



**Government Affairs Committee Agenda
August 26, 2020**

Welcome & Introductions

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

Luke Harms, Director of Government Relations, Whirlpool,
Corp., Committee Vice Chair

NAM Making America Festival in Ohio

Todd Shelton, National Association of Manufacturers

Staff Reports

- HB606/SB308 Immunity / workers' comp floor amendment
- Review Ohio COVID response
- Householder Corruption Scandal
- HB6 Repeal
- Income tax withholding
- OMA workforce opportunities
- Distracted driving legislation
- HB 380 construction contracts
- Prescription drugs affordability
- 2020 OMA Competitiveness Agenda

Ryan Augsbarger, OMA Staff

Rob Brundrett, OMA Staff

John Seryak, PE, Runnerstone LLC, OMA Energy Engineer

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

Committee Members

OMA Counsel's Report

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

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

Presentations

- *A view from inside the Ohio House*
- *Battleground legislative contests and OMA PAC candidate endorsements*
- *The 2020 Election Outlook in Ohio and Beyond*

Representative Mark Romanchuk (District 4, Mansfield)

OMA Staff, Counsel, Committee Members

Kevin DeWine, Former Ohio Republican Party Chair

Kyle Kondik, Managing Editor, Sabato's Crystal Ball, University of Virginia Center for Politics

**2020 Government Affairs Committee
Calendar**
Meetings begin at 9:30 a.m.

Tuesday, November 10

Our Meeting Sponsor:



OMA Government Affairs Committee

Name	Company	Location
Mary Beth Arensberg, PhD, RD, LD,FADA	Abbott Nutrition	Columbus, OH United States
Leesa Arrington	MAGNET	Cleveland, OH United States
Ryan R. Augsburg	The Ohio Manufacturers' Association	Columbus, OH United States
Rishabh Bahel	ArcelorMittal	Cleveland, OH United States
James T. Batchelder	The M K Morse Company	Canton, OH United States
Dex Battista	Magna International	Troy, MI United States
Bradley H. Belden	The Belden Brick Company	Canton, OH United States
Claire Bennett	Squire Patton Boggs	Columbus, OH United States
Keri Boergert	Clark Schaefer Hackett	Cincinnati, OH United States
Kimberly W. Bojko	Carpenter Lipps & Leland LLP	Columbus, OH United States
Terry Boose	Norwalk Concrete Industries	Norwalk, OH United States
Ruth Bradley Weyland	Tyson Foods, Inc.	Springdale, AR United States
Daniel Bremer	Honda of America Manufacturing, Inc.	Marysville, OH United States
Don J. Brown	Cargill, Inc.	Minneapolis, MN United States
Rob Brundrett	The Ohio Manufacturers' Association	Columbus, OH United States
Stephen Buehrer	Carpenter Lipps & Leland LLP	Columbus, OH United States
Eric L. Burkland	The Ohio Manufacturers' Association	Columbus, OH United States
Brent Chaney	Vistra Energy	Irving, TX United States
Jeff Colvin	MP2 Energy, LLC	The Woodlands, TX United States
Andrew P. Corsig	Pharmaceutical Research and Manufacturers of America (PhRMA)	Cincinnati, OH United States
Bruce Cummins	Mansfield Engineered Components	Mansfield, OH United States
Nicholas D'Angelo	Eaton	Cleveland, OH United States
Joseph F. Dutt	Summitville Laboratories	Minerva, OH United States
Rollie Dutton	ARCTOS Technology Solutions	Dayton, OH
Emily B. Elizer	PPG	Pittsburgh, PA United States
Steven English	Nationwide	Columbus, OH United States
Steve Estelle	Clark Schaefer Hackett	Columbus, OH United States
Michael Fiorito	Modula	Franklin, OH United States
Ryan Foster	Premier Power Solutions LLC	Massillon, OH United States
LaMont Friebel	Cooper Enterprises Inc.	Shelby, OH United States
Jennifer Gilliland	Identity Systems Inc	Columbus, OH United States
Jason Gonzalez	DuPont	Wilmington, DE United States
Jay Goyal	Goyal Industries, Inc.	Mansfield, OH United States
Tim Greenwood	O-I - C/o Spengler Nathanson PLL	Toledo, OH United States
Colleen Hawkins Heacock	AMG Vanadium LLC	New Concord, OH United States
Hayley Heath	Magna International	Troy, MI United States
Michael E. Heltzer	B A S F Corporation	Florham Park, NJ United States
Ned Hill	The Ohio State University	Columbus, OH United States
Dan Hilson	Roetzel & Andress	Akron, OH United States
Jeffrey L. Hollister	Vanguard Paints & Finishes, Inc.	Marietta, OH United States
Alexander Homan	Nationwide	Columbus, OH United States
Ian Kalinosky	KDC/One	New Albany, OH United States
Jamie Karl	The Ohio Manufacturers' Association	Columbus, OH United States
Ethan Karp	MAGNET	Cleveland, OH United States
Stephen B. Kittredge	Owens Corning	Washington, DC United States
Todd Lacksonen	AstraZeneca Pharmaceuticals	Dublin, OH United States
Mike LaWell	ArcelorMittal	Fairview Park, OH United States
Susan Leslie	Pilot Chemical Company	West Chester, OH United States
Timothy Ling	Plaskolite	Columbus, OH United States
Denise Locke	The Ohio Manufacturers' Association	Columbus, OH United States
Vira Maruli	Liberty Casting Co., LLC	Delaware, OH United States
Chris Masciantonio	U S Steel Corporation	Pittsburgh, PA United States
Chris Masciantonio	U S Steel Corporation	Pittsburgh, PA United States
Mitchell Maynard	Vistra Energy	Columbus, OH United States
V. David Mazzia	B A S F Corporation	Florham Park, NJ United States
Erik Mikkelsen	Covestro C/o Hicks Partners, LLC	Columbus, OH United States
Melville Nickerson	N R G Energy Inc.	Chicago, IL United States

OMA Government Affairs Committee

Name	Company	Location
Matthew B. O'Connor	Zaclon LLC	Cleveland, OH United States
Jeffrey J. Oravitz	Arsenal Capital Partners/ Evans Adhesive Corporation	Lima, OH United States
Kevin Orr	Pfizer, Inc.	Dublin, OH United States
Mike Piglia	National Machine Co. dba NMG Aerospace	Stow, OH United States
Rick Platt	Heath-Newark-Licking County Port Authority	Heath, OH United States
Linda Pocock	International Metal Hose Company	Bellevue, OH United States
Mike Prentiss	The Procter & Gamble Company	Cincinnati, OH United States
Caroline Ramsey	Honda of America Manufacturing, Inc.	Marysville, OH United States
Andrew Robreno	Ferrero U.S.A, Inc.	Washington, DC United States
Mark Romanchuk	P R Machine Works, Inc.	Mansfield, OH United States
Brent Rosebrook	PRO-TEC Coating Company	Leipsic, OH United States
Susan Ross Wells	Gilmore Jason Mahler, LTD	Maumee, OH United States
Jim Samuel	NRG Energy Inc. C/o Capitol Integrity Group	Columbus, OH United States
Christine Schwartz	Honda North America, Inc.	Marysville, OH United States
Tadd Schwarz	RJS Corporation	Akron, OH United States
Alexandra Scully	Magna International	Troy, MI United States
Kenneth Seilkop	A G Tool & Die Company	Miamitown, OH United States
John Seryak, PE	Go Sustainable Energy, LLC	Columbus, OH United States
Jack Shaner	EnviroScience Inc.	Stow, OH United States
Todd Shelton	National Association of Manufacturers	Lancaster, OH United States
John Shevlin	Midmark Corporation	Versailles, OH United States
Christopher N. Slagle	Bricker & Eckler LLP	Columbus, OH United States
Gretchen Spear	International Paper	Bloomington, MN United States
Rod Spencer	Kenworth Truck Company	Chillicothe, OH United States
Michael L. Squillace	Dinsmore & Shohl	Columbus, OH United States
Michael E. Stanek	Hunt Imaging LLC	Berea, OH United States
Duane Steelman	Zaclon LLC	Cleveland, OH United States
Todd Stoller	Haviland Drainage Products Co.	Haviland, OH United States
Samantha Summers	Whirlpool Corporation	Washington, DC United States
John Szymanski	Hull & Associates LLC	Dublin, OH United States
Robert W. Tansing	Athens Foods, Inc.	Brook Park, OH United States
Whitney Tull	STERIS Corporation	Washington, DC United States
Raymond Wayne	Heritage Thermal Services	East Liverpool, OH United States
Paul Wilczewski	Scotts Miracle-Gro Company	Marysville, OH United States
Chad Wilson	Nationwide	Columbus, OH United States
Susan Zlajic	ArcelorMittal	Chicago, IL United States

Total Participants 93

Public Policy “Hot Topics” August 26, 2020

Overview

Public policy activity has been intense since the Government Affairs Committee met in June. COVID response dominated everything until federal agents arrested Larry Householder early on July 21. Charged with racketeering in what the U.S. Attorney described as the largest public corruption and bribery scandal in Ohio history, Householder and four associates had been under covert investigation for over one year. Much of the bribery allegations center around the passage of the nuclear bailout bill, House Bill 6.

Other top issues over the quarter included immunity for businesses, detrimental ballot reform, unemployment compensation, and workforce development, and collection of local payroll taxes due to COVID.

New Speaker of the House

Amid federal racketeering charges, House Republicans returned to Columbus in late July to vacate the office of Speaker, removing Larry Householder from the post. He remains a member of the House and is on the ballot for re-election in his southeast Ohio district.

House Republicans elected Bob Cupp of Lima as Speaker of the House, this time without any Democrat votes as is the norm. Cupp, a veteran legislator, Supreme Court Justice, and lifelong public servant offered unifying words in his inaugural address. Many housekeeping steps are likely to be addressed before the House can legislate, raising questions of how much public policy will advance.

