning days of the 131st General Assembly and it appears they will once again fail to advance a comprehensive package in the waning days of the 132nd General Assembly. The business community continues to advocate for a comprehensive solution to adequately fund the trust fund.

Representative Schuring introduced House Bill 382, which is a standalone effort not backed or supported by any of the interested parties. Rep. Schuring designed the bill to be a starting point of new negotiations. The bill has had 20 hearings in committee. Minimal testimony has been offered and the business community cannot support the Schuring effort. The Senate recently announced they would attempt to provide a solution, but nothing has been formally introduced to date.

State Budget & Tax Policy

The Ohio Department of Taxation is expected to release an update to the manufacturing sales and use tax exemption later this fall. The OMA had a working group offer suggestions and edits last year to the Department. The OMA Tax and Finance Committee has been working to draft legislation that would benefit manufacturers who invest in capital expenditures in Ohio.

Tort Reform

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

Right to Work

With the approval of right-to-work legislation in West Virginia following narrowly successful veto override, pressure would seem to be mounting on a similar proposal in the Buckeye State. Unions are running a quiet campaign to taint the term "right to work." No action, again.

Workers' Comp & Industrial Commission

BWC Administrator Sarah Morrison has been recommended for an open federal judge position. She recently had her formal Senate confirmation hearing but the OMA is not expecting her to leave prior to the end of 2018. BWC continues to push wellness programs specifically designed to assist medium and smaller companies achieve a healthy and safe workforce. But the largest news is the \$1.5 billion rebate handed out to state employers this summer and fall.

Miscellaneous Legislation of Interest to Manufacturers
Prepared by: The Ohio Manufacturers' Association
Report created on November 27, 2018

- HB5** **MICROBUSINESS STATUTORY DEFINITION** (PELANDA D, GAVARONE T) To create a statutory definition of "microbusiness."
Current Status: 3/15/2017 - Referred to Committee Senate Transportation, Commerce and Workforce
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-5>
- HB20** **COMPENSATORY DAMAGES CAP REMOVAL** (GONZALES A, BOGGS K) To remove the cap on the amount of compensatory damages that represents damages for noneconomic loss that is recoverable in a tort action when the tort action is brought by a victim of rape, felonious assault, aggravated assault, assault, or negligent assault.
Current Status: 11/14/2018 - House Government Accountability and Oversight, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-20>
- HB23** **ALCOHOLIC ICE CREAM SALE** (PATTERSON J, BOGGS K) To allow A-4 liquor permit holders to manufacture and sell ice cream containing between one-half of one per cent and six per cent of alcohol by volume.
Current Status: 5/17/2017 - House Government Accountability and Oversight, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-23>
- HB26** **TRANSPORTATION-PUBLIC SAFETY BUDGET** (MCCOLLEY R) To make appropriations for programs related to transportation and public safety for the biennium beginning July 1, 2017, and ending June 30, 2019, and to provide authorization and conditions for the operation of those programs.
Current Status: 3/31/2017 - **SIGNED BY GOVERNOR**; Some provisions line-item vetoed, eff. 6/30/2017
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-26>
- HB42** **VEHICLE TIRE SAFETY** (SPRAGUE R, DEVITIS A) To prohibit the installation of unsafe used tires on certain motor vehicles.
Current Status: 5/9/2017 - **REPORTED OUT AS AMENDED**, House Economic Development, Commerce and Labor, (Fifth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-42>
- HB51** **DEPARTMENT REVIEW SCHEDULE** (FABER K) To require standing committees of the General Assembly to establish a schedule for the periodic review and sunset of state departments that are currently in the Governor's cabinet, and to require that Auditor of State performance audits be scheduled to coincide with the periodic review.
Current Status: 5/16/2017 - **REPORTED OUT AS AMENDED**, House State and Local Government, (Fourth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-51>

- HB53 PUBLIC EMPLOYEES-MEMBER DUES (BECKER J)** To remove any requirement under the Public Employees Collective Bargaining Law that public employees join or pay dues to any employee organization, to prohibit public employers from requiring public employees to join or pay dues to any employee organization, to prohibit an employee organization from being required to represent public employees who are not members of the employee organization, and to make an appropriation.
Current Status: 11/13/2018 - House Finance, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-53>
- HB57 DOMESTIC STEEL REQUIREMENTS (BOCCIERI J, RAMOS D)** To require the use of domestic steel in construction, repair, or improvement projects involving certain buildings used by public schools, state institutions of higher education, and specified private colleges.
Current Status: 3/21/2017 - House Economic Development, Commerce and Labor, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-57>
- HB127 BUILDING CODE REQUIREMENTS-WELDING (PERALES R, DEVER J)** To establish in the Ohio Building Code requirements pertaining to structural steel welding and bridge welding.
Current Status: 6/26/2018 - **SUBSTITUTE BILL ACCEPTED & REPORTED OUT**, House Economic Development, Commerce and Labor, (Fifth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-127>
- HB163 PREVAILING WAGE PUBLIC IMPROVEMENT PROJECTS (ROEGNER K, RIEDEL C)** 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: 9/19/2017 - House Economic Development, Commerce and Labor, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-163>
- HB206 COMMERCIAL AIRLINE AND AIR FREIGHT COMMISSION (BARNES, JR. J)** To create the Commercial Airline and Air Freight Commission.
Current Status: 9/13/2017 - House Transportation and Public Safety, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-206>
- HB226 FIREWORKS STUDY GROUP AND EXPANSION (SEITZ B, SWEENEY M)** To establish a fireworks study group to review and make recommendations regarding the Fireworks Law, to extend to July 1, 2020, the moratorium on issuing fireworks manufacturer and wholesaler licenses, to eliminate, beginning January 1, 2021, the moratorium on geographic transfer of fireworks manufacturer and wholesaler licenses, and, beginning July 1, 2020, to impose a fee on the retail sale of consumer grade fireworks in this state and to expand the ability of individuals to obtain 1.3G display fireworks and obtain and use 1.4G consumer fireworks.
Current Status: 5/9/2018 - Senate Government Oversight and Reform, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-226>

- HB245** **CONSUMER PROTECTION CALL CENTER ACT** (BOCCIERI J, LEPORE-HAGAN M) To enact the Consumer Protection Call Center Act of 2017 to require the Department of Job and Family Services to compile a list of all employers that relocate a call center to a foreign country and to disqualify employers on that list from state grants, loans, and other benefits.
Current Status: 9/19/2017 - House Economic Development, Commerce and Labor, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-245>
- HB256** **COMMERCIAL SERVICE AIR HUBS** (BUTLER, JR. J, ZELTWANGER P) To create the Major Air Hub Council, to require the Council to construct two commercial service airports, one in Fayette County and one in Portage County, and to create the Southern Ohio Airport Authority and the Northern Ohio Airport Authority to operate the airports.
Current Status: 2/28/2018 - House Transportation and Public Safety, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-256>
- HB262** **INDEPENDENT BUDGET PROCESS** (BUTLER, JR. J, ROMANCHUK M) To provide for the preparation of a state biennial budget independent of that submitted by the Governor and to authorize the Legislative Service Commission, upon the request of the Speaker of the House of Representatives or the President of the Senate, to arrange for an independent actuarial review of a proposed bill, specified analyses of economic policy initiatives and state benchmarking data, and a study of the state's long-range financial outlook.
Current Status: 6/20/2017 - Referred to Committee House Government Accountability and Oversight
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-262>
- HB301** **COURT SETTLEMENT RESTRICTIONS** (BUTLER, JR. J) To require the approval of the General Assembly for a state agency to agree to a consent decree or court-approved settlement agreement that would alter or prohibit the enforcement of a law of this state.
Current Status: 3/14/2018 - House Government Accountability and Oversight, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-301>
- HB323** **GARBAGE COLLECTION FEES** (PATTERSON J) To authorize all municipal corporations that charge a garbage collection fee to certify unpaid amounts to the county auditor, who must enter the fees on the property tax list to be collected in the same manner as real property taxes.
Current Status: 12/5/2017 - **REPORTED OUT**, House State and Local Government, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-323>
- HB415** **LOCAL GOV ROAD IMPROVEMENT** (GREENSPAN D, RYAN S) To allocate one-half of any surplus revenue to a new Local Government Road Improvement Fund, from which money will be distributed directly to local governments to fund road improvements.
Current Status: 3/21/2018 - Referred to Committee Senate Finance
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-415>

- HB497** **SEXUAL IMAGE DISSEMINATION** (ROGERS J, MANNING N) To prohibit the nonconsensual dissemination of private sexual images, to require that certain property involved in the offense be criminally forfeited, and to create certain legal rights and employment protections of a victim of the offense.
Current Status: 11/28/2018 - Senate Judiciary, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-497>
- HB509** **CRAFT BEER SALES-PRODUCTION** (HAMBLEY S, SWEENEY M) To create the F-11 liquor permit to authorize the sale of beer under specified circumstances at a farmers market and to authorize the Department of Agriculture to promote the use of Ohio-produced agricultural goods grown for inclusion in beer or cider through a promotional program.
Current Status: 2/20/2018 - Referred to Committee House Government Accountability and Oversight
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-509>
- HB519** **COUNCIL ON TRANSPORTATION TECHNOLOGY** (WEST T, KICK D) To create the Ohio Council on Transportation Technology to make recommendations regarding state policies related to autonomous technology.
Current Status: 2/27/2018 - Referred to Committee House Transportation and Public Safety
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-519>
- HB560** **ANIMAL REMAINS-PET FOOD** (LANESE L) To prohibit pet food from containing remains from an animal that was euthanized by the use of any drug injected intravenously or through another nonvascular route or remains from any dog or cat.
Current Status: 6/27/2018 - House Agriculture and Rural Development, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-560>
- HB576** **MINIMUM WAGE INCREASE** (KELLY B) To increase the state minimum wage.
Current Status: 11/28/2018 - House Government Accountability and Oversight, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-576>
- HB600** **OHIO GLOBAL INITIATIVE** (BARNES, JR. J) To establish the "Access to Global Market Opportunities for Ohio Manufactured Products Program" to be composed of the "Ohio Global Leadership Initiative" and the "Global Initiative on International Relations" to create new, untapped global markets for Ohio businesses and thereby promote job creation, and to make an appropriation.
Current Status: 6/26/2018 - **SUBSTITUTE BILL ACCEPTED**, House Economic Development, Commerce and Labor, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-600>
- HB620** **REGULATION REDUCTION** (ROEGNER K, RIEDEL C) To require agencies to reduce the number of regulatory restrictions.

Current Status: 5/15/2018 - Referred to Committee House Government Accountability and Oversight

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-620>

HB629 **GENERAL ASSEMBLY GIFTS & TRAVEL REIMBURSEMENT** (ANTANI N) To modify the law governing gifts and travel reimbursements to members of the General Assembly and to prohibit the use of campaign contributions for travel outside the United States.

Current Status: 5/15/2018 - Referred to Committee House Government Accountability and Oversight

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-629>

HB631 **AMUSEMENT RIDE SAFETY** (HUGHES J, PATTERSON J) To revise the laws governing amusement ride operation and safety, to designate this act as "Tyler's Law," and to declare an emergency.

Current Status: 6/27/2018 - House Agriculture and Rural Development, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-631>

HB632 **VEHICLE PRODUCT PROTECTION CONTRACTS** (LANG G) Regarding motor vehicle ancillary product protection contracts and motor vehicle service contracts.

Current Status: 11/28/2018 - House Transportation and Public Safety, (Second Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-632>

HB673 **LEAD PAINT ABATEMENT-MANUFACTURERS** (BARNES, JR. J) To require the Director of Health to develop a program in partnership with paint manufacturers and retailers to provide low-cost paint for use in lead abatement and to establish a registry of residential units where lead poisoning has occurred.

Current Status: 6/5/2018 - Referred to Committee House Health

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-673>

HB694 **PERIOD OF LIMITATION-CONTRACT** (LANG G) To shorten the period of limitations for actions upon a contract.

Current Status: 11/28/2018 - House Civil Justice, (Second Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-694>

HB695 **RURAL INDUSTRIAL PARK LOAN FUND** (THOMPSON A, EDWARDS J) To reinstate the rural industrial park loan fund and to make an appropriation.

Current Status: 6/26/2018 - House Finance, (Second Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-695>

HB696 **OFFICE OF GOVERNMENT AND MILITARY AFFAIRS** (PERALES R) To establish the Office of Government and Military Affairs, and to authorize the Office to make loans to defense or NASA communities and grants to defense or NASA communities, defense or NASA support organizations, and certain state institutions of higher education.

Current Status: 11/14/2018 - House Armed Services, Veterans Affairs and Homeland Security, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-696>

HB699 **AUTOMATED COMMERCIAL VEHICLES** (LEPORE-HAGAN M, HUGHES J) To specify the requirements for operating an automated commercial motor vehicle in the state.

Current Status: 6/5/2018 - Referred to Committee House Transportation and Public Safety

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-699>

HB704 **UNEMPLOYMENT BENEFITS-DRUG TESTS** (SCHAFFER T) To require applicants for unemployment benefits to submit to a drug test under certain circumstances, to require the Director of Job and Family Services to operate an Ohio Works First drug testing pilot program, and to make an appropriation.

Current Status: 6/13/2018 - Introduced

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-704>

HB746 **EV INFRASTRUCTURE STUDY** (SMITH K) To establish the Electric Vehicle Infrastructure Study Committee.

Current Status: 11/13/2018 - Referred to Committee House Transportation and Public Safety

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-746>

HB747 **CYBER SECURITY RESERVE** (ROMANCHUK M, LANESE L) To create the civilian cyber security reserve forces.

Current Status: 11/27/2018 - House Armed Services, Veterans Affairs and Homeland Security, (Second Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-747>

HJR6 **TERM LIMIT AMENDMENTS** (SWEENEY M) To impose term limits prohibiting a person from holding office longer than eight years in the Ohio Senate, eight years in the Ohio House of Representatives, and more than sixteen years in total in the General Assembly.

Current Status: 1/16/2018 - Referred to Committee House Government Accountability and Oversight

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HJR-6>

HJR7 **PUBLIC SECTOR UNION PROHIBITIONS** (BECKER J, RIEDEL C) Proposing to enact Section 22 of Article I of the Constitution of the State of Ohio to prohibit laws, rules, and agreements that require employees of public sector employers to join or pay dues to an employee organization and to prohibit employee organizations from representing nonmember public sector employees in employment-related matters.

Current Status: 1/16/2018 - Referred to Committee House Government Accountability and Oversight

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HJR-7>

- HJR8 PRIVATE SECTOR UNION PROHIBITIONS** (BECKER J, RIEDEL C) Proposing to enact Section 22 of Article I of the Constitution of the State of Ohio to prohibit laws, rules, and agreements that require employees of private sector employers to join or pay dues to an employee organization and to prohibit employee organizations from representing nonmember private sector employees in employment-related matters.
- Current Status:** 1/16/2018 - Referred to Committee House Government Accountability and Oversight
- State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HJR-8>
- HJR9 PUBLIC CONTRACTOR WAGE PROHIBITIONS** (BECKER J, RIEDEL C) Proposing to enact Section 43 of Article II of the Constitution of the State of Ohio to prohibit a public authority from requiring a contractor on a public improvement to pay the contractor's workers the prevailing rate of wages for work performed on the public improvement.
- Current Status:** 1/16/2018 - Referred to Committee House Government Accountability and Oversight
- State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HJR-9>
- HJR10 GOVERNMENT CONTRACTS-REQUIREMENT PROHIBITIONS** (BECKER J, RIEDEL C) Proposing to enact Section 2 of Article XV of the Constitution of the State of Ohio to prohibit certain requirements or prohibitions regarding labor agreements in government contracts.
- Current Status:** 1/16/2018 - Referred to Committee House Government Accountability and Oversight
- State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HJR-10>
- HJR11 COLLECTIVE BARGAINING REPRESENTATIVE ELECTIONS** (BECKER J, RIEDEL C) Proposing to enact Section 12 of Article XV of the Constitution of the State of Ohio to subject any public employee collective bargaining representative to an annual election to remain certified as the exclusive representative.
- Current Status:** 1/16/2018 - Referred to Committee House Government Accountability and Oversight
- State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HJR-11>
- HJR12 PAYROLL DEDUCTIONS-LABOR DUES** (BECKER J, RIEDEL C) Proposing to enact Section 12 of Article XV of the Constitution of the State of Ohio to prohibit dues and other fees payable to an employee organization from being deducted from the payroll check of a public employee and to prohibit those dues and fees from being used for political purposes unless authorized by the public employee.
- Current Status:** 1/16/2018 - Referred to Committee House Government Accountability and Oversight
- State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HJR-12>
- HR74 ABOLISH CORPORATE PERSONHOOD** (SMITH K, ANTONIO N) To call on legislators at the state and federal level and other communities and jurisdictions to support an amendment to the United States Constitution that would abolish corporate personhood and the doctrine of money as speech.
- Current Status:** 2/13/2018 - House Federalism and Interstate Relations, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HR-74>

- HR355** **SUPPORT CLEAN CAR STANDARDS** (LELAND D) To express support for strong Corporate Average Fuel Economy standards and clean car standards that promote job creation, are beneficial in keeping Ohio as an industry leader in manufacturing automobiles and automotive parts, and protect the environment for the future.
Current Status: 2/21/2018 - House Transportation and Public Safety, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HR-355>
- SB6** **OHIO BRIDGE PARTNERSHIP PROGRAM** (HOAGLAND F) To extend the Ohio Bridge Partnership Program through the end of fiscal year 2019 and to require the Director of Transportation to submit a report to the Governor, Senate, and House of Representatives recommending ways to continue to fund the program.
Current Status: 12/13/2017 - Bills for Third Consideration
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-6>
- SB30** **VEHICLE RESOLUTIONS BY COUNTIES** (EKLUND J) To authorize counties to adopt resolutions regulating motor vehicle traffic on county and township roads.
Current Status: 2/14/2017 - Senate Local Government, Public Safety and Veterans Affairs, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-30>
- SB43** **TOWNSHIP BUILDING CODES** (BACON K) To enable limited home rule townships to adopt building codes regardless of any similar codes adopted by the county in which the township resides.
Current Status: 6/27/2017 - **REPORTED OUT**, Senate Local Government, Public Safety and Veterans Affairs, (Fourth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-43>
- SB51** **LAKE ERIE IMPROVEMENT DISTRICT** (SKINDELL M, EKLUND J) To authorize the creation of a special improvement district to facilitate Lake Erie shoreline improvement.
Current Status: 11/27/2018 - House Finance, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-51>
- SB68** **UNSAFE USED TIRES PROHIBITION** (LAROSE F) To prohibit the installation of unsafe used tires on certain motor vehicles.
Current Status: 6/27/2017 - **REPORTED OUT**, Senate Local Government, Public Safety and Veterans Affairs, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-68>
- SB72** **PREVAILING WAGE LAW** (HUFFMAN M) 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: 11/27/2018 - Senate Finance, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-72>

- SB79** **STATE DEPARTMENTAL REVIEW SCHEDULE** (JORDAN K) To require standing committees of the General Assembly to establish a schedule for the periodic review and sunset of state departments that are currently in the Governor's cabinet, and to require that Auditor of State performance audits be scheduled to coincide with the periodic review.
Current Status: 4/10/2018 - House Government Accountability and Oversight, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-79>
- SB122** **CONCEALED CARRY-STATEHOUSE** (JORDAN K) To permit concealed handgun licensees to carry concealed handguns in the statehouse and on its grounds.
Current Status: 4/26/2017 - Referred to Committee Senate Judiciary
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-122>
- SB142** **CARRYING CONCEALED FIREARMS** (JORDAN K) To allow a concealed handgun licensee to carry concealed all firearms other than dangerous ordnance or firearms that state or federal law prohibits the person from possessing and to provide that a person 21 years of age or older and not prohibited by federal law from possessing or receiving a firearm does not need a concealed handgun license in order to carry or have a concealed firearm and is subject to the same laws regarding concealed firearm carrying as a concealed handgun licensee.
Current Status: 5/3/2017 - Referred to Committee Senate Judiciary
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-142>
- SB156** **CALL CENTER JOBS PROTECTION** (SCHIAVONI J, YUKO K) To enact the Consumer Protection Call Center Act of 2017 to require the Department of Job and Family Services to compile a list of all employers that relocate a call center to a foreign country and to disqualify employers on that list from state grants, loans, and other benefits.
Current Status: 5/24/2017 - Referred to Committee Senate Government Oversight and Reform
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-156>
- SB165** **BRINE SALE REQUIREMENTS** (DOLAN M, SKINDELL M) To establish conditions and requirements for the sale of brine from certain oil or gas operations as a commodity and to exempt such a commodity from requirements otherwise applicable to brine.
Current Status: 3/21/2018 - **BILL AMENDED**, Senate Energy and Natural Resources, (Fourth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-165>
- SB174** **WAGE PROTECTIONS-FAIR ACT** (TAVARES C) 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: 11/14/2018 - Senate Transportation, Commerce and Workforce, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-174>

- SB180** **FIREARM RELATED LAWS-CHANGES** (UECKER J, HOTTINGER J) To assign to the prosecution the burden of disproving a self-defense or related claim, to expand the locations at which a person has no duty to retreat before using force under both civil and criminal law, and to modify the Concealed Handgun Licensing Law regarding a licensee's duty to keep the licensee's hands in plain sight, the penalties for illegally carrying a concealed firearm or improperly handling firearms in a motor vehicle, and the posting of warning signs regarding the possession of weapons on specified premises.
Current Status: 4/10/2018 - Senate Judiciary, (Fourth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-180>
- SB181** **UNPAID MUNICIPAL GARBAGE FEES** (O'BRIEN S) To authorize all municipal corporations that charge a garbage collection fee to certify unpaid amounts to the county auditor, who must enter the fees on the property tax list to be collected in the same manner as real property taxes.
Current Status: 6/6/2018 - **REPORTED OUT**, Senate Ways and Means, (Fourth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-181>
- SB205** **BENEFIT CORPORATION FORMATION** (DOLAN M) To allow a corporation to become a benefit corporation.
Current Status: 11/27/2018 - Senate Judiciary, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-205>
- SB210** **AUXILIARY CONTAINER USAGE** (COLEY W, EKLUND J) To authorize a person to use an auxiliary container for any purpose, to prohibit a municipal corporation from imposing a tax or fee on auxiliary containers, and to clarify that the existing antilittering law applies to auxiliary containers.
Current Status: 6/5/2018 - Senate Health, Human Services and Medicaid, (Fourth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-210>
- SB213** **ECONOMIC DEVELOPMENT FUNDING PLAN** (SCHIAVONI J) To enhance economic and employment opportunities and improve local infrastructure in Ohio by providing additional assistance to workforce development and employment programs; establishing a revolving loan program for small businesses seeking to expand operations; extending job tax credits to smaller businesses; enabling expanded participation in public sector contracting by smaller companies; enhancing support for child care centers; funding additional local infrastructure and public transit; authorizing tax incentives for hiring military veterans, for donating money to local programs assisting distressed communities, or for improving distressed property; exempting the homes of disabled veterans from property taxation; terminating the income tax deduction and reduced tax rate for business income; and to make an appropriation.
Current Status: 6/19/2018 - Senate Finance, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-213>
- SB220** **SAFE HARBOR-CYBERSECURITY PROGRAMS** (HACKETT R, BACON K) To provide a legal safe harbor to covered entities that implement a specified cybersecurity program, to

allow transactions recorded by blockchain technology under the Uniform Electronic Transactions Act, and to alter the definition of "key employee" under the Casino Gaming Law.

Current Status: 8/3/2018 - **SIGNED BY GOVERNOR**; eff. 11/2/2018

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-220>

SB221 **RULE-MAKING AND REVIEW REFORM** (UECKER J) To reform agency rule-making and legislative review thereof.

Current Status: 11/14/2018 - Consideration of Governor's Veto; Vote 70-22, Veto Overridden by House

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-221>

SB223 **UNSAFE USED TIRES PROHIBITION** (LAROSE F) To prohibit the installation of unsafe used tires on certain motor vehicles.

Current Status: 11/15/2018 - **PASSED BY HOUSE**; Vote 74-15, Bill Amended on Floor

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-223>

SB251 **NONCONSENSUAL IMAGE DISSEMINATION PROHIBITION** (SCHIAVONI J) To prohibit the nonconsensual dissemination of private sexual images, to require that certain property involved in the offense be criminally forfeited, and to create certain legal rights and employment protections of a victim of the offense.

Current Status: 11/13/2018 - Senate Judiciary, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-251>

SB264 **MEDICAL MARIJUANA CONTROL AUDIT** (COLEY W) To require the Auditor of State to conduct and release a performance audit of the Medical Marijuana Control Program, to prohibit the Department of Commerce from issuing final cultivator, processor, or laboratory testing licenses until performance audit recommendations are implemented, and to declare an emergency.

Current Status: 4/17/2018 - Senate Health, Human Services and Medicaid, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-264>

SB269 **ROAD MAINTENANCE FUNDING** (YUKO K) To make supplemental appropriations in order to provide political subdivisions with funding for road maintenance repairs.

Current Status: 11/13/2018 - Senate Finance, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-269>

SB277 **STATE MINIMUM WAGE INCREASE** (THOMAS C, SCHIAVONI J) To increase the state minimum wage.

Current Status: 4/11/2018 - Referred to Committee Senate Local Government, Public Safety and Veterans Affairs

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-277>

- SB280** **STRICT LIABILITY OFFENSES-PUNITIVE DAMAGES** (EKLUND J) To expand the exemption from punitive or exemplary damages limitations in tort law that is provided with respect to an act resulting in a felony conviction involving purposeful or knowing conduct so that it also applies when the act results in a felony conviction for a strict liability offense.
Current Status: 11/14/2018 - Senate Judiciary, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-280>
- SB293** **REDUCTION OF AGENCY REGULATIONS** (PETERSON B, MCCOLLEY R) To require agencies to reduce the number of regulatory restrictions.
Current Status: 11/28/2018 - House Government Accountability and Oversight, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-293>
- SB335** **DISQUALIFICATION OF SUPREME COURT JUSTICE** (TAVARES C) To request the Supreme Court to adopt a rule regarding the disqualification of a Supreme Court justice.
Current Status: 11/14/2018 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-335>
- SJR3** **STATE CONGRESSIONAL REDISTRICTING** (LAROSE F) Proposing to amend the versions of Sections 1, 2, 3, 4, 6, 8, and 9 of Article XI that are scheduled to take effect January 1, 2021; to amend, for the purpose of adopting new section numbers as indicated in parentheses, the versions of Sections 1(2), 2(3), 3(5), 4(6), 5(7), 6(8), 7(9), 8(10), 9(11), and 10(12) of Article XI that are scheduled to take effect January 1, 2021; and to enact new Sections 1 and 4 of Article XI of the Constitution of the State of Ohio to revise the redistricting process for congressional districts.
Current Status: 3/7/2017 - Referred to Committee Senate Government Oversight and Reform
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SJR-3>
- SR59** **SOO LOCKS FEDERAL UPGRADE** (DOLAN M, LAROSE F) To encourage the President and the Congress of the United States and the United States Office of Management and Budget to support plans to upgrade the Soo Locks at Sault Ste. Marie, Michigan, and encourage the United States Army Corps of Engineers to take expeditious action in preparing an Economic Reevaluation Report.
Current Status: 9/27/2017 - **ADOPTED BY SENATE**; Vote 33-0
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SR-59>



POST-ELECTION REPORT UPDATE November 27, 2018

Unofficial voting results are in. Numbers will change somewhat as outstanding absentee ballots are tabulated. Ohioans have been voting since October 10 when early voting began. See highlighted results below. Join the OMA Government Affairs Committee for a teleconference this afternoon for initial impact and commentary and save the date for our in-person meeting on November 29, for a full recap with special guests.

EXECUTIVE SUMMARY

Strong Republican turnout allowed Republicans to retain majority control of all branches of Ohio government. While U.S. Senator Sherrod Brown easily was returned to Washington for a third term, Republicans comfortably held Governor and other important statewide offices. Republicans currently enjoy record large majorities in the General Assembly. Remarkably, it appears the Senate Republicans picked up a Democrat open seat around Youngstown. House Republicans lost a few seats in suburban districts (mostly in Franklin County) but maintained their solid majority. Republicans will again enjoy the advantage in the next round of redistricting in 2020. Democrats did win both contested Ohio Supreme Court seats leaving the Court with a 5-2 Republican majority. In spite of the hype, there were no upsets in the hotly contested Congressional races. All OMA-PAC endorsed executive and legislative candidates prevailed in their contests.

THE STAKES

- All Statewide Executives including Governor
- U.S. House – All 16 congressional districts
- Vice Presidential candidate possibility for 2020 – Sherrod Brown
- Executive Branch / Administrative Agencies
- Ohio General Assembly: 99 House seats / 17 Senate seats
- Ohio Supreme Court – 2 races
- State Issue 1: Constitutional Amendment reforming Ohio drug criminal sentencing laws

THE RESULTS

Visit [Ohio Secretary of State website](#) for a complete list of Ohio results

Statewide turnout: 54% registered voter turnout

Analysis: As forecasted Ohio voter turnout was exceptionally heavy as partisans from both major parties took to the polls, but a late Republican surge protected almost all Republican positions.

STATEWIDE RACES

GOVERNOR

R: Mike DeWine, Attorney General

D: Richard Cordray, Attorney, former Director of the Consumer Financial Protection Bureau
G: Constance Gadell-Newton, Attorney
L: Travis Irvine, Communications Professional

OUTCOME: Mike DeWine beats Richard Cordray by a comfortable margin 51% to 46%. DeWine ensures Republican control in the Governor's mansion for another four years.

ATTORNEY GENERAL

R: Dave Yost, Attorney General
D: Steve Dettelbach, Attorney, former Federal Prosecutor

OUTCOME: Dave Yost posts a solid 52% to 48% victory. Yost switches posts remaining a statewide elected official.

AUDITOR OF STATE

R: Keith Faber, State Representative
D: Zack Space, Attorney, former Congressman
L: Robert Coogan, retired CPA

OUTCOME: Keith Faber knocks off Zack Space 50% to 46%, moving from the General Assembly to Statewide Office.

SECRETARY OF STATE

R: Frank LaRose, State Senator
D: Kathleen Clyde, State Representative
L: Dustin Nanna, Home Health Care Worker

OUTCOME: Frank LaRose also makes the jump to statewide elected office besting Clyde 51% to 47%. This was a closely watched race over the past year.

TREASURER OF STATE

R: Robert Sprague, State Representative
D: Rob Richardson, Attorney

OUTCOME: In an impressive showing Robert Sprague overcomes the fundraising difference and defeats Richardson 54% to 46%, keeping the Treasurer's Office for the GOP and gaining the most votes of all statewide candidates in the process.

SUPREME COURT ASSOCIATE JUSTICE

Incumbent Mary DeGenaro seeking reelection
R: Mary DeGenaro, Associate Justice, Ohio Supreme Court
D: Melody Stewart, Judge, Eight District Court of Appeals

OUTCOME: Judge Stewart takes Justice Mary DeGenaro's seat on the Court with a strong 53% to 47% victory.

SUPREME COURT ASSOCIATE JUSTICE

Open seat, formerly held by Associate Justice Terrance O'Donnell
R: Craig Baldwin, Judge Fifth District Court of Appeals
D: Michael Donnelly, Judge, Cuyahoga County Court of Common Pleas

OUTCOME: Judge Donnelly handily defeats Judge Baldwin 61% to 39%.

OHIO GENERAL ASSEMBLY

OHIO HOUSE Current Makeup 66Rs – 33Ds
2018 Election *New Makeup*: 61Rs – 38Ds

OUTCOME: Republicans retain a solid majority but lose a handful of seats, mostly in suburban districts. Factions inside the House Republican Caucus will not make Speaker Ryan Smith's job any easier as his chamber prepares for the budget early next year.

Highlights:

- HD6 Democrat Phil Robinson prevents Jim Trakas' return to the General Assembly winning the open seat 51% to 49%.
- HD16 Republican incumbent Greenspan wins against Democrat Svirgelj 54% to 46%.
- HD19 In a race expected to be tighter for an open Franklin County seat, Democrat Lightbody flips the seat blue defeating Republican Barhorst 55% to 45%.
- HD21 Democrat Liston flips another previously red seat knocking off Republican Stu Harris in a close battle 57% to 43%.
- HD24 Democrat Russo picks up a third seat for the Democrats defeating Yassenoff 57% to 43%.
- HD28 Republican Dever loses to Democrat Miranda after a close race and recount.
- HD37 Democrats score an open seat victory with Weinstein defeating Republican newcomer Mike Razor in close race 50.49% to 49.51%.
- HD43 Incumbent Republican Todd Smith holds on to knock off challenger Democrat Dan Foley 51% to 49% in a race targeted by the Democrats. The race has gone to an automatic recount.
- HD55 Republican Gayle Manning retains the seat for the Republicans with her victory over Democrat Kraus Mencke in Lorain County 55% to 42%.
- HD59 In yet another tight race Republicans steal a Democrat seat with Republican Don Manning besting Democrat Ungaro 50.39% to 49.61, in this extremely competitive race.
- HD79 Republican manufacturer Koehler holds McGregor's seat over Democrat Jackson, keeping a manufacturer in the caucus 61% to 39%.

OHIO SENATE Current Makeup 24Rs – 9Ds

2018 Election *New Makeup:* 24Rs – 9Ds

OUTCOME: Republicans were thought to have protected all open seats and picked off one Democrat seat expanding record-high Republican dominance in the upper chamber. However after the all the votes were counted the Republicans dropped an open seat in Franklin County keeping their same majority. Senate President Larry Obhof will continue to guide the upper chamber.

Highlights:

- SD3 In a close race for the open seat, Republican Anne Gonzales loses to Democrat Maharath.
- SD5 In a race closely watched Republican Steve Huffman keeps Senator Bill Beagle's seat in Republican hands defeating Democrat Paul Bradley 53% to 47%.
- SD13 Republican Nathan Manning grabs the open seat besting Democrat challenger Sharon Sweda 53% to 44%.
- SD19 In a tight race Republican State Representative Andy Brenner wins in an open seat targeted by Democrats 51% to 48%.
- SD33 Republican Michael Rulli defeats Democrat John Bocchieri 53% to 47% giving Republicans a new record majority in the Ohio Senate.

UNITED STATES SENATE

U.S. SENATE Current Ohio Makeup 1R – 1D

D: Sherrod Brown, U.S. Senator

R: Jim Renacci, U.S. Congressman

OUTCOME: Incumbent Brown maintains his mantle as Ohio's senior senator and takes down Republican Renacci 53% to 47%, making Renacci his latest electoral victim.

UNITED STATES CONGRESS

U.S. CONGRESS Current Ohio Makeup 12Rs – 4Ds

OUTCOME: Republicans held all incumbent seats and prevailed in the lone open seat, bucking national blue trends. Ohio's Congressional Delegation will look like the same with R's holding the same 12-4 seats.

1st Congressional District Incumbent Steve Chabot running for reelection

R: Steve Chabot, Incumbent Congressman

D: Aftab Pureval, Hamilton County Clerk of Courts

L: Dirk Kubala

OUTCOME: In a hotly contested Congressional contest incumbent Steve Chabot holds off Democrat Pureval, whose campaign came under much controversy in the last couple of weeks, with a 52% to 46% victory.

12th Congressional District Incumbent Republican Troy Balderson running for reelection

R: Troy Balderson, Incumbent Congressman

D: Danny O'Connor, Franklin County Recorder

G: Joe Manchik, Engineer

OUTCOME: In a rematch Congressman Balderson performs better than in the special election defeating his opponent Democrat O'Connor and defending this targeted Republican seat 52% to 47%.

16th Congressional District Open seat to replace Republican Jim Renacci, who is running for Ohio Senator

R: Anthony Gonzalez, former Professional Football Player

D: Susan Moran Palmer, Health Care Professional

OUTCOME: Republican Gonzalez keeps this seat red besting Democrat Palmer 57% to 43%.

BALLOT ISSUES

State Issue 1 Drug and Criminal Justice Policies Initiative

OUTCOME: Ohioans overwhelmingly rejected State Issue 1 63% to 37%. The Issue played a major role in the outcome at the top of the ticket with both DeWine and Cordray using it as a litmus test for their campaigns.

FOR MORE INFORMATION on districts, candidates, and contests visit below resources:

- [2018 OMA Election Guide](#)
- Ohio [Secretary of State website](#) for full unofficial returns
- [Impact Ohio](#) post-election conference

TOP ISSUES FACING NEWLY ELECTED STATE LEADERS

- **Post-Election Legislative Session** November & December. Top lame duck issues of interest to manufacturers include:
 - Legislation impacting energy costs for manufacturers has long been rumored to be a possibility in lame duck. Friends of FirstEnergy continue to push to legislate

nuclear and coal bailouts. The OMA continues to push for passage of HB 247 (Romanchuk) to reform the PUCO process. Alternative energy standards and wind turbine siting laws are also in the mix.

- Unemployment compensation reform to restore solvency to the state's fund before the next downturn.
- Allowing high school students work in manufacturing facilities was bogged down in the summer, but there is a renewed hope that it will passed in December.
- Formation of the DeWine Administration
- Watch for rumored gun rights legislation to emerge
- **133rd General Assembly** will take office in early January marking the beginning of Governor DeWine's first term. Issues that the General Assembly will consider include:
 - Tax and Spending -- Ohio runs on a two-year state budget. Traditionally budget bills become vehicles for other permanent law changes, often including changes to the tax code. Governor DeWine will unveil his budget proposal no later than March 15, 2019. Months of legislative hearings will follow until June 30 when a balanced budget must be approved
 - Transportation budget will zoom through the General Assembly next March – April. A comprehensive transportation reform could boost gas tax, impose fees for non-gas-fuel vehicles, and codify permanent funding sources for transit.
 - Bureau of Workers' Compensation and Industrial Commission budget bills may become vehicles for reforms in these areas
 - State food labeling requirements to reduce waste is a topic of interest for one majority Republican. The proposal enjoys the backing of the Ohio State University College of Food Science
 - Even with the defeat of Issue 1, look for Republicans to propose new criminal sentencing measures in response to the amendment effort
 - Ballot reform could be in the offing following the wave of out of state funded ballot issues in recent years. For years, the OMA has supported such a reform.

Manufacturing Issues FOR YOUR USE in communicating with elected state leaders:

- [OMA Public Policy Competitiveness Agenda](#)

Ryan Augsburger

From: Phil Greenberg <phil@mikedewine.com>
Sent: Wednesday, November 28, 2018 3:34 PM
To: Ryan Augsburger
Cc: Mary Sabin; Blake McNamara
Subject: Inauguration | DeWine Husted
Attachments: DeWine Husted Inaugural Committee W-9.pdf; DeWine Husted Inaugural Committee Contribution Form.pdf; DEWINE HUSTED INAUGURAL COMMITTEE OMA.pdf

Hi Ryan, thanks so much for your call today. Per our conversation, please find the following items attached and below:

- IRS W9 for corporations
- Contribution form
- Generic letter to go with W9 (we can customize it to your members' needs)

I am also including the giving levels and benefits below -- please note for the tickets we are still tentative on the amounts as we configure spacing requirements at the venues.

There will also be several events occurring leading up to the **Monday, January 14th** Official Inauguration Celebration including a Friday night (Jan. 11) LG Husted event, a Saturday political event, and a Sunday First Lady DeWine / Kids day event...