COVID-19 Response

COVID-19 is a public health pandemic. Since March, state government officials have been exercising “ultimate authority” to restrict business activity in order to protect the public. With every state order, there has been a rush beforehand by the OMA staff and counsel to anticipate the order and shape it as favorably as possible for the manufacturing industry. Governor DeWine and Lt. Governor Husted have been attentive to OMA suggestions. After every order or new guidance there has been a rush by OMA staff and counsel to analyze and communicate it to the membership. At the same time, the OMA supported the Ohio Manufacturing Alliance to produce needed emergency protective equipment. Activity has slowed somewhat since June, however orders are being reissued and revised from month to month. Prudence demands continued scrutiny and compliance. See OMA COVID resource center.

Legislative Branch Composition & Control

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

Lawmakers were active in the first half of June and then legislative activity tapered off. Most disappointingly, lawmakers did not finish work on common sense immunity protections from COVID injury claims. Numerous hearings and sessions on bills and resolutions were held to a near empty gallery as Ohioans are distracted from COVID. The Senate is returning next week and may attempt to repeal HB6. The House is not scheduled to return until mid-September.

2020 Political Environment

Still early, but some polls suggest Ohio, which has been becoming increasingly red, may be moving back toward a toss up in the presidential election. Some in the Republican House seem set to challenge the Governor and his cabinet in their handling of the COVID-19 response. Even wearing a mask inside the

statehouse had taken on a political connotation. This week a group of Republican lawmakers called for the impeachment of Governor DeWine. The ongoing federal investigation and criminal charges related to Larry Householder may well compound electoral challenges, perhaps for both parties.

The OMA PAC has endorsed candidates for Supreme Court, Ohio Senate and Ohio House of Representatives. See enclosed resources.

Immunity Legislation

As the federal government and other states have been approving legal reforms to protect businesses from accidental exposure of employees or customers, state legislative leaders announced in early April that immunity would be a top short-term priority. Since late April, intense negotiations had been ongoing until early July. The OMA works via the Ohio Alliance for Civil Justice (OACJ) to advocate for civil justice measures together with other business organizations and individual companies.

The House vehicle, HB 606 was approved by the House in early June, but with a problematic amendment to shift the burden of proof for workers' comp claims based on COVID contraction. We commend the Senate for acting in late June to remove the workers' comp amendment and approved HB 606. The Senate had previously adopted a preferable legislative vehicle, Senate Bill 308 but the House refused to act on it. Both bills cover employers against exposure and also cover the manufacturer of emergency protective equipment or components. The OMA has provided testimony on both bills. Resistance from the plaintiffs' bar and labor has slowed progress and diluted protections. See counsel's report to learn more.

Tax Policy

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

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

HB 6 Politically Radioactive

According to federal prosecutors "company A" expended more than \$60 million to pass and protect HB6. Also according to the federal affidavit, other energy interests contributed significant funds towards the "enterprise."

The OMA was the most vocal business opponent to HB6. The OMA opposed the bill and prior efforts by utilities to garner subsidies from the PUCO. The bill transfers money from customers to power plant owners and in so doing, distorts competitive markets that protect customers from overpayment, drive innovation, fuel diversity and reliability.

In May while Main Street is struggling to survive, the owners of the nuclear power plants are rewarding their investors hundreds of millions of dollars as a result of HB 6. The move proves that the power plants did not need a bailout. The OMA forewarned of this possibility in June 2019. Also as the OMA warned, state regulators are requiring customers to pay more on power bills to make electric utilities whole to record revenue levels. Meanwhile eyes are still on grid operator PJM to see the next move following a FERC order to protect competitive markets. At stake? More customer costs. See energy section.

Ballot Reform

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

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

In late May, a federal district judge bought the plaintiffs' argument granting them authority to collect signatures electronically and without actual ink signature. According to OMA counsel, the ruling overrides Ohio's Constitution, statutes, and decades of case precedent. If unchecked, a proliferation of ballot issues from well-funded special interests could immediately follow. The State is appealing the case to the full 6th Circuit Court. The OMA has been the lead amici in support of the State. See counsel's request for more detail.

Workforce Development

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

The fourth annual OMA Workforce Summit is still scheduled for October 28. However due to the COVID-19 pandemic – it will be an all virtual event this fall. Any companies interested in attending or even better, interested in being a sponsor for the virtual event please contact OMA staff. With the event being online there are new opportunities to support the workforce cause and gain exposure from attendees.

The OMA was able to work the administration to create an Industry Sector Partnership grant program for manufacturers and their partners who are working in the sector partnership model. Due to the collapse of state revenue it will be only granted for FY 2021. We are still anxiously awaiting the awards but have been told they are still being funded.

Tech Cred continues to be a success and is on its fourth round of funding. The program reimburses employers up to \$2,000 per employee (Capped at \$30,000 per employer) for employees working towards an industry recognized credential or certificate. Manufacturers have been awarded the most out of any industry sector.

The Ohio Manufacturing Mentorship Program officially went live on August 20. The program allows manufacturers to hire minors to work part time at the facility with certain conditions. It is a great way to expose the next generation of workers to manufacturing.

Environment

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

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

OMA members and staff have been highly engaged on several federal issues including storm water and Ohio air permit nuisance SIP.

See environment report for all of these issues.

Unemployment Compensation

After the failure of the General Assembly to address comprehensive unemployment compensation reform in the state budget manufacturers saw their unemployment taxes reduced in 2020. However due to COVID-19 Ohio was required to borrow \$3 billion from the federal government. Employers will be required to repay the government in the coming years. Ohio now finds itself in the same position as it did after the Great Recession. OMA is working to ensure any of the new benefits awarded via state's unemployment compensation systems are not the responsibility of individual companies who have continuously paid into the insurance system. OMA is supporting SJR4 which would allow the state to bond to repay borrowed funds.

Tort Reform

A motion picture released in late November and bombed at the box office demonized a large manufacturer. The film which was mostly full of dramatized fiction will likely increase civil lawsuits. The OMA has been communicating on this topic, but the issue appears to have gotten lost somewhat in the COVID news.

The OMA is supporting legislation to shorten the statute of limitations for business contracts – final action by the Senate on House Bill 251 was completed before the summer recess.

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

The Governor announced another premium rebate for state fund employers. The rebate is expected to be approved next month with checks going out as early as October.

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

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

Right to Work

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



The OMA's mission is to protect and grow Ohio manufacturing. We created this page to share content that we believe is relevant to your challenges related to the coronavirus (COVID-19) pandemic. The OMA is in regular contact with state officials, as well as our counterparts at the National Association of Manufacturers, regarding the response to COVID-19.

We will keep OMA members updated regularly through electronic communications from OMA President Eric Burkland, as well as via our normal communication tools, such as the OMA's weekly Leadership Briefing.

If you have health-related questions about COVID-19, contact the Ohio Department of Health's call center at 1-833-4ASKODH (1-833-427-5634).

Federal

- [Latest updates from the CDC.](#)
- [CDC's updated guidance for manufacturing workers and employers](#) (includes [this infographic on workstations](#)).
- [CDC's resources for businesses and employers.](#)
- [CDC's reopening guidance](#) for workplaces and businesses.
- [FFCRA Paid Leave Q&A.](#)
- [FFCRA Poster on Employee Rights.](#)
- [OSHA's safety tips](#) for manufacturers to protect employees from exposure to coronavirus – in both [English](#) and [Spanish](#).
- [U.S. EPA's list of disinfectants for use against the coronavirus.](#)
- [OSHA's new poster on steps to reduce the risk of exposure in workplaces.](#)
- [OSHA's video and poster](#) on how to properly wear and remove a mask/respirator.
- [CDC recommendation's regarding the use of cloth face coverings.](#)
- [U.S. Department of Labor guidance on the WARN Act](#) (regarding plant closings and mass layoffs).
- [Families First Coronavirus Response Act \(FFCRA\) paid leave requirements – for employers.](#)
- [COVID-19 Screening Tool.](#)
- [OSHA guidance on preparing workplaces for COVID-19.](#)
- [U.S. Small Business Administration resources](#) for employers regarding the coronavirus pandemic, including information on its [disaster loan program](#).
- [SBA coronavirus relief options.](#)
- [SBA Guidance on the CARES Act's Paycheck Protection Program Loan Guarantee.](#)
- [The Federal Reserve's Main Street Lending Program.](#)
- [Summaries and FAQs on all phases \(I, II, and III\) of the federal COVID-19 emergency packages.](#)

Ohio

- [Ohio Public Health Advisory Alert System](#), which provides a county-by-county assessment of COVID-19 trends.
- Here's the [web page for Ohio's travel advisory](#). The Ohio Department of Health has published [this FAQ document](#) regarding the advisory.
- [July 23, 2020 public health order](#) (statewide mask requirement).
- The DeWine administration's [May 29, 2020 public health order](#). Section 13 is specific to manufacturing.
- [Safety guidance for manufacturers](#), as well as the [five safety protocols](#) for all businesses, under the DeWine administration's [Responsible RestartOhio](#) plan.
- Ohio Department of Health [FAQs on the use of face coverings in the workplace](#).
- Ohio Department of Health's updated [checklist for employers regarding potentially exposed essential workers](#).
- [Ohio's Office of Small Business Relief](#).
- [Ohio Department of Health information and checklist for employers](#).
- [Ohio COVID-19 Dashboard](#).
- [Latest updates and resources from the Ohio Department of Health \(ODH\)](#).
- [JobsOhio 'Ohio Working. Ohio Safe' website](#).
- [Governor DeWine's briefings](#).
- [Governor DeWine's website](#).
- [SharedWork Ohio](#) – an OMA-supported program that provides employers with an alternative to layoffs.
- [State of Ohio's job search engine](#) for employers to post job openings during the COVID-19 emergency.
- [Information for employers regarding unemployment issues](#).