For a "Transition Fund" (aka: inauguration), we can accept \$10,000 per *corporation*, PAC, or individual or a mixture of any... {subsidiaries of companies can also each give up to \$10,000} ...

Below are TENTATIVE packages, but will most likely resemble these...

Price point:

Friends of Ohio: \$50,000 – raise

- Private Inauguration reception at the Governor's Residence
- 4 tickets to the Host Committee Reception
- 10 tickets to the Inauguration Celebration

Host Committee: \$10,000 – donate or raise

- 4 tickets to Host Committee Reception
- 4 tickets to Inauguration Celebration

\$5,000 – donate or raise

- 2 tickets to Host Committee Reception
- 2 tickets to Inauguration Celebration

\$2,500 – donate or raise

- 2 tickets to Host Committee Reception
- 2 tickets to Inauguration Celebration

Inaugural Celebration only:

- \$250 per person / \$400 per couple
- Young Professional {Under 40} - \$100 per person / \$150 per couple

As always, we are grateful for your members support Ryan!

Kind regards,

Phil

--

Phil Greenberg
DeWine-Husted for Ohio
513.686.0431

DEWINE HUSTED INAUGURAL COMMITTEE | CONTRIBUTION FORM

AMOUNT \$ _____

PLEASE MAKE CHECK PAYABLE TO: **DeWine Husted Inaugural Committee**

CONTRIBUTIONS CAN BE SENT TO: **DeWine Husted Inaugural Committee**
PO Box 6290
Columbus, OH 43206

For questions please contact:

Mary Sabin - 419.467.7113 | mary@mikedewine.com
Phil Greenberg - 513.686.0431 | phil@mikedewine.com
Blake McNamara - 513.258.8134 | blake@mikedewine.com

DONOR CONTACT INFORMATION

NAME			TITLE		
COMPANY					
ADDRESS					
CITY		STATE		ZIP	
MOBILE PHONE		BUSINESS PHONE		EMAIL	

HOW YOU WOULD LIKE YOUR NAME OR COMPANY TO APPEAR ON ALL PRINTED MATERIALS?

IMPORTANT TRANSITION FUND DONATION INFORMATION

As a TRANSITION FUND, "DeWine Husted Inaugural Committee" does *NOT* have the state vendor/contractor limitation similar to the \$1,000 contribution limit in R.C. 3517.13. State vendors/contractors *CAN* donate any amount up to the \$10,000 maximum.

The Transition Fund is required to collect and report the name, mailing address, occupation and name of employer of individuals whose donations exceed \$100. The maximum an individual, PAC, or corporation may donate is \$10,000 in aggregate.

EMPLOYER / OCCUPATION: _____

CREDIT CARD CONTRIBUTION

If you wish to contribute by credit card, please provide the following information:

Type of credit card: MasterCard VISA American Express Discover

Amount \$: _____ Corporate Card Personal Card

Card Number: _____

Expiration Date: _____ CVV: _____

Name as it appears on card: _____

Card Billing Address: _____

Signature: _____

Request for Taxpayer Identification Number and Certification

Give Form to the
 requester. Do not
 send to the IRS.

▶ Go to www.irs.gov/FormW9 for instructions and the latest information.

Print or type. See Specific Instructions on page 3.	<p>1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank. DeWine Husted Inaugural Committee</p> <p>2 Business name/disregarded entity name, if different from above</p> <p>3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes.</p> <p><input type="checkbox"/> Individual/sole proprietor or single-member LLC <input type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate</p> <p><input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ▶ _____</p> <p>Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.</p> <p><input checked="" type="checkbox"/> Other (see instructions) ▶ Political Campaign</p>	<p>4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3).</p> <p>Exempt payee code (if any) _____</p> <p>Exemption from FATCA reporting code (if any) _____</p> <p><small>(Applies to accounts maintained outside the U.S.)</small></p>
	<p>5 Address (number, street, and apt. or suite no.) See instructions. 2168 Sutter Pkwy</p> <p>6 City, state, and ZIP code Dublin, OH 43016</p> <p>7 List account number(s) here (optional)</p>	<p>Requester's name and address (optional)</p>

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Social security number									
or									
Employer identification number									
8	3	-	2	4	7	9	4	8	0

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here	Signature of U.S. person ▶ <i>Jennifer A. Best</i>	Date ▶ <i>11/9/2018</i>
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General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See *What is backup withholding*, later.

Senate Republicans Elect Leadership Team for 133rd General Assembly

Obhof Re-Elected as Senate President

November 14, 2018



COLUMBUS—The Senate Majority Caucus today unanimously elected Senator Larry Obhof (R-Medina) to a second term as President of the Ohio Senate for the 133rd General Assembly.

Obhof, who represents the 22nd Senate District, has served as the leader of the General Assembly's upper chamber since January 2017. Originally appointed to the Senate in 2011, Obhof was elected by large margins in 2012 and 2016. He has been a member of the Senate's leadership team since 2013, serving as Majority Whip and President Pro Tempore prior to leading the chamber.

"I am grateful for the opportunity to continue leading the Ohio Senate, and I appreciate the confidence of my colleagues," said Obhof. "We look forward to working with Governor-elect Mike DeWine and our colleagues in the House to continue to improve the lives of the Ohioans who have entrusted us to represent them."

The Republican Majority also re-elected other members of the leadership team, including Senator Bob Peterson (R-Washington Court House) as President Pro Tempore and Senator Randy Gardner (R-Bowling Green) as Majority Floor Leader. Senator Matt Huffman (R-Lima) was newly-elected as Majority Whip.

"Over the last two years, we have worked through challenging issues while keeping our focus on what is important to the people of Ohio," added Obhof. "We will continue to focus on maintaining fiscally-responsible, pro-growth policies while investing in critical areas like education, job training, and fighting the opiate crisis."

Members of the leadership team will be officially elected by their colleagues and sworn-in during the opening session of the Ohio Senate on January 7, 2019. They will serve in those leadership positions through the end of 2020.

Shared from the 11/28/2018 The [Columbus](#) Dispatch eEdition

Push for unity delays House speaker vote

By Jim Siegel

The Columbus Dispatch

Backers of [Speaker](#) Ryan Smith are expected to very soon push state Rep. Jim Butler for answers on a leadership vote, or possibly find another way to call a vote.

Smith, R-Bidwell, and Rep. Larry Householder, R-Glenford, have been locked in a bitter fight over who will lead the House next session, starting in January. Though Senate Republicans voted two weeks ago to keep President Larry Obhof, R-Medina, as their leader, and House Democrats voted Tuesday to retain Rep. Fred Strahorn, D-Dayton, as minority leader, the House speaker vote remains unscheduled.

"I think a lot of people are getting anxious. I think their patience is wearing thin," Smith said, adding that he talked to Butler before Thanksgiving. "He said he's working on it. It's hard for me to get any clarity on that from Jim."

As the dean of the caucus — the member with the longest consecutive service in the [House](#) — Butler, R-Oakwood, is responsible for calling the informal leadership vote. Butler said he has reached out to every member of the caucus and "it is clear that neither candidate has the required 50 votes."

"We need to ensure we are unified so we can effectively govern with the new DeWine administration for the people of Ohio. I am inviting both candidates to sit down and discuss how we can work together and ensure a strong start to the 133rd General Assembly."

Smith has said since the election that he is ready to take the vote, arguing he has majority support in the new 61-member caucus. Butler is backing Householder, a

political heavyweight and strong fundraiser who served as House Speaker from 2001 to '04 and returned two years ago looking to reclaim the gavel.

Having the caucus dean call the leadership [vote](#) is tradition, but it is not in rule or law. Rep. Scott Ryan, R-Newark, chairman of the House Finance Committee and a Smith supporter, said, "We like to honor tradition, but tradition includes timing."

A few close House races were decided within the past few days as votes were finalized. A seat in Hamilton County likely flipped to the Democrats after provisional ballots were counted — a seat held by Rep. Jonathan Dever, R-Cincinnati, a Householder supporter. Republicans won two other close races, in the Dayton and Youngstown areas.

The two camps also have continued to work behind the scenes to secure support.

"For planning purposes, it's really important that we start looking at the next (General Assembly)," Smith said. "There's staffing needs and a lot of different things we need to plan for. And obviously we have a new administration to work with, and it would help crystallize things for them as well."

Technically, House Republicans don't need to meet privately for an informal leadership vote — the official vote must be done in open session in early January after members are sworn in on opening day.

But there are practical and logistical reasons to working out that vote ahead of time, including fairness to staffers, the potential for a circus-like floor vote, and delays in organizing committees.

Typically, the informal vote results in most, if not all, members agreeing to support whichever candidate has the majority within the caucus. That didn't happen in June when Smith tried to replace former Speaker Cliff Rosenberger, who resigned in April amid an FBI investigation related to overseas trips with payday-lending lobbyists.

Smith had a majority of the caucus, but those loyal to Householder, or outgoing members who preferred a short-term speaker, refused to back him. He got the job only on the 11th vote, when he earned a plurality. jsiegel@dispatch.com @phrontpage

MEMORANDUM

To: Interested Parties

From: Julia Hilty and Brian Roe, Ohio State Food Waste Collaborative

Re: Ohio Food Date Labeling Project

Date: October 12, 2018

This memorandum sets out the goals of the food date labeling project and points requiring further feedback and discussion during conversations with interested parties.

Goals

1. Minimize premature discard of safe, nutritious food by simplifying and standardizing the scheme of food date labeling in Ohio
 - a. Require one phrase to indicate quality
 - b. Require one phrase to indicate safety and intended discard date
 - c. Allow coded sell-by dates
 - d. Require a “Prepared on” date for donations of food service food (“leftovers”)
 - e. Prohibit all other words, terms, and phrases describing dates on food labels/packages
2. Increase the donation of safe, nutritious food to those in need by
 - a. Standardizing terms between food date labeling law and food donation liability law.
 - b. Provide clarity as to when food can and cannot be donated or distributed by an agency to a person in need after the date on the label.
3. Align Ohio’s date label terms and definitions with industry voluntary standards.
4. Facilitate the achievement of Goals 1 and 2 by providing for consumer, labeler, and retailer education

Initial Points Requiring Feedback and Discussion

1. Names of terms
 - a. Food Service Food
 - b. Safety date/discard date
2. Education program for retailers/educators
3. Prohibiting sell-by dates/allowing coded sell-by dates
4. Length of phase in
5. Who/how products are classified as quality versus safety items

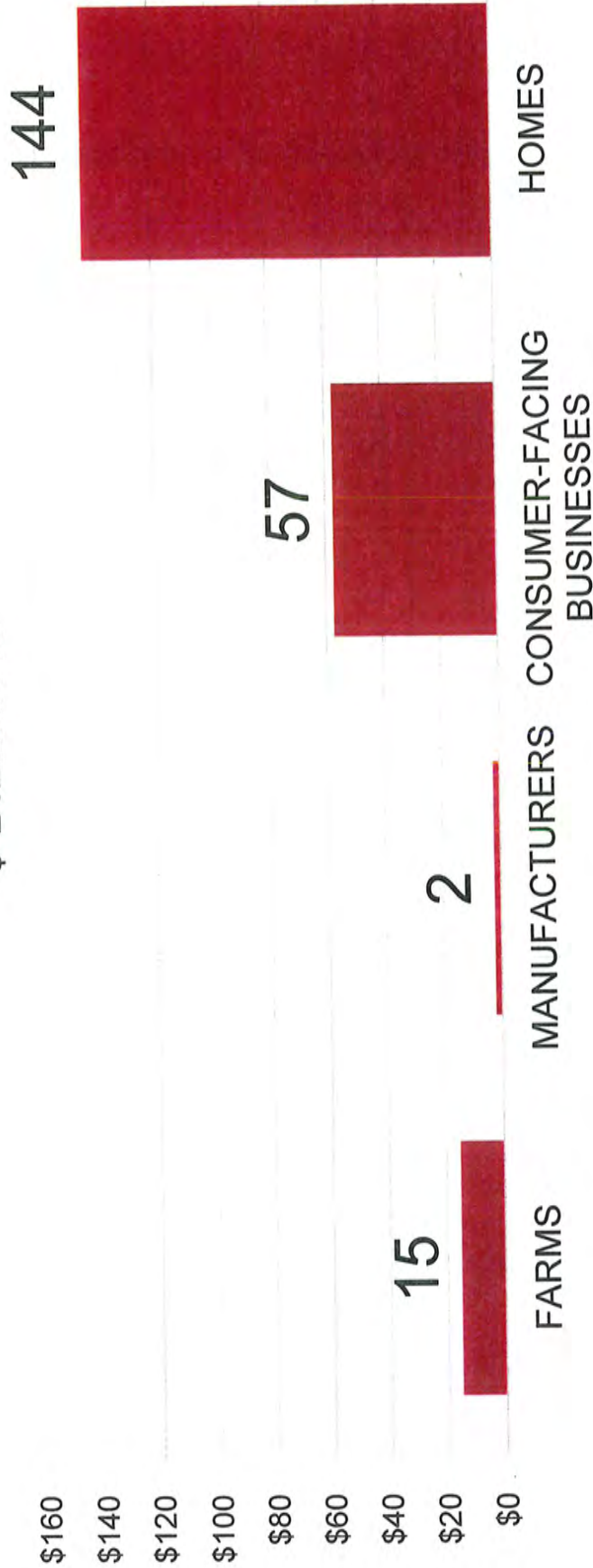


Opportunities to Reduce Food Waste & Create Value Through Clearer Date Labels



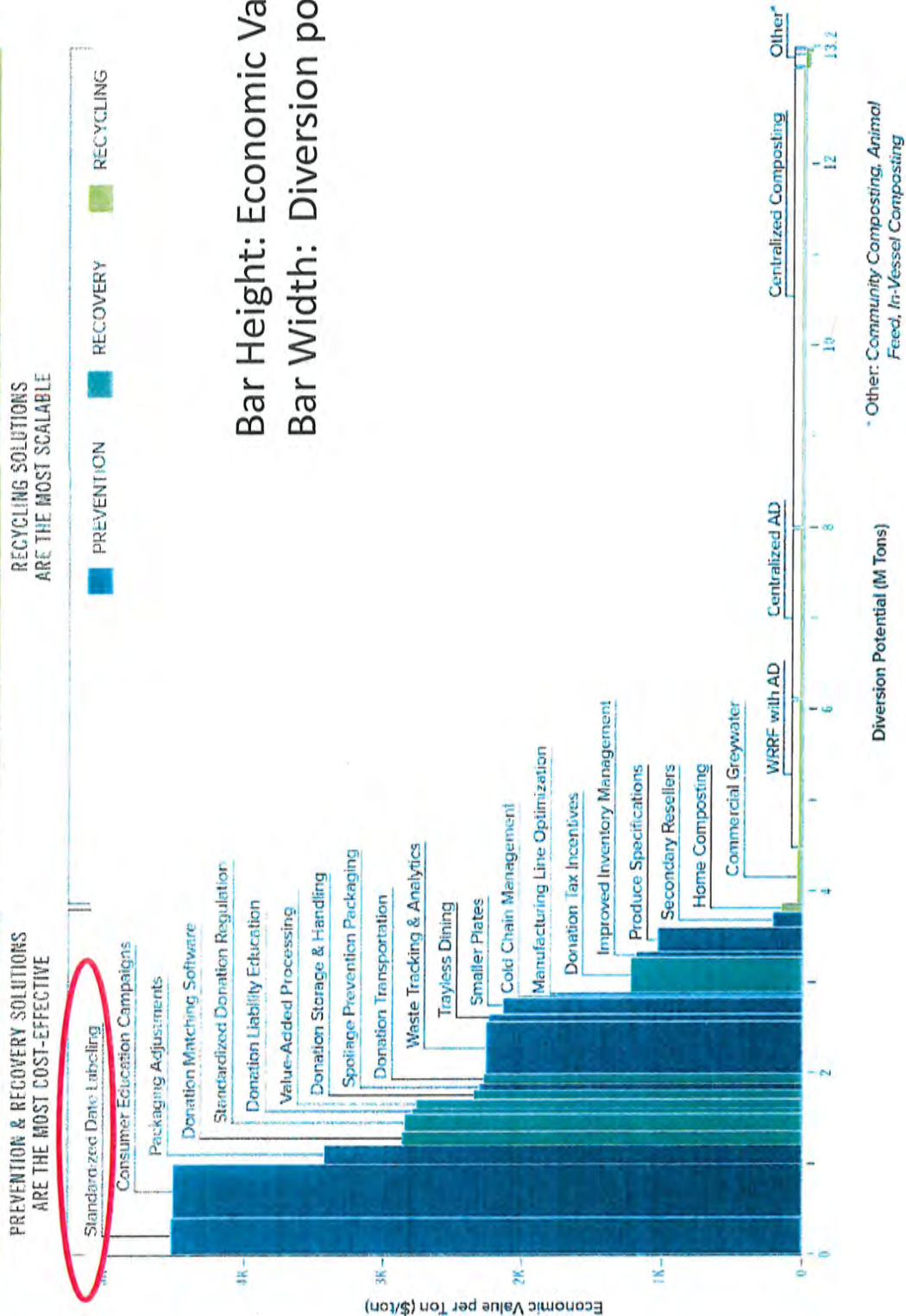
Value of Wasted Food: \$218 Billion/year

\$ BILLIONS



Source: A ROADMAP TO REDUCE U.S. FOOD WASTE BY 20 PERCENT, ReFED (2016)
 Available online: https://www.refed.com/downloads/ReFED_Report_2016.pdf

MARGINAL FOOD WASTE ABATEMENT COST CURVE



Source: A ROADMAP TO REDUCE U.S. FOOD WASTE BY 20 PERCENT, ReFED (2016)
 Available online: https://www.refed.com/downloads/ReFED_Report_2016.pdf



Consumer Perceptions of Date Labels: National Survey

Authors:
Emily Broad Leib, Christina Rice, Roni Neff, Marie Spiker, Ali Schkleit, Sally Greenberg



Harvard
Food Law and Policy Clinic



JOHNS HOPKINS
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Proposals to Reform Date Labels

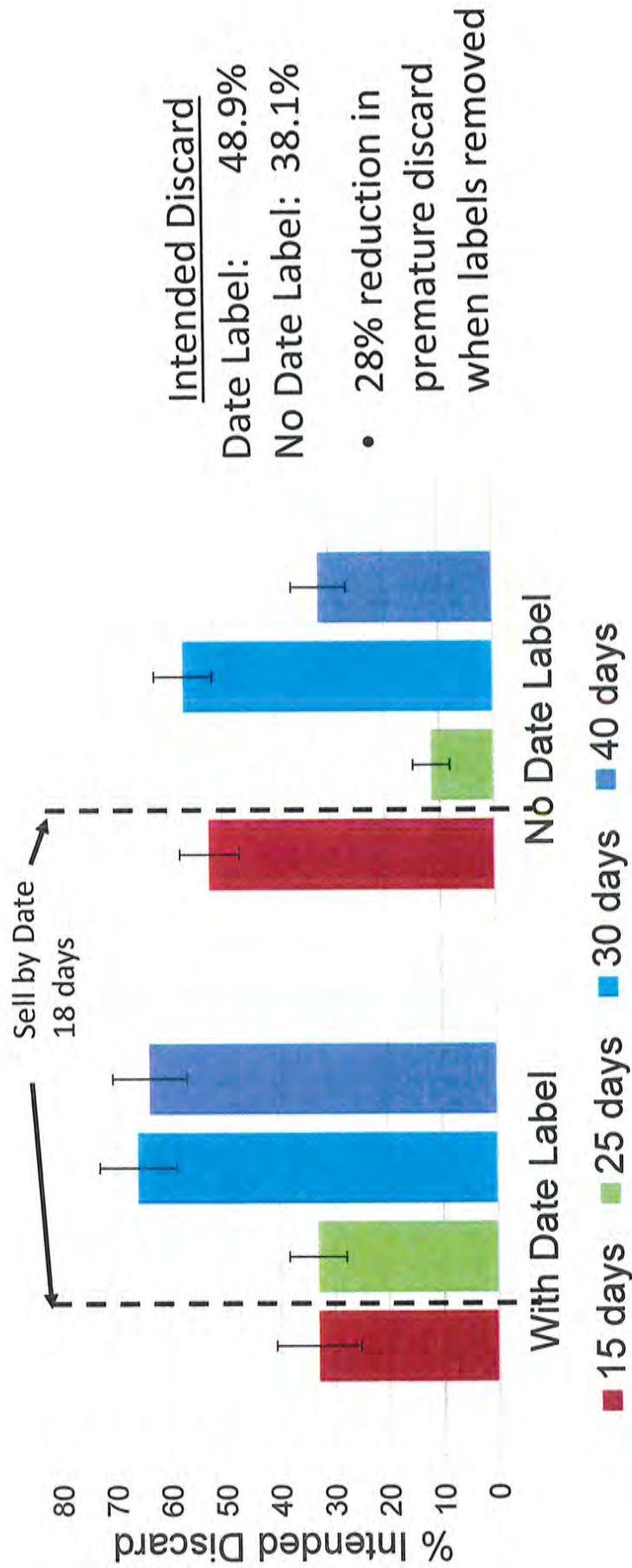
Federal

- Food Date Labeling Act (2016) proposed to standardize quality and safety date labels.
- Require "best if used by" to indicate food quality (the label use is voluntary) and
- Require "expires on" for food that may be unsafe to eat after a specified date
- USDA-FSIS issued food product labeling guidance in 2016
- Encourages use of a "Best if Used By" date label to indicate quality data

Industry

- FMI & GMA announced a standardized, voluntary regulation to use only two terms:
 - "Best if Used By" (quality)
 - "Use By" (safety)
- Some firms with changed labels seek to quantify credits towards sustainability metrics

Intention to Discard Milk After Examining Bottle & Smelling Milk



Source: Roe et al. (2018) *Food Quality & Preference* 66, 13-18. DOI: [10.1016/j.foodqual.2017.12.016](https://doi.org/10.1016/j.foodqual.2017.12.016)



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MEMORANDUM

TO: Ohio Manufacturers' Association
Government Affairs Committee

FROM: Bricker and Eckler LLP

DATE: November 29, 2018

RE: November 2018 OMA Government Affairs Committee
Report

I. December 2018 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. Ohio voters saw one issue, Issue 1, on the ballot in November 2018. Please find an overview of Issue 1 below.

Issue 1—To Reduce Penalties for Crimes Obtaining, Possessing, and Using Illegal Drugs. This proposed constitutional amendment was filed as the “Neighborhood Safety, Drug Treatment, and Rehabilitation Amendment.” If adopted, the amendment would have, among other things, required reductions in sentencing in certain situations, mandated that certain criminal offenses or uses of any drugs, such as fentanyl and heroin, can only be classified as a misdemeanor, and prohibited jail time as a sentence for obtaining, possessing or using such drugs until an individual’s third offense within 24 months. Issue 1 was defeated by 63.41 percent.

The Ohio Safe and Healthy Communities Campaign is leading the campaign in support of the proposed Constitutional amendment. Supporters of Issue 1 are financially supported by Open Society Policy Center, the Chan Zuckerberg Initiative, and the Open Philanthropy Project Action Fund. Other supporters include the Ohio Organizing Collaborative, the Ohio Justice & Policy Center, Ohio Transformation Fund, Alliance for Safety and Justice, and Open Society Policy Center.

Ohio Supreme Court Chief Justice Maureen O’Connor recently penned a letter released by the Ohio Prosecuting Attorneys Association in which she stated that Issue 1 will have catastrophic consequences on Ohio and that if Issue 1 passes, Ohio may have some of the most lenient drug crime laws in the nation. However, supporters of Issue 1 believe that if passed, more than \$100 million annually will be redirected from the prison system to local communities.

Other notable opponents of Issue 1 are the Ohio State Bar Association, the Ohio Common Pleas Judges Association, the Ohio Association of Juvenile and

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Family Court Judges, Association of Municipal and County Court Judges of Ohio, the Buckeye State Sheriffs Association, the Ohio Association of Chiefs of Police, the Ohio Patrolmen's Benevolent Association, the Ohio Crime Victim Justice Center, the County Auditors Association of Ohio, and CorJus. Former Ohio Supreme Court Justice Paul Pfeifer, the Executive Director of the Ohio Judicial Conference helped draft and provide the argument against Issue 1.

Speaker of the Ohio House of Representative Ryan Smith (R-Bidwell) and Ohio Senate President Larry Obhof (R-Medina) are also now actively engaged in opposing Issue 1. Attorney General Mike DeWine (R-Cedarville) has announced his opposition to Issue 1 while his opponent in the 2018 Ohio gubernatorial election, Richard Cordray (D-Grove City) has announced his support.

Statewide Ballot Initiative and Constitutional Amendment Reform. After a series of failed attempts at placing statutory initiatives and constitutional amendments on the ballot in Ohio that originated in other states, Speaker Ryan Smith and Senate President Larry Obhof announced in early November 2018 that legislative leaders are interested in possible reforms to the process, timelines, and structures for statewide ballot efforts. Certain elements of the Ohio business community, including the OMA, Ohio Business Roundtable, and others, are considering support for such reforms to the direct democracy process – although the timeline for getting these proposals approved in 2018 is challenging.

Additionally, opposition groups have already begun messaging against any change to Ohio's forms of direct democracy with several newspaper editorial boards – the Columbus Dispatch and Cleveland Plain Dealer – specifically opposed to making ballot access more difficult without making the process and structure for proposing statutory initiatives significantly easier.

Among the ballot measure reforms outlined by Speaker Smith and Senator Obhof are efforts to more difficult to place Constitutional amendments on the ballot by raising the threshold of voter approval to enact a Constitutional amendment change (possible requiring 60 percent voter approval), among other items. Increasing signature totals to place an initiative on the ballot, changing timelines for filing signatures, other changes all will require the House and Senate to propose a Constitutional amendment for the 2019 ballot. Other changes to petition circulation, signature verifications, and other measures would require the General Assembly to make statutory changes. Ballot reform conversations are ongoing and will likely continue to occur over the next several weeks and likely months into 2019 and the 133rd General Assembly.

III. Pending Legislation (2017-2018).

The end of the 132nd General Assembly is quickly approaching. The intensity of the Lamé Duck session will likely depend on the results of the November 2018 general election. The Senate has “if needed” sessions scheduled for December 6, December 13, and December 19. The Senate

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will have sessions on November 28, December 5, and December 12. The House has “if needed” sessions scheduled for December 18, and December 19. The House has session dates scheduled for November 28, December 5, December 6, December 12 and December 13.

H.B. 2 – Civil Rights Laws. Representative Bill Seitz (R-Cincinnati) sponsored H.B. 2. The bill was introduced in the House on February 1, 2017 and referred to the House Economic Development, Commerce and Labor Committee. H.B. 2 has had six committee hearings. On May 9, 2017, the House Economic Development, Commerce and Labor Committee voted (9-5) the substitute version of the bill out of the Committee. The OMA, Ohio Alliance for Civil Justice, Ohio Chamber of Commerce and NFIB submitted written proponent testimony to the House Economic Development, Commerce and Labor Committee on February 21 and 28, 2017.

The substitute bill requires one to file a charge of discrimination before the Ohio Civil Rights Commission before filing a lawsuit. The substitute bill also extends the previously proposed one-year statute of limitations for such claims to two years. Sub. H.B. 2 prohibits the filing of a lawsuit unless one (1) has received a notice of the right to sue from the OCRC, or (2) has requested a notice and the commission fails to issue the notice within 45 days after the required date, or after the panel determines it is probable that discrimination took place in that case. Additionally, the bill permits a person to file a lawsuit without notice of the right to sue if the person seeks only injunctive relief or the person has filed a charge with both the OCRC and the federal Equal Employment Opportunity Commission.

Sub. H.B. 2 restores individual liability compared to the introduced version by permitting a person to file a lawsuit or Ohio Civil Rights Commission charge alleging an individual who is not the employer retaliated against the victim or aided the discriminatory behavior. The bill removes supervisory liability, but aligns the Ohio definition of “agent of the state, political subdivision or person” to federal code. Sub. H.B. 2 codifies affirmative defenses for sexual harassment claims to match federal law.

This bill has been a business community objective since it was not included as a part of Senate Bill 80 decades ago, but the self-described supporter of the business community has never found the time to push the bill across the line. Additional efforts will be made to try to get this to a positive resolution.

H.B. 53 – Union Dues – Right to Work. Representative John Becker (Union Twp.) introduced this bill on February 13, 2018. It was referred to the House Finance Committee where it didn’t have its first hearing until November 13, 2018. The bill will remove any requirement under the Public Employees Collective Bargaining Law that public employees join or pay dues to any employee organization. The bill will also prohibit public employers from requiring public employees to join or pay dues to any employee organization. The language prohibits an employee organization from being required to represent public employees who are not members

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of the employee organization and makes an appropriation. Representative Becker told the House Finance Committee that the bill doesn't do anything in the wake of the U.S. Supreme Court's decision in *Janus v. AFSCME*.

S.B. 293 – Reduction of Agency Regulations. On April 23, 2018, Senate President Pro Tempore Bob Peterson (R-Washington Court House) and Senator Rob McColley (R-Napoleon) introduced this bill, which requires agencies to reduce the number of regulatory restrictions. The bill was referred to the Senate Transportation, Commerce and Workforce Committee where it had four hearings. During its second hearing, many business groups provided proponent testimony explaining that the bill will support economic growth and business development in Ohio. The bill ultimately passed the Senate (23-9), along party lines, on June 27, 2018. The bill that passed the Senate was a substitute version that applies the regulation-cutting mandate more broadly across state departments, rather than individual agencies. The bill was referred to the House Government Accountability and Oversight Committee.

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

H.B. 160 – Discrimination. This bill, which is sponsored by Representative Nickie Antonio (R-Lakewood), will enact the Ohio Fairness Act to prohibit discrimination on the basis of sexual orientation or gender identity or expression. The bill seeks to add mediation to the list of informal methods by which the Ohio Civil Rights Commission may use to induce compliance with Ohio's Civil Rights Law before instituting a formal hearing. The bill also will uphold existing religious exemptions under Ohio Civil Rights Law.

It was introduced on May 28, 2017 and has had two hearings in House Government Accountability and Oversight Committee. The bill has received strong support from the business community. Many business groups are supportive of the bill because they recognize the importance of diversity in the workplace and believe that improvements should be made to protect against discrimination of any type.

H.B. 187 – Employee Hiring Information. Representative Jonathan Dever (R-Madeira) is sponsoring H.B. 187, which will regulate the collection, use, and retention of certain information obtained from an applicant during the employee selection process. The bill was introduced in the House on April 24, 2017 and was referred to the House Community and Family Advancement Committee. H.B. 187 has had three hearings.

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H.B. 625 – Auxiliary Containers. Representatives George Lang (R-West Chester) and Scott Lipps (R-Franklin) are sponsoring this bill that authorizes a person to use an auxiliary container, (i.e. plastic or paper bags) for any purpose. The bill also prohibits a municipal corporation, charter county, or limited home rule township from imposing a tax or fee on auxiliary containers and clarifies that the existing anti-littering law applies to auxiliary containers. The bill has received three hearings in the House Economic Development, Commerce & Labor Committee. The Ohio Municipal League and the Ohio Township Association are currently opposed to the bill and believe that it violates Home Rule authority. However, the business community, including the OMA, has been supportive of this bill. Representative Lang indicated that this bill is a top priority for him in the Lame Duck session.

H.B. 641 – Forklift Tax Exemption. This bill will exempt from sales and use tax things purchased by an interstate logistics business and used primarily to move completed manufactured products to the point from which they are shipped from a manufacturing facility and related power sources. H.B. 641 is sponsored by Representative Niraj Antani (R-Miamisburg) and had two hearings in the House Ways and Means Committee, where Representative Antani mentioned that H.B. 641 will help increase Ohio’s competitiveness given that Indiana already offers such tax relief for forklift purchases. He also mentioned that a “qualifying business” is “a person that is in the transportation and warehousing sector by the North American industrial classification system, and that is primarily engaged in the business of transporting tangible personal property in trucks to destinations outside this state.”

IV. Tort Reform.

H.B. 694 – Contract Limitations. Representative George Lang (R-West Chester) introduced this bill that will shorten the statute of limitations for any action regarding a written and oral contract from eight years and six years, respectively, to three years. The bill was referred to the House Civil Justice Committee where it received one hearing. Chairman of the House Civil Justice Committee Jim Butler (R-Oakwood) indicated that H.B. 694 is a top priority for the upcoming Lame Duck session. It is possible that this bill could be amended into another bill during Lame Duck session as well.

H.B. 20 – Compensatory Damages. This bill is sponsored by Representatives Anne Gonzales (R-Westerville) and Representative Kristin Boggs (D-Columbus). It will remove the cap on the amount of compensatory damages that represents damages for noneconomic loss that is recoverable in a tort action when the tort action is brought by a victim of rape, felonious assault, aggravated assault, assault, or negligent assault. H.B. 20 was introduced on February 1, 2017. It was referred to the House Government Accountability and Oversight Committee, where it has had one hearing.

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H.B. 271 – Accessibility Laws. Representatives Rob McColley (R-Napoleon) and Jeff Rezabek (R-Clayton) are sponsoring this bill. H.B. 271 will authorize an alleged aggrieved party to provide a notice of an alleged accessibility law violation in advance of filing a civil action. The bill also establishes the circumstances under which an alleged aggrieved party is entitled to attorney’s fees in a civil action based on the violation.

The bill was introduced on June 12, 2017 and was referred to the House Civil Justice Committee. It has had four committee hearings. The House passed H.B. 271 (90-0) on February 28, 2018. The bill has had two hearings in the Senate Judiciary Committee.

Supporters of the bill say that it will protect businesses from predatory lawsuits filed for minor or technical violations of the Americans with Disabilities Act (“ADA”). The latest version of the bill provides for a 60 day window to cure a problem of noncompliance with the ADA. Additionally, the language clarifies that existing housing discrimination laws are not included in the notification requirement provision of the bill. The bill allows an alleged aggrieved party to notify the owner, agent, or other responsible party of the property where the alleged violation occurred by personal service or certified mail and generally prohibits attorneys’ fees if such a notice isn’t provided.

V. 2018 Political Update.

Please see the 2018 General Election Overview Memorandum attached to this Report.

VI. Tax Report.

Please see the attached Tax Counsel Report.

VII. Litigation and Amicus Activity Update.

State of Ohio v. Du Pont de Nemours and Co., Washington County Common Pleas Court, No. 18OT032 (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

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November 29, 2018

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alleges that DuPont negligently caused environment contamination and created a public nuisance through its release of PFOA in the air, soil, and water.

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

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

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

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

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

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

On August 22, 2018, the trial court denied all motions to dismiss. It also vacated the stay on discovery, allowing discovery to proceed.

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

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

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

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

Turner v. Union Carbide Corp., Ohio Sup. Ct. No. 2017-0004

This case involves a lung cancer claim under Ohio’s asbestos litigation statutes.

Bobby Turner alleged that he developed lung cancer asbestos exposure during his employment. Union Carbide moved to administratively dismiss the action pursuant to R.C. 2307.92 and R.C. 2307.93, which require a “smoker” to provide prima facie evidence that the lung cancer was caused by asbestos exposure. Under R.C. 2307.91(DD), a “smoker” is defined as “a person who has smoked the equivalent of one-pack a year, as specified in the written report of a competent medical authority pursuant to [R.C. 2307.92 and 2307.93], during the last fifteen years.” (Emphasis added).

Rather than submit the report of a competent medical authority to show that he was a non-smoker, Turner submitted his own self-serving affidavit and affidavits from his friends and family stating that they had not “seen” him smoke. Other evidence, contradicted these affidavits, including Turner’s medical records which indicated that Turner had smoked cigars for 40 years and was still smoking cigars at the time of treatment for lung cancer.

The trial court ruled that Turner did not need to submit “a written report from competent medical authority” and then concluded Turner was not a smoker. As a result, he was not required to

OMA Government Affairs Committee – Counsel Report

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submit prima facie evidence that his lung cancer was caused by asbestos exposure. The Eighth District affirmed.

Union Carbide appealed and sought the support of the OMA and other organizations in urging the Ohio Supreme Court to accept the discretionary appeal. This case is of importance to the OMA because it involves a provision of Ohio’s asbestos litigation reform law (enacted in 2004). There are approximately 10,000 new lung cancer cases diagnosed in Ohio each year. This provision is designed to screen out lung cancer cases not caused by exposure to asbestos, so that Ohio does not again become a haven for dubious asbestos case filings.

The Court accepted the appeal. Oral argument was heard on February 13, 2018. On September 27, 2018, the Court reversed and remanded the case to the trial court, instructing it to determine whether Union Carbide properly established that Turner is a “smoker” as defined in R.C. 2307.91(D)(D).

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

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

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

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

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

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



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MEMORANDUM

TO: Ohio Manufacturers' Association
Government Affairs Committee

FROM: Bricker & Eckler's Government Relations Team

DATE: November 26, 2018

SUBJECT: 2018 Post-General Election Update

On Tuesday, November 6, 2018, Ohioans cast ballots in the 2018 general election. For the first time since 2006, five statewide elected offices were up for election without an incumbent running in the 2018 general election. Federal offices, including all Ohio U.S. Representatives seats and one U.S. Senate seat, two Ohio Supreme Court seats, all seats in the Ohio House of Representatives and 17 Ohio Senate seats were on the ballot. Many counties in Ohio and around the country reported record-breaking early voter turnout. Nearly 1.5 million ballots were requested by mail and in person, and an estimated 1.3 million had been cast as of the close of early voting on November 5, 2018.

Here is Bricker & Eckler's overview of the 2018 general election results and details on races of particular interest.

STATEWIDE BALLOT ISSUES

Issue 1: This proposed constitutional amendment was filed as the "Neighborhood Safety, Drug Treatment, and Rehabilitation Amendment." If adopted, the amendment would have, among other things, required reductions in sentencing in certain situations, mandated that certain criminal offenses or uses of any drugs, such as fentanyl and heroin, can only be classified as a misdemeanor, and prohibited jail time as a sentence for obtaining, possessing or using such drugs until an individual's third offense within 24 months. Issue 1 was defeated by 63.41 percent.

The Ohio Safe and Healthy Communities Campaign led the way in support of the proposed constitutional amendment. Supporters of Issue 1 were financially supported by Open Society Policy Center, the Chan Zuckerberg Initiative and the Open Philanthropy Project Action Fund. Other supporters included the Ohio Organizing Collaborative, the Ohio Justice & Policy Center, Ohio Transformation Fund, Alliance for Safety and Justice and Open Society Policy Center.

Ohio Supreme Court Chief Justice Maureen O'Connor penned a letter released by the Ohio Prosecuting Attorneys Association in which she stated that Issue 1 will have catastrophic consequences on Ohio and that if Issue 1 passes, Ohio

may have some of the most lenient drug crime laws in the nation. Other notable opponents of Issue 1 were the Ohio State Bar Association, the Ohio Common Pleas Judges Association, the Ohio Association of Juvenile and Family Court Judges, Association of Municipal and County Court Judges of Ohio, the Buckeye State Sheriffs Association, the Ohio Association of Chiefs of Police, the Ohio Patrolmen's Benevolent Association, the Ohio Crime Victim Justice Center, the County Auditors Association of Ohio and CorJus. Former Ohio Supreme Court Justice Paul Pfeifer, now the Executive Director of the Ohio Judicial Conference, helped draft and provide the argument against Issue 1.