Industry

- The Cleveland Clinic's [COVID-19 workplace safety guide for manufacturers](#). (The Clinic also published [this guide](#) on disinfecting businesses.)
- The Manufacturing Leadership Council's [collection](#) of emerging strategies and operational practices that manufacturers are utilizing to keep employees safe.
- [National Association of Manufacturers: New Operational Practices to Consider in the Time of COVID-19-May 2020](#).
- [Ohio Manufacturing Alliance to Fight COVID-19](#) (to help ensure that health care workers have the protective equipment they need).
- The Ohio Manufacturing Alliance's [Ohio Emergency PPE Makers' Exchange](#). (This online marketplace is a resource for organizations, including essential employers, that need PPE and related equipment to find a selection offered by Ohio manufacturers and makers.)
- [National Association of Manufacturers COVID-19 Resources](#).
- CDC [letter](#) to NAM and [additional guidance](#) to give manufacturers clearer guidance on how to operate safely during the COVID-19 outbreak.
- The National Association of Manufacturers [state tracker](#) to provide the latest re-opening information for all states.
- The U.S. Chamber's [interactive map](#) comparing state-by-state re-opening guidelines for businesses.
- [MAGNET \(Northeast Ohio's MEP\) Best Practices](#).
- [Video](#) with Dr. Bill Gegas, medical director at Worthington Industries, explaining the differences between various masks and face coverings.

OMA Connections Partners

- [Huntington National Bank's summary of financial support programs for businesses](#)
- [Clark Schaefer Hackett COVID-19 Resource Center](#)
- [RSM COVID-19 Resource Center and COVID-19 Tax Relief Center](#)
- [Bricker & Eckler Resource Center](#)
- [Calfee COVID-19 Resource Center](#)
- [Dinsmore COVID-19 Business Strategies Hub](#)
- [Frantz Ward Coronavirus Updates](#)
- [GBQ Partners COVID-19 Insights](#)
- [Roetzel COVID-19 Resources](#)
- [Benesch COVID-19 Resource Center](#)
- [Jones Day COVID-19 Insights](#)
- [Plante Moran's COVID-19 Resource Center for Manufacturers](#)
- [Thompson Hine COVID-19 Task Force](#)
- [CliftonLarsonAllen COVID-19 Resources](#)
- [Crowe COVID-19 Resource Center](#)
- [Fisher Phillips COVID-19 Resource Center](#)
- [MCM COVID-19 Resource Center](#)
- [Pharmaceutical Research and Manufacturers of America](#)
- [Schneider Downs](#)
- [Squire Patton Boggs](#)
- [Gilmore Jason Mahler](#)

OMA Information

- OMA communications on COVID-19:
 - [August 20, 2020](#) email from OMA President Eric Burkland.
 - [August 18, 2020](#) email from OMA President Eric Burkland.
 - [August 13, 2020](#) email from OMA President Eric Burkland.
 - [OMA COVID-19 Manufacturers' Information Exchange](#) (via LinkedIn) to share information and best practices with other manufacturers.
 - [Recording of OMA's COVID-19 Briefing for Manufacturers – March 23, 2020](#). (Includes information regarding Ohio's stay-at-home order and actions to keep the workplace safe.)
 - [Recording of OMA's Second COVID-19 Briefing for Manufacturers – March 25, 2020](#). (Includes discussion from Lt. Gov. Jon Husted, as well as a panel of experts addressing key concerns.)
 - [Recording of OMA's Third COVID-19 Briefing for Manufacturers – April 29, 2020](#). (Includes subject-matter expertise on Ohio's re-opening plan, workplace safety, use of PPE by employees, unemployment provisions, federal loan programs, and other manufacturing-related topics.)
 - [Recording of OMA's Infectious Disease Preparedness and Response webinar – May 12, 2020](#).
 - [Bricker & Eckler's Analysis of Ohio's May 29, 2020 Public Health Order](#).
 - [Bricker & Eckler's Analysis of Ohio's July 8, 2020 Public Health Order](#).
 - OMA's updated [resources document to address general workplace safety concerns](#) during COVID-19. (Includes guidance on the use of face coverings/masks, cleaning and disinfecting, employee health checks, and reporting confirmed or suspected COVID-19 cases.)
 - [OMA's FAQs document](#), which addresses questions raised by several members.
 - OMA's updated ["Guidance on the Use of Face Coverings & Masks."](#)
 - ["Ohio Manufacturers in the News: Helping Lead the Fight Against COVID-19."](#)



Ohio Manufacturing Alliance to **FIGHT COVID-19**

Repurposing and Retooling to Make PPE

The Issue: Keeping Up with PPE Demands Amid COVID-19

As the coronavirus pandemic (COVID-19) has unfolded, health care providers have sought help to source Personal Protective Equipment (PPE) to enable health care workers to safely care for patients. At the same time, manufacturers have reached out to seek guidance on how they can retool or repurpose to contribute to the cause.

Ohioans' actions are critical to "flattening the curve" and protecting our communities and health care workers. The situation is critical and urgent, and we are moving quickly.

[Download list of PPE](#)

News Releases:

[Ohio Manufacturing Alliance Achieves Another Success in Fight Against COVID-19](#)

[Ohio Manufacturing Alliance to Fight COVID-19 Facilitates Donation, Production of Hand Sanitizer Kits](#)

[OMAFC Coordinates Companies to Produce 750,000 Isolation Gowns](#)

[Ohio Manufacturing Alliance Helps Company Repurpose to Produce COVID-19 Testing Swabs](#)

[Ohio Manufacturing Alliance Launches Exchange to Help Facilitate Access to PPE](#)

[Ohio Manufacturing Alliance Achieves Early Success in Fight Against COVID-19](#)

More Information:

[Looking for PPE and related materials? Visit the Ohio Emergency PPE Makers Exchange](#)

[Find out how your manufacturing company can play an important role in responding to the challenge of COVID-19.](#)

Who We Are

In response to the COVID-19 challenges, The Ohio Manufacturers' Association (OMA), Ohio Hospital Association (OHA), Ohio Manufacturing Extension Program (Ohio MEP), nursing homes and JobsOhio have joined forces through the **Ohio Manufacturing Alliance to Fight COVID-19**. This collaborative effort will engage manufacturers to see which companies have interest in repurposing their manufacturing operations to produce some of the most in-demand products in the fight against COVID-19, especially products for the health care industry.

The **Ohio Manufacturing Alliance** is guiding manufacturers to help them learn what types of equipment are most needed and how to adapt current products, operations and personnel to meet the need. Ohio MEP, with its partner organization MAGNET in a lead role, is providing engineering capabilities and technical support to make

PPE alternatives when possible. OMA is managing outreach to manufacturers, and OHA and nursing homes are providing insights on the products most needed. JobsOhio is providing regional support and financial assistance, where appropriate, to accelerate production.

[See list of Alliance Partners](#)

[View FAQs](#)

How We Work

Project Leadership

[The Ohio Manufacturers' Association](#) (OMA) - outreach to manufacturing companies to promote participation.

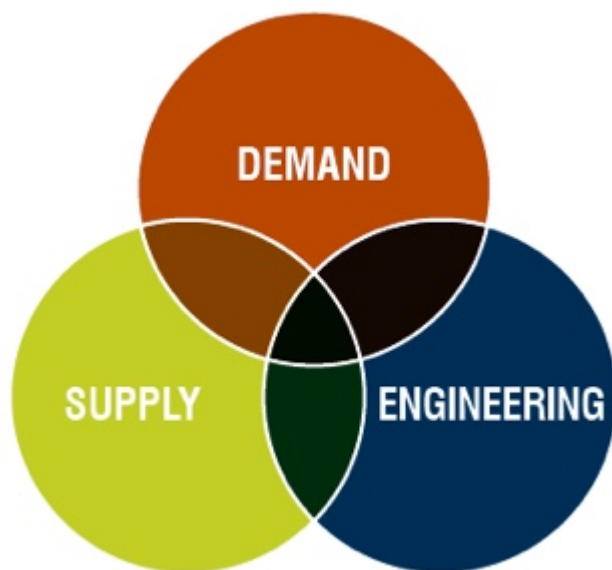
[Ohio Hospital Association](#) - outreach to health care community to determine needs and priorities.

[Ohio Manufacturing Extension Partnership \(Ohio MEP\)](#) and [MAGNET](#) - manage demand, supply and engineering support.

[JobsOhio](#) - outreach to manufacturing companies via its regional network and financial support to accelerate production.

Structure

The project includes three inter-related workstreams:



Demand Lead will act as the primary contact for all health care providers, first responders, or frontline health care teams in need of essential PPE to gather information such as products needed, priorities, quantities and specifications.

Supply Lead will serve as the primary contact for all manufacturers, suppliers, and vendors that have volunteered to gather information on companies' geographic reach, capabilities and capacity, retooling needs and on-hand inventories of products and raw materials.

Engineering Team will:

- Develop or evaluate product concepts
- Re-design, "hack," or retrofit existing product or sub-components
- Look for and assess open-source designs
- Keep up to date on any government-issued standards or specs
- Rapidly prototype
- Test and/or see that new product designs or re-designs meet the demand specs
- Offer design-for-manufacturing support and guidance
- Support manufacturers as they retool
- Coordinate the fabrication of urgently needed products among small/disparate organizations (i.e., a statewide network of 3D printers)
- Coordinate with national consortiums of technical resources working to find and design PPE alternatives (e.g., America Makes)

What You Can Do

The Ohio Manufacturing Alliance can help your company play an important role in responding to the challenge of COVID-19.

If you are a manufacturer with the potential competencies and capacity to contribute, [please complete a short survey](#).

Take Survey

1. Do you have a product that you could make that would qualify as PPE or needed hospital supply?
2. Do you have raw materials like clear (or semi-colored) plastic sheet, gown material or cotton fabric that might be used to create any of these items?
3. Do you think you have tools that might be useful to supply PPE or other needed supplies?

After you complete the survey, if you have PPE or related materials ready for the market [you can list it on the Ohio Emergency PPE Makers Exchange](#) with our confirmation that you are a retooled or repurposed Ohio manufacturer.

Or, if you have questions or are not a manufacturer, but have a comment, please [contact us](#).

Resources



Open-Source PPE Designs

These are open-source designs for face shields, hand sanitizer, face masks, and gowns.

[read full article](#)



Face Shield Assembly

In response to the urgent need for Personal Protective Equipment (PPE), the Ohio Manufacturing Alliance to Fight COVID-19 has rapidly expanded production of a reusable face shield designed to protect front line healthcare workers.

[read full article](#)



Please check back for more more messages.

Alliance Partners



Ohio MEP Partner Organizations



Ohio's Industry Sector Partnerships



JobsOhio Partners





Contact Us:
repurposingproject@ohiomfg.com

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Special OMA Policy Briefing July 28, 2020

Welcome and Reflections

Scott Corbitt, Region Vice President, Anheuser-Busch, Chair, OMA Government Affairs Committee

Brad Belden, President, Belden Brick, Chair, OMA Energy Committee Chair

Jane Neal, Senior Vice President, AMG Vanadium, Chair, OMA Board of Directors

Review Ohio Corruption Investigation

Ryan Augsburger, OMA Staff

Rob Brundrett, OMA Staff

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

Deep Dive: House Bill 6

- Recap HB 6 Impact on manufacturers
- Nuke bailout – distortion of markets
- The FERC problem that still is

- History of nuke bailout
- OVEC is costing customers
- Recession proof utilities via decoupling

John Seryak, PE, RunnerStone, LLC
OMA Energy Engineer

Kim Bojko, Carpenter Lipps & Leland,
OMA Energy Counsel

Energy Policy Outlook

- Repeal
- OMA values that lead
- Next steps

Resource Materials

- [US Attorney criminal complaint](#)
- [OMA Memo: HB 6 Impact to Mfrs](#)
- [Myths & Facts about HB 6](#)
- [HB 6 vote breakdown](#)
- [Speaker election vote breakdown](#)
- [Transparent policy options for nukes](#)

2020 Energy Committee Calendar Meetings begin at 10 a.m.

Thursday, September 10

Wednesday, December 2

2020 Government Affairs Committee Meetings begin at 9:30 a.m.

Wednesday, August 26

Tuesday, November 10



Manufacturing Advocacy Center



Manufacturing Advocacy Center *The power of collective action*



Advocate

Find Elected Officials

Register to Vote

Find Legislation

Become a Key Contact

Urge Ohio Lawmakers to Approve Liability Protec

Since the earliest days of the COVID-19 outbreak, manufacturers have stepped up to produce the personal protective equipment (PPE) and other essential supplies needed across Ohio and throughout America.

After all the hard work, expense, and sacrifice by our manufacturing community, we must not permit opportunistic actors to exploit a national emergency to make a profit. Yet right now, manufacturers that have been doing the right thing all along to protect their employees and produce needed goods are being targeted by trial lawyers.

COVID-19-related lawsuits nationwide number in the thousands, including hundreds of complaints brought by employees against their employers. Ohio has not been immune from this legal activity.

Without action by state lawmakers, frivolous litigation could undermine our manufacturing base and disrupt the production of food, medicine, and other essentials.

The OMA urges you to contact your state lawmakers today to encourage them to press for immediate action to approve legislation that will provide liability protection to businesses that have acted in good faith to protect employees.

Compose Y

- State Senator
- State Represent

Subject

Ohio Business

Message Body

Please add yo
personalize yo

I write to urge
House Bill 606
provide respor
protections ag
as Ohio strives

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Your Informati

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Home Informa

Street Address

Page 17 Code *

POSTED ON [AUGUST 5, 2020](#) BY [SIDNEY DAILY NEWS](#)

Manufacturers need protections from costly, frivolous lawsuits

COLUMNS

By Eric Burkland and Linda Kelly - Contributing columnists



Burkland



Kelly

We're all in this together. That has been the refrain of Ohioans since the COVID-19 pandemic began.

Health care professionals have worked tirelessly to save lives, while manufacturing employees have stepped up to produce the personal protective equipment (PPE) and other supplies these heroic individuals require to fight the virus.

After all the hard work, expense and sacrifice by our health care providers and manufacturing community, we cannot permit opportunistic actors to exploit a national emergency to make a profit. This includes those who would abuse our legal system for their own ends.

Right now, manufacturers that have been doing the right thing all along to protect their employees and produce needed goods are being targeted by trial lawyers. COVID-19-related lawsuits nationwide number in the thousands, including hundreds of complaints brought by employees against their employers.

Without action by leaders in Washington — including Ohio's elected representatives — and at the Statehouse in Columbus, frivolous litigation could undermine our manufacturing base and disrupt the production of food, medicine, and other essentials.

Extending legal protections to manufacturers and other critical businesses would provide companies the certainty that their good-faith efforts to make the products Americans need will not be met by endless, costly lawsuits.

To keep employees safe, Ohio's manufacturers have studied the science, heeded government guidance, and invested heavily throughout their operations. Across thousands of facilities, manufacturers have implemented prescribed standards on social distancing, sanitizing, face coverings, and other practices to fight the spread of the virus.

But knowledge of COVID-19 is still evolving. Even with every precaution currently in place, the virus may spread in ways we do not yet fully understand. The changing recommendations from government agencies open the door to lawsuits because there are no clear legal standards that govern when a company is or is not responsible for a COVID-19-related claim.

Any potential settlement payout from a meritless lawsuit makes it harder for manufacturers to meet payroll. Unfounded legal action costs jobs and prolongs economic recovery — damage that American businesses cannot sustain.

Proposed COVID-19 liability limitations, at both the state and federal levels, would not grant protection to intentionally reckless actions by businesses. No reasonable policy would shield bad actors or undo vital worker protections. What we need are protections for the vast majority of businesses that have done and continue to do the right thing.

Federal lawmakers are urged to consult the National Association of Manufacturers' road map for liability reform. The recommendations it contains are 100% limited to the COVID-19

pandemic. This plan seeks to, among other things, extend Good Samaritan protections and set clear expectations for good actors, as well as draw a clear line for unacceptable conduct that would rightly subject a company to legal liability.

In Ohio, businesses are waiting on state lawmakers to give final approval to legislation that would help protect businesses from COVID-related lawsuits. The Ohio Senate recently passed its liability bill (Substitute House Bill 606), but the Ohio House of Representatives adjourned before taking up the legislation. Thousands of Ohio manufacturers are counting on timely action by our state representatives.

As the nation faces an unprecedented public health challenge and record unemployment, it makes sense to give manufacturers the legal protections necessary to ensure a stable supply of products that allow our fight against COVID-19 to continue.

Just as important, manufacturers need the assurance that when they play by the rules and do everything possible to protect their employees and restore our economy, they have support from our policymakers in the form of targeted protections from senseless, unchecked litigation.

It's time to work together and get this done for our manufacturing community. We urge federal lawmakers and Ohio lawmakers to pass sensible liability protections now.

Eric Burkland is president of The Ohio Manufacturers' Association in Columbus, Ohio. Linda Kelly is senior vice president, general counsel and corporate secretary of the National Association of Manufacturers in Washington, D.C.



2020 OHIO ELECTION GUIDE

The Ohio Election Guide is created for Ohioans interested in excellence in government. The Guide compiles comprehensive demographic, economic and political data for each district, as well as details of legislative and judicial races. Ohio is strengthened one informed vote at a time.

ohiomfg.com

With assistance from Harper Service, Inc.

OMA-PAC 2020 **ENDORSED** CANDIDATES

The following candidates for election have been endorsed by The Ohio Manufacturers' Association Political Action Committee (OMA-PAC).

Candidates for Supreme Court of Ohio

Judith French R-Columbus
Sharon Kennedy R-Hamilton

Candidates for Ohio Senate

District	Candidate	Party/City
4	George Lang	R-West Chester
10	Bob Hackett	R-London
12	Matt Huffman	R-Lima
14	Terry Johnson.	R-McDermott
16	Stephanie Kunze	R-Hilliard
22	Mark Romanchuk	R-Mansfield
24	Matt Dolan	R-Chagrin Falls
26	Bill Reineke	R-Tiffin
32	Sean O'Brien	D- Brookfield

Candidates for Ohio House

District	Candidate	Party/City
4	Bob Cupp	R-Lima
5	Tim Ginter	R- Salem
16	Dave Greenspan	R-Westlake
19	Mary Lightbody	D-Westerville
21	Beth Liston	D-Dublin
23	Laura Lanese	R-Grove City
24	Allison Russo	D-Columbus
28	Jessica Miranda	D-Cincinnati
31	Brigid Kelly	D-Cincinnati
50	Reggie Stoltzfus	R-Minerva
55	Gayle Manning	R-North Ridgeville
59	Al Cutrona	R-Canfield
62	Scott Lipps	R-Franklin
64	Michael O'Brien	D-Warren
68	Rick Carfagna	R-Westerville
74	Bill Dean	R-Xenia
79	Kyle Koehler	R-Springfield
82	Craig Riedel	R-Defiance
84	Susan Manchester	R-Lakeview
87	Riordan McClain	R-Upper Sandusky

Learn more at OHIOMFG.COM/election2020



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2020-21

OMA Public Policy
COMPETITIVENESS
AGENDA

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Competitiveness Agenda

Manufacturing drives Ohio's economy. It is responsible for approximately \$112 billion (17%) of Ohio's Gross Domestic Product – greater than the contribution of any other Ohio industry sector.

In the competitive domestic and global economies, every public policy decision that affects Ohio's business climate affects Ohio's manufacturing competitiveness. In turn, Ohio's manufacturing competitiveness determines the state's economic growth and job creation.

Ohio manufacturers need public policies that attract investment and protect the state's manufacturing legacy and advantage. These policies apply to a variety of issues that shape the business environment in which manufacturers operate.