Speaker of the Ohio House of Representative Ryan Smith (R-Bidwell) and Ohio Senate President Larry Obhof (R-Medina) were engaged in opposing Issue 1. Attorney General Mike DeWine (R-Cedarville) announced his opposition to Issue 1, while his opponent in the 2018 Ohio gubernatorial election, Richard Cordray (D-Grove City), announced his support.

FEDERAL RACES

U.S. Senate

Democratic incumbent Senator Sherrod Brown defeated Congressman Jim Renacci (R-Wadsworth) in the November 2018 general election, winning 53.19 to 46.81 percent. Throughout the election, Congressman Renacci branded himself as the "Trump" candidate. President Trump campaigned for Congressman Renacci in Cleveland the day before the 2018 General Election.

U.S. House of Representatives

Nationally, Republicans lost control of the U.S. House of Representatives. However, the Ohio Congressional delegation political breakdown remained the same in all 16 seats.

Ohio U.S. Representatives 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 also successful. Likewise, former Ohio State University football player and first-time candidate for elected office, Anthony Gonzales (R), won election by 56.84 percent of the vote.

OHIO RACES

Governor

With 50.66 percent of the vote, Ohio's Republican Attorney General Mike DeWine and Secretary of State Jon Husted defeated Democrat Richard Cordray, former director of the Consumer Financial Protection Bureau (CFPB) and a former Ohio Attorney General, and his running mate, former Congresswoman Betty Sutton. Cordray/Sutton received 46.44 percent of the vote.

Attorney General

Republican Auditor of State Dave Yost defeated former U.S. Attorney Steve Dettelbach, a Democrat from Northeast Ohio. Yost received 52.42 percent of the vote and Dettelbach received 47.58 percent.

Auditor

With 49.93 percent, former Senate President and current State Representative Keith Faber (R-Celina) defeated former U.S. Congressman Zack Space (D-Dover). Representative Space received 46.05 percent of the vote.

Secretary of State

State Senator Frank LaRose (R-Hudson) defeated State Representative Kathleen Clyde (D-Kent) for Secretary of State. Senator LaRose received 50.92 percent of the vote, whereas Representative Clyde received 46.73 percent of the vote.

Treasurer

Winning by the largest margin of any statewide candidate, State Representative Robert Sprague (R-Findlay) defeated Democrat Rob Richardson. Representative Sprague received 53.53 percent of the vote and Mr. Richardson received 46.47 percent of the vote. Representative Sprague was a former management consultant for Ernst & Young. Richardson is a lawyer from Cincinnati and ran unsuccessfully in a previous Cincinnati mayoral race.

Ohio Supreme Court

The Ohio Supreme Court saw more turnover this year, following the mandatory retirement age for judges, which was put in place in 2012. Two seats were open, and the races struggled to gain attention in a year dominated by federal and other statewide races.

Democratic Cuyahoga County Common Pleas Court Judge Michael Donnelly defeated Republican Fifth District Court of Appeals Judge Craig Baldwin to replace Justice Terrence O'Donnell. Judge Baldwin received 39 percent of the vote, and Judge Donnelly received 61 percent of the vote.

Earlier in 2018, Governor John Kasich appointed Justice Mary DeGenaro, previously of the Seventh District Court of Appeals, to replace Justice Bill O'Neill, who ran for the Democratic gubernatorial nomination, for the remainder of the unexpired term. Democratic Eighth District Court of Appeals Judge Melody Stewart defeated Justice DeGenaro for the new term. Judge Stewart won with 52.51 percent of the vote. Justice DeGenaro received 47.49 percent of the vote. Justice-elect Stewart is the first African American woman elected to statewide office in Ohio history.

Court of Appeals

Pierre Bergeron defeated Charles Miller for a position on the First District Court of Appeals, receiving 51.27 percent. Incumbent Dennis Deters was defeated by Candace Crouse for another spot on the First District Court of Appeals. She received 52.87 percent of the vote. Robert Winkler was successful in his race against Ginger Bock for a third seat of the First District Court of Appeals. Winkler received 51.86 percent of the vote.

Incumbent Marilyn Zayas handedly defeated Dale Stalf for a position on the First District Court of Appeals, receiving 60.06 percent of the vote.

With 61.22 percent of the vote, Mike Hess beat Valarie Gerlach for the Fourth District Court of Appeals.

Incumbent Marie Hoover was defeated by Jason Smith for Judge of the Fourth District Court of Appeals. Jason Smith received 52.88 percent of the vote.

With 59.49 percent, incumbent Patricia Delaney held off Andrew King in the Fifth District Court of Appeals race. King received 40.51 percent.

Gene Zmuda was successful in her race against Joel Kuhlman for the Sixth District Court of Appeals. Zmuda received 55.51 percent of the vote to Kuhlman's 44.49 percent.

David D'Apolito defeated Kathleen Bartlett in the race for Seventh District Court of Appeals, receiving 51.09 percent of the vote.

With 74.11 percent of the vote, Michelle Sheehan defeated Raymond Headen for a position on the Eighth District Court of Appeals.

Incumbent Jennifer Lee Hensal was victorious over Diana Colavecchio in the election for the Ninth District Court of Appeals with 53.31 percent of the vote.

Receiving 53.79 percent of the vote, Mary Jane Trapp defeated Casey O'Brien in the race for a spot on the Eleventh District Court of Appeals.

Matt Lynch defeated Darya Klammer for the Eleventh District Court of Appeals. Lynch received 55.65 percent of the vote.

Ohio House of Representatives: New Democratic Seats

Democrats picked up a net-four seats in the Ohio House, with one or two races still very close (under 1 percent). Three of those seats were gained in Franklin County: Mary Lightbody (D-Westerville) defeated Tim Barhorst (R-Westerville) for Ohio's 19th District, Beth Liston (D-Dublin) defeated Stu Harris (R-Dublin) for Ohio's 21st District, and Allison Russo (D-Columbus) defeated Erik Yassenoff (R-Columbus) for Ohio's 24th District.

Finally, based on unofficial election results, Casey Weinstein (D-Hudson) narrowly defeated Mike Rasor (R-Stow) for Ohio's 37th District, previously held by Kristina Roegner (R-Hudson), by less than 600 votes.

Ohio House of Representatives: Races of Interest

The House is currently controlled by a Republican majority of 61-38, and all seats were up for election this year.

In the open 6th District outside of Cleveland, first-time candidate Phil Robinson (D-Solon) had just received the *Cleveland Plain Dealer* endorsement over long-time political elected official and operative Jim Trakas (R-Independence). Robinson defeated Trakas, receiving 51.14 percent of the vote to Trakas's 48.86.

In Cincinnati's 28th District, Jessica Miranda (D-Cincinnati) recently declared victory over incumbent Jonathan Dever (R-Cincinnati) by 56 votes. An official recount will be held on Friday, November 30, 2018.

Similarly, appointed incumbent, J. Todd Smith (R-Germantown) seems to be holding on to beat Montgomery County Commissioner Dan Foley (D-Dayton) in the 43rd District.

Long-time elected official and current chair of the House Insurance Committee, Tom Brinkman (R-Cincinnati), defeated Ohio's 27th District with challenger Christine Fisher (D-Cincinnati) by 53.58 percent of the vote. Fisher received 46.42 percent of the vote.

Ohio's 20th District Incumbent Richard Brown (D-Canal Winchester) faced a challenge in a tough district by Bobby Mitchell (R-Canal Winchester). Rep. Brown, an attorney with vast insurance experience, prevailed as the incumbent, receiving 58.06 percent of the vote.

Ohio Senate

The Ohio Senate is currently controlled by Republicans by a 24-9 margin. There were 17 Senate seats up for election this year. While there were a few interesting seats to watch, Republicans kept control of the upper chamber handily.

Former Democratic Senator and current Representative John Boccieri (D-Poland) was defeated by Michael Rulli (R-Salem) in a current Democratic district in the heart of "Trump Country." Rulli prevailed with 52.51 percent of the vote.

Also of note, Representative Anne Gonzales (R-Westerville) appears to have defeated Tina Maharath for the Third Senate District, but the race is close enough that a recount is expected.

Franklin County Commissioners

Incumbent Franklin County Commission Marilyn Brown (D) defeated Republican business owner Michele Reynolds (R), receiving 64 percent of the vote.

Franklin County Auditor

Longtime incumbent Republican Franklin County Auditor Clarence Mingo was defeated by Democratic Columbus City Councilman Michael Stinziano. Councilman Stinziano won with 57 percent of the vote.

Below you will find a complete list of all the Ohio House and Senate Candidates in this year’s General Election.

Ohio House of Representatives Candidates

(Election winners are in bold.)

District Number	Incumbent	Republican	Democrat
1	Scott Wiggam	Scott Wiggam	Kevin Barnet
2	Mark Romanchuk	Mark Romanchuk	Lane Winters
3	Theresa Gavarone	Theresa Gavarone	Daniel Gordon
4	Robert R. Cupp	Robert R. Cupp	Tristram Cheeseman
5	Tim Ginter	Tim Ginter	John Dyce
6	Marlene Anielski	Jim Trakas	Phil Robinson
7	Tom Patton	Tom Patton	Aziz Ahmed
8	Kent Smith		Kent Smith
9	Janine Boyd	Joe Miller	Janine Boyd
10	Bill Patmon		Terrence Upchurch
11	Stephanie Howse	Shalira Taylor	Stephanie Howse
12	John Barnes		Juanita Brent
13	Nickie Antonio	Jay Carson	Michael Skindell
14	Martin Sweeney		Bride Rose Sweeney
15	Nicholas J. Celebrezze	Kevin Kussmaul	Jeffrey A. Crossman
16	Dave Greenspan	Dave Greenspan	Cassimir Svigelj
17	Adam Miller	John Rush	Adam Miller
18	Kristen Boggs	David Todd	Kristin Boggs
19	Anne Gonzales	Tim Barhorst	Mary Lightbody
20	Richard Brown	Bobby Mitchell	Richard Brown
21	Mike Duffey	Stu Harris	Beth Liston
22	David Leland	Doug Moody	David Leland
23	Laura Lanese	Laura Lanese	Russell Harris
24	Jim Hughes	Erik Yassenoff	Allison Russo
25	Bernadine Kennedy Kent	Debbie Staggs	Bernadine Kennedy Kent

26	Hearcel Craig	Shareeque Arife Sadiq	Erica Crawley
27	Tom Brinkman	Tom Brinkman	Christine Fisher
28	Jonathan Dever	Jonathan Dever	Jessica Miranda
29	Louis Blessing	Louis Blessing	Carrie Davis
30	Bill Seitz	Bill Seitz	Clayton Adams
31	Brigid Kelly		Brigid Kelly
32	Catherine Ingram	Marilyn Tunnat	Catherine Ingram
33	Alicia Reece	Judith Boyce	Sedrick Denson
34	Emilia Sykes	Josh Sines	Emilia Sykes
35	Tavia Galonski	Ostia Obierika	Tavia Galonski
36	Anthony DeVitis	Anthony DeVitis	Timothy Piatt
37	Kristina Roegner	Mike Rasor	Casey Weinstein
38	Marilyn Slaby	Bill Roemer	Elliot Kolkovich
39	Fred Strahorn		Fred Strahorn
40	Michael Henne	Phil Plummer	Ryan Taylor
41	Jim Butler	Jim Butler	John McManus
42	Niraj Antani	Niraj Antani	Zach Dickerson
43	Todd Smith	Todd Smith	Dan Foley
44	Michael Ashford		Paula Hicks-Hudson
45	Teresa Fedor	David Davenport	Lisa Sobecki
46	Michael Sheehy		Michael Sheehy
47	Derek Merrin	Derrek Merrin	Gary Newnham
48	Kirk Schuring	Scott Oelslager	Lorraine Wilburn
49	Thomas West	James Haavisto	Thomas West
50	Christina Hagan	Reggie Stoltzfus	Cassie Gabelt
51	Wes Retherford	Sara Carruthers	Susan Vaughn
52	George Lang	George Lang	Kathy Wyenandt
53	Candice Keller	Candice Keller	Rebecca Howard
54	Paul Zeltwanger	Paul Zeltwanger	Nikki Foster
55	Nathan Manning	Gayle Manning	Kelly Kraud Mencke
56	Dan Ramos	Rob Weber	Joe Miller
57	Dick Stein	Dick Stein	James Johnson

58	Michele Lepore-Hagan	David Simon	Michele Lepore-Hagan
59	John Bocchieri	Don Manning	Eric Ungaro
60	John Rogers	Mike Zuren	John Rogers
61	Ron Young	Jamie Callender	Rick Walker
62	Scott Lipps	Scott Lipps	Jim Staton
63	Glenn Holmes	Jim Hughes	Glenn Holmes
64	Michael O'Brien	Martha Yoder	Michael O'Brien
65	John Becker	John Becker	Patricia Lawrence
66	Doug Green	Doug Green	Jeff Richards
67	Andrew Brenner	Kris Jordan	Cory Hoffman
68	Rick Carfagna	Rick Carfagna	Kathleen Tate
69	Steve Hambley	Steve Hambley	Carol Brenstuhl
70	Darrell Kick	Darrell Kick	Steve Johnson
71	Scott Ryan	Scott Ryan	Jeremy Blake
72	Larry Householder	Larry Householder	Tyler Shipley
73	Rick Perales	Rick Perales	Kim McCarthy
74	Bill Dean	Bill Dean	Anne Gorman
75	Kathleen Clyde	Jim Lutz	Randi Clites
76	Sarah LaTourette	Sarah LaTourette	John Kennedy
77	Tim Schaffer	Tim Schaffer	Brett Pransky
78	Ron Hood	Ron Hood	Amber Daniels
79	Kyle Koehler	Kyle Koehler	Amanda Finfrock
80	Steve Huffman	Jena Powell	Scott Zimmerman
81	Jim Hoops	Jim Hoops	Janet Breneman
82	Craig Riedel	Craig Riedel	Aden Baker
83	Robert Sprague	Jon Cross	Mary Harshfield
84	Keith Faber	Susan Manchester	Joe Monbeck
85	Nino Vitale	Nino Vitale	Garrett Baldwin
86	Dorothy Pelanda	Tracy Richardson	Glenn Coble
87	Riordan McClain	Riordan McClain	Mary Pierce-

			Broadwater
88	Bill Reineke	Bill Reineke	Rachel Crooks
89	Steve Arndt	Steve Arndt	Joe Helle
90	Terry Johnson	Brian Baldrige	Adrienne Buckler
91	Shane Wilkin	Shane Wilkin	Justin Grimes
92	Gary Scherer	Gary Scherer	Beth Workman
93	Ryan Smith	Ryan Smith	Jim Rumley
94	Jay Edwards	Jay Edwards	Taylor Sappington
95	Andy Thompson	Don Jones	Dan Milleson
96	Jack Cera		Jack Cera
97	Brian Hill	Brian Hill	Kristine Geis
98	Al Landis	Brett Hudson Hillyer	Jeremiah Johnson
99	John Patterson	Michael Pircio	John Patterson

Ohio Senate Candidates

(Election winners are in bold.)

District Number	Incumbent	Republican	Democrat
1	Robert McColley	Robert McColley	Adam Papin
3	Kevin Bacon	Anne Gonzales	Tina Maharath
5	Bill Beagle	Steve Huffman	Paul Bradley
7	Steve Wilson	Steve Wilson	Sara Bitter
9	Cecil Thomas	Tom Chandler	Cecil Thomas
11	Edna Brown	Ernest McCarthy	Teresa Fedor
13	Gayle Manning	Nathan Manning	Sharon Sweda
15	Charleta Tavares	Jordan Garcea	Hearcel Craig
17	Bob Peterson	Bob Peterson	Scott Dailey
19	Kris Jordan	Andrew Brenner	Louise Valentine
21	Sandra Williams	Thomas Pekarek	Sandra Williams
23	Michael Skindell	Steve Flores	Nickie Antonio
25	Kenny Yuko	William Faehnrich	Kenny Yuko

27	Frank LaRose	Kristina Roegner	Adam VanHo
29	Scott Oelslager	Kirk Schuring	Lauren Friedman
31	Jay Hottinger	Jay Hottinger	Melinda Miller
33	Joe Schiavoni	Michael Rulli	John Boccieri



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MEMORANDUM

TO: Ohio Manufacturers' Association
FROM: Bricker & Eckler LLP
DATE: November 29, 2018
RE: Proposed Gun Legislation

I. Introduction.

The Ohio General Assembly has introduced a series of firearm and weapon related bills that could negatively impact employers' and other property owners' ability to control weapons on their property. The OMA and other business groups have submitted letters to both Senate and House of Representatives ("House") leadership urging the legislature to either not move forward with these bills or to narrow the bills' broad language. In the wake of the tragic school shootings across the nation, various Democratic legislators and Governor John Kasich have also introduced proposals to regulate firearms. The OMA and others in the business community should be aware that such legislation could be moved quickly and covertly through the legislative process during the Lame Duck Session at the end of November and throughout December. Please find an overview of the various gun bills in the 132nd General Assembly below.

II. 132nd General Assembly's Proposed Gun Legislation.

H.B. 233 Overview. The bill was introduced in the House on May 18, 2017 in the midst of the FY18-19 Biennial Budget ("H.B. 49") process. The bill is sponsored by Rep. John Becker R-Union Township. The OMA submitted written opponent testimony to the House Federalism & Interstate Relations Committee on July 5, 2017. The House passed H.B. 233 on July 6, 2017 (64-31), largely along party lines. The bill was referred to the Senate Government Oversight & Reform Committee. It has received no hearings thus far.

H.B. 233 is part of a series of bills that several members of the General Assembly have introduced since the 131st General Assembly Lame Duck Session to relax gun restrictions in Ohio. The OMA opposed the inclusion of language in H.B. 49 that created a private cause of action against a property owner who prohibits or effectively prohibits the "injured" individual's ability to have a concealed handgun in a motor vehicle where that motor vehicle would otherwise be permitted to be. Although this language was amended, the cause of action remained a part of H.B. 49.

The bill allows a concealed handgun license holder or qualified military member to avoid charges for entering a gun-free zone with a firearm. Under

current law, entering a gun-free zone with a firearm is a fifth-degree felony subject to up to 12 months in prison and a \$2,500 fine. However, this bill substantially relaxes penalties. Individuals discovered carrying a weapon in such a location may only be charged with a crime if he or she refuses to leave, or knowingly returns, within 30 days with a deadly weapon.

The bill allows a concealed handgun license holder to knowingly enter a gun-free zone without a criminal penalty. H.B. 233 does nothing to deter an individual from entering a gun-free zone with a concealed handgun. To the contrary, the bill insulates such individuals from receiving any penalty for knowingly ignoring a restriction by a property owner to keep guns off the premises.

Even if a property owner, including a business owner or manufacturer, posted “no guns allowed” signs, a concealed handgun licensee could still bring a hidden loaded handgun onto the property and the property owner would have little legal recourse against the individual.

H.B. 233’s scope is extremely broad and affects any private “land or premises”, even with a posting of “no guns allowed”. Meaning, an employee could still enter the workplace with a loaded concealed handgun and not face a criminal charge.

S.B. 180 and H.B. 228 Overview. These two bills are so-called “stand-your-ground” bills. S.B. 180 was introduced in the Senate on August 15, 2017 and is sponsored by Senators Joe Uecker (R-Loveland) and Jay Hottinger (R-Newark). It has had four hearings in the Senate Judiciary Committee. This bill eliminates a person’s duty to retreat before acting in self-defense, defense of another, or defense of a person’s residence if that person is in a place in which the person lawfully has a right to be. The bill also shifts the burden of proof in self-defense cases.

H.B. 228 is the companion bill to S.B. 180. It is sponsored by Representatives Terry Johnson (R-McDermott) and Sarah LaTourette (R-Chagrin Falls). The bill was introduced on May 16, 2017 and was referred to the House Federalism & Interstate Relations Committee. The bill has had seven hearings and was reported out of Committee on May 22, 2018. On November 14, 2018, the House passed H.B. 228 (64-26). The House accepted an amendment from Representative Johnson clarifying the law regarding retired peace officers and reciprocity with other states. The bill now heads to the Senate for consideration. Governor Kasich publicly stated again that he will veto this legislation if it makes it to his desk.

H.B. 228 is primarily supported by gun rights groups, while anti-gun violence advocates from Moms Demand Action for Gun Sense in America vehemently opposed this measure. Moms Demand Action advocates testified that the bill will effectively allow for the carrying of firearms without a license.

H.B. 201 and S.B. 142 Overview. This bill is likely the most comprehensive relaxation of gun regulations that this General Assembly has considered. H.B. 201 is sponsored by Representatives Ron Hood (R-Ashville) and Tom Brinkman (R-Mt. Lookout). The bill was introduced on May 3, 2017. It was referred to the House Federalism & Interstate Relations

Committee where it received four hearings. The bill expands the definition of “concealed handgun” license.

S.B. 142 is the companion bill to H.B. 201. This bill is sponsored by Senator Kris Jordan (R-Ostrander). It was introduced and referred to the Senate Judiciary Committee in May 2017.

H.B. 201 allows a person who is 21 years old or older, and is not otherwise prohibited from possessing or receiving a firearm, to carry a concealed firearm that is not a restricted firearm without obtaining a concealed handgun license. A “restricted firearm” is defined under the proposed law as a “firearm that is dangerous ordnance or that is a firearm that any law of this state, or the United States, prohibits the subject person from possessing, having, or carrying.” A firearm means “any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant.” R.C. 2923.11(B)(1).

The bill prohibits law enforcement or any agent of the state, a county, a municipal corporation, or a township from conducting any search, seizure, or detention, “no matter how temporary in duration” because a person is carrying or possessing a firearm with or without a concealed handgun license.

H.B. 253 and S.B. 208 Overview. This bill is sponsored by Representatives Laura Lanese (R-Grove City) and Larry Householder (R-Glendale). The language allows an off-duty police officer to carry firearms in areas that are otherwise prohibited for CCW permit holders. It was introduced in May 2017 and has received four hearings in the House Federalism & Interstate Relations Committee. Business groups have been outspoken regarding their concern with H.B. 253, which would supersede business owners’ rights to prohibit guns on their properties.

The Committee adopted a substitute bill during H.B. 253’s fourth hearing, which allows officers to carry a firearm in a liquor establishment if acting within the scope of their duties; prohibits an establishment serving the public from restricting peace officers from carrying a weapon on the premises; and allows law enforcement officials to carry in courthouses.

Senator Lou Terhar (R-Cincinnati) is sponsoring S.B. 208, which is the companion bill to H.B. 253. This bill was introduced in the Senate on October 3, 2017 and passed the Senate (30-3) on April 11, 2018. The bill has had two hearings in the House Federalism & Interstate Relations Committee and was ultimately reported out of the Committee (9-1).

During the June 26, 2018 hearing, members of the House Federalism & Interstate Relations Committee tabled an amendment offered by Representative David Leland (D-Columbus) after Chairwoman Representative Kristina Roegner (R-Hudson) said she is willing to work to address the issues contained in the amendment, which is designed to protect private property rights. Specifically, the amendment would have required law enforcement agencies to provide permission for their officers to carry while off-duty and provided the agency with the same liability for an off-duty officer as for one on duty.

S.B. 242 Overview. Senator Frank LaRose (R-Hudson) is sponsoring this bill. The bill eliminates the prohibition against manufacturing, possessing for sale, selling, or furnishing certain weapons other than firearms or dangerous ordnance. While this bill does not pertain to firearms, it is relevant to the manufacturing of certain weapons, such as a spring-loaded knife. The bill has had one hearing in the Senate Judiciary Committee on April 10, 2018.

S.B. 219 and H.B. 395 Overview. This bill prohibits any person from importing, manufacturing, selling, transferring, or possessing a trigger crank, a bump-fire device, or any part, combination of parts, component, device, attachment, or accessory that is designed or functions to accelerate the rate of fire of a semi-automatic firearm, but not convert the semi-automatic firearm into an automatic firearm. The bill is sponsored by Senator Cecil Thomas (D-Cincinnati) and it was introduced on October 17, 2017. The bill was referred to the Senate Government Oversight & Reform Committee, where it has had one hearing.

H.B. 395 is the companion bill to S.B. 219. It is sponsored by Representative Bill Patmon (D-Cleveland). H.B. 395 was introduced on October 26, 2017 and has had one hearing in the House Federalism & Interstate Relations Committee.

H.B. 305 Overview. Representatives Nickie Antonio (D-Lakewood) and Janine Boyd (D-Cleveland Hts.) are sponsoring this bill that requires a court that issues a protection order to determine if the respondent is prohibited from carrying or possessing a firearm. The language requires a court to determine whether an offender who has been convicted of specified offenses is prohibited from carrying or possessing a firearm. The bill also requires a respondent or offender who the court determines is prohibited from carrying or possessing a firearm to transfer all firearms in the person's possession to a law enforcement agency or a federally licensed firearms dealer. H.B. 305 was introduced on July 18, 2017, and has had one hearing in the House Federalism & Interstate Relations Committee on January 31, 2018.

III. Governor Kasich's Gun Policy Proposals.

On March 1, 2018, Governor John Kasich unveiled six proposals to curb gun violence while also protecting citizens' Second Amendment rights. The proposals were crafted by an eight-member group that consisted of former Representative Ron Maag, former Attorney General Betty Montgomery, former U.S. Congresswoman Deborah Pryce, former Senator Nina Turner, Jim Tobin of the Catholic Conference of Ohio, former Senate Presidents Doug White and Tom Neihaus, and the law enforcement chief at the Department of Natural Resources.

The first proposal creates a new gun violence protection order ("GVPO") to allow certain people defined by law to petition a court to require a person to temporarily relinquish their firearms if it is determined by clear and convincing evidence that they are a threat to themselves or others.

The second proposal would prohibit anyone convicted of a domestic violence crime or subject to a domestic violence protection order, or others prohibited under federal law from buying or possessing a firearm.

The third proposal requires agencies to report convictions, sentencing records, and public mental health records as quickly as possible so that background checks of firearm purchasers are as complete and accurate as possible.

The fourth proposal prohibits the purchase of firearms for third parties (except as a gift), even if the third party is legally allowed to buy or own a firearm.

The fifth proposal prohibits the sale of armor-piercing ammunition.

The sixth proposal requires Ohio law to incorporate any future federal regulations that regulate bump stocks.

Governor Kasich released the proposals in the wake of a mass school shooting in Florida that left 17 people dead and the recent shooting deaths of two Westerville police officers. In March, Senate President Larry Obhof (R-Medina) indicated that he is not sure where lawmakers will land on the protection order proposal.

H.B. 585 Overview.

In April, Representative Michael Henne (R-Clayton) introduced H.B. 585, which encompasses many of the same ideas Governor John Kasich set forth in his proposals. The bill has had four hearings in the House State & Local Government Committee. Nearly 20 gun owners provided opponent testimony against the bill at its last hearing.

H.B. 585 includes language that creates extreme risk protection orders in which law enforcement or a family member could petition a court to force a person to relinquish their firearms if they are deemed a threat to themselves or others. The bill also bans the sale of armor-piercing ammunition, and prohibits so-called “strawman” purchases, or firearm acquisitions on behalf of a third party.

The proposed language also mirrors federal law regarding individuals who are prohibited from possessing a firearm or dangerous ordnance, including those who were convicted of a felony or domestic violence, violated a protective order, or were dishonorably discharged from the military. H.B. 585 requires protection orders to be entered into the federal National Crime Information Center and Law Enforcement Automated Data System databases and adopts the federal definition of an automatic firearm.

In July, when speaking about his recent executive order regarding Lake Erie and other water quality issues, Governor Kasich made the statement “We’re not kicking this [water quality issues] over to the legislature. They had their chance and they blinked like they have on so many other things, including the gun laws.” Thus, it is unlikely that H.B. 585 will make it through the legislative process prior to the end of the 132nd General Assembly.

IV. Conclusion.

The General Assembly's introduction of sweeping gun legislation has slowed down since the beginning of the year. The various legislative items may have additional hearings in the Ohio House and Ohio Senate during the remainder of the General Assembly, but any bill that does not make it through the legislative process in 2018 must be reintroduced in 2019. Notably, any of these proposals could possibly be amended into another bill during the upcoming Lame Duck session without making it through the full legislative process. Governor Kasich's recent statements regarding gun legislation indicate that he will not be as willing to sign legislation that expands gun rights as he has previously throughout his tenure as Governor. We will update the OMA on these ongoing issues and provide any guidance helpful for these proposals to help best protect the OMA and its members. Please let us know if we can answer any specific questions regarding the proposed gun legislation.

To: OMA Government Affairs Committee
From: Ryan Augsburg / Rob Brundrett
Re: Energy Policy Report
Date: November 29, 2018

Overview

Election activity has dominated activity around Cap Square over the past quarter, but energy policy discussions have been taking place with an eye toward lame duck government when accountabilities can be less attentive.

In the General Assembly, proponents continue to push for bailouts of uneconomical power plants. Meanwhile new efforts are underway at the PUCO to allow utilities to own renewable energy which would seem to be a challenging prospect under Ohio's deregulated generation law. Also at the PUCO, with the wrap up of the PUCO's PowerForward report, utilities are seeking new riders to pay for "grid modernization," but the details of the proposals have been murky.

Nationally, it appears the Trump Administration is backing away from plans to require customers to subsidize unprofitable power plants.

Finally, Ohio elected a new Governor. Governor Mike DeWine's Administration will now have a turn to put their stamp on state energy policy.

Trump Administration Orders Subsidies to Benefit Former FirstEnergy Power Plants

For the past year, FirstEnergy have been busy lobbying the federal government for nuclear and certain coal power plant bailouts. Earlier this year the Federal Energy Regulatory Committee (FERC) rejected a rule proposal by the Department of Energy that would have subsidized certain base-load power plants including nukes.

Then in early summer a Department of Energy draft order became public signaling that the Trump Administration will order subsidies under the guise of "national security." By late summer, without every seeing a formal order, news reports detailed the effort had been shelved....apparently due to legal hurdles.

PJM Opines on Resiliency

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

FirstEnergy Solutions Files Bankruptcy

FirstEnergy's (FE) affiliate corporation, FirstEnergy Solutions (FES) that owned the power plants has been underwater for some time. Hence they sought government bailout. As was expected, FES filed for bankruptcy protection in March. The company also notified regulators of intent to shutter the power plants in a few years.

In the months since, a settlement between the stakeholders has been proposed and was recently modified. The companies used the bankruptcy and plant closure announcements to lever political support for state and federal bailouts.

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

It took utilities in Ohio longer to pass along savings to customers stemming from federal tax reform last winter. Only FirstEnergy remains unresolved, and now if offering to pass along the tax savings to customers if customers will pay over \$500 million in new grid modernization. The OMA Energy Group has been active in these proceedings.

Protecting Competitive Electric Markets

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

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

Several noteworthy studies have demonstrated how the market delivers lower prices, choice and innovation without compromising reliability (ask staff for the studies). The opportunity to advance legislative reform to protect competitive markets has arrived. The OMA has been working with other customer groups to support House Bill 247 introduced by Representative of Mark Romanchuk from the Mansfield area.

Manufacturers can engage policymakers and support a campaign to support the reform. Please contact OMA staff to learn how you can support the cause.

OVEC Bailout

Companion legislation is pending both the House and Senate since last May but has not yet advanced. HB 239 is sponsored by Representatives Ryan Smith and Rick Carfagna, while SB 155 is sponsored by Senators Lou Terhar and Bob Peterson.

The legislation provides 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 bailout subsidies would be added to customer bills until 2030 and sets up the possibility for continued customer payment after 2030.

The OMA opposes this bailout that will impose new above-market customer charges. OMA Energy Counsel Kim Bojko provided opponent testimony in the Senate early this year. No movement so far. Adding to the intrigue, FirstEnergy Solutions was allowed to exit their ownership of OVEC as a result of their bankruptcy earlier in August. The move puts more pressure on remaining owners such as AEP to pay FES share.

Zero Emissions Credit (ZEC) STILL = Nuke Bailout

After being panned by dozens of important stakeholders, legislation to subsidize the uneconomical nuclear power plants stalled out over the summer. During the autumn, House Bill 381 was introduced by Representative Anthony DeVitis of Summit County and several other bipartisan co-sponsors. Similar legislation in the Senate has been amended to mirror the new House Bill. The OMA strongly opposes the legislation and is working with other opponents to coordinate advocacy. Local government officials are now leading the charge for bailouts to prevent the plants from closing and jeopardizing job loss locally. Proponents of bailout are also now trying to build justification for the need for lower carbon generation and business planning to refuel the plants.

Electric Generator Tax Levied on On-Site Generation: HB 143

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 same as a utility. The Department's basis for collecting the tax is tenuous at best. House Bill 143 has been introduced by state representative Robert Sprague of Findlay. The OMA presented proponent testimony in spring.

OMA Appeals Utility Subsidies

Late last year the OMA Energy Group (OMAEG) filed appeals at the Supreme Court of Ohio challenging customer charges in the FirstEnergy ESP case and in the AEP ESP case. In both cases, the PUCO granted the utilities improper customer charges for charges like OVEC and FirstEnergy credit support. These are big ticket cost items for energy-intensive customers. Appeals are still pending and the OMA Energy Group's opposition has been noticed widely.

Energy Standards Legislation

The last time the General Assembly sent a bill to Governor Kasich that would weaken alternative energy standards, the Governor vetoed the bill. Early in the current legislative session, the Ohio House introduced HB 114 and subsequently approved the measure with over 50 co-sponsors.

Senate President Obhof has commented frequently that HB 114 was a priority for Senate action early in 2018. In May the Senate revised the bill and tacked on provisions to relax siting requirements for wind farms. The revised bill is a mixed bag for manufacturers but includes an opt-out to provide relief to manufacturers. An analysis of the Senate revisions is available.

Re-Monopolization

AEP and other investor-owned utilities have been calling for legislation to *re-monopolize* aspects of utility-owned generation. In spite of assurances made to investors that legislation would be introduced during the term, no such bill has been introduced. Meanwhile utilities are seeking to own certain alternative energy generation. As a state that deregulated generation, the OMA takes a dim view of proposals that provide utility control over any form generation.

PowerForward

Over the past year, the PUCO has been holding testimony to hear perspectives on how technology can be used to improve the power grid. While the PUCO is not responsible for managing the grid the state agency regulates the utilities who own the grid and therefore the PUCO has a say in transmission investments utilities seek to recoup from customers. The PUCO is the sole judge for distribution investments utilities seek customer payment. Without question it is prudent for state regulators to stay abreast of how technology is fostering grid modernization. A report has been published recently and can be found at the PUCO website.

Goldplating Ahead?

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

Natural Gas Infrastructure

The OMA continues to express industry support for the Rover Pipeline and Nexus Pipeline. Billions of dollars of pipeline investment are underway by several different developers and many segments of new pipelines are operational. The OMA has been working with the NAM to promote gas infrastructure and increased market utilization. Please contact staff to learn more about opportunities for supportive manufacturers to engage.

Natural Gas Production

Ohio natural gas and gas liquid production is up. See meeting materials. See Columbia Gas report.

NEWS

Friday, November 23, 2018

Lawmaker Mulls Potential Legislation In Response To FirstEnergy Settlement

[Rep. Mark Romanchuk](#) said he's considering whether to pursue a legislative proposal next session in response to a recent FirstEnergy settlement agreement that has sparked concern among consumer advocates.

FirstEnergy's [settlement](#), filed Nov. 9 with the Public Utilities Commission of [Ohio](#), promises to return \$900 million to customers to accommodate federal tax cuts through the 2018 Tax Cuts and Jobs Act. FirstEnergy projects the average residential customer would see a \$3.90 reduction in monthly bills, with other savings credited to consumers over the next 25 years. ([Docket](#))

Parties signing onto the deal include PUCO staff, the Ohio Energy Group, Industrial Energy Users-Ohio, Direct Energy Services, the Environmental Defense Fund, the Ohio Hospital Association, Interstate Gas Supply and the Ohio Cable Telecommunications Association.

But some stakeholder groups fear that the agreement's call for more than \$500 million in investment over three years in modernizing the electric distribution system could cancel out any potential rate reductions.

"Not a single residential consumer advocate signed the FirstEnergy [settlement](#) that, if adopted by the PUCO commissioners, would offset much of the rate decreases with increases," said J.P. Blackwood, spokesman for the Ohio Consumers' Counsel. "We will ask the PUCO for consumer protection from more FirstEnergy rate increases. In the bigger picture, Ohioans need their legislature to reform the PUCO's settlement process that is too favorable to utilities and their rate increases."

Rep. Romanchuk (R-Mansfield) said he too is concerned that the company is seeking to intermix the tax cut issue with new investment in the grid.

"I don't agree with the coupling of the returning the money to ratepayers of the savings in taxes and another type of settlement," Rep. Romanchuk said in an interview. "They should be separate cases and shouldn't be coupled together in my view. It should be no different than what we did with the other three utilities (regarding the tax cuts). We need to reform the settlement process at the PUCO."

Although details of Rep. Romanchuk's potential legislation are far from finalized, he said the timeline in which those cases move forward could be a piece of his proposal. That follows a request from FirstEnergy that the PUCO approve its settlement by year's end.

Concerned stakeholders say that proposed timeline gives them pause. A PUCO attorney examiner on Thursday rejected the company's timeline, slating testimony to be filed in December and January in advance of evidentiary hearings in February.

"We are still reviewing a rushed settlement that seems to require another customer charge," said Ryan Augsburger, the Ohio Manufacturers' Association's managing director of public policy services. "Manufacturers appreciate the PUCO's work to return tax savings to customers, but it's unclear why the two issues have been combined."

The company, though, said the deal is an overall benefit for consumers.

"The agreement filed with the PUCO will deliver financial and [service](#) reliability benefits for our customers now and in the future," said Samuel Belcher, senior vice president and president of FirstEnergy Utilities. "The grid modernization initiative is consistent with the technology supported by the PUCO and the initial deployment of smart meters for our Ohio utilities will ultimately help customers make more informed decisions about their energy usage."

The \$500 million investment in modernizing the electric distribution system contained in the agreement include:

- Installation of 700,000 smart meters.
- Development of time-varying rates giving customers opportunities to reduce bills by using energy during off-peak periods.
- Deployment of automated equipment on at least 200 distribution lines to more accurately isolate and prevent problems.
- Placement of voltage regulating equipment on at least 202 circuits to boost energy efficiency benefits.

FirstEnergy agrees to cut rates to reflect lower federal taxes but wants new increases for wire upgrades

Updated 2:21 AM; Posted Nov 11, 5:59 AM

By [John Funk, The Plain Dealer](#)
jfunk@plaind.com

CLEVELAND, Ohio – FirstEnergy customers are in line for lower monthly electric bills, but not as low as they would have been, under the terms of a deal the Akron-based company quietly negotiated with the staff of the Public Utilities Commission of Ohio and then persuaded some opponents to sign onto.

The good news is that monthly consumers' bills could fall by about \$3.90. The bad news? A rate increase of proportions still not revealed.

At issue has been the company's refusal to obey a PUCO request that it lower its rates to reflect the federal corporate tax cut in place since Jan. 1, and the PUCO's unrelated slow approval of new rate increases to pay for phase one of a massive reconstruction of the company's local wires and equipment with a system managed by digital technology.