THE OMA'S MAJOR POLICY GOALS INCLUDE THE FOLLOWING:

- **An Efficient, Competitive Ohio Tax System**
- **A Lean, Productive Workers' Compensation System**
- **Access to Reliable, Economical, Competitive Energy Resources**
- **A Fair, Stable, Predictable Civil Justice System**
- **Science-based, Technologically Achievable, and Economically Reasonable Environmental Regulations**
- **A Modern, Job-Supporting Infrastructure**
- **An Adequate, Educated, Highly Skilled Workforce**

PolicyGoal:

An Efficient, Competitive Ohio Tax System

For Ohio to be successful in a global economy, the state's tax system must encourage investment and growth. It must be competitive nationally and internationally. A globally competitive tax system is characterized by certainty, equity, simplicity, and transparency. Economy of collections and convenience of payment also are important attributes.

Generally, manufacturers support efforts to broaden the tax base, which enables lower rates. To preserve the integrity of the broad tax base and ensure fairness, credits and exemptions should be reduced and discouraged. Moreover, earmarking and dedicating tax revenues should be discouraged as well.

Government should instead build on initiatives such as the recently revised Jobs Retention Tax Credit and continue creating incentives for capital investment in Ohio. Productivity gains, which keep Ohio manufacturers competitive, are driven by capital investments in technology and equipment. Therefore, tax policies that encourage investment should be a priority.

As Ohio's number one industry and wealth producing sector of the economy, Ohio's tax structure should be maintained to leverage manufacturing. The state should continue to improve its manufacturing climate by removing the sales tax from temporary labor and manufacturing janitorial supplies and services.

Good tax policy also generates necessary revenue to support the essential functions of government. Good budgeting and spending restraint at all levels of government are vital to a competitive tax environment, especially in challenging times.

Major tax reforms approved by the Ohio General Assembly in 2005 – and additional reforms in 2011 through 2015 – significantly improved a tax system that was for many years widely regarded as uncompetitive and obsolete. These reforms reduced overall tax rates, eliminated tax on investment, and broadened the tax base, all of which provide more stable and predictable revenues and simplify compliance.

The elimination of the tangible personal property tax, the corporate franchise tax, and the estate tax has strengthened the competitiveness of Ohio's tax system. So has the reduction of the personal income tax rate, as well as the creation of a broad-based, low-rate commercial activity tax (CAT).

Going forward, these tax policy improvements must be protected. The tax bases should be protected against erosion caused by new credits and carve-outs to narrow special interests. Where possible and reasonable, tax bases should be expanded and tax rates reduced. Ohio has seen an increase in potential CAT exemptions and carveouts. While most of these have not come to fruition, leaders must ignore the siren song and maintain the broad base.

Finally, reducing the number and type of taxing jurisdictions would be beneficial. Because of its complex layering of local and state taxes, Ohio's tax system is at a competitive disadvantage.

ABOUT OHIO'S UNEMPLOYMENT INSURANCE TRUST FUND

The COVID-19 pandemic thrust the Ohio Unemployment Insurance Trust Fund into default. Coming out of the pandemic, state leaders must work toward aligning benefits with contributions to build a sustainable unemployment trust fund balance. The best solvency plan is one that includes a focus on job creation – because increased employment not only increases fund contributions, but also reduces benefit payouts.

To encourage job growth, unemployment compensation tax rates should be in line with surrounding states, as well as states Ohio competes with to attract and retain new business. Ohio should pause any substantive employer payment increases until sufficient economic recovery has occurred.

PolicyGoal:

A Lean, Productive Workers' Compensation System

An efficient and effective workers' compensation system benefits workers, employers, and the economy of the state. It is built on the following principles:

- Safety is the number one priority for Ohio's manufacturers.
- Injured workers receive prompt benefits that are adequate for returning to work quickly and safely.
- Rates are established by sound actuarial principles, so that employers pay workers' compensation rates commensurate with the risk they bring to the system.
- The system is financed with well-functioning insurance mechanisms, including reserving and investment practices that ensure fund solvency and stability.
- The benefit delivery system deploys best-in-class disability management practices that drive down costs for employers and improve service and outcomes for injured parties.
- The system consistently roots out fraud, whether by employers, workers or providers.

FUNDAMENTAL PRIORITIES FOR FUTURE ACTION INCLUDE:

- The Bureau of Workers' Compensation (BWC) should continue to reform its medical management system to lower costs and improve medical quality through better coordination of care and development of a payment system that creates incentives for best clinical practices. In doing this, the BWC should build on emerging best practices in the private health care system.
- The Ohio General Assembly should enact statutory reforms of benefit definitions so the claims adjudication process is more predictable, less susceptible to fraud and manipulation, and less costly for employers and employees.
- The Industrial Commission should record hearings so the hearing process is more transparent and any appeals have a record on which to build.
- The Industrial Commission should create a mechanism whereby employers can file complaints related to the hearings process without the risk of adverse consequences.

A WORD ABOUT WORKPLACE GUN POLICY

Manufacturers remain concerned with weapons violence and the erosion of private property laws at the expense of more relaxed gun rights. Ohio needs to ensure that businesses are in the driver's seat and can make decisions about whether an individual can bring a weapon, concealed or otherwise, onto their private property.

PolicyGoal:

Access to Reliable, Economical, Competitive Energy Resources

Energy policy can either enhance or hinder Ohio's ability to attract business investment, stimulate economic growth, and spur job creation – especially in manufacturing. State and federal energy policies must 1.) ensure access to reliable, economical, competitive sources of energy, and 2.) promote policies, regulations, and tariff designs that encourage and allow for manufacturers to lower costs through energy management, including efficiency, load management, and behind-the-meter generation.

The OMA's energy policy advocacy efforts are guided by these principles:

- Energy markets free from market manipulation allow consumers to access the cost and innovation benefits of competition.
- Ohio's traditional industrial capabilities enable global leadership in energy product innovation and manufacturing.
- Sustainable energy systems support the long-term viability of Ohio manufacturing.
- Effective government regulation recognizes technical and economic realities.

Shaping energy policy in Ohio that aligns with these principles will support manufacturing competitiveness, stimulate economic expansion and job creation, and foster environmental stewardship.

ENERGY POLICY PRIORITIES ARE:

- To protect customers and markets, repeal and reform House Bill 6 (Ohio's nuclear bailout law) and related legislation.
- Ensure an open and fair electricity generation marketplace in which competition enables consumer choice, which drives innovation.
- Reforming Public Utilities Commission of Ohio (PUCO) rate-making processes by eliminating electric security plans (ESPs) to protect manufacturers from above-market generation charges.
- Correct Ohio case law that denies electric customers refunds from electric utilities for charges that are later determined to be improper by the Supreme Court of Ohio.
- Design an economically sound policy framework for discounted rates for energy-intensive manufacturers.
- Oppose legislation and regulation that force customers to subsidize uneconomical generation, including nuclear and certain coal power plants.
- Encourage electric tariff and rate designs that encourage and allow for manufacturers to lower costs through energy management, including efficiency, load management, and behind-the-meter generation.
- Encourage fair and reasonable power siting regulations that allow new generation facilities in Ohio.
- Support deployment of customer-sited generation technologies, such as co-generation, energy efficiency and demand-side management, to achieve least-cost and sustainable energy resources.

PolicyGoal:

A Fair, Stable, Predictable Civil Justice System

For manufacturers to invest and grow in Ohio – and compete globally – Ohio’s civil justice system must be rational, fair and predictable. Manufacturers must be free to innovate and pursue market opportunities without fear of unreasonable exposure to costly lawsuits, while injured parties must have full recourse to appropriate measures of justice.

The OMA supports policy reforms that protect consumers without overly burdening businesses, while also positioning Ohio advantageously relative to other states. The association encourages policymakers to evaluate all proposed civil justice reforms by considering these questions:

- Will the policy fairly and appropriately protect and compensate injured parties without creating a “lottery mentality”?
- Will the policy increase or decrease litigation burdens and costs?
- Will the policy promote or reduce innovation?
- Will the policy attract or discourage investment?
- Will the policy stimulate or stifle growth and job creation?

Ohio has made great strides in reforming its civil justice system over the past decade, and longer. The primary aim of the state should be to preserve those tort reform improvements in areas such as punitive damages, successor liability, collateral sources, statute of repose, and public nuisance. This will protect consumers without unduly burdening businesses, while also positioning Ohio as an attractive state for business investment.

PolicyGoal:

Science-based, Technologically Achievable, and Economically Reasonable Environmental Regulations

EFFECTIVE ENVIRONMENTAL STANDARDS AND REGULATIONS ARE BASED ON THE FOLLOWING PRINCIPLES:

- Provide clarity, predictability and consistency;
- Are based on scientific consensus;
- Provide for common-sense enforcement; and
- Incorporate careful cost-benefit analysis as part of the policymaking process.

Manufacturers urge policymakers to exercise restraint in establishing state environmental regulations that exceed federal standards, and to avoid doing so altogether without clear and convincing evidence that more stringent regulations are necessary. At the same time, manufacturers understand that fair and reasonable regulations must be balanced with responsible stewardship of our natural resources.

Manufacturing leads the way in innovation in solid waste reduction and recycling. Industry is an enormous consumer of recycled materials, such as metals, glass, paper, and plastics; manufacturers therefore are strong advocates for improving recycling systems in Ohio and nationwide.

The state should expand opportunities for industry to reuse non-harmful waste streams. Beneficial reuse policies can result in less waste and more recycling of industrial byproducts. Likewise, Ohio should continue to expand recycling programs that provide feedstock for the state's industrial processes.

With respect to Ohio's waterways, the state should continue to engage with the manufacturing community for solutions to nutrient loading issues and develop non-point source solutions as stringent as manufacturing-point source solutions.

In designing state implementation plans for new federal regulations, the Ohio Environmental Protection Agency should use a transparent process of stakeholder involvement, supplemented by investment in independent research to determine the least costly and most scientifically sound and technologically feasible implementation plans.

PolicyGoal:

A Modern, Job-Supporting Infrastructure

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

The state also must continue to support the development of natural gas pipeline infrastructure that delivers the abundant energy resources from the Utica and Marcellus shale formations to Ohio manufacturers in all parts of the state and other markets. This infrastructure produces a job-creating competitive advantage for Ohio.

INFRASTRUCTURE POLICY PRIORITIES INCLUDE THE FOLLOWING:

- Support the creation of an Ohio Division of Freight to focus regulatory attention on the logistics needs of manufacturers.
- Support state and federal legislation, as well as rules and regulations, that safely provides greater flexibility and efficiency in truck movements.
- Support technology and workforce solutions that address the shortage of truck drivers.
- Ensure Ohio's freshwater ports remain competitive and state-of-the-art in functionality. Advocate for appropriate facility maintenance, including dredging to ensure navigability.
- Preserve access to, and provide responsible management of, Ohio's sources of water.
- Protect cyber infrastructure to safeguard data used by manufacturers and their customers and suppliers.

PolicyGoal:

An Adequate, Educated, Highly Skilled Workforce

A robust economy requires a reliable population of workers with technical knowledge and skills required to meet global standards for quality – and who can think critically and work collaboratively. Sustained growth in manufacturing productivity will require not only a new generation of globally competent workers, but also workers who are willing to embrace lifelong learning to keep pace with technological advancements and global competition.

WORKFORCE DEVELOPMENT POLICY PRIORITIES INCLUDE:

- Focusing state government and industry efforts on industry-led regional sector partnerships, guided by the statewide, OMA-led Workforce Leadership Committee. The committee's mission is to identify industry-specific workforce priorities, set standards for collaboration, align funding streams to minimize duplication of workforce programs and services, and evaluate program and service efficacy.
- Creating statewide strategies with clear funding sources supported by state agencies. Provide financial support for sector partnerships that have 1.) demonstrated industry leadership in their organizational structure, and 2.) gained meaningful commitments by way of financial and volunteer contributions to ensure they are truly demand-driven.
- Expanding the use of innovative earn-and-learn programs, including cooperative education, internships, pre-apprenticeships, and apprenticeships. Earn-and-learn programs enhance talent recruitment and retention because participants are exposed to company-specific, real-world job expectations and experiences. Students and employees develop job-specific and management skills by working closely with company mentors; participating companies benefit from reduced recruitment and training costs, while ensuring knowledge- and skill-transfer from their senior employees.
- Expanding the use of nationally portable, industry-recognized, “stackable” credentials in all sectors of manufacturing. Credentials validate foundational and technical competencies needed to be productive and successful in manufacturing career pathways.
- Incentivizing K-12 schools, as well as two- and four-year higher education institutions, to coordinate outcomes-based education and training programs along industry-driven career pathways. Multiple on- and off-ramps for entry-to leadership-level careers have been mapped to real industry needs and jobs. Industry-recognized credentials and certificate programs are being adopted across institutions to increase stackable and transferable credentials from classroom to workplace. Investment in demand-driven training programs that offer pathways to retain incumbent workers allow them to acquire new skills as job requirements shift.

- Supporting “Making Ohio” – a statewide manufacturing image campaign that is managed by the OMA to create a consistent, positive perception of Ohio manufacturing career opportunities and pathways.
- Urging state agency administrators to accurately measure and communicate the outcomes of recruitment and training efforts – including the number of industry-recognized credentials earned, as well as participation in earn-and-learn programs – while protecting individual privacy concerns. Having systems in place to produce these data will allow policymakers and industry leaders to better understand outcomes and create more informed policies and programs.
- Addressing the school funding disincentive for school districts to refer students to career and technical centers – a vital source of the skills training needed to fill the manufacturing workforce pipeline.
- Ensuring schools have career counselors whose sole focus is career planning – not just college planning – and equip them with an understanding of manufacturing career pathways and the various options for acquiring the skills necessary for success. Task them with sharing this information in meaningful ways with students, parents, teachers, and other influencers to better inform and align student career path choices.
- Providing meaningful professional development opportunities for educators to have exposure to industry so they can incorporate real-life exercises into lesson plans and classroom activities.
- Ensuring that career counselors within the network of OhioMeansJobs centers have a modern and accurate understanding of manufacturing career pathways to be able to share with adult job seekers and career switchers.



**The mission of
The Ohio Manufacturers'
Association is to protect and
grow Ohio manufacturing**

For more information about the services and activities of the OMA, contact us at (800) 662-4463 or OMA@OHIOMFG.COM or visit OHIOMFG.COM.

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Leadership

OMA Issues New Public Policy Competitiveness Agenda

August 21, 2020

Ohio manufacturers need public policies that attract investment and protect the state's manufacturing legacy and advantage. That is why we have just released the **2020-21 edition** of the *OMA Public Policy Competitiveness Agenda*.

The publication includes the OMA's major policy goals in a variety of subject areas that impact manufacturing, including workforce, energy, taxes, and environment. Be sure to share this publication with your elected state officials. *8/20/2020*

Members in the News: Kenworth, Humtown Products Receive Manufacturing Leadership Awards

August 21, 2020

In the news this week were OMA members that have received the prestigious **2020 Manufacturing Leadership Awards**, presented by the Manufacturing Leadership Council of the National Association of Manufacturers (NAM).

The **Kenworth Chillicothe assembly plant** was an award winner in the categories of Engineering and Production Technology Leadership and Operational Excellence Leadership. Columbiana based **Humtown Products** won Leadership Awards in the categories of Engineering and Production Technology Leadership and Talent Management Leadership.

All award winners will be officially recognized at the Manufacturing Leadership Awards Gala, which will be held virtually Oct. 8, 2020. *8/20/2020*

Ohio Homeland Security Analyzes Chinese Economic Espionage

August 21, 2020

The Ohio Homeland Security (OHS) Strategic Analysis & Information Center **recently analyzed** the economic threat posed to Ohio businesses and institutions by economic espionage by China's communist government

According to the analysis, "it is likely that companies and corporations in Ohio will continue to be the target of sophisticated Chinese economic espionage operations," while Ohio's academic and research institutions "will continue to be targets of the Chinese government's attempts to steal research and intellectual property." *8/17/2020*

Ohio Manufacturers Make the Inc. 5000 List

August 21, 2020

The latest edition of the **Inc. 5000 list** was published earlier this month to recognize the fastest-growing privately held businesses in the nation. Multiple Ohio manufacturers made the list, including:

- Fab Glass and Mirror (Hilliard);
- CleanLife Energy (Cleveland);
- Team Fitz Graphics (Cincinnati);
- Cornerstone Research Group (Miamisburg);
- Garland Industries (Cleveland);
- Flavors15 (Miamisburg); and
- LSP Technologies (Dublin).

Overall, Ohio posted 152 companies on the list, accounting for \$7.6 billion in revenue and more than 12,000 jobs created. *8/17/2020*

At a Glance: Election 2020 Polls

August 21, 2020

With ten weeks remaining until Election Day, here is a summary of the latest election year polling:

- The **RealClearPolitics** average of nationwide presidential polls shows former Vice President Joe Biden leading President Donald Trump, including in most key **battleground states**.
- For Ohio-specific polling, FiveThirtyEight has **this running average** that accounts

for the quality, sample size, and recency of presidential polls.

- RealClearPolitics has created maps to provide insight into which party will likely control the **U.S. Senate** and **U.S. House** based on the latest polls.

- The OMA will soon post its Election 2020 web page and Ohio voter toolkit to help members easily access election information and resources. **Here is our Ohio Election Guide**, which contains details on Ohio's House and Senate, Congressional, and select judicial races. Stay tuned for more. *8/20/2020*

The Impact of COVID-19 on Infrastructure

August 21, 2020

OMA Connections Partner Schneider Downs reports that COVID-19 is having a **devastating effect on the nation's infrastructure funds**. The federal Highway Trust Fund posted a 49% decline in receipts in May 2020 compared to a year earlier. Additionally, state departments of transportation project a 30% revenue decline in the next 18 months, while 65% of municipalities are being forced to delay or cancel capital expenditure and infrastructure projects. *8/18/2020*

Ohio Manufacturers Collaborate to Produce Millions of Masks to Fight COVID-19

August 14, 2020

Gov. Mike DeWine **announced this week** that the **Ohio Manufacturing Alliance to Fight COVID-19** is collaborating with Buckeye Mask Company and Stitches USA to produce millions of high-quality, cotton face masks to help combat the COVID-19 pandemic.

Earlier this year, the Alliance helped identify a new way to mass produce the masks using automation. With the help of JobsOhio, investments were made in newly designed equipment, which will eclipse the state's original project of manually sewing 150,000 masks per week — boosting that number to 100,000 masks per day. This is the first example of reshoring an

Ohio product that would otherwise be made overseas. *8/13/2020*

ALERT: Urge Ohio Lawmakers to Approve Liability Protection Now

August 14, 2020

Right now, manufacturers that have been doing the right thing throughout the pandemic to protect their employees and produce needed goods are being targeted by trial lawyers. Nationwide, COVID-19-related lawsuits nationwide number in the thousands.

Ohio has not been immune from this legal activity.

The OMA urges you to contact your state representative and senator **using this easy communication tool**. Ask them to do all they can to win immediate approval of legislation that will provide liability protection to businesses that have acted in good faith to protect employees. *8/13/2020*

Householder Remains on Ballot Despite Federal Charges

August 14, 2020

Despite facing **federal charges** of engineering a \$61 million racketeering and bribery scheme to bail out Ohio's two nuclear-power plants, former Ohio House Speaker **Larry Householder** (R-Glenford) did not end his re-election bid for House District 72 before a key deadline earlier this week, preserving his place on the November ballot.