FirstEnergy filed a "settlement" of these issues on Friday evening in a PUCO docket, signed by the commission staff and by some of the groups that had sought to comment but not by others, effectively ending their ability to have a say in the issue. The company wants approval by Dec. 31.

The company has insisted that its rates could not be adjusted until 2024, and in the last 10 months collected about \$900 million more than it should have from customers.

A showdown on the tax issue has been brewing. A little over two weeks ago the commission unanimously approved an order compelling every Ohio utility to explain by Jan. 1 how it would return the extra money it had collected. Asim Haque, chairman of the commission, adamantly vowed that Ohio utilities would give back "every dime" and "every dollar" of money over collected.

Under the terms of the deal filed Friday, the commission staff is now recommending the PUCO approve two company requests for rate increases that have languished in the agency's dockets, one of them since 2016.

The old cases ask for \$500 million in rate increases – a down payment on a rebuild and upgrade to the company's local Ohio distribution lines and equipment, replacing them with stronger and "smarter" technology.

Included in the upgrades are 700,000 "smart meters" that would give consumers much more control of how much electricity they use and when they use it.

In a statement issued late Friday, the company trumpeted the agreement as a win for consumers, saying it would return almost \$900 million to customers and that it would "keep bills affordable" as the company rebuilds its wire systems.

The statement said that a residential customer using about 1,000 kilowatt-hours a month would see delivery charges fall by about \$3.90 because of the agreement. The statement noted, however, that most of the over-collections for taxes would be reimbursed over the next 25 years.

Consumers may not have noticed, but FirstEnergy bills have already fallen slightly because the company earlier adjusted four special rate "riders" (added to the base delivery rate) to reflect the federal tax cut. At the time, a FirstEnergy spokeswoman said the adjustments would reduce average consumer bills by about \$10 a year.

One opponent was the Ohio Manufacturers' Association Energy Group. Ryan Augsburger, a spokesman, questioned the basis of the compromise. "Manufacturers appreciate the PUCO's work to return tax savings to customers, but it's unclear why the two issues have been combined," he said.

Edward Hill, an economist and professor of public administration at Ohio State University, said the long payback window amounts to a zero-interest loan from customers to the company, and one that is not adjusted for inflation.

FirstEnergy's proposed system upgrades are more than just replacing wires, installing smart meters and adding a few digital controls.

The upgrades, according to the company, would revolutionize how power is delivered and sold while reducing the duration of power failures and even preventing some of them.

The technology would include automated equipment on a minimum of 200 major distribution lines capable of isolating power failures and restoring service more quickly to affected customers.

The upgrades would also include "time-of-date" rates, a feature that some consumers may have trouble adjusting to. As the term implies, rates would vary, increasing as overall demand increased. Homes equipped with the smart meters could automatically respond, following instructions customers programmed into them.

Samuel Belcher, president of FirstEnergy Utilities, noted in the company's prepared statement that the new technology the company is proposing "is consistent with technology supported by the PUCO." He was referring to the commission's development earlier this year of a set of proposals for grid modernization, issued in August under the title "PowerForward."

Hill said the development of new grid technologies by the company, even if they are consistent with the roadmap envisioned by the PUCO, should come with a full-blown rate case, which would detail the costs as well as reveal what FirstEnergy is already collecting and spending for ongoing maintenance and replacement of its wires.

"They are already being paid to maintain and replace the system incrementally. They are now arguing that everything is new.

"This is nuts," Hill said. "It's why you need a new rate case" rather than adding "riders" to existing rates.

Such a case would take months, not the few weeks that FirstEnergy is asking for.

The sudden settlement proposal comes just days before Charles Jones, CEO of FirstEnergy, is scheduled to give a presentation before the Edison Electric Institute regarding the company's future. And it comes just two weeks after Jones mentioned the grid upgrades during an earnings teleconference with financial analysts questioning the growth in the company's future earnings potential.

Among others opposing the deal are the Ohio Consumers' Counsel, the Northeast Ohio Public Energy Council (NOPEC) and the Natural Resources Defense Council.

Consumers' Counsel spokesman J.P. Blackwood noted Saturday that "not a single residential advocate was convinced to support the FirstEnergy settlement.

"The PUCO recently announced it expects utilities to share with Ohioans 'every dime' of the utilities' reduced federal taxes," he said. "Ohio consumers may have to pay FirstEnergy \$500 million in nickels to receive \$800 million in tax reduction dimes."

"In the bigger picture, Ohioans need their legislature to reform the PUCO's settlement process that is too favorable to utilities and their rate increases."



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

OCT 30 2018

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

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

Dear Acting Administrator Wheeler:

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

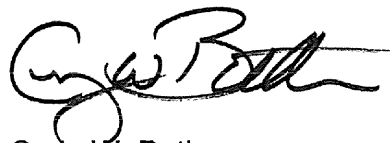
The CPP called for the unprecedented overhaul of the power generation, transmission and distribution system to limit carbon dioxide emissions by the federal government under the stationary source control program of CAA Section 111(d). Ohio disagreed with the legal underpinnings of this plan and we support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

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

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

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

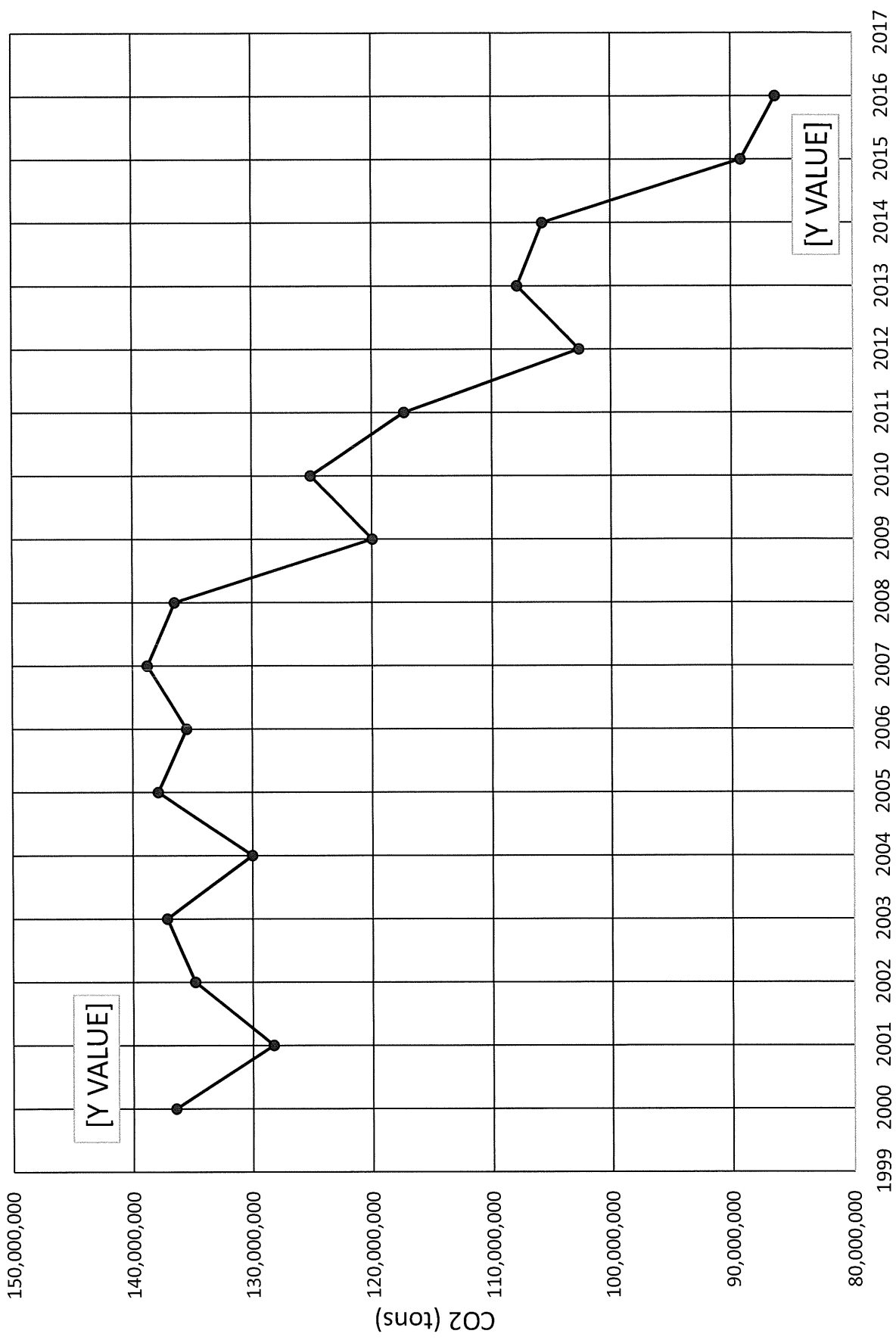
Sincerely,

A handwritten signature in black ink, appearing to read "Craig W. Butler". The signature is fluid and cursive, with a large initial "C" and "B".

Craig W. Butler
Director, Ohio EPA

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

Ohio EGU CO2 Emissions: All Fuels



CARPENTER LIPPS & LELAND LLP

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

MEMORANDUM

TO: Ohio Manufacturers' Association Energy Group

FROM: Kim Bojko, Carpenter Lipps & Leland

DATE: September 21, 2018

SUBJECT: AEP Ohio Proposal to Amend Long-Term Forecast Report to Allow AEP Ohio and Its Affiliates to Develop Renewable Resources

In order to demonstrate the need for at least 900 MW of renewable energy as required under SB 221, the Ohio Power Company (AEP Ohio) filed an amendment to its long-term forecast report.¹ AEP Ohio would pass the costs of these projects onto customers through the Renewable Generation Rider (Rider RGR). Rider RGR was established in AEP Ohio's purchase power rider proceeding, which OMAEG opposed and then appealed.² Although AEP Ohio will file for approval of specific renewable project proposals in separate dockets, it is seeking a determination of need by the PUCO in its forecasting case.

AEP Ohio concedes that the PJM wholesale markets are adequately supplying capacity and energy to the AEP Ohio load zone. Nonetheless, AEP Ohio argues that these self-supplied renewable resources are required to "most effectively" meet its obligation to provide a standard service offer (SSO) to its customers. AEP Ohio submits through testimony that these customer-funded projects will result in lower electric costs for customers over time, and that a study it commissioned shows that customers are in favor of these projects. Of course, other interested parties have not had the opportunity to examine through discovery and hearing whether these propositions advanced by AEP Ohio are valid.

This proposal by AEP Ohio represents a renewed attempt to charge customers for generation supplied by itself and its affiliates in a manner that undermines the competitive markets that Ohio law requires. Without offering more than a speculative justification for necessity of this new, nonbypassable charge to customers, AEP Ohio seeks to reenter the generation market without competing with other generators of renewable energy. Customers are not well-served by this attempt, as they are deprived of the safeguard of a competitive generation

¹ AEP Ohio asks the Commission to allow AEP Ohio and its affiliates to develop and own a total of *at least* 500 MW nameplate capacity of wind energy projects in Ohio and *at least* 400 MW nameplate capacity for solar projects in Ohio.

² Notably, even the settlement regarding Rider RGR only allowed for AEP and its affiliates to own up to 50% of these renewable resources. Yet, AEP makes no mention of this limitation in this application, which appears to suggest that AEP Ohio and its affiliates will own all of the developed renewable resources.

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market that would otherwise ensure that customers are not overcharged for generation service. This proposal, if adopted, would be a step backwards for deregulation and competitive markets.

AEP Ohio proposes an accelerated schedule for this proceeding, claiming that such a schedule is necessary for the Company to take advantage of temporarily available tax credits for these new renewable projects. OMAEG should intervene in this proceeding to ensure that members are protected against anticompetitive attempts to increase electric costs to customers to the benefit of AEP Ohio and its affiliates.

Energy Legislation

Prepared by: The Ohio Manufacturers' Association
Report created on November 27, 2018

- HB105 OIL AND GAS FUNDING LIMIT** (CERA J, HILL B) To limit the amount of revenue that may be credited to the Oil and Gas Well Fund and to allocate funds in excess of that amount to local governments, fire departments, and a grant program to encourage compressed natural gas as a motor vehicle fuel.
Current Status: 5/16/2017 - House Ways and Means, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-105>
- HB114 RENEWABLE ENERGY STANDARDS** (BLESSING III L) To modify requirements for renewable energy and energy efficiency, to permit mercantile customers to opt out of utility plans for energy efficiency and peak demand reduction, and to modify requirements for wind projects and wind farms.
Current Status: 6/27/2018 - Senate Energy and Natural Resources, (Eighth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-114>
- HB143 ELECTRIC DISTRIBUTION COMPANY DEFINITION** (SPRAGUE R) To clarify the definition of "electric distribution company" for kilowatt-hour tax purposes.
Current Status: 5/22/2018 - House Public Utilities, (Fourth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-143>
- HB178 ZERO-EMISSIONS NUCLEAR PROGRAM** (DEVITIS A) Regarding the zero-emissions nuclear resource program.
Current Status: 5/16/2017 - House Public Utilities, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-178>
- HB225 ABANDONED WELL REGULATION** (THOMPSON A) To allow a landowner to report an idle and orphaned well or abandoned well, to require the Chief of the Division of Oil and Gas Resources Management to inspect and classify such a well, to require the Chief to begin plugging a well classified as distressed-high priority within a specified time period, and to authorize an income tax deduction for reimbursements paid by the state to a landowner for costs incurred to plug an idle or orphaned well.
Current Status: 6/29/2018 - **SIGNED BY GOVERNOR**; Appropriation eff. 6/29/18, bill eff. 9/28/18
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-225>
- HB239 ELECTRIC UTILITIES-NATIONAL SECURITY RESOURCE** (SMITH R, CARFAGNA R) To allow electric distribution utilities to recover costs for a national security generation resource.
Current Status: 10/3/2017 - House Public Utilities, (Sixth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-239>
- HB247 ELECTRIC UTILITY CONSUMER PROTECTION** (ROMANCHUK M) To require refunds to utility customers who have been improperly charged, to eliminate electric security plans and

require all electric standard service offers to be delivered through market-rate offers, and to strengthen corporate separation requirements.

Current Status: 1/23/2018 - House Public Utilities, (Sixth Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-247>

HB249 RESIDENTIAL UTILITY RESELLING (DUFFEY M) To permit the Public Utilities Commission to adopt rules governing residential utility reselling.

Current Status: 5/22/2018 - **SUBSTITUTE BILL ACCEPTED**, House Public Utilities, (Sixth Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-249>

HB381 ZERO-EMISSIONS NUCLEAR RESOURCE (DEVITIS A) Regarding the zero-emissions nuclear resource program.

Current Status: 12/12/2017 - House Public Utilities, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-381>

HB393 OIL AND GAS BRINE SALES (DEVITIS A, O'BRIEN M) To authorize a person to sell brine derived from an oil and gas operation that is processed as a commodity for use in surface application in deicing, dust suppression, and other applications.

Current Status: 5/15/2018 - **REPORTED OUT AS AMENDED**, House Energy and Natural Resources, (Fifth Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-393>

HB473 CREDIT LOCAL GOVERNMENT FUND-POWER PLANTS (YOUNG R) To credit additional amounts to the Local Government Fund to provide for payment to fire districts that experienced a 30% or more decrease in the taxable value of power plants located in the districts between 2016 and 2017 and to increase the appropriation to the Local Government Fund.

Current Status: 1/30/2018 - Referred to Committee House Ways and Means

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-473>

HB562 HORIZONTAL DRILLING-PARKS (LELAND D) To prohibit the drilling of a horizontal well in various state and local parks

Current Status: 11/27/2018 - House Energy and Natural Resources, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-562>

HB578 INJECTION WELL SETBACKS/FEEES (HOLMES G, O'BRIEN M) To establish new setback requirements applicable to new Class II injection wells and to require thirty-seven and one-half per cent of the out-of-district injection well fee to be paid directly to the municipal corporation or township in which the injection well is located.

Current Status: 11/27/2018 - House Energy and Natural Resources, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-578>

- HB604** **WIND FARM SETBACKS** (STRAHORN F) To alter the minimum setback requirement for wind farms of five or more megawatts and to make the authorization of qualified energy project property tax exemptions permanent.
Current Status: 5/22/2018 - House Public Utilities, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-604>
- HCR14** **PARIS CLIMATE AGREEMENT COMMITMENT** (LEPORE-HAGAN M, LELAND D) To affirm the commitment of the members of the General Assembly, in accordance with the aims of the Paris Agreement, to reduce greenhouse gas emissions to 26 to 28 per cent below 2005 levels by the year 2025.
Current Status: 9/19/2017 - House Energy and Natural Resources, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HCR-14>
- HCR22** **SUPPORT ENERGY INFRASTRUCTURE** (HILL B) To express support for the importance of Ohio's energy resources and energy infrastructure in furthering Ohio's economic development.
Current Status: 4/10/2018 - **REPORTED OUT**, House Energy and Natural Resources, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HCR-22>
- HR277** **ENERGY GRID RULEMAKING** (ARNDT S) To express support for the proposed rulemaking by United States Secretary of Energy Rick Perry for the preservation of a secure, resilient and reliable electric grid.
Current Status: 10/17/2017 - Referred to Committee House Public Utilities
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HR-277>
- HR518** **NUCLEAR EXPERIMENTATION** (STEIN D) To petition the United States Department of Energy to promulgate rules and establish programs allowing states, in collaboration with the Department, to develop new nuclear technologies and laboratories and construct nuclear experimentation containment facility testing platforms.
Current Status: 11/27/2018 - House Energy and Natural Resources, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HR-518>
- SB50** **WELL INJECTION-PROHIBITION** (SKINDELL M) To prohibit land application and deep well injection of brine, to prohibit the conversion of wells, and to eliminate the injection fee that is levied under the Oil and Gas Law.
Current Status: 2/22/2017 - Senate Energy and Natural Resources, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-50>
- SB53** **NATURAL GAS RESTRICTION** (SKINDELL M) To ban the taking or removal of oil or natural gas from and under the bed of Lake Erie.
Current Status: 2/22/2017 - Senate Energy and Natural Resources, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-53>

SB65 ENERGY STAR TAX HOLIDAY (BROWN E) To provide a three-day sales tax "holiday" each April during which sales of qualifying Energy Star products are exempt from sales and use taxes.

Current Status: 3/22/2017 - Senate Ways and Means, (Second Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-65>

SB128 ZERO-EMISSION NUCLEAR PROGRAM (EKLUND J, LAROSE F) Regarding the zero-emissions nuclear resource program.

Current Status: 1/25/2018 - Senate Public Utilities, (Sixth Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-128>

SB155 ELECTRIC DISTRIBUTION COST RECOVERY (TERHAR L, PETERSON B) To allow electric distribution utilities to recover costs for a national security generation resource.

Current Status: 1/10/2018 - Senate Public Utilities, (Seventh Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-155>

SB157 PUBLIC UTILITY RESELLING REGULATION (BACON K) To regulate the reselling of public utility service.

Current Status: 6/26/2018 - **SUBSTITUTE BILL ACCEPTED**, Senate Public Utilities, (Fifth Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-157>

SB188 WIND TURBINE SETBACK REVISIONS (HITE C) To revise wind turbine setback provisions for economically significant wind farms.

Current Status: 10/11/2017 - Senate Energy and Natural Resources, (Second Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-188>

SB238 WIND TURBINE SETBACKS (DOLAN M) Regarding wind turbine setbacks for wind farms of at least five megawatts.

Current Status: 1/10/2018 - **BILL AMENDED**, Senate Energy and Natural Resources, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-238>

SCR14 COUNTER OPEC MARKET MANIPULATION (HOAGLAND F, COLEY W) To urge the Congress of the United States and the President of the United States to take certain actions to counter manipulation of the oil market by the Organization of Petroleum Exporting Countries (OPEC).

Current Status: 12/4/2017 - Referred to Committee House Energy and Natural Resources

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SCR-14>

SCR21

APPALACHIAN STORAGE HUB DEVELOPMENT (BALDERSON T) To urge the Congress of the United States to enact various bills advancing the development of an Appalachian storage hub.

Current Status: 11/27/2018 - House Energy and Natural Resources, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SCR-21>

TO: OMA Government Affairs Committee
FROM: Ryan Augsburger / Rob Brundrett
RE: Environment Public Policy Report
DATE: November 29, 2018

Overview

Over the summer the Governor and Ohio EPA continued to push for new regulations to address phosphorus discharge into Lake Erie. With the legislature refusing to act on administration's proposed legislation the Governor issued an Executive Order requiring his agencies to act. Governor Kasich fired Ohio Dept. of Ag Director Dave Daniels over disagreement as to how the Executive Order should be enacted. The Ohio Soil and Water Commission failed to approve the plan pushing any new action via the Executive Order into the DeWine administration.

General Assembly News and Legislation

House Bill 225 – Abandoned Well Regulation

The bill would allow a landowner to report an idle and orphaned well or abandoned well, to require the Chief of the Division of Oil and Gas Resources Management to inspect and classify such a well, to require the Chief to begin plugging a well classified as distressed-high priority within a specified time period, and to authorize an income tax deduction for reimbursements paid by the state to a landowner for costs incurred to plug an idle or orphaned well. The bill was passed out the House in January. The Senate passed a substitute version of the bill in May. The bill was signed by the governor.

Senate Bill 228 and House Bill 463 – Solid Waste Disposal Fee Increase

These companion bills 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. The House has had one hearing on the bill. The OMA is working with allies to oppose the legislation.

Senate Bill 299 and House Bill 643 – Lake Erie Protection Appropriations

These two companion bills would allow for equipment for the protection and preservation of Lake Erie to be purchased with proceeds from the Parks and Recreation Improvement Fund, and to appropriate funds for projects enhancing water quality in the Western Lake Erie Basin. These bills are in response to Ohio EPA's legislative proposal that would have drastically increased manufacturer regulation of the discharge of phosphorus.

The General Assembly passed SB 299 prior to summer break. The governor signed the bill. The legislature says that SB 299 will be more helpful to the phosphorus fight in Lake Erie than the governor's executive order.

House Concurrent Resolution 25 – Western Lake Erie

The resolution urges the Administrator of the United States Environmental Protection Agency to declare the open waters of Western Lake Erie as impaired pursuant to the federal Clean Water Act.

General Assembly Sets Up Water Nutrient Task Force

This summer the House and Senate appointed 16 members for a new legislative task force on the health of Lake Erie.

The bipartisan task force, “Toward a Cleaner Lake Erie Working Group,” will be co-chaired by Sen. Bob Hackett (R-London) and Rep. Brian Hill (R-Zanesville), who currently chair the House and Senate agriculture committees.

The group has held several meetings over the fall including a meeting this week at the Statehouse.

The working group was created by the legislature in the aftermath of the governor’s executive order, issued this summer, which ran into problems with the Ohio Soil and Water Conservation Commission. The General Assembly opposed the executive order when it was issued and has vowed to continue further study of the issue via the task force.

Regulations

Ohio EPA Proposes New TMDL Rules

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

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

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

3745-2-12: Total maximum daily loads

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

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

OMA is on the record (see comment 17) regarding these proposals to ensure that manufacturers and their trade associations can request public hearings on any new TMDLs.

OMA Files Comments on Fed NOx Rule

The OMA submitted supportive comments to the U.S. EPA on the proposed update to the NOx state implementation plan (SIP) Call regulation.

This proposed rule would amend the existing NOx SIP Call regulations to allow states to revise their SIPs to replace the current requirements for certain sources to monitor emissions with alternate monitoring requirements. The proposal would also eliminate obsolete provisions and make non-substantive clarifications to the remaining regulations.

In its comments OMA wrote, “The proposal would allow alternative monitoring to costly Part 75 CEMS while still providing the necessary assurance that covered units are achieving the required emission reductions under the NOx SIP Call.”

Ohio EPA also submitted comments supporting the proposed federal rule.

OMA Comments on Ohio EPA Large River Nutrient Rule

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

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

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

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

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

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

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

Earlier this fall, Ohio EPA announced via public notice a final rule for hazardous waste wipes and apparel exclusions. The final rule concerns an Ohio-specific rule to conditionally exclude contaminated wipes and apparel (that are not currently excluded under the solvent wipe rule) from regulation under the hazardous waste regulations when certain conditions are met.

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

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

OMA Expresses Concerns to Ohio EPA re. its Permitting Authority

The OMA sent a letter to Ohio EPA regarding the agency's "General Permit Authorization for Storm Water Discharges Associated with Construction Activity from Oil and Gas Linear Transmission Line and Gathering Line Installation." The OMA has serious questions about whether Ohio EPA has the legal authority to promulgate the permit.

OMA wrote: "... the OMA is concerned with the precedential effect that promulgation of this Permit may have in Ohio. Specifically, the OMA is concerned with other industries and/or activities that Ohio EPA may next attempt to regulate, under the same questionable legal authority as it now uses to issue this "non-NPDES" stormwater permit."

Groups to U.S. EPA: Use Honest Cost-Benefit Balancing

With more than 100 other organizations, OMA signed a letter to the Office of Management and Budget on how EPA performs cost-benefit analysis.

The groups wrote: "We believe the time has come for EPA to reexamine its statutory interpretations, and unless prohibited by statute, implement its regulatory statutes through cost-benefit balancing."

The goal of the communication is to advance broad regulatory reforms that move federal agencies toward transparent science, strong risk-assessment, and honest cost-benefit considerations

OMA Influences Construction NPDES

Earlier this spring the OMA filed a detailed letter with the Ohio EPA to express concerns with the agency's draft permit: General Permit Authorization for Storm Water Discharges Associated with Construction Activity Under the National Pollutant Discharge Elimination System (NPDES).

The OMA wrote: "The proposed changes encompassed in the draft permit would fundamentally change how this permit currently operates ... Moreover, the changes would create state requirements that are substantially different than the federal requirements. ... The draft permit not only requires the protection of storm water quality during the construction phase of projects, but now also attempts to control engineering and site hydrology both during and after (into perpetuity) all construction, resulting in a substantially increased burden on permittees. Further explanation and clarity is needed with these changes, to allow permittees to understand Ohio EPA's expectations and intent."

The OMA also filed joint comments with several other trade associations representing a multitude of impacted industries. The OMA was able to get several changes in the final version of the permit benefitting manufacturers.

OMA Weighs in on Federal Water Issue

The OMA submitted formal comments to U.S. EPA regarding whether pollutant discharges from point sources that reach jurisdictional surface waters via groundwater, or other subsurface flow that has a direct hydrologic connection to jurisdictional surface waters, may be subject to regulation under the Clean Water Act (CWA).

In its comments the OMA requested that "U.S. EPA undertake a notice-and-comment rulemaking to clearly implement the Clean Water Act, which does not regulate nonpoint sources in the National Pollutant Discharge Elimination System (NPDES) program."

OMA wrote: "The resulting rule would provide regulatory certainty for the agency, states, dischargers, courts, and the public. The rulemaking should: (1) reject the "hydrologic connection theory"; (2) confirm that the "hydrologic connection theory" was not based on a thorough analysis of CWA; and (3) endorse a plain language interpretation of the statute."

ORSANCO Pollution Control Standards

In response to the Ohio River Valley Water Sanitation Commission's (ORSANCO) recent public notice of its Pollution Control Standards (PCS) triennial review, the OMA provided written comments regarding potential revisions to the PCS.

OMA wrote: "The water quality goals of the Compact are being effectively addressed by the Clean Water Act and the PCS no longer provide the value and impact they once did. Today, the difference between the PCS and Clean Water Act standards can and do lead to confusion for the manufacturing community, and can create complications in the permitting process, where there is often no effective way to question or challenge the appropriateness or applicability of the underlying PCS in specific permitting situations. The more valuable role for ORSANCO today is to concentrate on its scientific and technical information gathering and research. This would allow ORSANCO to provide valuable information to the states in carrying out their

obligations to preserve and protect water quality under the Clean Water Act. It would also help promote and coordinate consistency among the states in the Ohio River basin.”

Ohio EPA Agency News

Governor Kasich Signs Lake Erie Executive Order, Manufacturers Mostly Shielded

In July Governor Kasich signed an Executive Order, Taking Steps to Protect Lake Erie, that would tighten regulations on farming operations in newly-designated “watersheds in distress.”

The order directs the Department of Agriculture to designate eight different Lake Erie watersheds in distress. Then new rules would be required to be in place prior to the 2020 crop year. Farmers operating in the designated areas would have to adopt management plans that minimize nutrient runoff.

There was great concern that the executive order would include a statewide phosphorus discharge limit for industrial dischargers. Due to OMA advocacy activity, particularly the OMA Environment Committee and its working group on phosphorus, those provisions were not included in the final order.

There is still a concern that commercial fertilizer manufacturers will be negatively impacted depending on what the nutrient management plans look like when they are established.

Thank you to the members who worked on this issue.



August 13, 2018

Via Electronic Mail

Rule Coordinator
Ohio EPA, Division of Surface Water
P.O. Box 1049, Columbus, Ohio 43216-1049

Re: Ohio EPA Interested Party Rulemaking: 3745-2-12: Total maximum daily loads

Dear Sir or Madam:

Through recent interactions and discussions with Ohio EPA, The Ohio Manufacturers' Association ("OMA") would like to respond to Ohio EPA's Interested Party Review for Ohio Administrative Code (OAC) 3745-2-12 covering the procedures for developing Total Maximum Daily Loads, which was public noticed by Ohio EPA on June 20, 2018. The OMA is aware that the formal comment period for the Permit closed on July 20, 2018, but submits this correspondence for Ohio EPA's general consideration, as this rule has the potential to significantly impact the OMA's members.

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.

Under the proposed new OAC: 3745-2-12 (A)(3)(e), Ohio EPA shall provide a public hearing under certain enumerated circumstances, including if certain defined groups make the request. While the OMA appreciates the variety of groups allowed to make the request, we request that Ohio EPA specifically add "trade associations" to the list of groups eligible to be granted a hearing upon request. Under the rule as drafted, it is unclear whether the current terms would allow for the OMA or other like associations to be granted a public hearing upon submittal of a request to Ohio EPA.

The OMA appreciates Ohio EPA's consideration. If Ohio EPA has any questions regarding the foregoing, please do not hesitate to contact me or the OMA's environmental counsel Christine Rideout Schirra of Bricker & Eckler, LLP at (614) 227-8810.

Sincerely,

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

Rob Brundrett
Director, Public Policy Services

cc: Julianne Kurdila, Committee Chair



October 26, 2018

Environmental Protection Agency
EPA Docket Center (EPA/DC)
Mailcode 28221T
Attention Docket ID No. EPA-HQ-OAR-2018-0595
1200 Pennsylvania Avenue, NW.
Washington, DC 20460

Re: The Ohio Manufacturer's Association Comments on Docket ID No. EPA-HQ-OAR-2018-0595 (Proposed Update to the NOx SIP Call Regulation)

Dear Administrator:

The OMA is a trade organization representing more than 1,200 manufacturers throughout Ohio. OMA's mission is to protect and grow Ohio manufacturing, and for more than 100 years has supported reasonable, necessary, and transparent environmental regulations that promote the health and wellbeing of Ohio's citizens. Thank you for the opportunity to submit comments in support of U.S. EPA's proposed rule. The OMA has a strong interest in this issue and its outcome could potentially adversely and widely impact OMA members.

The OMA strongly supports U.S. EPA's proposed rule which would revise the existing NOx SIP Call regulations to allow states to amend their state implementation plans (SIPs) to establish monitoring requirements for NOx SIP Call purposes other than Part 75 monitoring requirements, in particular alternatives to the currently required continuous emission monitors (i.e. "Part 75 CEMS"). U.S. EPA's proposed rule would provide much needed regulatory relief to large non-electric generating unit ("non-EGUs") boilers and turbines. The proposal would allow alternative monitoring to costly Part 75 CEMS while still providing the necessary assurance that covered units are achieving the required emission reductions under the NOx SIP Call.

Background

The original NOx Budget Trading Program in Ohio required non-EGUs to establish reliable emissions data essential to the trading program. Part 75 CEMS were mandated on non-EGUs in Ohio to collect such data. The NOx Budget Trading Program was superseded initially by the Clean Air Interstate Rule ("CAIR") and later by the Cross-State Air Pollution Rule ("CSAPR"). Unlike the prior programs, CSAPR did not initially allow Ohio to include non-EGUs in its trading program. U.S. EPA later provided an option for states to include non-EGUs in the CSAPR trading program, but like many

states, Ohio elected not to use that option. Therefore, non-EGUs are now excluded from the emission trading program in Ohio.

Alternatives to Part 75 CEMS

Part 75 CEMS was integral for trading allowances. In Ohio, after recent changes to its SIP, there is no allowance trading program for NO_x emissions for non-EGUs; therefore, the need to require stringent data obligations associated Part 75 CEMS monitoring does not exist.

Furthermore, non-EGUs can meet the NO_x budget in Ohio even if operated every hour of the ozone season. The maximum mass emission rate for all affected non-EGUs in Ohio is 1,817 tons per ozone season, which is 45% of the 4,028 ton NO_x ozone season budget for non-EGUs. There is no need to require minute-by-minute NO_x emissions information when the relevant compliance measure is the entire ozone season. The alternative monitoring, as contemplated by U.S. EPA's proposed rule, will be more than sufficient to assurance continued compliance.

Part 75 CEMS is also not legally required. Federal Rule 40 CFR §51.121(i)(4) only requires Part 75 monitoring if the SIP revision contains "measures to control fossil fuel-fired NO_x" as a means to staying below budget. Because no controls are needed to stay below budget, federal rules do not legally require CEMS monitoring under Part 75. Also, removal of CEMS for non-EGUs will not trigger anti-backsliding under CAA §110(l) because a change in monitoring requirements does not result in additional emissions. See, *Kentucky Resources Council v. EPA*, 467 F.3d 986, 995 (6th Circuit 2006).

Providing Flexibility to the States

U.S. EPA proposed rule does not mandate specific alternatives to Part 75 CEMs. Rather, the proposal allows states to revise their SIPs to establish alternative monitoring requirements for large non-EGU boilers other than Part 75 CEMS. The OMA strongly supports U.S. EPA's willingness to provide regulatory flexibility to the states to allow each state to select alternative monitoring and propose such alternatives to U.S. EPA through a SIP amendment. If this rule is finalized, the OMA encourages U.S. EPA to defer to the states to the maximum extent allowable when reviewing SIP amendments. The states are in the best position to select alternative monitoring for their unique emission inventories.

As set forth in the comments above, the OMA strongly supports U.S. EPA's proposed rule and strongly encourages U.S. EPA to adopt the rule as quickly as possible to provide much needed regulatory relief to affected non-EGUs.

Sincerely,



Robert Brundrett
Director, Public Policy Services



October 26, 2018

VIA Electronic Mail (dsw_rulecomments@epa.ohio.gov)

Rule Coordinator
Ohio EPA, Division of Surface Water
P.O. Box 1049
Columbus, OH 43216-1019

Re: Association group comments on Ohio EPA's Early Stakeholder Outreach – Nutrient Water Quality Standards for Ohio's Large Rivers (OAC 3745-1-36)

Dear Sir/Madam:

Pursuant to Ohio EPA's Early Stakeholder Outreach for Nutrient Water Quality Standards for Ohio's Large Rivers (OAC 3745-1-36) published in August 2018, with comments requested by September 26, 2018 with the deadline extended to October 26, 2018, the undersigned business associations are hereby providing Ohio EPA with written comments.

The Ohio Manufacturers' Association and Ohio AgriBusiness Association represent many members throughout Ohio including members who directly or indirectly discharge to receiving waters in Ohio or who engage in business operations impacted directly or indirectly by the regulation of nutrients. We support the development of reasonable and necessary environmental regulation to protect Ohio's valuable natural resources. We very much appreciate the opportunity to comment on this proposed rule framework for addressing the complex issue of nutrient impacts in large river systems.

General Comments

Our associations have each provided separate, more thorough comments to Ohio EPA for its review, however, there are several overarching points of commonality within our comments that we would like to emphasize.

In general we support the use of a box model concept similar to the one presented in the Ohio EPA Presentation Slides, where nutrients are looked at for management decision-making in waters that have been designated as impaired for biological criteria. (ESO Presentation at 11).

However, we have concerns regarding the selected indicators and their respective values. The proposed regulatory framework needs to more clearly define the process for determining whether nutrient impacts cause the biological impairment. Impairment is the driving regulatory framework for the Clean Water Act and the Ohio Water Pollution Control Act, and the complex issue of the nutrient causal link to impairment should be addressed in the manner previously developed for the stream nutrient assessment procedures (SNAP). The SNAP was developed by Ohio EPA with stakeholder input from a wide range of water quality experts and evaluates possible nutrient causes using the box model based on the impairment status.

Further, the proposed rule should be based on attainment of Ohio's adopted biocriteria for Fish IBI, MIWB, and macroinvertebrate ICI. If the waters of the state achieve their respective biocriteria, independent nutrient criteria should not be independently imposed.

Thank you for the opportunity to comment on the Early Stakeholder Outreach – Nutrient Water Quality Standards for Ohio's Large Rivers (OAC 3745-1-36).

Sincerely,



Director, Public Policy Services
The Ohio Manufacturers' Association



President and CEO
Ohio AgriBusiness Association



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

OCT 30 2018

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

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

Dear Acting Administrator Wheeler:

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

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

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

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

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

Sincerely,

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

Craig W. Butler
Director, Ohio EPA

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

Attachment

Ohio EPA Comments on the proposed “Emission Guidelines for Greenhouse Gas Emissions from Existing Electric Utility Generating Units; Revisions to Emission Guideline Implementing regulations: Revisions to New Source Review Program” [83 FR 44746]

Introduction

The State of Ohio has been a manufacturing hub in the heart of the country since the industrial revolution. Fueled by affordable electricity, Ohio is home to a wide range of manufacturing jobs, from steel mills to glass plants to automobile manufacturing plants; these jobs are a vital part of both Ohio's and the country's workforce and economy. Ohio was ranked third in the nation in manufacturing employment in 2011². Any increases to electricity cost, will be very costly.

Manufacturing is not the only important piece of Ohio's economics, electricity is as well. U.S. Department of Labor, Bureau of Labor Statistics estimated in May 2017 Ohio employed 820 power distributors and dispatchers, making Ohio the third largest in the nation to employee workers in this category.³ In fact, based on July 2018 EIA data, Ohio ranks twelfth in electricity production in the nation⁴.

In the eastern and southeastern portions of the State, Ohioans have been mining coal for over two centuries. Our reliance on coal and diverse other mix of generation sources resulted in electricity prices that were 9% below the most up-to-date national 2018 average⁵. Even still, many Ohio families are struggling with high energy prices; 51% of low to middle income households spend an average of 17% of their after-tax income on energy. Increased energy prices would further strain these families⁶.

More recently Ohio has become a part of the new shale oil and gas industry with thousands of wells across the State. These wells contribute to the local and State economy by driving down unemployment and providing an economic boost. The renewable energy (RE) industry also continues to grow and diversify Ohio's portfolio with new hydroelectric power plants, wind farms and an emerging solar industry. Several State programs provide significant funding and help in developing end-use energy efficiency (EE). This more balanced Energy Portfolio has, worked to lower the emissions of pollutants, including greenhouse gasses (GHG), across the State.