Gongwer News Service reports that with Householder "seemingly intent on running," local GOP officials were unable to select a new candidate. The former speaker has informed his colleagues he has no intention of resigning. If convicted, he would be forced to leave office, although that is unlikely to occur before Election Day.

"Multiple write-in candidates have thrown their names into contention," Gongwer reported. *8/12/2020*

The U.S., China, and the Contest for the Fourth Industrial Revolution

August 14, 2020

The Chinese Communist Party believes the world has entered a period of “great changes unseen in a century,” including a “shift in the balance of power between the U.S. and China” at the onset of the Fourth Industrial Revolution.

That assessment came from the Brookings Institute, a centrist think tank, delivered to members of the U.S. Senate during a recent hearing. **Here are the Institute’s recommendations** to build resiliency and competitiveness against the China challenge — from auditing the supply chain, to mandating a national strategy, to facilitating high-skilled immigration. *8/11/2020*

Industry 4.0: Could it Solve Your Problems or Cause More?

August 14, 2020

Industry 4.0 — also known as the Fourth Industrial Revolution — continues to gain momentum. Many small and medium-sized organizations wonder how it can enhance their processes, but haven’t developed a comprehensive strategy to succeed.

OMA Connections Partner CliftonLarsonAllen has published **this insight**, urging businesses to look at their short- and long-term plans to help inform where Industry 4.0 fits into their overall strategy and vision. *8/13/2020*

USMCA Certification and Implementation Workshop

August 14, 2020

On Tuesday, Aug. 18, at 9 a.m. (ET), the Ohio-Pennsylvania Stateline Export Initiative will host a two-hour online workshop, providing hands-on training for implementation of the U.S.-Mexico-Canada Agreement (USMCA). Topics covered will include certification, record-keeping, and supplier relations. **Learn more here.** *8/13/2020*

Cyber Agency Warns of SBA Impersonator

August 14, 2020

The U.S. Department of Homeland Security’s Cybersecurity and Infrastructure Security Agency (CISA) says it’s tracking an unknown cyber actor **sending phishing emails** and pretending to be the Small Business Administration’s coronavirus relief loan website.

“These emails include a malicious link to the spoofed SBA website that the cyber actor is using for malicious redirects and credential stealing,” the agency said.

The phishing emails consist of the subject line “SBA Application – Review and Proceed,” with **disastercustomerservice@sba.gov** as the sender. To prevent this scam from impacting businesses, CISA recommends that business system owners and administrators take multiple steps to increase cybersecurity, including enforcing a strong password policy, using up-to-date antivirus software, and scanning for suspicious email attachments. *8/13/2020*

Report: Nearly 4 Billion Now Using Social Media

August 14, 2020

According to **a new report** by DataPortal.com, more than half of all the people on Earth (3.96 billion) use social media. Facebook remains the world’s most widely used social media platform, but there are now six social media platforms that claim more than one billion monthly active users each. Four of those six platforms are owned by Facebook. *8/13/2020*

Second Test Determines Gov. DeWine Does Not Have COVID-19

August 7, 2020

Late Thursday evening, Aug. 6, **it was reported** that Gov. Mike DeWine does not have COVID-19 after he was given a second, more sensitive test at The Ohio State University’s Wexner Medical Center. Earlier in the day, the governor had tested positive as part of the testing protocol required to greet President Donald Trump, who was in Ohio to tour Whirlpool Corp.’s plant in Clyde. The earlier test was an antigen test — new technology that delivers quick results, but is viewed as less accurate.

The governor said he has confidence in the results of the second test — called a **PCR test** — which looks for the genetic material specific to the virus that causes COVID-19. The governor and first lady will take additional PCR tests on Saturday, Aug. 8, and the results will be made public.

The governor said he would work with the manufacturer of the antigen test “to have a better understanding of how the discrepancy

between these two tests could have occurred.” 8/6/2020

Editorial: Manufacturers Need Protection From Frivolous Lawsuits

August 7, 2020

One of the biggest uncertainties facing manufacturers — in Ohio and across the country — is the lingering threat of COVID-19-related lawsuits. This week, OMA President Eric Burkland and National Association of Manufacturers Senior Vice President and General Counsel Linda Kelly **teamed up in an editorial** to address the need for federal and state liability protection.

Burkland and Kelly wrote: “Right now, manufacturers that have been doing the right thing all along to protect their employees and produce needed goods are being targeted by trial lawyers. ... Without action by leaders in Washington — including Ohio’s elected representatives — and at the Statehouse in Columbus, frivolous litigation could undermine our manufacturing base and disrupt the production of food, medicine, and other essentials.” 8/5/2020

Broad Coalition Calls on Ohio House to Pass Liability Protection for Businesses

August 7, 2020

The OMA has joined forces with 50 other state organizations by **sending a letter** to newly elected Ohio House Speaker Bob Cupp, urging him to prioritize legislation that would provide legal liability protections for employers and others.

The Ohio Senate **completed action** on two different legislative vehicles in June. But now the House must act in order for businesses to have targeted protection from frivolous lawsuits. 8/6/2020

Ohio Has Recovered Nearly 60% of Manufacturing Job Losses From April

August 7, 2020

Ohio’s manufacturing employment has experienced a modest recovery since April, a month in which the Buckeye State lost roughly 95,000 manufacturing jobs. **Federal data** show

Ohio had approximately 658,000 manufacturing positions in June, up from 603,000 in April — but still well short of the 700,000 manufacturing jobs that existed in February. 8/4/2020

Report: U.S. Manufacturing Activity Near 18-Month High

August 7, 2020

U.S. manufacturing expanded in July at the fastest pace since March 2019. The Institute for Supply Management (ISM) **reported this week** that its manufacturing gauge increased to 54.2 last month from 52.6. (Readings above 50 indicating expansion.) The ISM said “sentiment was generally optimistic” among manufacturers.

Meanwhile, the U.S. Commerce Department said new orders for U.S.-made goods **moved higher** for the second consecutive month in June, increasing 6.2%. 8/4/2020

Ohio Shines in Latest Rankings by Business Facilities

August 7, 2020

Business Facilities magazine last week published its 16th annual rankings report — and the Buckeye State fared well. Ohio captured nine top-10 spots, including:

- No. 2 in Automotive Manufacturing Strength
- No. 3 in Manufacturing Employment
- No. 3 in Foreign Direct Investment Capital Expenditures
- No. 6 in Opportunity Zones
- No. 7 in Gross Domestic Product
- No. 7 in Solar Power Jobs
- No. 9 in Aerospace
- No. 9 in Manufacturing Output Percentage
- No. 10 in Tech Jobs

Ohio metros also earned top-10 rankings:

- Toledo – No. 2 in Manufacturing (mid-sized MSAs)
- Dayton – No. 3 in Manufacturing
- Akron – No. 7 in Manufacturing

- Cincinnati – No. 7 in Corporate Headquarters

See the full report here. 8/3/2020

RSM: Now Is the Time to Advance Manufacturing’s Digital Revolution August 7, 2020

Even in the face of a pandemic, manufacturers can’t afford to put digital projects on hold. That’s the conclusion of OMA Connections Partner RSM in the firm’s new **Manufacturing Digital Transformation Survey**.

In the publication, RSM makes recommendations to manufacturers, including:

- Companies need to evaluate their infrastructure to determine whether they have the capacity to take advantage of newer technologies, and make upgrades as needed;
- For companies that have begun to integrate newer technologies, it may be time to start moving from pilot projects to more broad-based implementation; and
- Understand that digital transformation is an ongoing journey that continues to evolve.

RSM’s survey found 74% of respondents have a digital strategy, and 26% are developing one. 8/5/2020

Webinar: Doing Business in Japan August 7, 2020

The Ohio Development Services Agency will host a **free webinar** at 9 a.m. on Thursday, Aug. 20, to provide information about Japanese markets and the online, business-to-business matchmaking platform J-GoodTech, operated by SME SUPPORT JAPAN. If your company is interested in collaborating with Japanese companies, this webinar will explain how J-GoodTech can assist. 8/5/2020

USTR Seeks Comments on China Tariff Exclusions August 7, 2020

The Office of the U.S. Trade Representative is seeking public comment on whether extensions (for up to 12 months) should be granted for particular products receiving exclusions from the 25% tariff on imports from China. These product exclusions are set to expire Oct. 2, 2020. For more details, read **this update** from OMA Connections Partner Thompson Hine. 8/3/2020

NAM Unveils Ad Campaign to Oppose President Trump’s Proposed Drug Price Controls August 7, 2020

The National Association of Manufacturers (NAM) has launched a new, seven-figure **television and digital ad campaign** aimed at potential rules to address drug pricing through International Price Indexing. “As the nation continues to battle the COVID-19 pandemic, we should not be enacting policies that could potentially stifle pharmaceutical innovation,” **said** NAM President and CEO Jay Timmons. 8/4/2020

An Early Look at Ohio’s Role in the 2020 Presidential Election August 7, 2020

With less than 90 days until the Nov. 3 election, NPR this week aired an **analysis of early electoral math**. The findings suggest Ohio may be a toss-up state, rather than Trump-leaning. **Early polls** show President Trump trailing Joe Biden in the Buckeye State.

The OMA Government Affairs Committee will examine voting trends at its **Aug. 26 meeting**. 8/6/2020

Free One-Year Subscription to Manufacturers Marketplace if You Act Before Aug. 31 August 7, 2020

Manufacturers Marketplace — a collaboration of the National Association of Manufacturers and state manufacturing associations — connects U.S. manufacturers to help them expand sales and strengthen supply chains. By joining the Marketplace by Aug. 31, you can access a free one-year subscription that allows you to:

- Search more than 140,000 U.S. manufacturing companies.
- Filter searches by state, city, product, process, capability, certification, NAICS, and SIC codes.
- Post RFP/RFQ/RFI in the Connection Center.

Simply go to **Manufacturers Marketplace** and click “**Create An Account**.” Complete the requested information and use the promo code: **COVID80**.