The stated goal of the CPP was a 32% reduction in carbon dioxide (CO₂) emissions from 2005 levels nationwide. For Ohio specifically, the CPP required achievement of a 27.8% reduction in electric generating units (EGU) CO₂ emissions from 2012 levels by 2030. Further, the CPP projected that, in the absence of the rule, Ohio's 2020 EGU CO₂ emissions would be 103,946,835 tons. The CPP clearly failed to account for the rapidly changing nature of Ohio's fuel mix, which has resulted in dramatic CO₂ emission reductions beginning in 2009 and continuing. Figure 1, below, shows annual CO₂ emissions from all EGUs reporting emissions to the U.S. EPA's Clean Air Markets Database, years 1995-2017.

² Page 7: <http://www.ohiopoweredbymanufacturing.com/oma/OMA-Manufacturing-Counts-2012.pdf>

³ <http://www.bls.gov/oes/current/oes518012.htm>

⁴ <http://www.eia.gov/state/?sid=oh>

⁵ <http://www.eia.gov/state/?sid=oh>

⁶ Eugene M. Trisko, Energy Cost Impacts on Ohio Families, Jan 2016

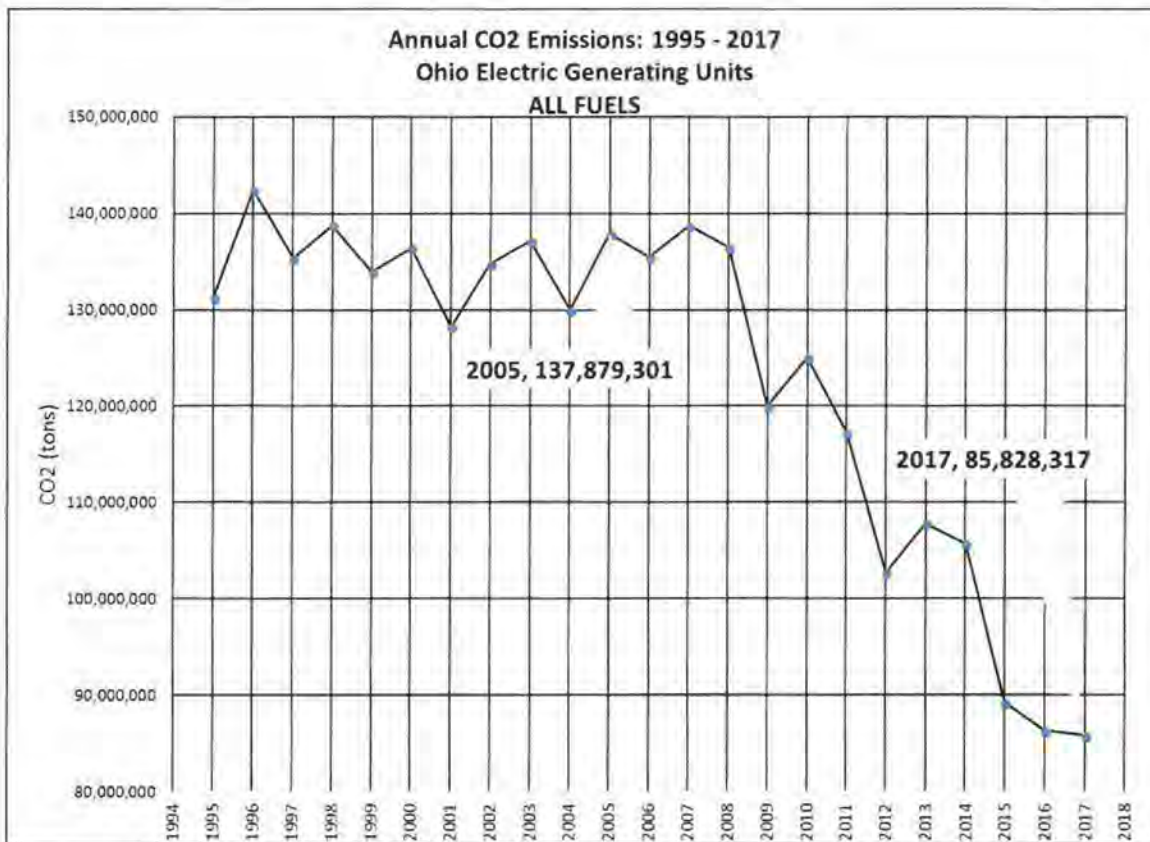


Figure 1: Annual EGU CO2 emissions, 1995-2017, all fuels.

The data in Figure 1 are telling in several ways. First, the significant decrease in CO2 emissions is readily apparent. Emission reductions from 2005 levels, 52,050,984 tons, was achieved in the absence of a federal mandate or a multistate agreement, and represents a 38% reduction in CO2 emissions. This reduction far exceeds the nationwide expectation of a 32% reduction by 2030. It should also be noted that Ohio's 2017 CO2 emissions, 85,828,317 tons, is less than the 88,512,313-ton Step 1 Interim Goal for Ohio as put forward in the CPP. It is remarkable that this Interim Goal was not to be achieved until 2022, and that Ohio achieved this milestone in 2016.

These reductions have occurred due to a combination of programs and initiatives implemented not only by Ohio EPA, but by federal agencies, other State agencies and other public entities, each with their own unique authority and ability to reduce emissions. We have argued and still believe that the CPP reached far into the roles of each of these public entities thus, undermining their authority and ability to implant these programs in the most effective manner, by placing them under the control of the federal government.

Also of great importance is the impact the CPP would have had on Ohio's deregulated energy market. The State of Ohio has transitioned from a vertically-integrated,

traditional rate-of-return utility construct, where an incumbent utility would provide service from generation to local distribution, to a competitive retail generation market, where customers can now choose their generation supplier. Electric utilities were required to divest their EGUs from their transmission and distribution functions. Today, the EGUs that were previously regulated through traditional rate-of-return ratemaking are divested from Ohio's electric transmission and distribution utilities.

The CPP would have impacted not only fossil fuel-fired electricity generators, but also the energy sector as a whole, from generation to transmission. U.S. EPA's own estimates that electricity and natural gas prices would rise as a result of this rule are of concern to Ohioans. The subsequent impact on Ohio residents, Ohio manufacturing, Ohio industrial sector and Ohio commercial sector would have been significant.

The CPP is flawed in its design and construction by attempting to revamp the power generation, transmission and distribution system under Section 111(d) of the Clean Air Act (CAA), a rarely-used section that reserves much authority and flexibility to the States. [82 FR 48035] The U.S. Supreme Court has held that vast regulatory expansions can only stem from clear Congressional authorization. Through its Section 111(d) rulemaking, U.S. EPA developed the CPP to broadly expand its regulatory reach from emission control to power generation, transmission and distribution control without having the clear authority under the CAA. U.S. EPA has the inherent authority to reconsider statutory interpretations as long as the agency provides a reasoned explanation. We believe U.S. EPA has properly exercised that inherent authority by proposing this Affordable Clean Energy (ACE) rule. This ACE rule proposes to replace the CPP in a way more consistent with the plain language and historic application of the Clean Air Act.

Under this proposal, U.S. EPA is soliciting comment on a variety of ACE provisions, including provisions relating to the implementing regulations for not only this Section 111(d) rulemaking but future rulemakings, and also provisions related to new source review (NSR) implications. Ohio EPA is providing our comments below.

1. C-1. U.S. EPA acknowledges rapid changes in the power sector and market drivers have resulted in significant reductions in CO₂ emissions from the power sector that were not anticipated at the time of the CPP proposal. However, some Annual Energy Outlook (AEO) cases predict increases in CO₂ from the power sector could be realized in the future. Given these uncertainties in long-term projections, U.S. EPA is requesting comment on applicability of those alternative results and on whether and how to consider ongoing and projected trends in developing CO₂ emission guidelines for the power sector. [83 FR 44751]

Ohio EPA agrees that rapid changes can result in quickly outdated data. The work put forth by U.S. EPA, States and affected sources to address Section 111(d) could be quickly overtaken by external market forces making those efforts redundant, or worse, put them in conflict with industry trends that are already reducing CO₂

emissions. Therefore, it is essential that U.S. EPA limit the scope of this Section 111(d) proposal to "inside-the-fence" traditional approaches.

2. C-2. This proposal includes additional legal rationale to support heat rate improvements (HRI) as the best system of emissions reduction (BSER) and solicits comment on that rationale. [83 FR 44752-44754]

First, U.S. EPA explained in the repeal proposal that reduced utilization does not fit within their historical and current interpretation of the BSER and that predicating Section 111(d) on a source's non-performance would inappropriately inject U.S. EPA into owner and operator production decisions. U.S. EPA acknowledges reduced utilization is not a valid system of emission reduction for purposes of establishing a standard of performance.

Second, U.S. EPA explained in the repeal proposal that interpretive constraints that may apply to interpreting Section 111(a)(1) (determining what types of measures may be considered as BSER) for the purpose of setting a new source standard under Section 111(b) reasonably may be applied to interpreting the BSER for purposes of setting an existing source standard under Section 111(d) as well. Given that "standard of performance" applies to Section 111 as a whole, applying same interpretative constraints may be required. U.S. EPA discussed how the best available control technology (BACT) analysis and BSER are linked by statutory text, explaining the top-down BACT approach and consideration of technical, energy, environmental and economic factors. In reviewing BACT guidance, EPA identified additional interpretive constraints that may be applied to Section 111. U.S. EPA discusses how prevention of significant deterioration (PSD) and Title V Permitting Guidance for GHGs emphasizes that BACT need not necessarily include inherently lower polluting processes that would fundamentally redefine the nature of the source. Specifically, BACT should not regulate the applicant's purpose or objective; e.g., applicants constructing a coal unit aren't required to consider building natural gas.

Third, notwithstanding the relationship between BACT and BSER, U.S. EPA believes measures "redefining the source" should be excluded from consideration for purposes of Section 111(d). U.S. EPA is proposing the BSER analysis need not include options that would redefine the source and therefore, U.S. EPA did not consider natural gas conversion or refueling.

Fourth, U.S. EPA describes the legislative history of Section 111 as confirming that Congress intended Section 111 to be source oriented. U.S. EPA compared their role and expertise to that of the Federal Energy Regulatory Commission (FERC), and similarly compared a State EPA's expertise to that of a State's Public Utility Commission. U.S. EPA acknowledges the current shifts in the power sector which already creates strain and reliability concerns, emphasizing the significant

uncertainties, which further supports the unreasonableness of basing BSER on generation shifting measures. U.S. EPA asserts that regardless of future mix, coal will continue to be used and BSER should be focused on making these plants as efficient as possible (taking into consideration technical feasibility considering cost) which will ensure CO2 reductions regardless of future energy mix.

Ohio EPA agrees with the proposal to return to a reading of Section 111(a)(1) (and its constituent term, “best system of emission reduction”) as being limited to emission reduction measures that can be applied to or at an individual stationary source. A Section 111(d) plan “establishes standards of performance for any existing source.” The plain language construction of the phrase “for any existing source” can only mean that the emissions standard must be set at a level that a source itself can achieve. Since the outset of the program, U.S. EPA has frequently referred to Section 111(d) as a technology-based approach. [40 FR 53340 (Nov. 17, 1974)] For example, in describing the legislative history of Section 111(d), the preamble states that “the intent to require a technology based approach [can] be inferred from placement of the provision in Section 111.” [Id. at 53342] The preamble goes on to explain that: “In summary, EPA believes Section 111(d) is a hybrid provision, intended to combine primary State responsibility for plan development and enforcement (as in Section 111) with the technology-based approach (making allowances for the costs of controlling existing sources) taken in Section 111 generally.” Because Section 111(d), like Section 111(b), is a source-specific technology-based provision, it follows that the emission guideline based on BSER should be of that nature as well. And in fact, all prior Section 111(d) rules have interpreted the CAA in this way.

The statute plainly focuses on particular sources, not the entire power generation, transmission and distribution system. Section 111(d)(1) specifically requires a State plan which “establishes standards of performance for any existing source” and goes on to state that “[r]egulations by the Administrator under this paragraph shall permit the state in applying a standard of performance to any particular source under a plan submitted under this paragraph to take into consideration, among other factors, the remaining useful life [RUL] of the existing source in which such a standard applies.” “Existing source” is defined as “any stationary source other than a new source,” [Section 111(a)(6)] and “stationary source” is “any building, structure, facility, or installation which emits or may emit any air pollutant” [Section 111(a)(3)]. The statute directs a State to establish and apply a standard of performance only to particular existing sources and to take into account the RUL of those particular existing sources. A plain reading of this provision can only lead one to conclude that Congress meant for the provision to apply to specific individual sources.

Furthermore, Ohio EPA appreciates the return to a more robust cooperative federalism approach to regulating GHGs. Section 111(d)(1) commits U.S. EPA to a

State planning procedure similar to that of a State Implementation Plan (SIP) under Section 110. Accordingly, U.S. EPA must integrate the federal-State division of labor embodied in Section 110 with the Section 111 directive to ensure that sources are subject to emission limits achievable by the BSER that has been adequately demonstrated. States have the authority to establish and enforce a standard of performance that "reflects the degree of emission limitation achievable through application of the best system," Section 111(a)(1), and to devise the rules for implementing and enforcing that standard, Section 111(d)(1). Just as a State develops a SIP under Section 110, a State must come up with a Section 111(d) plan that is workable and cost-effective for that State, taking into account real world realities and challenges.

In addition, USEPA's recognition that its area of expertise is control of emissions at the source and not electricity management rings true to Ohio EPA, which fulfills a similar role in the State of Ohio. Nowhere does the CAA give U.S. EPA the authority to regulate the dispatch of power plants on the interstate grid. In Ohio, it is the EGU owners who decide in what manner to bid into the electricity market and for how much time. It is the Pennsylvania, New Jersey, Maryland (PJM) Regional Transmission Organization (RTO), under the authority of FERC, who determines dispatch order based on utilizing the least expensive resource first to meet energy demand. Ohio EPA only has the authority to regulate emissions of air contaminants from air contaminant sources, and does not have the authority to implement federally enforceable State mandated programs as were proposed in the CPP because they fell "outside-the-fenceline."

Finally, Ohio EPA agrees that the BSER analysis should not include options that would fundamentally redefine the nature of the source, just as the BACT analysis under PSD cannot do so. This decision is for an owner and operator to make when considering how to manage their power assets. Neither U.S. EPA nor Ohio EPA have the authority or expertise to dictate that decision.

3. U.S. EPA solicited comment during the ANPRM on HRI opportunities and numerous commenters, including Ohio EPA, stated HRIs must be evaluated on a unit-by-unit basis and that the operating mode has significant influence (e.g. base, cycling, load following). U.S. EPA acknowledges that heat rate is affected by design characteristics, site-specific factors and other operating conditions. Therefore, U.S. EPA has identified the "most impactful" technologies, equipment upgrades and best operating and maintenance practices and is providing a list of "candidate technologies" constituting the BSER. States will be expected to evaluate each BSER HRI when establishing standards. U.S. EPA is soliciting comment on the list of "candidate technologies" (C-7), any unlisted HRI that should be added (C-6), and how the list of reports, case studies and analyses can inform our understanding of potential HRI opportunities (C-8). [83 FR 44756 - 44760]

Ohio EPA appreciates U.S. EPA's acknowledgement of the need for unit-specific evaluations to be conducted by the States themselves. As U.S. EPA notes, not all of the listed HRIs may be available or appropriate for all types of EGUs and some may have already been deployed. This further reiterates the need for unit-specific evaluations. Ohio EPA also suggests U.S. EPA not finalize an exhaustive list of HRIs that would necessitate resource intensive evaluation while providing negligible benefits.

4. C-9. U.S. EPA continues to raise concerns that unit-level HRIs with reductions in variable operating costs could lead to increased utilization compared to other generating options – the “rebound effect”. As a result, U.S. EPA modeled a range of HRIs as a part of the Regulatory Impact Analysis (RIA) and the results indicate no cumulative increases in system-wide emissions relative to a scenario where no action is taken. While individual sources may increase generation, as a group, there is predicted lower emissions. U.S. EPA is seeking comment on the conclusion that system-wide emission decreases due to HRIs are likely to be larger than any system-wide increases due to increased operation. [83 FR 44761]

Just as with the CPP proposal and the ANPRM, U.S. EPA continues to cite concern that HRIs at coal-fired EGUs might make them more competitive and they will therefore increase their generation making them less effective at reducing CO2 emissions; the “rebound effect.” Ohio EPA continues to have difficulty with U.S. EPA's concern regarding a potential “rebound effect.” Unfortunately, any proposal that requires investment by an EGU to reduce emissions may result in that EGU operating more to get some return on their investment. This is how the free market should operate and the “rebound effect” should not be considered. Ohio EPA can think of no other federal or State regulatory requirement that requires significant monetary investment in a control strategy that reduces emissions (such as HRIs) coupled with an expectation that the investment should result in status quo or reduced operation. In general, the principle behind investment in control is that more efficient and well controlled facilities will operate more than less efficient and less controlled facilities. Any Section 111(d) plan will require investment of potentially millions of dollars to make coal-fired EGUs more efficient. Any possible “rebound effect” should not be a consideration under any rule.

5. U.S. EPA considered other systems of GHG emission reductions but found them not to be the BSER for reasons discussed in more detail in the proposal. U.S. EPA acknowledges there may be other methods and technologies, but States and sources are best suited to determine if they are appropriate and/or allowable measures. [83 FR 44761-44762]

C-12. U.S. EPA reiterates the belief that carbon capture and storage (CCS) (including partial) continue to be too costly but is accepting any new information on CCS availability, applicability, costs or technical feasibility. Also, while a comment

number was not provided, U.S. EPA requests comment on if fuel co-firing should be listed as an option in the BSER list. Although U.S. EPA may not consider it BSER, U.S. EPA proposes that States be allowed to use it as a compliance option.

As discussed in response to requests C-17 and C-18 below, Ohio EPA believes it is important to maintain flexibility for States to determine if alternative compliance options, such as fuel co-firing, are appropriate compliance options once a State determines unit specific standards to be met based upon the BSER.

Regardless, Ohio EPA continues to believe CCS should not be considered BSER as CCS is not currently a cost-effective nor technically feasible approach to reduce CO₂ at existing EGUs or even new coal-fired EGUs in the United States. Further, establishing such a requirement would mean existing sources would be subject to a more stringent standard under the BSER than that for Section 111(b) new sources. This would be a departure from how "standard of performance" has been used in the past and should be used now.

6. C-13. U.S. EPA is soliciting comment on whether States should determine source specific compliance schedules or if a uniform compliance schedule is appropriate. While the implementing regulations require U.S. EPA's emissions guidelines identify information such as a timeline for compliance with the standards, U.S. EPA is proposing to supersede this in accordance with newly proposed 40 CFR 60.20a and have States include appropriate compliance deadlines as a part of the State plan process. However, if a compliance schedule extends beyond 24 months from State submittal, U.S. EPA propose the State must include legally enforceable increments of progress. 40 CFR 60.24a(d)(1). [83 FR 44763]

Ohio EPA believes it is necessary for States to determine appropriate compliance schedules due to the source specific nature of this guideline and due to reliability concerns.

Ohio EPA provided comments on the ANPRM regarding concerns with timing of HRIs. While U.S. EPA has extended the timeline for implementation from 12 to 24 months, it still will likely not be feasible for all HRIs in a State, or across a region or the nation, to be completed within 24 months of plan submittal. This will undoubtedly cause reliability concerns. While longer timeframes are afforded if increments of progress are specified, those required increments of progress may also be challenging to forecast or meet given the nature of the sources subject to this Section 111(d). U.S. EPA needs to ensure flexibility is included in the rule, or at least in the interpretation of the increments of progress requirements. In addition, if increments of progress for every EGU in the State with HRIs extending beyond 24 months are required to be "legally enforceable" at the time of plan submittal, substantial resources and time for developing regulations and/or issuing federally

enforceable permits will be required. This will also be challenging in the regulatory timeframe. At a minimum, U.S. EPA must ensure that “legally enforceable” mechanisms include permits and/or enforceable State orders.

Another factor U.S. EPA is not considering is outage schedules already planned by EGUs. Altering an outage schedule can be quite costly. If U.S. EPA is not flexible on the timing, it could be determined to not be cost effective to implement the HRI.

Further, in viewing U.S. EPA’s list of candidate measures, it brings to question how U.S. EPA would envision the timing of implementing HRIs when several may be deemed the standard of performance for a facility, especially a facility with multiple units. Does U.S. EPA expect all HRIs to be conducted within the 24-month time period? How far beyond 24-months would be deemed acceptable? These are factors that warrant significant flexibility in implementing this rule while continuing to ensure grid reliability.

There are many considerations that must be made when implementing HRIs. It is unrealistic to assume that sufficient numbers of HRI projects across Ohio’s large coal-fired fleet with meaningful impact on achieving CO2 reductions for Ohio could be completed in short time frames without significantly impacting grid reliability, reserve capacity, and costs to consumers. And Ohio is just one State. These impacts will occur regionally and nationally when all States prepare to implement HRIs at the same time.

7. C-14. U.S. EPA states they envision the State will set standards based on considerations most appropriate to individual sources or groups (e.g., subcategories): historical emission rates, effect of potential HRIs (informed by U.S. EPA’s candidate technologies), or changes in operation of the units, among other factors a State thinks are relevant. Although some commenters have suggested providing default methodology that would be presumptively approvable, U.S. EPA is not doing so because it could be viewed as limiting a State’s ability to deviate from the prescribed methodology. U.S. EPA is requesting comment on approaches based on use of historical heat rate or emissions data for the individual sources. U.S. EPA suggests the circumstances and considerations in establishing standards for sources undergoing modifications are not the same as those under Section 111(d) but there are parallels and similarities. [83 FR 44764]

Ohio EPA believes a default methodology could be useful but could also be viewed as limiting. If U.S. EPA intends to provide default methodologies, they should be in the form of non-binding guidance and clearly stated as such. Ohio EPA is most concerned with the timing of this information. If provided, it is essential that such guidance be provided at the time the emission guideline is finalized. Otherwise,

Ohio EPA believes overly-prescriptive and/or ill-timed guidance can be more detrimental than no guidance at all.

8. C-15. 40 CFR 60.22a(b)(2) as proposed will specify an emission guideline include information on the degree of emission reduction but not require U.S. EPA provide a standard of performance that presumptively reflects such degree of emission reduction achievable through application of BSER. Rather, that is the State's role. The proposed new regulation clarifies the statute doesn't require a presumptive numerical standard as a part of the emission guideline. For this emissions guideline, U.S. EPA is proposing that an allowable emissions rate (i.e., rate-based standard in, e.g., lb CO₂/MWh-gross) be the form of the standard that States would include in their plan. Secondly, U.S. EPA is proposing the plan include only the one form of standard of performance (i.e., proposing only an allowable emission rate) to create continuity across States, prevent ambiguity, and to ensure as much simplicity as possible. U.S. EPA is soliciting comment on whether other forms of standards of performance should be allowed or whether a different form should be the primary. [83 FR 44764]

Ohio EPA believes this is an important issue for comment. Ohio EPA believes the nature of this Section 111(d) may be better suited to a different emissions limitation than an hourly limitation, or even better no emissions limitation at all.

Ohio EPA has provided comment in the past regarding the reality that heat rate degrades over time and variables can cause temporary fluctuations or degradation in heat rates. Sargent & Lundy acknowledge in an October 15, 2014 letter that "the performance of some of the evaluated heat rate improvement strategies degrade over time, even with the best maintenance practices. Therefore, depending on the strategy employed or the technology installed to reduce heat rate at an existing coal-fired EGU the unit heat rate initially obtained may increase over time." How will this be accounted for in an hourly limit? How will this be accounted for over time? This raises the question of how an emissions limit would be established in the first place. Ohio EPA believes much more thought must be given to this issue and an approach be developed that recognizes this reality. Ultimately, an emission rate likely is not appropriate for an HRI. Unlike other control strategies where an actual control device is installed and is expected to provide a percent reduction in a pollutant, this proposed Section 111(d) approach is more like a work practice that is designed to increase the efficiency of the unit itself. It is likely appropriate, and practical, to consider options other than an emissions limitation in this case.

If this proposal must proceed, U.S. EPA should revise 40 CFR 60.24a(b) so that a standard of performance must be an "allowable rate or limit, design, equipment, work practice or operational standard" established by the State and to also adjust the language in 40 CFR 60.5755a(a)(1) accordingly. This is consistent with the statute and the entirety of the proposed language of 40 CFR 60.24a. Ultimately,

under this Section 111(d) approach, the metric by which success would be determined is by an overall change in heat rate after HRIs are performed compared to prior to the HRI(s) being performed. It should be simple enough to have a legally enforceable requirement to perform an HRI(s) in accordance with best practices under specific compliance timelines, rather than any need to prescribe an emission limit associated with that HRI. This would address the variability in actual heat rate improvement for the same HRIs at different units and the variability of HRIs over time at the unit. Consistent with the statute, it is likely not feasible to prescribe or enforce an allowable emission limit as the standard of performance. A work practice, such as an HRI, may be all that should be required. This has been implemented in other air pollution control programs such as Reasonably Available Control Measures for fugitive dust.

9. C-16. U.S. EPA is requesting comment on the merits of differentiating between gross and net heat rate. Recognizing it could be important for partial load operations and it is also important in recognizing the improved efficiency obtained from equipment upgrades that reduce the auxiliary power demand. [83 FR 44765]

This further identifies the complexities associated with developing emissions limitations for HRIs. If U.S. EPA must establish an emission limitation requirement, these complexities along with those identified above for request C-15 must be addressed and accounted for.

10. U.S. EPA believes Section 111(d) allows considerable flexibility for states to set standards of performance for units and considerable latitude for implementing measures and standards for affected EGUs and so U.S. EPA proposes under ACE to grant States the freedom to give EGUs a wide range of possible compliance options for sources to use to meet standards. Once a State determines the standard, the State could allow a BSER technology or non-BSER technology or strategy to be used in meeting the standard. To ensure a non-BSER strategy actually reduces the emission rate, U.S. EPA is proposing they meet two criteria: (1) be implemented at the source itself, and (2) are measurable at the source of emissions using data, emissions monitoring equipment, or other methods to demonstrate compliance, such that they can be easily monitored, reported and verified at a unit. [83 FR 44765]

C-17. U.S. EPA is soliciting comment on whether the two criteria are appropriate or not, and why. Also, whether there may be other compliance flexibilities that might meet the two criteria.

C-18. U.S. EPA is also soliciting comment on whether certain non-BSER measures should be disallowed and if so under what criteria or rationale.

Ohio EPA believes it is important to maintain flexibility for States to determine if alternative compliance options are appropriate compliance options once a State determines unit specific standards to be met based upon the BSER. It should be up to the State to determine appropriateness of a given non-BSER measure. For example, if it is determined that a candidate HRI is not cost-effective given RUL, but a facility determines implementing that HRI in lieu of a cost-effective HRI is within their business plan, the State should have such flexibility to allow such an option. In addition, regional fuel supplies could make co-firing highly desirable for some sources even though it is not a cost-effective option for all sources and therefore, not appropriate as the BSER.

11. U.S. EPA is acknowledging the States have discretion to consider RUL and other factors in setting standards of performance. Ultimately, RUL impacts cost (i.e., less time to amortize cost of control). U.S. EPA believes when Congress mentions "other factors" that, generally, those other factors are ones that may substantially increase costs relative to a more typical unit. U.S. EPA is proposing one or more of the following factors be used to demonstrate the necessity for a variance from applying the standard of performance for a particular source based on RUL or other factors:

- Unreasonable cost of control resulting from plant age, location, or basic process design; (expected life, payback period for investments, timing of regulatory requirements)
- Physical impossibility of installing necessary control equipment; or (space of other physical barriers)
- Other factors specific to facility (or class of) that make application of a less stringent standard or final compliance time significantly more reasonable. (some HRIs are either not applicable or already implemented)

[83 FR 44766]

C-22. U.S. EPA is soliciting comment on the manner in which States should be permitted to exercise their statutory authority to take into account RUL and what "other factors" might be appropriate.

C-23. Further, U.S. EPA proposes this as a unit-by-unit determination weighing both value of cost of installation and CO₂ reductions. Therefore, U.S. EPA is proposing these factors are specific to a facility (or class) that make a variance from the emission guideline significantly more reasonable, as allowed under proposed 40 CFR 60.24a(e)(3). U.S. EPA is soliciting comment if other factors should be allowed per the proposed variance provision.

Section 111(d)(1) requires that U.S. EPA permit States to take into account an affected source's RUL, as well as other factors, when establishing an appropriate standard of performance. It is imperative then for States to have the flexibility take into consideration the degree of reduction, costs, RUL and other limitations, such as

grid reliability, when developing State plans. Maintaining flexibility to make these considerations on a case-by-case basis is important. U.S. EPA's third factor, "other factors specific to the facility" will allow this flexibility provided it is not later interpreted too narrowly (e.g., Ohio EPA interprets grid reliability to fall into this category).

12. C-24. U.S. EPA is proposing if a State uses the variance provision, they must demonstrate in the State plan that such application meets criteria outlined in this proposal, recognizing that some cases may result in no measures being applicable to a source. For example, when a very short RUL is applicable or when all measures have already been implemented. In such cases, U.S. EPA is proposing the State must still establish a standard of performance. U.S. EPA is taking comment on what a standard may look like in these cases. For example, an emission rate and compliance deadline where the rate would only be applicable if the source doesn't shut down by such date. Or, if all measures were already implemented, apply a business as usual rate without allowing backsliding. [83 FR 44766]

C-25. U.S. EPA is soliciting comment on if there are considerations in utilizing the variance provision, including potential interaction of the compliance flexibilities proposed in this proposal with utilization of the provisions. For example, would allowing trading and use of a variance result in an impermissibly less stringent application of BSER. [83 FR 44767]

C-26. U.S. EPA is also welcoming comment on the legality and appropriateness of utilizing this provision, generally, and in the context of specific compliance flexibilities that States may employ in developing plans. [83 FR 44767]

Proposed 40 CFR 60.24a(e)(3) sets forth a description of the factors that a state may consider when applying the standard of performance to a particular source. This provision is consistent with the directive from Congress under Section 111(d)(1) allowing a State to consider RUL, among other factors. As U.S. EPA points out, many of these "other factors" distill down to a consideration of cost and a State must have as much flexibility as possible given the unique circumstances of each source. Ohio EPA believes that U.S. EPA should not be any more specific of how a State handles such situations in this rule. There may be a multitude of scenarios, each with a unique solution, and attempting to define the parameters under which a State may address a scenario could complicate the ability of a State to establish an appropriate standard of performance for a particular source. States will and should carefully assess and prevent any possible negative interactions between a variance and some other option (e.g., trading) and ultimately U.S. EPA is responsible for reviewing and approving or disapproving State plans while ensuring the BSER and emissions guideline are met.

13. C-27. U.S. EPA is soliciting comment on any factors that may play a role in a State setting a standard of performance with considerations to NSR; meaning, in considering candidate technologies States should consider how HRI may trigger NSR and impact cost of the HRI. [83 FR 44767]

Ohio EPA is providing comments below regarding the continued concerns with HRIs triggering NSR requirements. U.S. EPA's proposed method for addressing potential NSR issues may relieve some sources from NSR but may not relieve others. Regardless, the proposed analyses required to determine if NSR will be applicable will also impose costs. A State must be able to take these costs into consideration as a part of setting a standard of performance while considering RUL and other factors.

14. C-28. U.S. EPA is soliciting comment on whether Section 111(d) authorizes States to include averaging (across a facility and across multiple existing sources) and trading between existing sources in plans. U.S. EPA is proposing to allow averaging among EGUs across a single facility because the BSER is predicated on measures implemented at the facility level. However, U.S. EPA is limiting the averaging to only affected EGUs at the facility because: (1) including non-affected units at the facility might not result in real reductions (e.g., averaging with NGCC that would have operated anyway) and generation shifting to lower emitting units is contrary to the intention of the rule; (2) U.S. EPA is currently considering if NGCC should be included as affected EGUs; and (3) it would mirror the BSER determination of this rule. [83 FR 44767]

U.S. EPA is also soliciting comment on: if facility wide averaging is appropriate and what other types of considerations should be involved (C-29) [83 FR 44767]; averaging affected EGUs with non-affected sources within a facility in limited case when they represent incremental new non-emitting capacity (e.g., integrated solar) (C-30) [83 FR 44767; and if there is a way to allow trading between effected EGUs across affected sources while not encouraging generation shifting (C-31) [83 FR 44768]

Lastly, U.S. EPA is soliciting on whether Section 111(d) should be read to not allow trading and averaging between sources (C-32). Specifically, U.S. EPA requests comment on: if averaging across multiple affected sources is allowed in plan, how would the system should conceptually work (C-33); how would it or would it not undermine BSER (C-34); for trading, what type of EM&V criteria should be required (C-35); should compliance instruments be banked (C-36); if averaging across multiple sources, what mechanisms would be needed to ensure compliance is maintained and tracked for purposes of providing for the implementation and enforcement of the standards of performance (C-37); which and/or if technology should be limited in the averaging program; (C-38); whether affected EGUs across

State lines could be able to average and what measures State plans should include to provide for implementation and enforcement of such multi-State averaging (C-39); issues of statutory interpretation, whether they are appropriate interpretations of Section 111(d) (C-40); and whether such averaging, trading, or “bubbling” compliance flexibilities as are available under other sections of title I of CAA suggest that such flexibilities should be afforded under Section 111(d) (C-41). [83 FR 44768]

Where an emissions limitation is necessary, Ohio EPA supports the concept of facility-wide averaging of affected EGUs across a single facility and believes it is consistent with a traditional Section 111(d) approach. U.S. EPA’s proposal notes that going beyond affected units at the facility could have practical and legal concerns [83 FR 44768]: (1) inconsistent with proposed BSER applying to and at an individual source; (2) if Section 111(d) authorized trading and averaging then the provision on RUL and other factors could be viewed as superfluous (averaging and trading could be viewed as eliminating the need to consider RUL); and (3) multiple practical concerns like the complexity of developing and implementing a State plan with averaging or trading and difficulty in ensuring robust compliance (e.g., EM&V for trading programs). Ohio EPA has similar concerns on the complexity of implementing an averaging scheme that goes beyond the affected EGUs at a given facility.

As noted in our comments on the ANPRM, Ohio EPA supports trading and market-based solutions, however, in this particular case, if HRIs will comprise BSER, Ohio EPA finds it difficult to envision a trading program that would be meaningful or meet Section 111(d).

U.S. EPA has interpreted the meaning of standard of performance under Section 111(d) to include a cap and trade program when it promulgated the Clean Air Mercury Rule (CAMR). [70 FR 28606 (May 18, 2005)]. CAMR established a national mercury emissions cap for new and existing EGUs. Although a federal appeals court eventually held that U.S. EPA did not properly regulate mercury emissions under Section 111 because the initial delisting of EGUs under Section 112 was unlawful, CAMR is instructive on how a cap and trade program might be justified and designed under Section 111(d). The cap and trade program created by CAMR was based on the availability and installation of control technology. The preamble to the final rule emphasized the fact that the BSER was a combination of the cap and trade mechanism and the technology needed to achieve the chosen cap level. In justifying the emission limits in CAMR, U.S. EPA explained in the preamble that “the technologies necessary to achieve the emission cap limits . . . have been adequately demonstrated.” It is clear that CAMR, while broader than previous Section 111(d) rules, was still within the traditional interpretation of standard of performance based on source-specific control technologies and limited

to affected facilities. Therefore, CAMR maintained the source-specific technology-based approach that is the foundation of Section 111.

Here, although a trading program covering an HRI approach for EGUs could be justified as focusing on the technology needed to achieve the chosen cap level, U.S. EPA may be underestimating the current efficiency of the remaining coal-fired EGU fleet. If a unit specific analysis is conducted from the menu of HRIs, it is likely all reasonable HRIs would be implemented. How then would additional credits be generated for trading? It is likely U.S. EPA would need to develop a complex trading program for a relatively small amount of emissions.

Ultimately, Ohio EPA continues to believe that a State could decide that the most appropriate approach may not need to establish emission limitations that necessitate averaging or trading but rather could simply rely on other methods of meeting a standard of performance, such as a work practice (HRI) as discussed in response to request C-15 above.

15. C-42. U.S. EPA is proposing new and carrying forward some of the same implementing regulations for Section 111(d) contained in 40 CFR Part 60, subpart B. U.S. EPA is proposing these apply for States to meet the requirements to include implementation and enforcement provisions under Section 111(d)(1)). U.S. EPA is requesting comment on if these are appropriate to meet these obligations or if other implementation or enforcement measures should be required. [83 FR 44768]

Ohio EPA is providing comment on specific requests below related to the implementing regulations that are new and being carried forward. In addition to those specific requests, Ohio EPA is providing the following comments on portions for which comment has not been requested or portions for which U.S. EPA states [83 FR 44770] are moved over without change and are ministerial action (and they are not soliciting comment). Note, Ohio EPA finds in some cases the sections referenced as being moved without change in fact do include changes.

- a. With respect to all of 40 CFR 60.23a [83 FR 44804-44805], Ohio EPA strongly suggests modeling the language directly after 40 CFR 51.102, or more efficiently, simply referencing that the notice and hearing requirements under 40 CFR 51.102 are sufficient for meeting the requirements of this rule. U.S. EPA should also apply the McCabe Memo⁷ to this proposal as it applies to the SIP program to clarify what is meant by the requirements in 40 CFR 51.102. U.S. EPA should adopt the requirements contained in 40 CFR 51.102 verbatim. This will necessitate an update to paragraph (g) also.

⁷ Regional Consistency for the Administrative Requirements of State Implementation Plan Submittals and the Use of "Letter Notices", Janet McCabe, April 6, 2011.

40 CFR 60.23a(d) also contains provisions for notification to the public. This provision requires "prominent advertising" of the hearing and states the internet should be satisfactory. The added sentence regarding the internet adds to much specificity (could be construed as the only alternative besides a newspaper). 40 CFR 51.102 does not include this specificity. This comment also applies to the provision regarding availability of the plan for public inspection. There is no need to include internet as an option. It could be viewed narrowly. "Prominent advertisement" is also clarified in the McCabe Memo.

40 CFR 60.23a(f) also contains provisions requiring maintaining the public hearing record for 2 years. This is an outdated requirement and not necessary. Documenting retention policies at the State level should be sufficient to ensure public records are maintained for sufficient time periods. In Ohio, this record would be maintained for a minimum of 5 years under our retention policy.

- b. With respect to 40 CFR 60.25a(e) [83 FR 44805], Ohio EPA strongly suggests U.S. EPA delete this unnecessary provision which requires the State to provide annual reports on progress in plan enforcement. This is an unnecessary and burdensome amount of oversight that is no longer necessary. Furthermore, this paragraph requires information be included in the annual report required under 40 CFR 51.321. 40 CFR 51.321 requires annual emissions reporting under U.S. EPA's Air Emissions Reporting Requirements (AERR). This would require States for the first time to begin reporting CO₂ emissions as a part of their annual emissions reporting. Surely this is an unintended consequence of Section 111(d) addressing a non-criteria pollutant with significant implications. There is more than sufficient reporting of GHG emissions under other federal programs and additional GHG reporting should not be necessary as a part of this rule. Ohio EPA urges U.S. EPA to correct this oversight.
- c. With respect to 40 CFR 60.28a(a) [83 FR 44807], U.S. EPA proposes that plan revisions be submitted within 12 months, or shorter, if required by the Administrator, after a final revised emission guideline is published. Plan revisions resulting from revised emission guidelines can be just as time consuming and resource intensive, with compliance timeline constraint issues just as relevant, as the original emission guidelines. The same timelines should apply to revisions as an initial plan requirement. This must be addressed to ensure significant issues are not encountered in the future if a revision to the emission guideline (if finalized) occurs.
- d. Ohio EPA believes there is a mistake in 40 CFR 60.5770a(b) where January 8, 2014 should be August 31, 2018.

e. There is an error in 40 CFR 60.5790a(a) where requirements from the CPP still remains in the language. Ohio EPA also questions if all the definitions in 40 CFR 60.5805a remain valid and necessary as some are not used in the subpart.

16. C-43. U.S. EPA is proposing States will be required to include monitoring, recordkeeping and reporting (MRR) necessary to provide for implementation and enforcement; however, States would have the flexibility to design their monitoring plan. Acknowledging most affected units already have MRR under 40 CFR Part 75, if the standard of performance is a unit's CO₂ emissions rate (e.g., lb/MWh), U.S. EPA is proposing the 40 CFR Part 75 meets the MRR requirement under the emission guideline. States also have discretion to establish averaging times but believes it could have different effects on the demonstration of compliance. Therefore, U.S. EPA is taking comment on if there should be any bounds or considerations to the averaging times allowed. [83 FR 44769]

Ohio EPA believes 40 CFR Part 75 should be an approvable approach and that a State should have the flexibility to allow for alternate approaches if appropriate and provides for implementation and enforcement. Ohio EPA recommends U.S. EPA relies on the State's expertise and discretion in determining appropriate averaging times and not limit those decisions via regulatory requirements. Rather, U.S. EPA can use the review and approval process to determine if an alternative MRR proposal meets the requirements for implementation and enforcement.

17. U.S. EPA is proposing State plans be submitted electronically. U.S. EPA is soliciting comment on whether electronic submittals are appropriate and less burdensome to States (C-44) or whether this should be the sole means of submitting State plans (C-45). [83 FR 44769]

Ohio EPA does not believe it is appropriate to require electronic submittals. If U.S. EPA desires to require electronic submittals, then U.S. EPA should provide for a rulemaking that does so for all submittal types and not just in the implementing regulations for specific requirements such as Section 111(d). Ohio EPA currently uses SPeCS and finds it valuable and beneficial for both States and U.S. EPA. However, Ohio EPA still has concerns with the system and prefers the ability to continue to provide paper/e-mailed submissions when necessary.

18. C-46. U.S. EPA is soliciting comment on the list of items, under 40 CFR 60.5740a, that must be in a State plan and whether this list is comprehensive to submit a State plan. [83 FR 44769]

U.S. EPA is referencing a list that includes several items for which Ohio EPA wishes to express concerns.

First, U.S. EPA is requiring under (a)(3) that the State include a demonstration that each EGU's standard of performance is quantifiable, non-duplicative, permanent, verifiable, and enforceable in accordance with 40 CFR 60.5755a, which provides definitions for each of those except non-duplicative. Ohio EPA is unsure of how non-duplicative would be applied in the context of an HRI project. U.S. EPA should provide more explanation and/or incorporate a definition under 40 CFR 60.5755a. However, Ohio EPA is concerned that depending on U.S. EPA's definition, additional concerns could become evident without an opportunity to comment. For example, will U.S. EPA say an HRI that is implemented as a part of another CAA program cannot be used to show compliance under Section 111(d)?

In addition, U.S. EPA also requires a demonstration that the requirements of 40 CFR 60.5755a are met under (a)(4)(v). These paragraphs are duplicative, and one should be removed.

Second, under (a)(4)(i), U.S. EPA is requiring a list of information required for each affected EGU regarding their future operation characteristics. This includes (A) Annual generation; (B) CO₂ emissions; (C) Fuel use, fuel prices (when applicable), fuel carbon content; (D) Fixed and variable operations and maintenance costs (when applicable); (E) Heat rates; and (F) Electric generation capacity and capacity factors. Ohio EPA fails to see the relevance of this requirement and it should be removed. It is the State's responsibility to determine the standard of performance by evaluating the menu of HRIs and determining which will be required to be implemented and what the resulting emissions limit should be. Any technical data necessary to support that conclusion would be included and the type of information could vary from source to source and HRI to HRI. The rule should provide nothing more than a general statement requiring technical support information sufficient to support the State's determination.

Third, under (a)(4)(ii), U.S. EPA is requiring a timeline for implementation of EGU-specific actions (if applicable). What does U.S. EPA mean by "actions" and "if applicable"? A timeline of actions as a part of the State plan should only be necessary when the timeline for compliance of an HRI is extended beyond the 24-month period proposed. As written, this paragraph could be construed to require a timeline for implementation within the 24-month period and for other types of actions.

Fourth, under (a)(4)(iii), U.S. EPA is requiring all wholesale electricity prices be reported. This paragraph should be removed. It has no relevance to this proposed Section 111(d) rule. This information is not even within the purview of a State environmental agency's knowledge nor should it be required to be in the future. It has no bearing on the ability for a State to implement and enforce the proposed standard of performance.

Fifth, under (a)(4)(iv), U.S. EPA is requiring this analysis cover a time period extending at least to 2035. This paragraph must be removed. It has no relevance to this proposed Section 111(d) rule. It has no bearing on the ability for a State to implement and enforce the proposed standard of performance. Further, much of this data is not even available, reasonable to request, or accurately forecastable for a period extending to 2035 (e.g., wholesale electricity prices).

U.S. EPA is asking that States predict the future of wholesale electricity prices and unit operations for approximately 15 years into the future. This would be pure guess work that may or may not have any relationship to reality. What if U.S. EPA does not believe our projections are accurate? Is this a reason for plan disapproval? In any event, these factors do not have a bearing on current conditions and the application of Section 111(d) to a facility.

Items one through four above raise another concern regarding confidentiality. Many of the items in this list may be considered business confidential by the affected entities and these same entities would have concerns if their business projections turned out to be inaccurate. Would these entities be held legally responsible for making false statements?

To reiterate, Ohio EPA has significant concern with many of the items being requested above. The proposed list goes far beyond what is necessary under this Section 111(d), may not be applicable under certain scenarios, and would be a resource intensive process for no benefit in this type of State plan. If U.S. EPA desires this type of data, U.S. EPA should find another method than requiring it through this mechanism.

Sixth, under (a)(5), U.S. EPA is requiring the State plan include a timeline of milestones that will be taken between the time of the State plan submittal *and [date three years after final promulgation of this rule in the Federal Register]* to ensure the plan is effective as of [date plan takes effect]. This is terribly confusing and likely erroneous or else needs clarification. As noted in proposed 40 CFR 60.5745a, the State plan is due *[date three years after final promulgation of this rule in the Federal Register]* which therefore means (a)(5) is proposing milestones for 0 days. And if a State plan is submitted late, it could be requiring milestones for a negative amount of time. Regardless, why would milestones be needed for this type of Section 111(d)? U.S. EPA is already proposing that compliance be achieved by affected units within 24 months of submittal of the State plan and any extension beyond would require increments of progress. This is more than sufficient. It should not be necessary for States to provide milestones within the 24-month period if that is what U.S. EPA expects. Ohio EPA suggests U.S. EPA remove this provision.

19. C-50. U.S. EPA is soliciting comment on the substance and the proposed regulatory text for the following changes [83 FR 44770]:

- a. C-52. Updated timing requirements or the submission of State plans. Noting the SIP and FIP timing requirements were revised in 1990 CAA amendments, U.S. EPA is proposing to accordingly update Section 111(d) consistent with Section 110 timing requirements. U.S. EPA is proposing to update the requirements to submit within 9 months (under 40 CFR 60.23(a)(1)) to 3 years after final notice of the availability of the final emission guideline. U.S. EPA is taking comment on this and on any other timeframes that may be appropriate given the flexibilities U.S. EPA intends to provide through this guideline. U.S. EPA is also proposing to give itself discretion to determine in a specific emission guideline that a shorter time period for State submittal is appropriate. [83 FR 44771]

Ohio EPA notes the current regulations (40 CFR 60.27) state that Administrator may “extend” the time for a plan submission while U.S. EPA is now proposing for all this time period to be “shortened”. While we understand U.S. EPA is aligning the time with Section 110, and therefore extending the timing from 9 months to 3 years, we do not believe it necessitates this proposed change. Section 110 has no similar authority to shorten submittal timeframes for States. Ohio EPA suggests U.S. EPA retains the language as is or provides flexibility to either shorten or extend the timeframes as determined necessary by the Administrator.

- b. Updated timing requirement for when increments of progress must be included as part of a State plan. 40 CFR 60.24(e)(1) currently requires any compliance schedule for State plans extending more than 12 months for the date required for submittal include legally enforceable increments of progress for each facility. U.S. EPA is proposing to update in order to align with new timelines proposed. [83 FR 44771]

Ohio EPA is providing comments regarding timing and increments of progress as a part of our response to request C-13 above.

- c. Completeness criteria and a process for determining completeness of State plan submissions similar to Section 110(k)(1) and (2). Similar to Section 110(k)(1), U.S. EPA is proposing completeness criteria to ensure State plans include certain minimum elements. U.S. EPA is proposing to adopt two types of criteria:
- Administrative: Based on the 8 elements of Section 110: 1- formal letter, 2- evidence adopted in code or regulation, 3-evidence of legal authority, 4-copy of official regulations or document, 5-evidence procedural requirements followed, 6-public notice consistent with 40 CFR 60.23, 7- public hearing certification, and 8- public comments complication with responses.

- Technical: 1-description of plan approach and geographic scope; 2-identification of each designated facility, emissions standards for each, and MRR; 3-compliance schedules/increments of progress; 4-demonstration the plan is projected to achieve emissions performance under the applicable emission guidelines; 5- documentation of the State recordkeeping and reporting requirements to determine the performance of the plan as a whole; and 6-demonstration that each emission standard is quantifiable, non-duplicate, permanent, verifiable and enforceable.

[83 FR 44772]

With respect to 40 CFR 60.27a(g)(2)(ii) [83 FR 44807], U.S. EPA is proposing the State plan be adopted in the "State code or body of regulations." This is an unduly burdensome requirement that should be updated. 40 CFR Part 51, Appendix V provides for "evidence that the State has adopted the plan in the State code or body of regulations; or issued the permit, order, consent agreement (hereafter "document") in final form. As written in this proposal, it would require all plans to go through a lengthy rulemaking or legislation process before a plan could even be deemed complete. It is essential this is corrected. A permit or consent order should be more than sufficient for adoption of requirements under Section 111(d) just as it is under Section 110. Note, the proposal refers to "document" in paragraph (iv); therefore, it was likely only an oversight in drafting the rule.

With respect to 40 CFR 60.27a(g)(3) [83 FR 44807], U.S. EPA proposes that the technical criteria are reviewed "in order to be deemed complete". Based on the elements in the list this seems less like a completeness determination (as is done for an administrative requirements) and more like an adequacy determination. It could be construed that the completeness determination that would be required by the 6-month mark or be considered complete by operation of law could apply to this list also. For example, U.S. EPA would need to determine that the plan is "projected to achieve emission performance" within the 6-month timeframe or that criteria is deemed complete by operation of law.

- d. C-56. Updated definition replacing "emission standard" with "standard of performance." U.S. EPA discusses their belief that the current definition of "emission standard" in the regulations is incomplete and requires clean up. For example, it encompasses equipment standards, which is an alternative form of standard under Section 111(h) under certain circumstances. Section 111(h) provides for other forms of alternatives like work practice standards which aren't covered under the existing definition of "emission standard." Further, the definition encompasses allowance systems which was added after CAMR which was vacated. Therefore, U.S. EPA is proposing to replace the definition with "standards of performance" that tracks with the definition provided under Section 111(a)(1). U.S. EPA is proposing to incorporate Section 111(h)'s allowance for

design, equipment, work practice, or operation standards as alternative standards of performance. The current regulations allow for plans to prescribe equipment specifications when emission rates are “clearly impracticable” as determined by U.S. EPA. Section 111(h)(1) allows for alternatives when standards of performance are “not feasible to prescribe or enforce” as those terms are defined under Section 111(h)(2). U.S. EPA is taking comment on this aspect of the proposal. [83 FR 44773]

Ohio EPA believes replacing “emissions standard” (a non-defined statutory term) with “standard of performance” (a defined statutory term) alleviates much confusion and more closely aligns the rule with the statute. Further, Ohio EPA supports allowing a State to identify a standard of performance prescribing design equipment, work practice, or operational standard, or combination thereof, when an emissions rate or limit is “not feasible to prescribe or enforce” (a concept borrowed from Section 111(h)) under proposed 40 CFR 60.24a(b). The concept of “standard of performance” in Section 111(a)(1) is underpinned by the “application of the best system of emission reduction which . . . has been adequately demonstrated.” A system of emission reduction that reflects an infeasible emissions limitation would be neither “best” nor “adequately demonstrated.” Thus, an adequately demonstrated best system of emission reduction may not be definitive emission rate or limit but instead may be a design equipment, work practice, or operational standard. A State must have the flexibility to determine whether an emission rate or limit is infeasible for reasons other than because a pollutant cannot be emitted through a particular conveyance or the lack of measurement methodology as contemplated by Section 111(h), and develop a State plan that includes some combination of design equipment, work practice, or operational standard as the appropriate standard of performance under the unique circumstances that confronts the affected sources in that State.

- e. Usage of the internet to satisfy certain public hearing requirements. [83 FR 44773]

Ohio EPA has addressed our comments regarding this proposed change above (see comments on C-42).

- 20. C-57. U.S. EPA argues Section 111(d)(1)(B) must permit States to take into account, among other things, RUL and that Congress explicitly envisioned a State's standard could vary from the guideline. Acknowledging that 40 CFR 60.24(f) contains a variance provision but attaches to that the distinction between health and welfare-based and is only available under U.S. EPA discretion. U.S. EPA notes this provision was promulgated before the addition of the RUL provision and they are inconsistent in that the variance provisions don't envision what is permitted under Section 111(d)(1)(B). U.S. EPA is proposing no distinction between health

and welfare based and is also proposing a new variance provision consistent with Section 111(d)(1)(B) for RUL and other factors, such as timing considerations like expected life of the source, payback period for investments, timing of regulatory requirements, or other unit-specific criteria. U.S. EPA is soliciting comment on how a new variance provision can permit States to take into account RUL and other factors, and what other factors might be. [83 FR 44773]

C-58. In addition, U.S. EPA is taking comment on whether the factors in 40 CFR 60.24(f) are appropriate to carry over to a new variance provision and if they adequately give meaning to the requirements of Section 111(d)(1)(B). These include: unreasonable cost of control resulting from plant age, location, or basic process design; physical impossibility of installing necessary control equipment; or other factors specific to the facility (or class of facilities) that make application of a less stringent standard or final compliance time significantly more reasonable. [83 FR 44773]

Ohio EPA continues to reiterate that RUL and other factors must be permitted to be considered by the State when developing a Section 111(d) plan (see our comments above under C-22/C-23). Ohio EPA believes it is appropriate to clarify this in the implementation rule.

21. U.S. EPA acknowledges this Section 111(d) plan could result in an existing source undertaking a physical or operational change which may require an NSR permit depending on the amount of the emission increase from the change and the air quality in the location of the source. U.S. EPA discusses at length historical rulemakings that attempted to exempt environmentally beneficial projects or provide alternative applicability determinations. U.S. EPA also discussed the comments received throughout the CPP and ANPRM rulemakings, acknowledging the NSR implication being at issue and remaining at issue specifically for HRIs. Ultimately this has led to U.S. EPA proposing a new NSR applicability determination process for these affected units, and potentially other units. U.S. EPA is taking comment on a variety of requests (C-59, C-60, C-61, C-62, C-63, C-64, C-65, C-66, C-67, C-68, C-69, C-70, C-71) related to the NSR issue for which Ohio EPA is providing the following comments. [83 FR 44775-44783]

Ohio EPA continues to have significant concerns also recognizing the unintended consequences and disincentive associated with performing HRIs as a result of NSR requirements.

Triggering NSR adds time and cost for sources and more burden for permitting authorities and could hinder effective and prompt implementation of the Section 111(d) plans. And that time and cost is not offset by a reduction in pollution or health impacts compared to before the HRI would be performed. The HRI itself is the action leading to a reduction in pollution and potential health impacts. It is

essential to the success of this Section 111(d) process that the NSR issue be addressed, or we will likely find that taking into consideration the cost of NSR as a part of development of the standard of performance will lead to fewer HRIs being implemented.

U.S. EPA should choose the least intrusive and time-consuming option for addressing NSR with the least risk of triggering NSR as a result of this Section 111(d) plan. If NSR cannot be avoided for these sources, States must be able to consider the cost and timing of NSR as a factor in setting a standard and a timeline (C-59, C-60). U.S. EPA must be cognizant of the time and effort involved in developing an NSR permit when considering compliance schedules and take into account that multiple sources within the State will be going through the same process, with differing schedules for implementing HRIs, while ensuring grid reliability throughout the entire process. All of this will undoubtedly have an impact on timing.

U.S. EPA requests comment (C-62) on whether an NSR applicability test for EGUs apply to all EGUs as defined in 40 CFR 51.124(q) or whether it should be confined to a smaller subset of the power sector, such as only the affected EGUs making modifications to comply with Section 111(d). Ohio EPA believes an NSR exemption should be confined to sources subject under this Section 111(d).

With respect to U.S. EPA's request for comment (C-65) regarding the potential for emissions increases as a result of the proposed NSR changes, Ohio EPA believes it should not be a consideration. U.S. EPA's analysis shows that national CO₂ and other pollutants will essentially stay the same under ACE, or be slightly reduced, when compared to the CPP. But yes, some individual units may increase. As discussed in our response to request C-9 above, any potential risk of a "rebound effect" should not be considered and should not trigger major NSR.

Lastly, regardless of the above, some units may be subject to minor NSR within a State also. U.S. EPA must ensure that any State with a SIP approved minor NSR program is able to amend their requirements to exempt sources from minor NSR without the need for requiring a SIP revision prior to implementation and without the need for any anti-backsliding Section 110(l) demonstrations.

22. C-72. U.S. EPA is requesting comments on the need for State plan submittals and any estimates of burden and suggested methods for minimizing that burden. [83 FR 44783]

As noted in response to request C-46 above, U.S. EPA should consider providing additional funding to the States to implement this program.

23. U.S. EPA provided its Regulatory Impact Analysis (RIA) results and illustrative scenarios presenting the difference between the CPP and the concepts in ACE and a scenario with no CPP with the purpose of providing sufficient information to understand the impact of a full repeal of the CPP. U.S. EPA acknowledges these scenarios are projected to result in a decrease of annual CO₂ emissions of about 7 million to 30 million short tons relative to a future without a Section 111(d) regulation affecting the power sector. U.S. EPA requests comment on the illustrative scenarios although a specific comment number is not provided. [83 FR 44759]

Ohio EPA wishes to express concern with the comparison of the benefits associated with the CPP compared to ACE. The baseline for comparison should be the current state only, which does not include the CPP. The CPP has not been implemented and continues to be under litigation and any change in pollution or health impacts should only be compared to the current state. Clearly, as shown by U.S. EPA, there will be significant benefits to implementation of ACE.

Environment Legislation
Prepared by: The Ohio Manufacturers' Association
Report created on November 27, 2018

- HB29** **MUNICIPAL WATER RESERVOIR BUFFERS** (LELAND D, BOGGS K) To eliminate law authorizing the maintenance of buffers around municipal water reservoirs by contiguous property owners.
Current Status: 4/25/2017 - House Energy and Natural Resources, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-29>
- HB62** **WATER QUALITY IMPROVEMENT** (PATTERSON J, SHEEHY M) To require the Director of Agriculture to adopt rules establishing the Ohio Water Quality Improvement Program, to exempt land enrolled in the Program from taxation, and to reimburse local taxing units for revenue lost due to that exemption.
Current Status: 5/10/2017 - House Agriculture and Rural Development, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-62>
- HB85** **ENTER HEALTH CARE COMPACT** (RETFERFORD W) To enter into the Health Care Compact.
Current Status: 5/15/2018 - **REPORTED OUT**, House Federalism and Interstate Relations, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-85>
- HB225** **ABANDONED WELL REGULATION** (THOMPSON A) To allow a landowner to report an idle and orphaned well or abandoned well, to require the Chief of the Division of Oil and Gas Resources Management to inspect and classify such a well, to require the Chief to begin plugging a well classified as distressed-high priority within a specified time period, and to authorize an income tax deduction for reimbursements paid by the state to a landowner for costs incurred to plug an idle or orphaned well.
Current Status: 6/29/2018 - **SIGNED BY GOVERNOR**; Appropriation eff. 6/29/18, bill eff. 9/28/18
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-225>
- HB393** **OIL AND GAS BRINE SALES** (DEVITIS A, O'BRIEN M) To authorize a person to sell brine derived from an oil and gas operation that is processed as a commodity for use in surface application in deicing, dust suppression, and other applications.
Current Status: 5/15/2018 - **REPORTED OUT AS AMENDED**, House Energy and Natural Resources, (Fifth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-393>
- HB463** **SOLID WASTE DISPOSAL FEE INCREASE** (LATOURETTE S) To increase one of the state fees levied on the transfer or disposal of solid waste in Ohio, the proceeds of which are deposited into the Soil and Water Conservation District Assistance Fund, and to make an appropriation.
Current Status: 1/30/2018 - House Energy and Natural Resources, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-463>

- HB562 HORIZONTAL DRILLING-PARKS (LELAND D)** To prohibit the drilling of a horizontal well in various state and local parks
Current Status: 11/27/2018 - House Energy and Natural Resources, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-562>
- HB578 INJECTION WELL SETBACKS/FEES (HOLMES G, O'BRIEN M)** To establish new setback requirements applicable to new Class II injection wells and to require thirty-seven and one-half per cent of the out-of-district injection well fee to be paid directly to the municipal corporation or township in which the injection well is located.
Current Status: 11/27/2018 - House Energy and Natural Resources, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-578>
- HB643 LAKE ERIE PRESERVATION EQUIPMENT (ARNDT S, PATTERSON J)** To allow equipment for the protection and preservation of Lake Erie to be purchased with proceeds from the Parks and Recreation Improvement Fund and to appropriate funds for projects enhancing water quality in the Western Lake Erie Basin.
Current Status: 6/19/2018 - **SUBSTITUTE BILL ACCEPTED & REPORTED OUT**, House Finance, (Fourth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-643>
- HB655 FERTILIZER APPLICATION RATES (SHEEHY M)** To generally require the application of fertilizer in the western Lake Erie basin to be applied onto an actively farmed field at the agronomic rate, and to require the application of manure in the western Lake Erie basin to be applied onto an actively farmed field at either the agronomic rate or while utilizing specified best available technologies.
Current Status: 6/5/2018 - Referred to Committee House Agriculture and Rural Development
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-655>
- HCR4 ELIMINATE E-CHECK REQUIREMENT (YOUNG R)** To urge Congress to amend the Federal Clean Air Act to eliminate the requirement to implement the E-Check Program, to urge the Administrator of USEPA to alleviate burdensome requirements of the E-Check Program and the Clean Air Act if Congress fails to act, and to encourage OEPA to explore alternatives to E-Check.
Current Status: 5/9/2017 - House Federalism and Interstate Relations, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HCR-4>
- HCR25 WESTERN LAKE ERIE PROTECTION (FEDOR T, SHEEHY M)** To urge the Administrator of the United States Environmental Protection Agency to declare the open waters of Western Lake Erie as impaired pursuant to the federal Clean Water Act.
Current Status: 3/20/2018 - Referred to Committee House Energy and Natural Resources

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HCR-25>

HJR16 **CLEAN WATER BONDS** (ARNDT S, PATTERSON J) To permit the issuance of general obligation bonds to fund clean water improvements.

Current Status: 11/13/2018 - House Finance, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HJR-16>

SB2 **ENVIRONMENTAL PROTECTIONS LAWS** (HITE C) To revise specified laws relating to environmental protection.

Current Status: 7/7/2017 - **SIGNED BY GOVERNOR**; eff. 10/6/2017

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-2>

SB50 **WELL INJECTION-PROHIBITION** (SKINDELL M) To prohibit land application and deep well injection of brine, to prohibit the conversion of wells, and to eliminate the injection fee that is levied under the Oil and Gas Law.

Current Status: 2/22/2017 - Senate Energy and Natural Resources, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-50>

SB53 **NATURAL GAS RESTRICTION** (SKINDELL M) To ban the taking or removal of oil or natural gas from and under the bed of Lake Erie.

Current Status: 2/22/2017 - Senate Energy and Natural Resources, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-53>

SB228 **WASTE FEE INCREASE** (EKLUND J, SKINDELL M) To increase one of the state fees levied on the transfer or disposal of solid waste in Ohio, the proceeds of which are deposited into the Soil and Water Conservation District Assistance Fund, and to make an appropriation.

Current Status: 11/29/2017 - Referred to Committee Senate Energy and Natural Resources

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-228>

SB299 **LAKE ERIE PROTECTION APPROPRIATIONS** (GARDNER R) To credit additional amounts of the Local Government Fund to fund public safety services in areas that experienced a 30% or more decrease in the taxable value of certain power plants between 2016 and 2017, to phase out the payments over ten years, to increase the appropriation to the Local Government Fund; to support broadband development; to establish the OhioCorps Pilot Project; and to make appropriations, including appropriations for the protection and preservation of Lake Erie and the National Guard Scholarship Program.

Current Status: 7/11/2018 - **SIGNED BY GOVERNOR**; Appropriations eff. immediately, language eff. 10/10/2018

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-299>

SB303 **AGRICULTURAL OPERATION AND MANAGEMENT** (BROWN E) To revise the law

governing agricultural operation and management plans, and to require certain animal feeding facilities to annually report the amount of manure that is applied by or for the facilities.

Current Status: 6/5/2018 - Referred to Committee Senate Agriculture

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-303>

SB304 LAKE ERIE-FERTILIZER APPLICATION (BROWN E, YUKO K) To generally require the application of fertilizer in the western Lake Erie basin to be applied onto an actively farmed field at the agronomic rate, and to require the application of manure in the western Lake Erie basin to be applied onto an actively farmed field at either the agronomic rate or while utilizing specified best available technologies.

Current Status: 6/5/2018 - Referred to Committee Senate Agriculture

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-304>

SJR4 CAPITAL IMPROVEMENTS FUNDING (SCHIAVONI J) Proposing to enact Section 2t of Article VIII of the Constitution of the State of Ohio to permit the issuance of general obligation bonds to fund sewer and water capital improvements.

Current Status: 9/6/2017 - Senate Finance, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SJR-4>

SJR6 CLEAN WATER BONDS (GARDNER R, O'BRIEN S) If adopted by a majority of the electors voting on this proposal, Section 2t of Article VIII of the Constitution of the State of Ohio shall take effect immediately.

Current Status: 5/10/2018 - Referred to Committee Senate Finance

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SJR-6>

To: OMA Government Affairs Committee
From: Ryan Augsburger / Rob Brundrett
Re: Human Resources Report
Date: November 29, 2018

Overview

The General Assembly remains stalled on major human resources bills mainly due to outside influences. Unemployment compensation legislation remains a favorite talking point for elected officials; however current legislation is not supported by the business community and no action is once again expected in lame duck. Unions continue to wield an oversized influence on many issues important to manufacturers.

General Assembly News and Legislation

House Bill 2 – employment discrimination reform

Representative Bill Seitz (R-Cincinnati) proposes to comprehensively overhaul Ohio's employment discrimination statutes in a manner that would benefit employers and bring Ohio's laws more in line with federal discrimination laws, but would continue to provide individuals avenues to assert state law discrimination violations.

After numerous hearings and amendments, House Bill 2, a bill aimed at mirroring Ohio's civil rights law with the federal law, was voted out of the House Economic Development, Commerce and Labor Committee along party lines.

Opposition to the bill from the Ohio Civil Rights Commission, the Ohio Association of Justice, and others was dropped after a new sub bill was adopted.

The OMA and other business organizations were supportive of the bill and its purpose. Opponents previously argued the bill would weaken workplace protections.

The latest version of the bill made two prominent changes: language requiring an individual to file a charge of discrimination before the Ohio Civil Rights Commission before filing a lawsuit and extending the statute of limitations for such claims to two years.

The bill is waiting for a full House vote. With time running short it looks less likely that bill will be able to pass both chambers in the final weeks.

House Bill 53 – Public Employee Unions

House Bill 53 was introduced by Rep. John Becker (R-Union Twp.). The bill removes any requirement under the Public Employees Collective Bargaining Law that public employees join or pay dues to any employee organization. The bill also prohibits public employers from requiring public employees to join or pay dues to any employee organization and prohibits an employee organization from being required to represent public employees who are not members of the employee organization. The bill received its first hearing earlier this month.

House Bill 160 – 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. This bill has received two hearings in the House and has wide support from a ranging group of stakeholders. The OMA is supportive of the bill but not action is expected in lame duck.

House Bill 187 – Employee Hiring Information

The bill regulates the collection, use, and retention of certain information obtained from an applicant during the employee selection process. The bill places burdens on employers and potentially opens them up to lawsuits. The House has held several hearings but none since last September.

House Bill 228 – Stand Your Ground Bill

The bill expands the scope of an individual's right to bear arms and the state's need to regulate firearms. The bill became a hot button issue in that it contained the "Stand Your Ground" law provisions. The bill shifted the burden of proof in self-defense cases to the prosecution and remove the legal "duty to retreat" when faced with threats or perceived threats. The Senate is expected to take action on the bill in the final few weeks of session. Governor Kasich announced last week that he would veto the bill if it reaches his desk.

House Bill 233 – Handgun Decriminalization-Leaving Upon Request

The bill would enact the "Decriminalization Effort For Ending Notorious Deaths (DEFEND)" to provide an opportunity for a concealed handgun licensee or qualified military member to avoid guilt for carrying a concealed handgun into a prohibited place if the person leaves upon request, and to penalize as disorderly conduct failing to leave upon request or returning with a firearm.

The bill originally intended to protect those who mistakenly bring weapons into prohibited areas now provides a carve-out for a concealed handgun licensee or a qualified military member who ignores posted signs prohibiting persons from carrying firearms onto the land or those premises. The bill takes away a manufacturer's ability to keep firearms off of its property, even if a sign prohibiting the carrying of a firearm is posted in a conspicuous area.

The bill was passed quickly through the House of Representatives despite opposition from the OMA and other business groups. The Senate has yet to schedule a hearing.

Senate Bill 251 and House Bill 497 – "Revenge" Bill

This month the House held its first hearing on House Bill 497, which, along with its Senate companion Senate Bill 251, prohibits the nonconsensual dissemination of private sexual images. The two bills are designed to close a loophole in Ohio law that allows individuals to knowingly disseminate private images, without consent of the victim, with a purpose to harm the person in the images.

In their joint testimony Reps. John Rogers (D-Mentor on the Lake) and Nathan Manning (R-North Ridgeville) outlined the provisions of the bill including criminal penalties and employment protections. Employment protections include prohibiting an employer from firing, or failing to hire, an individual because of their victim status; requiring an employer to make "reasonable accommodations" to the victim; requiring an employer to give a victim unpaid leave; and, creating a civil action against an employer for failing to follow the bill's employer requirements.

The House made changes to the bills to ensure that businesses are not unduly burdened. The Senate version had its first hearing this month.

House Bill 382 – Unemployment Compensation Revisions

Representative Schuring introduced a new attempt to solve the state's unemployment compensation problems in October. The new bill is a product of the discussions that Representative Schuring and Senator Peterson oversaw during the past year between interested parties including the OMA. Representative Schuring introduced the bill without the support of any of the interested parties but wanted a starting point to discuss solutions in the committee. The bill would raise employers' taxes, cut the number of weeks an employee can receive compensation, require employee co-pay and temporarily freeze benefits.

Representative Schuring also introduced HJR 4 which would allow the state to bond any future borrowing from the federal government. This would provide the state a new option when paying back any future debts. This resolution would need to be approved by Ohio's voters.

The OMA and its business community allies submitted a letter in opposition of House Bill 382 but in favor of the HJR 4. The bill and resolution have had 20 hearings in the House committee. In only three of those hearings has the committee received any testimony of any sort.

House Bill 424 – Substance Recovery for Workforce

The bill enacts the "Substance Recovery and Workforce Improvement Act" regarding drug testing and eligibility for unemployment compensation benefits. The bill was introduced last November and has received one hearing.

House Bill 450 – Health Insurance Mandated Benefits

Earlier this year the OMA submitted proponent testimony on House Bill 450, legislation that would curb costly new state-driven health care mandates.

In testimony the OMA noted three protections in the bill for employers: "First, it prohibits the enactment of future mandated benefits unless qualifying conditions are met. This means that only the most relevant mandates will be allowed in the future.

"Second, requiring the Superintendent of Insurance to conduct an actuarial study on the cost of existing mandated health insurance benefits and compiling a list of all existing mandates will help determine the true costs of these mandates on manufacturers and all Ohio employers.

"Finally the creation of the Health Care Mandated Benefits Review Committee, which will have responsibility for reviewing and reporting on existing mandated benefits, will provide data to help inform the financial consequences of mandates on the populations that fund them."

The bill just has had four committee hearings.

House Bill 512 – Consolidate Career-Education Governance

The bill establishes the Department of Learning and Achievement. Essentially it abolishes the current Department of Higher Education, Department of Education and Governor's Office of Workforce Transformation. These entities will now be run through the Department of Learning and Achievement. The House has described the move as a way to better coordinate workforce preparation. The bill has had several hearings in the House and remains a priority by the Speaker. The Senate has announced some reservations regarding the realignment.

At its March meeting the OMA Board of Directors considered the merits of House Bill 512, The OMA board issued this statement on House Bill 512:

“The accountability system for education and workforce development is clearly fragmented. Any disjointed accountability system can contribute to redundancies and waste, disjointed goals and metrics, and a misalignment of strategy and operations.

“The integration proposed by House Bill 512 is intended to repair this fragmented accountability system. For that reason, the OMA Board of Directors supports the bill.

“However, manufacturers know from experience that organizational integrations are hard work. Simply changing organizational structure does not assure achievement of desired organizational outcomes, or even improvement.

“To be successful, integration needs to be accompanied by establishment of clear goals and effective metrics, development of organizational culture, and deployment of management systems that engage stakeholders and drive toward results. The OMA Board of Directors encourages the sponsors of House Bill 512 to attend to these elements of success that should accompany structural reform for the benefit of all stakeholders, including students and their families, educators, the community and its employers.”

There was speculation that the Kasich Administration would push hard for the bill in lame duck but up to this point there has been no action on the bill since the spring.

House Bill 551 – Minors – Hazardous Occupations

Legislation has been introduced to allow 16- or 17-year old minors to operate machinery in construction or manufacturing occupations provided specified training is completed beforehand.

House Bill 551 is jointly sponsored by Reps. Rick Perales (R-Beavercreek) and Mark Romanchuk (R-Mansfield). The pair said in sponsor testimony, “By providing meaningful employment and career exploration to young adults interested in manufacturing and construction, a new generation of workers can ultimately receive training for Ohio’s in-demand workforce.” OMA is supportive and testified in support of the bill.

This week a substitute version of the bill was accepted by the committee. There are some questions regarding liability with the new version. Rep. Romanchuk has moved to split the manufacturing portion as an amendment and is working to add it to a vehicle in lame duck.

Medical Marijuana

On September 8th, Ohio’s medical marijuana program officially went live. That was supposed to be the first day that individuals could go to a dispensary in Ohio and buy medical marijuana if they had a recommendation from a doctor. However due to delays in the permitting and planting at the new marijuana facilities the program will be delayed for several more months. Employers need to be prepared with their policies regarding medical marijuana use and their employees.

Ohio’s system is expected to be up and running in early 2019.

Kasich Creates Office of Opportunities for New Americans

In May Gov. John Kasich announced the creation, by executive order, of the Office of Opportunities for New Americans and New Americans Advisory Committee to help legal immigrants more successfully become part of Ohio and find job opportunities in the state.

The new office, which will be housed within the Ohio Development Services Agency, was created to help to ensure legal immigrants successfully integrate into communities by breaking down barriers in state government to improve workforce development opportunities.

The 12-member advisory committee will be named and will include members who presently engage new immigrant populations in the private-sector, non-profit community and government.

A new website has been created to help new immigrants better navigate various state programs.

Workforce Services

2019 Workforce Summit

Once again the OMA hosted a manufacturing workforce summit. The event was held in Columbus on November 1. Over 450 people attended this year's event. The focus of the event was to update manufacturers on OMA's progress in creating and sustaining regional sector partnerships and provide useful tools for manufacturers to implement in their regions to drive more people into manufacturing careers. Benefits of the summit included breakout sessions aimed at improving sector partnerships, learning from manufacturers, sharing best practices with other regions across the state, and hearing from experts in everything from grant writing to implementing internal apprenticeship programs.

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

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

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

Perceptions of manufacturing are generally favorable, but lack clarity.

Job seekers expect detailed information.

Pay, benefits, and job stability messages are well-received.

OMA Priorities for Systems Change in Workforce Development

The OMA recently published Workforce Roadmap: Priorities for Systems Change in Workforce Development, which documents its workforce services strategy and action steps to facilitate skill development and talent acquisition among Ohio manufacturers.

Key action steps of the roadmap include:

- Through technical assistance and best practices sharing, increase industry champions' and industry sector partnerships' abilities to drive systems change.
- Amplify the voice of manufacturers with lawmakers and public officials.
- Leverage the Making Ohio brand image assets to elevate awareness and interest in manufacturing careers.
- Increase public/private collaborations to train and educate the manufacturing workforce of tomorrow.

The OMA continues to travel the state promoting industry sector partnerships and helping manufacturers throughout the state's different regions stand up such partnerships.

If you'd like to be kept apprised of OMA's workforce service offerings and updates, you can easily subscribe to the Workforce Community at My OMA or send an email with your contact information and email address.



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

Kailey M. Henry

H.B. 551

132nd General Assembly
(As Introduced)

Reps. Perales and Romanchuk, Antani, Arndt, Butler, Green, Kick, Reineke, Retherford, Seitz, Vitale

BILL SUMMARY

- Prohibits the Director of Commerce from adopting any rule to prohibit a minor who is 16- or 17-years old who receives specified training from being employed in a construction or manufacturing occupation if the minor's employment in the occupation is permitted under federal law.
 - Requires an employer to provide a 16- or 17-year old minor employed in a construction or manufacturing occupation with the training specified in the bill before the minor can engage in any workplace activity.
 - Requires the Director to specify a list of tools that a 16- or 17-year old minor who has completed the training may operate during the minor's employment in a construction or manufacturing occupation.
 - Prohibits an employer from either (1) permitting a 16- or 17-year old minor from operating a tool described above unless the minor has completed the bill's training, or (2) permitting a minor who has completed the training from operating a tool prohibited for use by minors of that age under federal and state law.
 - Establishes a civil penalty for whoever violates the bill's prohibitions.
-

CONTENT AND OPERATION

Hazardous occupations prohibited for minors

Continuing law requires the Director of Commerce, after consulting with the Director of Health, to adopt rules prohibiting the employment of minors in occupations that are hazardous or detrimental to the health and well-being of minors. The Director

of Commerce must consider the hazardous occupation orders issued pursuant to the federal Fair Labor Standards Act¹ (FLSA) when adopting the rules. The bill prohibits the Director from adopting any rule that would prohibit a minor who is 16- or 17-years old and receives the training described under "**Training for a construction or manufacturing occupation**," below from being employed in a construction occupation or manufacturing occupation if the hazardous occupation orders issued pursuant to the FLSA permit the employment of the minor in the construction or manufacturing occupation (see **COMMENT**).²

For purposes of the bill, a "construction occupation" is employment consisting of the construction, reconstruction, enlargement, alteration, repair, remodeling, renovation, demolition, or painting of a building or other structure, road, bridge, or other work, and includes preparing a site for new construction. A "manufacturing occupation" is employment consisting of the mechanical, physical, or chemical transformation of materials, substances, or components into new products for sale, and includes assembling component parts into a finished product.³

Training for a construction or manufacturing occupation

The bill requires an employer (a person who employs any individual in a construction occupation or manufacturing occupation) to provide a 16- or 17-year old minor employed in a construction or manufacturing occupation with training before the minor can engage in any workplace activity. The employer must include all of the following in the training:

- A ten-hour course in construction or general industry safety and health hazard recognition and prevention approved by the U.S. Department of Labor's Occupation Safety and Health Administration (OSHA) (the minor may participate in an OSHA-approved 30-hour course if the minor has already successfully completed a ten-hour course);
- Instructions on how to operate the specific tools the minor will use during the minor's employment;
- The general safety and health hazards that the minor may be exposed to at the minor's workplace;

¹ 29 United States Code (U.S.C.) 201 *et seq.*

² R.C. 4109.05.

³ R.C. 4109.22(A).



- The value of safety and management commitment;
- Information on the employer's drug testing policy.

A 16- or 17-year old minor who completes the training is allowed to work in any construction or manufacturing occupation that is not prohibited for minors of that age by Ohio's Minor Labor Law⁴ or rules adopted under the Law. The bill requires the employer to pay any costs associated with providing a minor with the training.⁵

List of approved tools

The bill requires the Director of Commerce, in consultation with employers, to adopt rules in accordance with the Administrative Procedures Act specifying a list of the tools that a 16- or 17-year old minor who has completed the bill's training may operate during the minor's employment in a construction or manufacturing occupation. The Director must use the "Field Operations Handbook" issued by the U.S. Department of Labor's Wage and Hour Division for guidance in developing the list. Nothing in the bill requires the Director to include a tool on the list if the FLSA hazardous occupation orders and Ohio's Minor Labor Law or rules adopted under it specifically permit 16- or 17- year olds to operate the tool.⁶

Prohibitions

The bill prohibits an employer from doing either of the following:

(1) Permitting a 16- or 17-year old minor to operate a tool a minor of that age is permitted to operate under the rules described in "**List of approved tools**" above unless the minor completes the bill's required training;

(2) Permitting a 16- or 17-year old minor who has completed the bill's required training to operate a tool that a minor of that age is prohibited from using by the FLSA and Ohio's Minor Labor Law or rules adopted under it.⁷

Penalty for violation

Under continuing law, the Director is required to designate enforcement officials to enforce Ohio's Minor Labor Law. An enforcement official who discovers a violation

⁴ R.C. Chapter 4109.

⁵ R.C. 4109.22(A), (B), and (D).

⁶ R.C. 4109.22(C).

⁷ R.C. 4109.22(E).

of the Law is required to file a complaint against an offending employer in any court of competent jurisdiction after providing notice to the employer of the violation. An employer found to have violated the Law by the court may be assessed a penalty, which is paid into the fund of the school district in which the violation was committed.⁸

Under the bill, an employer who violates the bill's prohibitions is assessed a civil penalty of up to \$1,730 for each violation.⁹

COMMENT

An employer or employee may be subject to the FLSA or Ohio's Minor Labor Law, or both laws, depending on the employer type and size and whether the employer or employee engages in interstate commerce. In the situation where an employer or an employee is subject to both federal and Ohio law and the laws differ, the law that provides the most protection for the minor applies.¹⁰

HISTORY

ACTION	DATE
Introduced	03-13-18

H0551-I-132.docx/ts

⁸ R.C. 4109.13, not in the bill.

⁹ R.C. 4109.99.

¹⁰ 29 U.S.C. 218 and 29 Code of Federal Regulations 570.50.



Ohio Manufacturers' Workforce Summit 2018

At this statewide convening of manufacturers and their workforce partners, attendees will:

- Hear about workforce best practices and initiatives underway across Ohio,
- Learn about tools and resources that support regional workforce development,
- Share lessons learned, and
- Celebrate progress because this is hard work!



AGENDA	Deadline to register is Friday, October 26, 2018 Registration fee \$110
9:00 a.m.	<p>Registration opens Coffee, water, soft drinks and a light breakfast are available</p>
10:00 a.m.	<p>GENERAL SESSION: Industry-Driven Sector Partnerships: A Proven Workforce Model Industry sector partnerships are a recognized best practice with demonstrated results across the country for addressing manufacturing workforce shortages.</p> <p>Panelists from four emerging Ohio manufacturing-led partnerships will discuss their experiences in adopting this strategy, how it allowed them to align around common challenges, their early results, and the elements that are key to their success so far. A Q&A session will follow.</p>
11:30 a.m.	<p>GENERAL SESSION: Innovative New Tools for Partnerships How to Attract Talent: Marketing & Outreach – OMA has recently invested in a major round of quantitative and qualitative research among target Ohio audiences to learn what their perceptions are about careers in manufacturing and what would attract them to the industry.</p> <p>Learn what job seekers, students, and career-switchers say about careers in manufacturing and how to best position your company to attract them. See what new Making Ohio-branded marketing assets are available for industry sector partnerships to use in recruitment outreach.</p> <p>Free & Open Training and Development Resources – OMA has partnered with SkillsCommons to create a portal of free & open manufacturing training resources created by colleges across the country. These hundreds of training resources have been curated by Ohio manufacturers and community college faculty to bring the best-of-the-best manufacturing training content to Ohio's manufacturers. At no cost! Learn how SkillsCommons can help close training skill gaps you may be experiencing.</p>
Noon	NETWORKING LUNCH
12:30 p.m.	<p>GENERAL SESSION: Connecting Economic Development Strategies with Industry Sector Partnerships Industry sector partnerships can be the foundation for enabling Ohio businesses to execute growth and expansion plans. In this presentation, you'll learn about how JobsOhio might partner with Ohio manufacturers to build talent pipelines BEFORE the need for talent arises.</p>

~ continued on reverse ~

AGENDA

Deadline to register is Friday, October 26, 2018
Registration fee \$110

1:00 p.m.

BREAKOUT SESSIONS: Hot Topics in Workforce Development

You asked, we're delivering. Last year, Summit attendees told us in their follow up surveys what topics they wanted to learn more about. We have prioritized these suggestions as one-hour breakout sessions. There is one concurrent track of breakout sessions, so bring your team to 'cover the waterfront' or concentrate your team on your priority topic.

1. **Funding Your Sector Partnership** – Learn how to research local, and otherwise, funding opportunities and write compelling proposals for a variety of funder types to support your industry sector partnership's sustainability.
2. **You Can't Boil the Ocean!** – Learn how to create a meaningful yet actionable mission statement and set strategic goals that are within your industry sector partnership's reach based on existing capacity and resources.
3. **Manufacturers' Role in Training Program Improvement** – Employers and educators have a shared interest in quality training programs and curriculum; in this session, manufacturers will learn what input, feedback and direction are most useful for educators to support manufacturers' workforce requirements.
4. **Translating Workforce and Education Jargon** – What do acceleration strategies and attainment goals have to do with growing the manufacturing workforce? Everything! But a seeming impenetrable wall of jargon can prevent business leaders from supporting the very programs that are designed to help them recruit, train and retain workers. Let's break down language barriers and bridge the skills gap!
5. **Designing Your Youth Apprenticeship Program** – Learn how to bring high-school students and young adults (16- to 24- year olds) into on-the-job training programs safely and effectively to grow your workforce of tomorrow.
6. **Moving from Initiatives to Partnerships** – In this session, manufacturers and their partners will outline how they moved from working together on a single initiative or program to becoming an industry-driven sector partnership. Speakers will highlight ways to increase efficiency and effectiveness through manufacturing leadership.

2:00 p.m.

NETWORKING BREAK

2:15 p.m.

GENERAL SESSION: Apprenticeship Innovations: A National Strategy

The U.S. Department of Labor calls apprenticeship a workforce solution for the advanced manufacturing industry.

Across the nation, manufacturers are testing new, innovative apprenticeship models to develop, grow, and retain a skilled workforce. Apprenticeship programs combine on-the-job learning with related instruction in technical areas to produce qualified, highly-productive employees for careers requiring precision skills. Apprenticeship training ensures workers have the knowledge and competencies companies need for today and tomorrow.

Learn from national experts about the trends and opportunities in registered- and industry-recognized apprenticeships and what they might mean for growing your workforce.

3:15 p.m.

Ohio Manufacturer' Workforce Summit 2018 concludes



BUILD THE FUTURE YOU'VE BEEN DREAMING ABOUT

Ohio manufacturing is booming with jobs. Make your way to an exciting, secure and fulfilling manufacturing career right now.

[VIEW CAREERS](#)



THE NEW ERA OF MANUFACTURING NEEDS YOU

Manufacturing today is more diverse, exciting and alive than ever before, full of good-paying jobs with solid benefits and room to grow. So, we created this site to help you find information about manufacturing careers.

Regardless of your level of education or where you are in your career, we have the resources you need to get to know the new world of manufacturing—including information about pay, job types, functions, career paths, educational requirements and much more.



JOB CATEGORIES

Challenging. Technical. Satisfying. Find a manufacturing job type that matches your interests.

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MAKING OHIO: THE BRAND OF OHIO MANUFACTURING

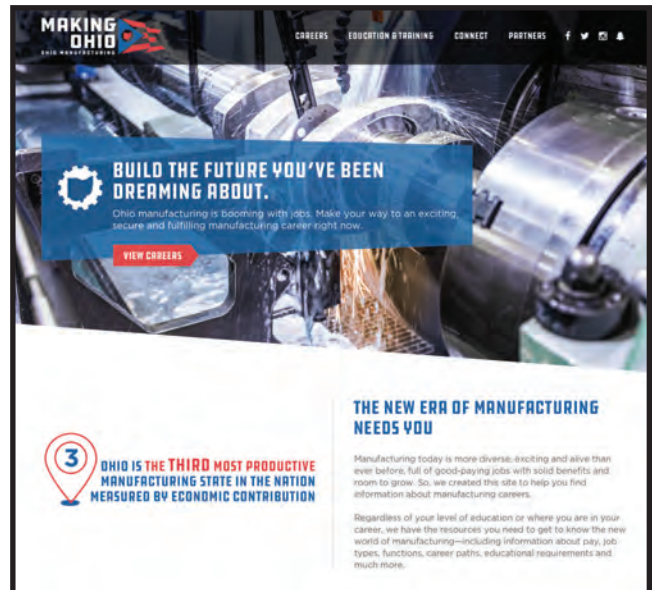
BUILDING THE SKILL & TALENT PIPELINE

for Ohio Manufacturers

Launched last year, the Making Ohio brand is a key strategy for helping manufacturers attract and develop their skilled workforces. Developed by The Ohio Manufacturers' Association (OMA), in collaboration with its workforce partners, Making Ohio showcases what modern manufacturing looks like. It delivers a fresh, compelling image of our industry. This fall, we're launching an exciting, new resource to support Ohio's industry-led partnerships in connecting job seekers with Ohio manufacturing jobs and careers.

Updated MAKINGOHIO.COM

Scheduled to launch this fall, the new MakingOhio.com will provide an exciting and detailed look at manufacturing careers in our state. The website will support and extend your outreach by providing an in-depth resource you can use to educate and motivate your audiences, including young people making career choices, parents, and adults considering a career change.



Partner Portal

MORE RESOURCES FOR PARTNERSHIPS

Through a partner portal on the website, you will be able to apply for access to the Making Ohio logo and a suite of Making Ohio promotional tools designed to support your workforce development communications including giveaways for your events and messaging developed specifically for your key audiences. You'll also find case studies of successful programs around the state to help jumpstart your creativity. And more!

Our PARTNERS



Please CONTACT

The Ohio Manufacturers' Association
workforce@ohiomfg.com • (800) 662-4463
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Human Resources, Health Care & Employment Law Legislation

Prepared by: The Ohio Manufacturers' Association
Report created on November 27, 2018

- HB2** **CIVIL RIGHTS EMPLOYMENT LAW (SEITZ B)** To modify Ohio civil rights laws related to employment.
Current Status: 5/9/2017 - **SUBSTITUTE BILL ACCEPTED & REPORTED OUT**, House Economic Development, Commerce and Labor, (Sixth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-2>
- HB53** **PUBLIC EMPLOYEES-MEMBER DUES (BECKER J)** To remove any requirement under the Public Employees Collective Bargaining Law that public employees join or pay dues to any employee organization, to prohibit public employers from requiring public employees to join or pay dues to any employee organization, to prohibit an employee organization from being required to represent public employees who are not members of the employee organization, and to make an appropriation.
Current Status: 11/13/2018 - House Finance, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-53>
- HB86** **MINIMUM WAGE INCREASE (SMITH K)** To increase the state minimum wage to ten dollars and ten cents per hour beginning January 1, 2019.
Current Status: 2/28/2017 - Referred to Committee House Economic Development, Commerce and Labor
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-86>
- HB136** **ROAD DESIGNATION-DAVID SEXTON AND GLEN MILLINGER (ARNDT S)** To designate a portion of State Route 61 in Erie County as the "SGT David Sexton Memorial Highway" and a portion of Benton-Carroll Road in Ottawa County as "SGT Glen Millinger Memorial Highway."
Current Status: 4/26/2017 - **REPORTED OUT**, House Transportation and Public Safety, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-136>
- HB158** **UNEMPLOYMENT COMPENSATION-MILITARY TRANSFERS (PERALES R, CRAIG H)** To permit persons who quit work to accompany the person's spouse on a military transfer to be eligible for unemployment compensation benefits.
Current Status: 11/27/2018 - Senate Finance, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-158>
- HB160** **OHIO FAIRNESS ACT (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 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, and to uphold existing religious exemptions under Ohio's Civil Rights Law.
Current Status: 1/31/2018 - House Government Accountability and Oversight, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation->

[summary?id=GA132-HB-160](https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-160)

- HB166** **WORKFORCE DEVELOPMENT SYSTEM REVISIONS** (REINEKE W, CUPP B) To revise the laws governing the state's workforce development system, programs that may be offered by primary and secondary schools, certificates of qualification for employment, and the Opportunities for Ohioans with Disabilities Agency, and to designate the first week of May as In-Demand Jobs Week.
Current Status: 3/7/2018 - **SUBSTITUTE BILL ACCEPTED**, House Higher Education and Workforce Development, (Seventh Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-166>
- HB187** **EMPLOYEE HIRING INFORMATION** (DEVER J) To regulate the collection, use, and retention of certain information obtained from an applicant during the employee selection process.
Current Status: 9/20/2017 - House Community and Family Advancement, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-187>
- HB193** **DISCRIMINATION PROTECTION-FLU VACCINE** (HAGAN C) To prohibit an employer from taking an adverse employment action against a person who has not been or will not be vaccinated against influenza.
Current Status: 2/28/2018 - House Health , (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-193>
- HB382** **UNEMPLOYMENT COMPENSATION LAW** (SCHURING K) To modify terms describing payments made under the Unemployment Compensation Law, to increase the amount of wages subject to unemployment compensation premiums, to require qualifying employees to make payments to the Unemployment Compensation Insurance Fund, to allow the Director of Job and Family Services to adjust maximum weekly benefit amounts, to reduce the maximum number of benefit weeks, and to make other changes to the Unemployment Compensation Law.
Current Status: 3/21/2018 - House Government Accountability and Oversight, (Twentieth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-382>
- HB424** **SUBSTANCE RECOVERY-WORKFORCE** (WIGGAM S) To enact the "Substance Recovery and Workforce Improvement Act" regarding drug testing and eligibility for unemployment compensation benefits.
Current Status: 2/20/2018 - House Government Accountability and Oversight, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-424>
- HB477** **ELIMINATE EDUCATION PROGRAMS** (KOEHLER K) To eliminate various provisions and programs related to the Department of Education and the operation of primary and secondary schools.
Current Status: 11/28/2018 - Senate Education, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-477>

- HB508** **OHIOCORPS PILOT PROJECT (RYAN S)** To establish the OhioCorps Pilot Project and to make an appropriation.
Current Status: 6/26/2018 - Senate Finance, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-508>
- HB512** **CONSOLIDATE CAREER-EDUCATION GOVERNANCE (REINEKE W)** To establish the Department of Learning and Achievement; to abolish the Department of Higher Education, the position of the Chancellor of Higher Education, and the Ohio Board of Regents; to transfer, with exceptions, the duties regarding the administration of primary and secondary education programs and all duties regarding the administration of higher education programs to the Department of Learning and Achievement; and to prescribe certain duties regarding educator licensure, community school sponsorship, and other education programs for the State Board of Education, Superintendent of Public Instruction, and Department of Education.
Current Status: 3/21/2018 - House Government Accountability and Oversight, (Fifth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-512>
- HB550** **PAID PARENTAL LEAVE (BOYD J, BOGGS K)** To establish family and medical leave insurance benefits to provide paid leave to allow an individual to address the individual's own serious health condition, to care for a family member, or to bond with a new child and to exempt those benefits from personal income tax.
Current Status: 3/20/2018 - Referred to Committee House Community and Family Advancement
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-550>
- HB551** **MINORS-HAZARDOUS OCCUPATIONS (PERALES R, ROMANCHUK M)** Regarding hazardous occupations prohibited for minors and providing training to certain minors employed in a construction or manufacturing occupation.
Current Status: 6/26/2018 - House Economic Development, Commerce and Labor, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-551>
- HB605** **OVERTIME LAW EXEMPTION (KELLY B, SMITH K)** To raise the salary threshold above which certain employees are exempt from the overtime law.
Current Status: 5/22/2018 - House Economic Development, Commerce and Labor, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-605>
- HB679** **UNEMPLOYMENT BENEFITS-TRAINING (BARNES, JR. J)** To prohibit a claimant's unemployment benefits from being reduced during any week that the claimant receives compensation for participating in a qualifying training course.
Current Status: 6/20/2018 - House Community and Family Advancement, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-679>

- HB712 REPEAL PREVAILING WAGE (HOOD R, DEAN B)** To repeal the Prevailing Wage Law.
Current Status: 11/13/2018 - Referred to Committee House Federalism and Interstate Relations
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-712>
- HJR4 UNEMPLOYMENT COMPENSATION BONDS (SCHURING K)** To allow the General Assembly to provide by law for the issuance of bonds to pay unemployment compensation benefits when the fund created for that purpose is or will be depleted or to repay outstanding advances made by the federal government to the unemployment compensation program.
Current Status: 3/21/2018 - House Government Accountability and Oversight, (Twentieth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HJR-4>
- HJR7 PUBLIC SECTOR UNION PROHIBITIONS (BECKER J, RIEDEL C)** Proposing to enact Section 22 of Article I of the Constitution of the State of Ohio to prohibit laws, rules, and agreements that require employees of public sector employers to join or pay dues to an employee organization and to prohibit employee organizations from representing nonmember public sector employees in employment-related matters.
Current Status: 1/16/2018 - Referred to Committee House Government Accountability and Oversight
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HJR-7>
- HJR8 PRIVATE SECTOR UNION PROHIBITIONS (BECKER J, RIEDEL C)** Proposing to enact Section 22 of Article I of the Constitution of the State of Ohio to prohibit laws, rules, and agreements that require employees of private sector employers to join or pay dues to an employee organization and to prohibit employee organizations from representing nonmember private sector employees in employment-related matters.
Current Status: 1/16/2018 - Referred to Committee House Government Accountability and Oversight
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HJR-8>
- HJR9 PUBLIC CONTRACTOR WAGE PROHIBITIONS (BECKER J, RIEDEL C)** Proposing to enact Section 43 of Article II of the Constitution of the State of Ohio to prohibit a public authority from requiring a contractor on a public improvement to pay the contractor's workers the prevailing rate of wages for work performed on the public improvement.
Current Status: 1/16/2018 - Referred to Committee House Government Accountability and Oversight
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HJR-9>
- HJR10 GOVERNMENT CONTRACTS-REQUIREMENT PROHIBITIONS (BECKER J, RIEDEL C)** Proposing to enact Section 2 of Article XV of the Constitution of the State of Ohio to prohibit certain requirements or prohibitions regarding labor agreements in government contracts.
Current Status: 1/16/2018 - Referred to Committee House Government Accountability and Oversight
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HJR-10>

- HJR11 COLLECTIVE BARGAINING REPRESENTATIVE ELECTIONS** (BECKER J, RIEDEL C) Proposing to enact Section 12 of Article XV of the Constitution of the State of Ohio to subject any public employee collective bargaining representative to an annual election to remain certified as the exclusive representative.
Current Status: 1/16/2018 - Referred to Committee House Government Accountability and Oversight
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HJR-11>
- HJR12 PAYROLL DEDUCTIONS-LABOR DUES** (BECKER J, RIEDEL C) Proposing to enact Section 12 of Article XV of the Constitution of the State of Ohio to prohibit dues and other fees payable to an employee organization from being deducted from the payroll check of a public employee and to prohibit those dues and fees from being used for political purposes unless authorized by the public employee.
Current Status: 1/16/2018 - Referred to Committee House Government Accountability and Oversight
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HJR-12>
- HR391 REVISE H-2A VISA PROGRAM** (YOUNG R) To urge President Donald J. Trump, members of his administration, and the Congress of the United States to revise the requirements for the H-2A temporary Agricultural Worker Visa Program established under the Immigration and Nationality Act to reduce the cost and regulatory impact on employers who utilize the program.
Current Status: 6/26/2018 - House Federalism and Interstate Relations, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HR-391>
- SB3 WORKFORCE DEVELOPMENT** (BEAGLE B, BALDERSON T) To revise the laws governing the state's workforce development system, programs that may be offered by primary and secondary schools, certificates of qualification for employment, and the Opportunities for Ohioans with Disabilities Agency, and to designate the first week of May as In-Demand Jobs Week.
Current Status: 11/6/2017 - **SIGNED BY GOVERNOR**; Eff. 2/5/2018
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-3>
- SB14 MINIMUM WAGES AND OVERTIME** (TAVARES C) To require that domestic workers be paid the higher of the minimum wage provided in Section 34a of Article II, Ohio Constitution, or the minimum wage provided in the Fair Labor Standards Act, to require that domestic workers be paid overtime wages, to make certain conduct directed toward a domestic worker an unlawful discriminatory practice, and to require a weekly day of rest for domestic workers.
Current Status: 11/14/2018 - Senate Transportation, Commerce and Workforce, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-14>
- SB49 HIRING-FELONY CONVICTIONS** (WILLIAMS S) To prohibit private employers from including on an employment application any question concerning whether an applicant has been convicted of or pleaded guilty to a felony.

Current Status: 11/15/2017 - Senate Transportation, Commerce and Workforce, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-49>

SB100 **CIVIL RIGHTS-DISCRIMINATION PROHIBITIONS** (SKINDELL M, TAVARES C) To prohibit discrimination on the basis of sexual orientation or gender identity or expression, to add mediation to the list of informal methods by which the Ohio Civil Rights Commission must attempt to induce compliance with Ohio's Civil Rights Law before instituting a formal hearing, and to eliminate certain religious exemptions from the Ohio Civil Rights Law.

Current Status: 3/15/2017 - Referred to Committee Senate Government Oversight and Reform

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-100>

SB116 **MILITARY SPOUSE UNEMPLOYMENT COMPENSATION** (LAROSE F, WILLIAMS S) To permit persons who quit work to accompany the person's spouse on a military transfer to be eligible for unemployment compensation benefits.

Current Status: 5/23/2018 - House Armed Services, Veterans Affairs and Homeland Security, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-116>

SB140 **PUBLIC-PRIVATE PARTNERSHIP GRANTS** (SCHIAVONI J) To create the Public-Private Partnership Grant Program for fiscal years 2018 and 2019 to develop, enhance, and promote educational programs to address regional workforce needs; to create the Sector Partnership Grant Program for fiscal years 2018 and 2019 to identify and provide grants to industry partnerships; to support programs that improve access to workforce training opportunities for students; to support economic development and revitalization programs; and to make an appropriation.

Current Status: 6/19/2018 - Senate Finance, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-140>

SB261 **PAID FAMILY MEDICAL LEAVE** (TAVARES C) To establish family and medical leave insurance benefits to provide paid leave to allow an individual to address the individual's own serious health condition, to care for a family member, or to bond with a new child and to exempt those benefits from personal income tax.

Current Status: 3/21/2018 - Referred to Committee Senate Insurance and Financial Institutions

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-261>

SB277 **STATE MINIMUM WAGE INCREASE** (THOMAS C, SCHIAVONI J) To increase the state minimum wage.

Current Status: 4/11/2018 - Referred to Committee Senate Local Government, Public Safety and Veterans Affairs

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-277>

TO: OMA Government Affairs Committee
FROM: Ryan Augsburger / Rob Brundrett
RE: Safety and Workers' Compensation Report
DATE: November 29, 2018

Overview

Things have been quiet at the BWC over the past six months. Little workers' compensation legislation is expected in lame duck. The U.S. Senate did hold its confirmation hearing on BWC Administrator Sarah Morrison who was nominated by President Trump to serve as U.S. Federal District Court Judge for the Southern District of Ohio. Employers continue to receive checks as part of the latest \$1.5 billion in premium rebates.

Legislation and Rules

Senate Bill 118 / House Bill 161 – PTSD

New first responder PTSD bills were introduced last year in the General Assembly. The bills would provide workers' compensation benefits for first responders with post-traumatic stress disorder (PTSD) arising from employment, even without an accompanying physical injury or occupational illness. Benefits could be provided to qualifying claimants for up to one year.

The bills would create a fundamental shift from current workers' compensation law which requires a physical injury before allowing any mental health claims.

The Bureau of Workers' Compensation (BWC) board reviewed a report from the BWC actuarial staff quantifying the financial impact this bill and its companion, Senate Bill 118, would have on the local governments which would pay the claims.

It is estimated that the bill would cost up to an additional \$98.4 million annually in claims. For comparative purposes, currently all public entities in the State Insurance Fund combined pay approximately \$190 million in total annual premium today.

OMA and its business allies have long opposed opening the workers' compensation system to cover claims with no accompanying physical injury or occupational illness.

House Bill 161 had sponsor testimony last May. Senate Bill 118 has now had two hearings, including proponent testimony from Police and Firefighter groups. The OMA and its business community allies have been meeting with Senators reiterating opposition to the proposal.

House Bill 268 – Makes changes to Ohio's self-insurance workers comp laws

The bill would create a second self-insured guaranty fund for employers who currently cannot meet the financial metrics to go self-insured under today's laws. The bill also allows self-insured companies to purchase private insurance.

During the bill's third hearing the OMA testified in opposition of the bill. OMA Workers' Compensation Committee member Cathy Duhigg Gannon from Eaton provided OMA's opponent testimony.

House Bill 269 – Workers Compensation changes

The bill would rename the BWC to the Worker Safety and Rehabilitation Agency. It would require the agency to develop incentives for employers to participate in safety consultations and loss prevention programs. The bill requires an employee who is receiving temporary total disability compensation to comply with a return to work plan, and it makes changes with respect to compensation for permanent total disability and death benefits. The bill has had three hearings and is not expected to move.

House Bill 380 – Illegal Aliens

The bill prohibits illegal and unauthorized aliens from receiving compensation and certain benefits under Ohio's Workers' Compensation Law. The bill is based off of the amendment that was eventually removed from the workers' compensation budget bill.

The House passed the bill in early December. The Senate is holding its second hearing on the bill this week. The subject was controversial in the Senate when this issue was debated during the BWC budget bill.

House Bill 459 – Group Self Insurance

The bill would allow groups of employers to be granted status as a self-insuring employer for purposes of the Workers' Compensation Law. The bill would leave it up to the BWC on how to structure and operate any such program. The bill has had several hearings and is supported by the Construction Employers Association. The OMA and other business allies provided opponent testimony.

BWC Subrogation Rule Goes into Effect

From OMA Connections Partner Bricker & Eckler: "Effective September 13, 2018, a change in Ohio workers' compensation laws permits employers to request subrogation for motor vehicle accidents where the at-fault, third-party is not issued a citation.

"Previously, employers could request to charge the surplus fund for at-fault, third-party motor vehicle accidents only if the at-fault party was issued a citation. This created problems for many employers ...

" ... The new law permits employers ... to file an AC-28 application even when the third-party is not issued a citation, so long as there is other documentation to demonstrate that the third-party was primarily liable.

"Additionally, the law will be applied retroactively to any claim occurring on or after July 1, 2017. The BWC is already accepting applications from employers where an AC-28 was previously denied. New applications for claims dating back to July 1, 2017, will be accepted after September 13, 2018."

If you have a claim involving a motor vehicle accident and your employee was not at fault, you may qualify for subrogation.

BWC Agency Notes

BWC Launches Opioid Workplace Safety Program

BWC's pilot program to support employers willing to hire workers struggling to overcome an addiction to opioids and other dangerous substances launched this month in three counties.

The Opioid Workplace Safety Program will provide up to \$5 million over two years to help employers in Montgomery, Ross and Scioto counties hire, manage and retain workers in recovery.

BWC is partnering with county Alcohol, Drug Addiction and Mental Health boards to coordinate the pilot program. The boards will identify eligible employers and employees, disperse funding and measure results.

New Report: Ohio Workers' Compensation Costs Drop Sharply

According to a new report from the National Academy of Social Insurance: "In 2016, workers' compensation benefits paid and employer costs as shares of covered payroll dropped dramatically in Ohio compared to the rest of the U.S. ...

"In Ohio, workers' compensation costs to employers as a share of covered payroll declined 13.8 percent in 2016. The decline in employer costs followed another large percentage decline in 2015. Altogether, workers' compensation costs to Ohio employers fell 29.9 percent from 2014 to 2016, the largest two-year decrease in the country."

Dr. Abe Al-Tarawneh, Chief of the Ohio Bureau of Workers' Compensation (BWC) Division of Safety and Industrial Hygiene, was quoted in the report, saying: "Declines were primarily driven by continuous decreases in the frequency and severity of injuries coming into the system."

Medical Marijuana is Here (sort of). Is your Company Ready?

From OMA Connections Partner Bricker & Eckler: "Ohio is in for some turbulence as it enters the world of legalized cannabis. The state's medical marijuana program was to be fully implemented by September 8, 2018. While much of the work of licensing growers, producers, dispensaries, and physicians has taken place, a number of glitches in the state's screening processes have caused delays in getting product market-ready by this deadline. These delays present employers who have not taken certain steps to prepare for this change a brief reprieve. Please review your internal policies so you are prepared when the program is live.

Morrison Nominated for Judgeship

President Trump nominated BWC Administrator Sarah Morrison to serve as U.S. Federal District Court Judge for the Southern District of Ohio. Both U.S. Senators Rob Portman and Sherrod Brown recommended the President nominate Administrator Morrison for the vacancy in Columbus, Ohio, which was created upon the retirement of the Honorable Gregory L. Frost. The nomination will now be vetted by the Senate Judiciary Committee before being considered for confirmation by the full U.S. Senate. The Southern District has court locations in Cincinnati, Columbus, and Dayton and serves more than five million Ohioans in 48 counties.

\$1.5 Billion Back

The BWC Board approved a proposal giving Ohio employers \$1.5 billion in premium rebates. It was the largest rebate in 20 years. Checks were mailed over the course of the summer.

The rebate equals 85 percent of the premiums paid for the policy year that ended June 30, 2017 (calendar year 2016 for public employers). It follows \$1 billion rebates issued in

2013, 2014 and 2017, as well as a \$15 million rebate in 2016 for counties, cities and other public employers.

Safety Issues

Where Does OSHA Stand on Safety Incentive Programs, Anyway?

OSHA recently issued a memorandum clarifying the agency's position that its rule prohibiting employer retaliation against employees for reporting work-related injuries or illnesses does not prohibit workplace safety incentive programs or post-incident drug testing.

The department believes that many employers that implement safety incentive programs and/or conduct post-incident drug testing do so to promote workplace safety and health.

Action taken under a safety incentive program or post-incident drug testing policy would only violate OSHA's anti-retaliation rule if the employer took the action to penalize an employee for reporting a work-related injury or illness rather than for the legitimate purpose of promoting workplace safety and health.

OSHA to Propose Rule to Better Protect Personally Identifiable Information

The Department of Labor's (DOL) Occupational Safety and Health Administration (OSHA) plans to issue a Notice of Proposed Rulemaking (NPRM) to better protect personally identifiable information or data that could be re-identified with a particular individual by removing provisions of the "Improve Tracking of Workplace Injuries and Illnesses" rule

OSHA Proposes to Modify Tracking Rule

From a Department of Labor Bulletin: "The Department of Labor's Occupational Safety and Health Administration (OSHA) has issued a Notice of Proposed Rulemaking (NPRM) to better protect personally identifiable information or data that could be re-identified with a particular individual by removing provisions of the "Improve Tracking of Workplace Injuries and Illnesses" rule.

"OSHA believes this proposal maintains safety and health protections for workers, protects privacy and reduces the burdens of complying with the current rule.

"The proposed rule eliminates the requirement to electronically submit information from OSHA Form 300 (Log of Work-Related Injuries and Illnesses), and OSHA Form 301 (Injury and Illness Incident Report) for establishments with 250 or more employees that are currently required to maintain injury and illness records. These establishments would be required to electronically submit information only from OSHA Form 300A (Summary of Work-Related Injuries and Illnesses).

"Under the current recordkeeping rule, the deadline for electronic submission of Calendar Year (CY) 2017 information from OSHA Forms 300 and 301 was July 1, 2018. In subsequent years, the deadline is March 2.

"OSHA is not currently accepting the Form 300 or 301 data and will not enforce the deadlines for these two forms without further notice while this rulemaking is underway. The electronic portal collecting Form 300A data is accepting CY 2017 data, although submissions after July 1, 2018, will be marked late."

OSHA Extends Some Compliance Dates for Beryllium Standard

OSHA issued a final rule to extend the compliance date for specific ancillary requirements in the general industry beryllium standard to Dec. 12.

The extension applies to methods of compliance, beryllium work areas, regulated areas, personal protective clothing and equipment, hygiene facilities and practices, housekeeping, hazard communication, and recordkeeping.

During this time, the agency will prepare a Notice of Proposed Rulemaking to clarify certain provisions that maintain worker safety and health, and address employers' concerns with compliance.



May 16, 2018

The Honorable Tom Brinkman
Chairman
House Insurance Committee
77 S. High St.
Columbus, OH 43215

Dear Chairman Brinkman:

Our organizations are jointly writing today to express our collective opposition to House Bill 459.

In Ohio there are currently two ways an employer may provide workers' compensation coverage for its employees. An employer may either pay premiums into the State Insurance Fund; or, if qualified, may be granted the privilege of paying compensation and benefits directly, known simply as self-insurance. Under the proposed legislation a new third option would become available to employers. House Bill 459 allows the Bureau of Workers' Compensation (BWC) Administrator to grant self-insuring status to a *group* of employers.

The bill itself is vague regarding how such a program would operate. The bill only states that the Administrator must adopt rules to implement group self-insurance. Within these rules the Administrator is supposed to determine whether a group of employers has sufficient financial and administrative ability to be viable and the Administrator is supposed to establish rules whereby an employer could join a group. No other specificity is provided in the bill.

Our organizations are wary of group self-insurance structures. As a monopolistic workers' compensation system, Ohio employers who are not self-insured must purchase coverage from the Ohio BWC. The system is designed to account for the risk of all employers. Because of this Ohio is both an insurer of first and last resort. By removing a percentage of state fund employers into group self-insurance, premiums for the remaining companies have the potential of being adversely impacted.

Ohio also has a strong self-insured program as exhibited in previous testimony before this committee. The prevailing reason that companies are not granted self-insurance in

Ohio is because their financial positions are not strong enough to cover expected losses from workers' compensation claims and insulate all participants from bankruptcies. Strong financials are necessary so that the Guaranty Fund, any guaranty fund, does not go bankrupt under financial pressure. During the Great Recession in 2008, the BWC and the self-insured community shared a significant concern that the Self-Insured Employers' Guaranty Fund would not be adequate to cover current and future liabilities as companies went out of business and others were teetering on the brink of bankruptcy, and this included some of the strongest and most financially stable companies. Imagine the potential crisis with groups comprised of much smaller and financially weaker employers.

While we appreciate Representative Henne's innovative work on House Bill 459, there remain far too many unknowns with the bill and our collective organizations oppose it at this time.

Sincerely,

Ohio Self Insurers Association

The Ohio Council of Retail Merchants

Ohio Chamber of Commerce

The Ohio Manufacturers' Association



More than **A** **BILLION** back again

Building a culture of safety across the state is at the heart of our work at the Ohio Bureau of Workers' Compensation. Reducing workplace accidents while returning injured workers back to the job and back to life helps both employers and workers thrive.

Safer workplaces and fewer injuries have helped us reduce rates to 30 year lows and deliver more than \$4 billion in rebates and credits to Ohio employers since 2011. That leaves more money in employers' hands to invest in their business.

Another factor supporting a robust workers' comp system in Ohio is wise management of the premium dollars BWC collects from 240,000 employers. BWC's financial position is solid with strong investment income and returns.

The result of prudent fiscal management, strong investments and falling claim numbers: We're poised to deliver our largest rebate in 20 years. That would bring the total returned to the economy to more than \$8 billion since 2011.

What does BWC's plan include?

A one-time rebate for private employers and public-taxing districts will total approximately \$1.5 billion.

How much would employers receive and when?

Most rebates would equal 85% of the employer's premium for the policy year ending June 30, 2017 (calendar year 2016 for public employers). BWC would begin sending checks in early July.

Private employers in the Group-Retrospective Rating Program would receive checks in the Fall.

Who will be eligible for the rebate?

Both private employers and public employer taxing districts that pay into the State Insurance Fund are eligible for the rebate. Generally, the employer must have been billed premium for the policy year ending June 30, 2017 (Dec. 31, 2016 for public employers), and be current in meeting their policy requirements. Employers with an outstanding BWC balance will have their rebate first applied to that balance. Employers that report through a Professional Employer Organization should receive their rebate from their PEO, which is required to pass a portion of the rebate on to their members.

How will the plan impact local governments and schools?

Local governments and schools have benefitted from three \$1 billion rebates since 2013 and a \$15 million rebate for Public Work Relief Employees' Fund. During that time, BWC has returned \$402 million — \$125 million to schools and \$277 million to local government entities. This rebate will add an estimated \$48 million to schools and \$111 million to local governments. As an example, a school district with \$12 million in payroll would have been paying \$96,000 in premium in 2011, and \$73,200 in 2018. That's \$124,000 in premium savings. That district would have also received \$288,000 in rebates and credits during that time, making for almost \$413,000 in savings.

How is it possible that BWC has \$1.5 billion to provide rebates?

Despite rate reductions and rebates and credits already totaling \$4 billion since 2011, our net position has continued to grow. The State Insurance Fund's net position stands at nearly \$11 billion, primarily due to strong investment income and returns. Investments earned a 7.8 percent return in 2017 and an average of 6.6 percent over the last five fiscal years. Prudent fiscal management and declining claims also factor into our financial strength.

Will this impact BWC's ability to operate as normal and continue to care for injured workers?

No. Even with a \$1.5 billion rebate, BWC's finances will remain strong, allowing us to continue providing injured workers with the care they need to heal and return to work. In fact, we are developing a proposal to invest a significant amount into worker safety and wellness, which should benefit Ohio workers by further reducing workplace injuries.

What else has BWC done to help Ohio businesses?

Once the latest rebates have been distributed, BWC will have saved Ohio businesses \$8 billion through rebates, credits and rate reductions since the beginning of 2011. That includes:

- \$1 billion rebates in 2013, 2014 and 2017;
- \$1.2 billion in credits to transition to a modern billing system at no cost to employers;
- Rate reductions for private employers of an average of 28.2 percent*. That means BWC collected \$1.7 billion less from employers than if 2010 rates had remained unchanged;
- Rate reductions for public employers of an average of 33.9 percent, or \$434 million less than had 2010 rates remained steady;
- Moving from the third highest rates in the country in 2008 to the 11th lowest.

**This rate will increase to 35% on July 1, 2018*

Medical Marijuana and its IMPACT ON BWC

What does OHIO'S medical marijuana LAW SAY?

In 2016, the Ohio General Assembly set up the framework to legalize medical marijuana in Ohio, effective Sept. 8, 2018. It was approved for certain medical conditions, including pain that is either chronic and severe or intractable, PTSD, and traumatic brain injuries. At this time, the only legal forms of medical marijuana will be edibles, oils, patches, plant material and tinctures. Vaporization is permitted. It cannot be smoked or combusted. Home growth is prohibited.

The Ohio Department of Commerce is tasked with regulating the licensure of medical marijuana cultivators and processors, as well as the laboratories that test medical marijuana. The state of Ohio Board of Pharmacy will license retail dispensaries and register patients and their caregivers. Additionally, the State Medical Board of Ohio will regulate physicians' requirements and procedures for applying for and maintaining certificates to recommend medical marijuana and maintain the list of conditions for which medical marijuana can be recommended.

What is the IMPACT of the new law ON BWC?

The impact of the new law on BWC and its programs is limited. It does not adversely affect the Drug-free Safety Program, will not require BWC to pay for patient access to marijuana, and expressly states that an employee whose injury was the result of being intoxicated or under the influence of marijuana is not eligible for workers' compensation.

Specifically:

- 1 Nothing in the law requires an employer to accommodate an employee's use of medical marijuana;
- 2 The law does NOT prohibit an employer from refusing to hire, discharging, or taking an adverse employment action because of a person's use of medical marijuana;
- 3 The law specifies that marijuana is covered under "rebuttable presumption." In general, this means that an employee whose injury was the result of being intoxicated or under the influence of marijuana is not eligible for workers' compensation. This is the case regardless of whether the marijuana use is recommended by a physician;
- 4 While the law does not specifically address reimbursement for medical marijuana recommended for injured workers, Ohio law already has rules and statutes in place that limit what medications are reimbursable by BWC.
 - Administrative code provides that drugs covered by BWC are limited to those that are approved by the United States Food and Drug Administration. Marijuana has not been approved by the FDA and remains a Schedule I illegal drug under federal law.
 - BWC-funded prescriptions must be dispensed by a registered pharmacist from an enrolled provider. Medical marijuana will be dispensed from retail marijuana dispensaries, not from enrolled pharmacies.
 - BWC only reimburses drugs that are on its pharmaceutical formulary, which is a complete list of medications approved for reimbursement by BWC. Drugs not on the list are not eligible for reimbursement, and under BWC's current rules, it cannot be included in the formulary, nor is it otherwise eligible for reimbursement.

What can EMPLOYERS DO?

The best way employers can protect their workers and themselves is to establish a **drug-free workplace**, or, if they already have one, to review and update it if necessary. This is important because certain sections of the new law reference the use of medical marijuana in violation of an employer's drug-free workplace policy, zero-tolerance policy or other formal program or policy regulating the use of medical marijuana. For what this means to your specific workplace, consult your human resources or legal department.

TO: OMA Government Affairs Committee
FROM: Ryan Augsburger / Rob Brundrett
SUBJECT: Tax Public Policy Report
DATE: November 29, 2018

Overview

The General Assembly is back to business in the post-election drive to the end of legislative session. This means both the House and Senate Ways and Means Committees are currently holding hearings and plowing through a random assortment of bills. There was talk about a possible tax cut in lame duck if Richard Cordray had won the governor's race. With a Republican headed back to the governor's mansion, transformative tax policy will most likely be held until the next state budget bill. The OMA and members continue to be engaged on the manufacturing sales and use tax exemption rule that is being reviewed by the Department along with looking for ways to make Ohio manufacturing even more competitive in regards to tax and economic development policy.

Tax Legislation

Senate Bill 114 / House Bill 155 – Vehicle Training Tax Credit

Senate Bill 114 and House Bill 155 are companion bills that authorize tax credits for expense incurred by employers to train a commercial vehicle operator. These bills would allow businesses to take credits against the CAT. The bills had one hearing in the House and Senate. OMA met with both proponents of the bills and sponsors of the bills. Proponent and sponsors followed the advice of the OMA and removed the CAT from the list of taxes that could be credited.

Senate Bill 132 – Foreign Trade Zone CAT Credit

The bill would establish a five-year pilot program whereby taxpayers with facilities in Ohio with activated foreign trade zone status may claim a nonrefundable commercial activity tax credit equal to the amount redeployed by the taxpayer to job creation and renewable energy resources. OMA participated in an interested party and expressed serious concern over the proposal.

House Bill 185 – Political Contributions Tax Credit

The bill expands the scope of political contributions that qualify for the income tax credit for contributions to political campaigns to candidates for any state, county, municipal, or district office. It had its first hearing last June.

Senate Bill 203 – Throw-Back Rule Reinstatement

The bill would reinstate the municipal income tax "throw-back rule" used in apportioning business income among municipalities. The throw-back rule was eliminated with OMA backing during the budget bill process.

House Bill 216 – Used Vehicle Trade-In Credit

The bill authorizes a sales and use tax trade-in credit for purchases of used motor vehicles from a licensed dealer. The bill had its third hearing this week.

House Bill 262 – Independent Budget Process

The bill would provide for the preparation of a state biennial budget independent of that submitted by the Governor and to authorize the Legislative Service Commission, upon the request of the Speaker of the House of Representatives or the President of the Senate, to arrange for an independent actuarial review of a proposed bill, specified analyses of economic policy initiatives and state benchmarking data, and a study of the state's long-range financial outlook. The bill was introduced and referred to committee last June.

Senate Bill 309 – Megaproject Business Tax Credits

The bill lengthens the maximum term of the job creation tax credit for businesses making substantial fixed asset and employment investments and for their suppliers. The bill also authorizes commercial activity tax exclusions for receipts of those suppliers from sales to such businesses, and to authorize local governments to grant longer term property tax exemptions for such businesses or suppliers. The bill is in response to large projects going out to bid like Foxconn and Amazon H2Q. The bill has had several hearings in the Senate with economic development groups pushing its passage.

House Bill 320 – Long-Range Financial Outlook Council

The bill creates the Long-Range Financial Outlook Council for the purpose of informing the public and the General Assembly about the financial status of the state by studying financial and other conditions and issuing an annual long-range financial outlook report. The bill had its second hearing in November.

House Bill 525 – Film Tax Credit-Live Theater

House Bill 525 would expand the current motion picture tax credit to live stage theater productions and increase the maximum amount of credits from \$40 million to \$100 million per fiscal year. The bill again is sponsored by Speaker Pro Tem Schuring which makes House passage a real possibility. The OMA testified questioning why Ohio would more than double the credit against the CAT. The House Finance Committee passed the bill last month. However instead of expanding the current amount from \$40 million to \$100 million, they instead only expanded the current amount to also cover live stage theater productions.

House Bill 641 – Forklift Tax Exemption

House Bill 641 would exempt from the sales and use tax things purchased by an interstate logistics business and used primarily to move completed manufactured products to the point from which they are shipped from a manufacturing facility and related power sources. The bill had two hearings prior to the summer recess. It could be in play in the winter.

Capital Expenditure Investment Tax Credit

OMA tax committee members have been working on a capital expenditure tax credit bill that manufacturers could take advantage of in Ohio. OMA staff has been working with Senator Dolan for potential introduction next year.

Tax News

Tax Expenditure Review Committee Releases Report

The Tax Expenditure Review Committee released its long awaited report. The report did not recommend eliminating any of the expenditures it heard testimony about over the previous year. Instead the committee laid out a schedule to review remaining expenditures over the next several General Assemblies.

The OMA had testified to the committee about the importance of the manufacturing sales and use tax exemption for Ohio's manufacturing competitiveness.

The committee wisely decided to leave the manufacturing sales and use tax exemption intact in Ohio's tax laws.

OMA Comments on Manufacturing Sales and Use Tax Exemption Draft

Earlier this fall OMA submitted comments to the Ohio Department of Taxation in response to its draft revisions to the manufacturing sales and use tax exemption.

The draft looks to update the rule to reflect legislative changes over the years and clarify aspects of the rule with additional examples.

The OMA's working group on the issue actively participated in the review and drafting of the proposed changes.

Tax Foundation Trashes Ohio Tax Code (Again)

The Tax Foundation has recently published its annual ratings of states for tax competitiveness, ranking Ohio among the 10 worst states at 42nd.

Some may question the low ranking since Ohio has made great strides in state tax competitiveness over the past 15 years by abolishing the state estate tax, zeroing out tangible personal property tax, eliminating corporate income tax and lowering personal income taxes.

The Tax Foundation has taken a dim view of gross receipts-based taxes such as the Ohio commercial activities tax (CAT) which applies a low-rate, broad-based tax on all in-state sales (only).

Landmark Decision Overturns 51-Year Physical Presence Standard for State Sales Tax Collection

The U.S. Supreme Court this summer ruled in *South Dakota v. Wayfair* that states can require out-of-state online sellers to collect sales taxes, overturning precedent that held otherwise.

Brick and mortar retailers have sought for years to even the playing field with online merchants. The ramifications of the decision are far reaching. The decision should be mostly good for state governments also which have been shortchanged by online commerce transactions.

The controversial decision is still being reviewed.

Kasich Floats New Tax Plan

At a press conference earlier this summer, Governor John Kasich announced that his administration was considering a plan that would take \$147 million from the projected state surplus to fund the cost of a one-time reduction in the state tax withholding tables.

According to the administration, even after funding the withholding tax table reduction, there would be \$68 million in surplus to divert to the 'rainy day' fund, pushing that fund to its maximum legal limit.

This is the governor's second attempt at driving down the withholding tables. In his 2016 State of the State speech he introduced the same idea, which was not acted upon by the legislature. The governor said he would be having conversations with state lawmakers in the near future regarding the proposal.

Two years ago the Kasich administration said that this change would give a person making \$60,000 a year, and claiming one dependent, an additional \$1.10 per week.

Early reactions from the House and Senate were noncommittal.

State Surplus Deposited in Rainy Day Fund

June 30 marked the end of the state's 2018 fiscal year. This summer Governor Kasich's administration deposited \$657 million of excess funds into the state's budget stabilization fund.

The balance in the state's savings account now sits at \$2.7 billion. Ohio lawmakers are constitutionally required to run a balanced budget and Senate President Larry Obhof issued a statement touting the benefits of responsible budgeting and conservative policies.

Budget Director Tim Keen said in a press release, "The fiscal condition of the state is strong. We finished the year with a larger ending balance than planned due to state spending that came in below projections and income tax revenues that came in above projections. This makes it possible ... to make a deposit into the Budget Stabilization Fund."

The budget director also noted that when the Kasich administration came to office in 2011, it inherited a depleted reserve fund of only 89 cents.

Muni Tax Collection System Found to be Constitutional

A Franklin County Common Pleas Court judge dismissed a muni tax collection lawsuit brought by about 160 Ohio municipalities that challenged a new law that allows the State of Ohio to collect local business taxes.

House Bill 49, which was Gov. John Kasich's two-year budget bill, allowed business owners the option to file municipal net profit tax returns directly with the Ohio Department of Taxation, instead of with the municipality in which the business operates.

OMA backed this law change because it streamlines the filing process for businesses, which often operate in multiple municipalities.



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

Sam Benham

S.B. 309

132nd General Assembly
(As Introduced)

Sens. Peterson and Kunze, Beagle, Uecker, Bacon, Oelslager

BILL SUMMARY

- Authorizes the following tax incentives for the operators and certain suppliers of a "megaproject," i.e., a development project that includes \$1 billion in investment or creates at least \$50 million in Ohio payroll:
 - Lengthening the maximum term of the refundable Job Creation Tax Credit (JCTC) from the current 15 years to 30 years.
 - Assignment of all or a portion of a megaproject supplier's JCTC to the megaproject's operator.
 - A commercial activity tax exclusion for gross receipts of a megaproject supplier from sales to a megaproject operator.
 - Lengthening the maximum term of local community reinvestment area or enterprise zone property tax exemptions to 30 years.
 - Requires or authorizes forfeiture of those incentives if the project ceases to qualify as a megaproject.
-

CONTENT AND OPERATION

Megaproject tax incentives

The bill authorizes several special tax incentives for operators and certain suppliers of a "megaproject," i.e., a large-scale development that meets certain investment or payroll thresholds. Specifically, the bill (1) increases the maximum number of years, from 15 to 30, over which the operator or supplier may receive a Job Creation Tax Credit (JCTC), (2) authorizes a megaproject supplier's JCTC to be wholly

or partially allocated to the megaproject's operator, (3) authorizes a megaproject supplier, in calculating its commercial activity tax, to exclude its gross receipts from sales to a megaproject operator, and (4) authorizes local governments to grant a 30-year commercial reinvestment area or enterprise zone property tax exemption to a megaproject or property owned by a megaproject supplier.

Qualifying projects and suppliers

Before a business may qualify for any of these enhanced incentives, it must either operate a "megaproject" or sell tangible personal property to one. A megaproject is a development project that satisfies all of the following conditions:

(1) The operator must compensate the project's employees at 300% of the federal minimum wage or more. (The federal minimum wage is currently \$7.25 per hour for nonexempt employees, so this income threshold would equal \$21.75 per hour.) This wage threshold is calculated exclusive of employee benefits and must be met at the time the project is approved for a JCTC (see below).

(2) The operator must either make at least \$1 billion in fixed-asset investments in the project or create at the project at least \$50 million in annual Ohio employee payroll, i.e., payroll subject to Ohio income tax.

(3) If the project qualifies on the basis of Ohio employee payroll, the operator must maintain at least \$50 million in annual payroll at the project throughout the term of the JCTC (see below).

(4) The project requires "unique sites, extremely robust utility service, and a technically skilled workforce."¹

In addition to the megaproject's operator, certain suppliers of a megaproject are eligible for the bill's incentives (referred to in this analysis as a "qualifying megaproject supplier"). Specifically, any business that sells tangible personal property may qualify for the incentives if it satisfies both of the following requirements:

(1) The business makes at least \$100 million in fixed-asset investments in Ohio;

(2) The business creates at least \$10 million in annual Ohio employee payroll and maintains that level of payroll throughout the term of the JCTC (see below).²

¹ R.C. 122.17(A)(10) and (11).

² R.C. 122.17(A)(12).



Job Creation Tax Credit

A megaproject operator or qualifying megaproject supplier must be approved by the Ohio Tax Credit Authority (OTCA) to receive a JCTC before the operator or supplier may qualify for the bill's other incentives. A JCTC is a refundable tax credit that may be taken against the state's income tax, commercial activity tax, or financial institutions tax. The credit equals a percentage of additional annual Ohio employee payroll that a business generates at an Ohio-based project above a baseline amount of payroll generated at the site in the 12 months before the site was approved for the credit. Currently, the credit may be awarded for up to 15 years.

To obtain a JCTC, a business is required to apply to and enter into an agreement with OTCA, a five-member board that includes the Director of Development Services. The agreement sets out specific terms and conditions a project is required to meet as a condition of receiving the credit. The Director annually evaluates a project's compliance with the agreement and, if compliant, issues a certificate with the credit amount the business may claim for the year (referred to in this analysis as an "annual compliance certificate").

Maximum term

The bill increases the maximum number of years that a JCTC may be awarded from 15 to 30 years for a business that is a megaproject operator or qualifying megaproject supplier.³ As a condition of continuing to receive annual compliance certificates during the term of the JCTC, the bill specifically requires the operator or supplier to meet the megaproject qualifications described above.⁴ If those qualifications are not met, the Director of Development Services is required to notify the Tax Commissioner, presumably to assist the Commissioner in determining whether a megaproject supplier is eligible for the bill's commercial activity tax exclusion (see below).⁵ As with other noncompliant projects, OTCA may reduce the term or amount of a noncompliant megaproject operator's or supplier's JCTC or may require the operator or supplier to repay credits already claimed.⁶

³ R.C. 122.17(D)(2)(c).

⁴ R.C. 122.17(D)(11).

⁵ R.C. 122.17(T).

⁶ R.C. 122.17(E) and (K).



Allocation of supplier's JCTC

If a megaproject supplier is awarded a JCTC, the bill authorizes the JCTC agreement to allocate all or a portion of the supplier's credit to the operator of the megaproject to which the supplier sells tangible personal property. The Director of Development Services is required to issue annual compliance certificates to any operator allocated a portion of a supplier's credit in this manner, though the operator's compliance is based on the supplier's performance.⁷

Commercial activity tax exclusion

Continuing law imposes the commercial activity tax (CAT) based on a business's taxable gross receipts from sales in Ohio. CAT is remitted on an annual or quarterly basis (referred to as a "tax period") depending on the amount of taxable gross receipts. The bill authorizes a qualifying megaproject supplier to exclude, in calculating the supplier's taxable gross receipts, any gross receipts from the sale of tangible personal property to a megaproject operator that has been awarded a JCTC.⁸ However, before claiming the exclusion, the supplier must (1) have been awarded a JCTC and (2) appear on a list that the megaproject operator certifies to the Tax Commissioner (see below).

Supplier list and certificate

In connection with the bill's CAT exclusion, each megaproject operator that has been awarded a JCTC is required to annually furnish to the Tax Commissioner a list of its qualifying megaproject suppliers and to update that list in the interim as needed. The Commissioner in turn is required to issue a certificate to the operator and each listed supplier containing the names of the operator and each such supplier. A supplier may qualify for the bill's CAT exclusion only if the supplier is listed on that certificate. Operators and suppliers must retain a copy of these certificates for four years after their issuance.⁹

Clawback

The bill requires a supplier to repay an amount equivalent to CAT not remitted in a tax period as a result of taking the bill's exclusion if, during that period, the supplier does not actually qualify for the exclusion. Specifically, the amount to be repaid equals the supplier's gross receipts from sales to the operator in that tax period multiplied by the general 0.26% CAT rate applicable to annual gross receipts in excess

⁷ R.C. 122.17(D)(7) and (10).

⁸ R.C. 5751.01(F)(2)(II).

⁹ R.C. 5751.052.



of \$1 million.¹⁰ (CAT on the first \$1 million in annual gross receipt is a flat amount that varies depending upon the business' taxable gross receipts.) Additionally, the bill permanently disqualifies a supplier from qualifying for the exclusion if the supplier has taken, but failed to qualify for, the exclusion for three consecutive years.¹¹

Property tax exemptions

The bill authorizes counties and municipal corporations to grant up to a 30-year enterprise zone (EZ) or community reinvestment area (CRA) property tax exemption to the site of a megaproject or a site owned and operated by a qualifying megaproject supplier ("qualifying site"), provided the megaproject operator or supplier, respectively, has been awarded a JCTC.¹² Under current law, EZ and CRA exemptions are generally limited to no more than a 15-year term. If either exemption is granted to a qualifying site, the property owner is required to annually certify to the county or municipal corporation that the megaproject operator or supplier holds a JCTC annual compliance certificate. If the operator or supplier does not hold such a certificate, the county or municipal corporation may terminate the exemption beginning with the tax year in which the termination decision is made.¹³

Summary of enterprise zone law

Under continuing law, counties and municipal corporations may designate areas within the county or municipal corporation as "enterprise zones." After the EZ designation is approved by the Director of Development Services, the county or municipal corporation may then enter into enterprise zone agreements with businesses for the purpose of fostering economic development in the zone. Under an enterprise zone agreement, the business agrees to establish or expand within the enterprise zone or to relocate its operations to the zone in exchange for tax exemptions for the development's increased property value and other incentives. In general, a school board of the district in which an EZ is located is required to approve any exemption in excess of 75% of the property's increased value or an exemption for a period of years in excess of 10.

¹⁰ R.C. 5751.091(A).

¹¹ R.C. 5751.091(B).

¹² R.C. 3735.67(D)(2), 5709.61, 5709.62(C)(4), 5709.63(B)(3), and 5709.632(C).

¹³ R.C. 3735.671(C)(11) and 5709.631(B)(13).



Summary of community reinvestment area law

Ohio's CRA law authorizes counties and municipal corporations to designate certain areas as "community reinvestment areas" to encourage new construction or the remodeling of existing structures. Similar to an EZ, after a CRA is approved by the Director of Development Services, the county or municipal corporation may enter into an agreement with a business exempting the increased value of new construction or remodeling of a commercial or industrial structure in the CRA in exchange for the creation or retention of jobs at the structure. (Unlike an EZ, residential construction and remodeling may also qualify for a CRA exemption, but no agreement is required for residential exemptions.) Before commercial or industrial property may receive a CRA exemption, the exemption must be approved by the school board of the district in which the property is located, unless the exemption is for less than 50% of the property's increased value.

HISTORY

ACTION	DATE
Introduced	06-07-18

S0309-I-132.docx/ks





October 1, 2018

VIA Electronic Mail

Ms. Laura Stanley
Ohio Department of Taxation
30 E. Broad St.
Columbus, OH 43216

Re: OMA Written Comments to Manufacturing Rule; OAC 5703-9-21: Ohio Department of Taxation Draft Revisions

Dear Ms. Stanley:

Pursuant to Ohio Department of Taxation's (ODT) notice issued on September 9, 2018, The Ohio Manufacturers' Association (OMA) is hereby providing ODT with written comments to Ohio's Manufacturing Sales and Use tax rule 5703-9-21.

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 a reasonable, necessary and transparent state tax system that encourages investment and growth.

Ohio's sales tax was first enacted as a temporary measure in the depths of the Great Depression in the 1930s. At that time, it was conceived as a tax on the final personal consumption of tangible goods. One year after initial enactment, the use tax was enacted; the two taxes were made permanent and the first exemption for machinery and equipment used to produce tangible personal property for sale by manufacturing was added.

The rationale for these exclusions is simple: The taxes are intended to be imposed upon the final personal consumption of goods and, now, those selected services that are subject to tax. Intermediate transactions prior to the final sale of the product, including the acquisition of machinery and equipment and the raw materials that are incorporated into the final product, are not intended to be taxed.

Ohio, like many states, continues to provide an exemption from the sales tax for purchases of tangible personal property used in the process by which tangible personal property is produced for sale by manufacturing. In Ohio this exemption was for a long time the subject of much litigation as to its application and scope.

In 1989 the legislature enacted a sweeping revision to the manufacturing exemption in an effort to clarify and reduce the amount of litigation. At the same time ODT promulgated rule 5703-9-21 which provided guidance, including examples, relating to the application of the new rule.

In the spring of 2017 ODT proposed revisions to the rule. This process represents the first time since the rule was promulgated in 1989 that changes have been proposed.

The OMA appreciates the inclusive, transparent process that the ODT created in order to work through this rule revision process. OMA offered several rounds of comments and has been pleased with the consideration given by ODT to those comments. At this time OMA has no further comments but reserves the right to comment in the future.

The OMA appreciates the opportunity to comment on this draft to Rule 5703-9-21. We look forward to working with ODT as the rule review moves forward. If ODT has any questions regarding the foregoing, please do not hesitate to contact me or OMA's tax counsel, Justin Cook at Bricker & Eckler LLP (614-227-4836).

Sincerely,

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

Rob Brundrett
Director, Public Policy Services

CC: Matt Chafin
CSI

Taxation Legislation
Prepared by: The Ohio Manufacturers' Association
Report created on November 27, 2018

- HB11** **INCORPORATING FEDERAL REVENUE CHANGES** (SCHERER G) To expressly incorporate changes in the Internal Revenue Code since February 14, 2016, into Ohio law.
Current Status: 3/30/2017 - **SIGNED BY GOVERNOR**; eff. 3/30/2017
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-11>
- HB49** **OPERATING BUDGET** (SMITH R) Creates FY 2018-2019 main operating budget.
Current Status: 8/22/2017 - Consideration of Governor's Veto
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-49>
- HB61** **TAX EXEMPTION-FEMININE PRODUCTS** (JOHNSON G, KELLY B) To exempt from sales tax the sale of tampons and other feminine hygiene products associated with menstruation.
Current Status: 10/10/2017 - House Ways and Means, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-61>
- HB70** **FUEL TAX TRANSPARENCY** (MERRIN D) To enact the "Fuel Tax Transparency Act" requiring stickers to be placed on retail service station pumps displaying the rates of federal and state taxes applicable to gasoline and diesel fuel.
Current Status: 3/15/2017 - House Government Accountability and Oversight, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-70>
- HB86** **MINIMUM WAGE INCREASE** (SMITH K) To increase the state minimum wage to ten dollars and ten cents per hour beginning January 1, 2019.
Current Status: 2/28/2017 - Referred to Committee House Economic Development, Commerce and Labor
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-86>
- HB89** **AUGUST SALES TAX HOLIDAY** (PATTERSON J, KELLY B) To provide for a three-day sales tax "holiday" in August 2017 during which sales of clothing and school supplies are exempt from sales and use taxes.
Current Status: 2/28/2017 - Referred to Committee House Ways and Means
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-89>
- HB104** **TAX REFUND ON BAD DEBTS** (SCHAFFER T) To allow vendors to receive a refund of sales tax remitted for bad debts on private label credit accounts when the debt is charged off as uncollectible by the credit account lender.
Current Status: 4/17/2018 - Senate Finance, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-104>
- HB133** **DISASTER RELIEF ACT** (RYAN S) To create the Disaster Relief Act to exempt out-of-state disaster businesses and qualifying out-of-state employees from certain taxes and laws with

respect to disaster work on critical infrastructure performed in this state during a declared disaster.

Current Status: 6/29/2018 - **SIGNED BY GOVERNOR**; eff. 9/28/18

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-133>

HB155 **VEHICLE TRAINING TAX CREDIT** (SPRAGUE R, HOWSE S) To authorize a tax credit for expenses incurred by an employer to train a commercial vehicle operator.

Current Status: 6/19/2018 - **REPORTED OUT**, House Ways and Means, (Third Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-155>

HB162 **TAX CREDIT-SOUND RECORDING** (SMITH K, LATOURETTE S) To authorize a refundable income tax credit for individual investors in a sound recording production company equal to a portion of the company's costs for a recording production or recording infrastructure project in Ohio.

Current Status: 5/9/2017 - House Ways and Means, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-162>

HB173 **IN-HOME EMPLOYEES TAX CREDIT** (LATOURETTE S, PATTON T) To provide that compensation paid to certain home-based employees may be counted for purposes of an employer qualifying for and complying with the terms of a Job Creation Tax Credit.

Current Status: 5/9/2017 - House Ways and Means, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-173>

HB177 **TAX EXEMPTION-COMMUNITY GYMS** (WEST T) To exempt memberships to gyms or other recreational facilities operated by charitable organizations from sales and use taxation.

Current Status: 11/14/2017 - House Ways and Means, (Third Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-177>

HB185 **POLITICAL CONTRIBUTIONS TAX CREDIT** (HAMBLEY S) To expand the scope of political contributions that qualify for the income tax credit for contributions to political campaigns to candidates for any state, county, municipal, or district office.

Current Status: 6/6/2017 - House Ways and Means, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-185>

HB216 **USED VEHICLE TRADE-IN CREDIT** (HAMBLEY S, BRINKMAN T) To authorize a sales and use tax trade-in credit for purchases of used motor vehicles from a licensed dealer.

Current Status: 11/27/2018 - House Ways and Means, (Third Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-216>

HB243 **FIREWOOD SALES TAX** (PATTERSON J, CERA J) To exempt from sales and use taxation the bulk sale of firewood and certain other heating fuels, and to reimburse the Local Government Fund and Public Library Fund and county and transit sales tax collections for the resulting revenue losses.

Current Status: 6/20/2017 - House Ways and Means, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-243>

HB262 **INDEPENDENT BUDGET PROCESS** (BUTLER, JR. J, ROMANCHUK M) To provide for the preparation of a state biennial budget independent of that submitted by the Governor and to authorize the Legislative Service Commission, upon the request of the Speaker of the House of Representatives or the President of the Senate, to arrange for an independent actuarial review of a proposed bill, specified analyses of economic policy initiatives and state benchmarking data, and a study of the state's long-range financial outlook.

Current Status: 6/20/2017 - Referred to Committee House Government Accountability and Oversight

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-262>

HB314 **LAW ENFORCEMENT TAX CREDIT** (SCHAFFER T) To allow an income tax credit for law enforcement officials who purchase safety or protective items to be used in the course of official law enforcement activities.

Current Status: 2/14/2018 - **REPORTED OUT AS AMENDED**, House State and Local Government, (Third Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-314>

HB320 **LONG-RANGE FINANCIAL OUTLOOK COUNCIL** (HAGAN C, ROEGNER K) To create the Long-range Financial Outlook Council for the purpose of informing the public and the General Assembly about the financial status of the state by studying financial and other conditions and issuing an annual long-range financial outlook report.

Current Status: 11/28/2017 - House Financial Institutions, Housing and Urban Development, (Second Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-320>

HB337 **TEXTBOOK SALES TAX EXEMPTION** (DUFFEY M) To exempt from sales and use tax textbooks purchased by post-secondary students.

Current Status: 2/20/2018 - **REPORTED OUT AS AMENDED**, House Ways and Means, (Fourth Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-337>

HB342 **LOCAL TAX ISSUES-ELECTION DATES** (MERRIN D) To modify the information conveyed in election notices and ballot language for property tax levies.

Current Status: 11/28/2018 - Senate Ways and Means, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-342>

HB351 **NOAA AND PHS TAX EXEMPTION** (PERALES R) To require municipal corporations to exempt from taxation the military pay of members of the commissioned corps of the National Oceanic and Atmospheric Administration and Public Health Service.

Current Status: 6/6/2018 - **REPORTED OUT**, Senate Ways and Means, (Third Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-351>

- HB361** **PROPERTY TAX COMPLAINTS TIMEFRAME** (GREENSPAN D) To increase the time within which boards of revision must decide property tax complaints.
Current Status: 11/14/2018 - Senate Ways and Means, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-361>
- HB371** **TAXES ON UNSOLD PROPERTY** (MERRIN D) To exempt from property taxation the increased value of land subdivided for residential development until construction commences or the land is sold.
Current Status: 3/1/2018 - Re-Referred to Committee
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-371>
- HB441** **TAX RETURN-PREPAID CARD** (LANESE L, DEVER J) To allow the Department of Taxation to provide taxpayers who file electronic returns the option of receiving their income tax refund in the form of a prepaid card.
Current Status: 4/10/2018 - House Government Accountability and Oversight, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-441>
- HB460** **RIPARIAN BUFFERS-TAX EXEMPTION** (PATTERSON J, SHEEHY M) To exempt qualifying riparian buffers in the Western Basin of Lake Erie from property taxation, to reimburse local taxing units for resulting revenue losses, and to require soil and water conservation districts to assist landowners with the creation and maintenance of riparian buffers.
Current Status: 2/13/2018 - House Energy and Natural Resources, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-460>
- HB525** **FILM TAX CREDIT-LIVE THEATER** (SCHURING K) To extend eligibility for the motion picture tax credit to certain live stage theater productions, to increase the maximum amount of credits that may be awarded from \$40 million to \$100 million per fiscal year, and to make other revisions to the law governing administration of the credit.
Current Status: 5/22/2018 - **REPORTED OUT AS AMENDED**, House Government Accountability and Oversight, (Sixth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-525>
- HB529** **CAPITAL APPROPRIATIONS** (RYAN S) To make capital appropriations and changes to the law governing capital projects and to make reappropriations for the biennium ending June 30, 2020.
Current Status: 3/30/2018 - **SIGNED BY GOVERNOR**; eff. 6/29/18
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-529>
- HB545** **SALES TAX AFTER PURCHASE** (ARNDT S) To authorize small retailers to remit sales taxes when the retailer receives payment from the purchaser if the payment is received after the purchased item is delivered or the service is provided.
Current Status: 6/26/2018 - **REPORTED OUT AS AMENDED**, House Ways and

Means, (Third Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-545>

HB569 SALES TAX-BUSINESS ELECTRONIC SERVICES (LIPPS S, REINEKE W) To modify the standard for determining when the sales and use tax applies to business-related electronic services that are provided together with other services.

Current Status: 11/27/2018 - House Ways and Means, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-569>

HB575 TAX CREDIT-VOLUNTEER FIREFIGHTER/EMS (KELLER C, REZABEK J) To grant income tax credits to persons who serve as volunteer firefighters or emergency medical service technicians.

Current Status: 6/26/2018 - House Ways and Means, (Fourth Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-575>

HB606 TAX EXEMPTION-MAPLE SAP (PATTERSON J, LATOURETTE S) To authorize a property tax exemption for land used for commercial maple sap extraction and to reimburse, up to \$3 million per year, local governments for revenue lost from the exemption.

Current Status: 11/27/2018 - House Ways and Means, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-606>

HB641 FORKLIFT TAX EXEMPTION (ANTANI N) To exempt from sales and use tax things purchased by an interstate logistics business and used primarily to move completed manufactured products to the point from which they are shipped from a manufacturing facility and related power sources.

Current Status: 6/26/2018 - House Ways and Means, (Second Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-641>

HB670 MUNICIPAL TAX WITHHOLDING (BARNES, JR. J) To enact the "Simplified Alternative Withholding Tax Compliance Act" authorizing an employer to enter into an agreement with a municipal tax administrator to prescribe, subject to certain parameters, the portion of nonresident employee wages that will be subject to the municipal corporation's income tax.

Current Status: 6/13/2018 - House State and Local Government, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-670>

HB751 VOLUNTEER FIREFIGHTER TAX DEDUCTION (SMITH J) To authorize an income tax deduction for volunteer firefighters and to exempt certain income received by volunteer firefighters from withholding requirements.

Current Status: 11/13/2018 - Referred to Committee House Ways and Means

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-751>

HB753 DIAPER SALES TAX EXEMPTION (ANTANI N) To exempt from sales and use tax the sale of diapers designed for infants and toddlers.

Current Status: 11/13/2018 - Referred to Committee House Ways and Means

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-753>

SB9 **AUGUST TAX HOLIDAY (BACON K)** To provide for a three-day sales tax "holiday" in August 2017 during which sales of clothing and school supplies are exempt from sales and use taxes.

Current Status: 6/13/2017 - **SIGNED BY GOVERNOR**; eff. 6/13/17

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-9>

SB36 **AGRICULTURAL COMPUTATION (HITE C)** To require that the computation of the capitalization rate for the purposes of determining CAUV of agricultural land be computed using a method that excludes appreciation and equity buildup and to stipulate that CAUV land used for a conservation practice or enrolled in a federal land retirement or conservation program for at least three years must be valued at the lowest of the values assigned on the basis of soil type.

Current Status: 5/16/2017 - Referred to Committee House Ways and Means

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-36>

SB65 **ENERGY STAR TAX HOLIDAY (BROWN E)** To provide a three-day sales tax "holiday" each April during which sales of qualifying Energy Star products are exempt from sales and use taxes.

Current Status: 3/22/2017 - Senate Ways and Means, (Second Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-65>

SB114 **CDL TRAINING TAX CREDIT (HITE C)** To authorize a tax credit for expenses incurred by an employer to train a commercial vehicle operator.

Current Status: 5/3/2017 - Senate Ways and Means, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-114>

SB123 **PROPERTY TAX COMPLAINT PROCESS (COLEY W)** To limit the right to initiate most types of property tax complaints to the property owner and the county recorder of the county in which the property is located.

Current Status: 6/14/2017 - Senate Ways and Means, (Second Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-123>

SB131 **EMPLOYEE COMPENSATION-TAX CREDITS (DOLAN M)** To provide that compensation paid to certain home-based employees may be counted for purposes of an employer qualifying for and complying with the terms of a Job Creation Tax Credit.

Current Status: 6/6/2017 - Referred to Committee House Ways and Means

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-131>

SB132 **TAX CREDIT-FOREIGN TRADE (DOLAN M, EKLUND J)** To establish a five-year pilot program whereby taxpayers with facilities in this state with activated foreign trade zone status may claim a nonrefundable commercial activity tax credit equal to the amount redeployed by the taxpayer to job creation and renewable energy resources.

Current Status: 4/26/2017 - Referred to Committee Senate Ways and Means

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-132>

SB147 **OHIO RURAL JOBS ACT** (HITE C) To enact the "Ohio Rural Jobs Act" which authorizes a nonrefundable tax credit for insurance companies that invest in rural business growth funds, which are certified to provide capital to rural and agricultural businesses.

Current Status: 9/27/2017 - Senate Ways and Means, (Second Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-147>

SB176 **MUNICIPAL INCOME TAX RESTRICTIONS** (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: 9/7/2017 - Referred to Committee Senate Ways and Means

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-176>

SB187 **DELINQUENT MUNICIPAL INCOME TAXES** (EKLUND J, WILSON S) To allow municipal corporations to charge delinquent taxpayers the costs of collecting municipal income taxes regardless of whether the costs are incurred before or after a judgment is entered against the taxpayer.

Current Status: 11/7/2017 - Senate Finance, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-187>

SB203 **MUNICIPAL TAX RULE REINSTATEMENT** (DOLAN M) To reinstate the municipal income tax "throw-back rule" used in apportioning business income among municipalities.

Current Status: 11/13/2018 - Senate Finance, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-203>

SB209 **PROPERTY TAX EXEMPTIONS-TIF** (COLEY W, EKLUND J) To modify the conditions that determine the relative priority of property tax exemptions when a parcel subject to a tax increment financing arrangement concurrently qualifies for another exemption.

Current Status: 10/25/2017 - Referred to Committee Senate Ways and Means

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-209>

SB224 **GOODS TAXATION-FOREIGN DELIVERY** (EKLUND J) To exempt from sales and use tax goods purchased by a foreign citizen or entity if the goods are in Ohio only temporarily for package consolidation before being delivered to a foreign address, and to declare an emergency.

Current Status: 11/27/2018 - Senate Finance, (Fourth Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-224>

SB266 **CAPITAL BUDGET** (OELSLAGER S) To make capital appropriations and changes to the law governing capital projects and to make reappropriations for the biennium ending June 30, 2020.

Current Status: 3/6/2018 - Senate Finance, (Third Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-266>

SB309

BUSINESS TAX CREDITS (PETERSON B, KUNZE S) To lengthen the maximum term of the job creation tax credit for businesses making substantial fixed asset and employment investments and for their suppliers, to authorize commercial activity tax exclusions for receipts of those suppliers from sales to such businesses, and to authorize local governments to grant longer term property tax exemptions for such businesses or suppliers.

Current Status: 11/14/2018 - Senate Ways and Means, (Second Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-SB-309>