For questions, contact Marketplace Account Manager David Smart at 800-560-2857 or **via email**. Informational videos **can be found here**. 8/6/2020

Bob Cupp Replaces Larry Householder as Speaker

July 31, 2020

On Thursday, July 30, in an **historic vote**, members of the Ohio House voted 90-0 to remove Speaker **Larry Householder** (R-Glenford) from the chamber’s top leadership position. It is the first time a speaker of the Ohio House has been removed.

The action comes after **last week’s announcement** of a \$60 million federal bribery case involving Householder and his dark-money enterprise called Generation Now.

Later in the day, House members elected Rep. **Bob Cupp** (R-Lima) their new speaker. Cupp is a former justice of the Supreme Court of Ohio and was previously a member of the Ohio Senate. 7/30/2020

Bribery Scandal Spurs New Legislation

July 31, 2020

Ohio legislators on both sides of the aisle are scurrying to repeal **House Bill 6**, the bill central to the scandal that brought down Larry Householder in what is alleged to be the largest corruption scandal in Ohio history. **Senate Bill 346** has been introduced by Sens. **Sean O’Brien** (D-Bazetta) and **Stephanie Kunze** (R-Hilliard). Similar to **House Bill 738**, introduced by Reps. **Mike Skindell** (D-Lakewood)

and **Michael O’Brien** (D-Warren), the legislation would end HB 6.

Meanwhile, Rep. **Gayle Manning** (R-North Ridgeville) and Rep. **Jessica Miranda** (D-Forest Park) have introduced **House Bill 737** to curb independent expenditures from certain types of political action committees. Reps. **Bride Rose Sweeney** (D-Cleveland) and **Allison Russo** (D-Upper Arlington) dropped **House Bill 739** to modify Ohio campaign finance law to restrict certain activity from specified political committees.

Finally, Reps. Skindell and **Sedrick Denson** (D-Cincinnati) have offered **House Bill 740** to restrict the maximum amount of profit an electric utility is allowed under PUCO law. 7/30/2020

Ohio’s Approach on Masks Attracts National Attention

July 31, 2020

The Washington Post recently examined Ohio’s approach to a statewide mask requirement and how the manufacturing sector played a leading role in developing endorsed safety practices. OMA members Vitamix and RPM International Inc. are spotlighted in **the article**.

OMA President Eric Burkland is quoted as saying that “the DeWine administration has a deeply collaborative leadership style” which “allowed us to engage industry subject matter experts in identifying safety and health best practices.” 7/27/2020

(Lots of) Ohio Manufacturers in the News

July 31, 2020

The OMA has recently expanded its **rolling list of news stories** spotlighting Ohio manufacturers that have served their communities, state, and nation by producing or donating protective equipment and other goods to save lives and help defeat COVID-19. These articles, which have been shared on OMA social media, clearly show that Ohio manufacturers are leading the way during the pandemic. 7/29/2020

OMA and Allies Work to Protect Ohio Constitution

July 31, 2020

Last week, the OMA continued to lead the fight against attempts to erode Ohio's petition process and the validity of ballot security by filing an amicus (friend of the court) brief with five other statewide business groups in support of the state's appeal.

The merit brief seeks the reversal of a U.S. district court ruling that dealt a blow to business interests. The unprecedented ruling would allow electronic signature collections — as opposed to the traditional, in-person signatures — for several pending Ohio ballot measures. That decision, which was stayed by the Sixth Circuit while the appeal is pending, would have provided a lifeline to out-of-state groups trying to change or undermine the Ohio Constitution. *7/30/2020*

Are Manufacturers Shifting Toward Digital Jobs? July 31, 2020

In **this article** published by Indiana University's Manufacturing Policy Initiative, Michael Mandel — chief economic strategist for the Progressive Policy Institute, a Democratic think tank — writes that the analysis of recent U.S. job postings “suggests that domestic manufacturers are not shifting toward digital jobs in response to the pandemic.”

“Digital manufacturing is one plausible route towards reviving U.S. manufacturing productivity growth,” Mandel writes. “But it may be progressing slower than expected.” *7/28/2020*

Garmin Hack: Part of Growing Ransomware Trend July 31, 2020

Cyberattacks are on the rise amid the pandemic. A recent notable example is the ransomware attack on Garmin, the GPS technology company, which was shut down by hackers who demanded \$10 million in ransom. OMA Connections Partner Plante Moran has published **this insight** on the attack, noting that “it's of the utmost importance that your IT systems are up to date and constantly being monitored.” *7/29/2020*

Ohio Bar Association Honors Former OMA General Counsel Kurt Tunnell July 31, 2020

Nearly a year ago, former OMA General Counsel **Kurt Tunnell** was taken too soon after he was hit by an impaired driver in rural Hilliard while cycling. Prior to his retirement in January 2018, Kurt had worked with the OMA for nearly a quarter century, while leading his law firm, Bricker & Eckler, and serving in numerous other roles.

Last week, the Ohio State Bar Association (OSBA) **honored Kurt** by posthumously presenting him with the Ohio Bar Medal — the OSBA's highest honor. The medal was bestowed on Kurt for his **legacy of leadership and service**. Well-deserved recognition of Kurt and his family. *7/28/2020*

2020 Ohio Election Guide Is Here July 31, 2020

With fewer than 100 days until Election Day, we're pleased to announce that the **2020 Ohio Election Guide** is ready for voters statewide. The OMA produces this publication during every major election cycle. This non-partisan publication serves as a comprehensive resource, offering details and insight on the following:

- All 99 Ohio House contests;
- The 16 Ohio Senate seats up for election this year;
- Ohio's 16 congressional races; and
- Key judicial races.

Look for fresh demographic and economic data about each district, as well as the political indices that shed light on the relative Republican/Democrat voting strength of each district.

While the digital version will remain available through the election, printed copies of the guide will be available around Aug. 10 for \$30 each, which includes shipping and handling. Reserve your copy now by **emailing the OMA**. *7/30/2020*

Ohio Statehouse Rocked: Speaker Arrested in \$60M Bribery Case July 24, 2020

Tuesday morning, July 21, FBI agents arrested House Speaker **Larry Householder** (R-

Glenford) and four associates. Later in the day, U.S. Attorney David DeVillers summarized the details of a \$60 million federal bribery case tied to the speaker and his dark-money enterprise called Generation Now. The sham organization was **allegedly established** for personal and political gain — and to ensure passage of last year’s House Bill 6, the ratepayer-funded bailout of two nuclear power plants. **See the OMA’s summary of Tuesday’s events here.**

DeVillers said the case is “likely the largest bribery, money laundering scheme ever perpetrated against the people of the state of Ohio.” He added, “This was bribery, plain and simple. This was a quid pro quo. This was pay to play.”

Now the Statehouse is in a state of flux, even as important COVID-related legislation awaits action, including a **bill to limit liability for businesses**. Gov. Mike DeWine and several lawmakers **have called** for Householder to resign. A member of the Ohio House can be expelled for “disorderly conduct” with a vote of two-thirds (66) of legislators.

Meanwhile, DeVillers has said this week’s arrests are not the end of the investigation — and that federal agents will continue to interview potential witnesses and execute search warrants in the coming days and weeks. *7/22/2020*

OMA Member Briefing on Householder Arrest, Legislative Agenda, Future of HB 6

July 24, 2020

Due to the unfolding events surrounding Ohio Speaker of the House Larry Householder, the OMA will hold a **members’ briefing via Zoom** at noon (ET) Tuesday, July 28. OMA staff and counsel will provide a review and analysis of events stemming from the public corruption and bribery charges, shed light on implications for House Bill 6 — the nuclear bailout legislation — and provide thoughts on restoring the functionality of the General Assembly. This event is open to all interested OMA members. *7/24/2020*

Governor Urges Congressional Leaders to Approve Liability Protection for Businesses

July 24, 2020

Gov. Mike DeWine has joined 20 other governors by **signing onto a letter** to congressional leaders, calling for reasonable, limited liability protections for businesses, health care workers, and others during the pandemic. The letter calls for predictable, timely, targeted liability protections to shield employers from legal risks associated with the spread of the coronavirus, so long as they are following the appropriate standards of care to protect employees and customers. *7/23/2020*

CEO Survey Provides Glimpse Into How COVID-19 is Reshaping Manufacturing

July 24, 2020

According to **IndustryWeek**, a new nationwide survey of manufacturing CEOs shows how business leaders’ perspectives have been shaped by COVID-19. The survey, conducted by the Manufacturers Alliance for Productivity and Innovation (MAPI), focused on global industrial manufacturing firms. Among the findings were the following:

- About 8 out of 10 CEOs do not envision a full recovery by next summer.
- Roughly 75% believe the U.S.’ accelerated “de-coupling” from China will affect their operations globally.
- A significant majority, 85%, believe a large proportion of their production for regional markets around the world will be located in-country to help mitigate future supply chain disruptions.
- Two-thirds say their domestic automation capabilities will play a large role in their decision-making process.
- Roughly eight out of 10 CEOs forecast that dramatic design changes will be permanently incorporated into their shop floors for worker health and safety.
- And 85% say their annualized investment in smart-factory initiatives will be rising, as

the pandemic has pushed up the timetable

for digitalization and virtualization.

On the issue of hiring, two-thirds of CEOs expected to hire or promote at least 20% more underrepresented employees than before. *7/21/2020*

Study: Manufacturers Have Received \$54B in PPP Loans

July 24, 2020

As Congress considers another round of economic stimulus related to COVID-19, a new study shows that manufacturers have been a top beneficiary of the federal Paycheck Protection Program (PPP).

This infographic by HowMuch.net shows that three industries other than health care — which has received \$67.36 billion in PPP loans — have received more than \$50 billion, including professional services (\$66.43 billion), construction (\$64.57 billion) and manufacturing (\$54 billion) under the PPP. *7/22/2020*

Report: New Technology is Transforming Manufacturing

July 24, 2020

While digital transformation was already a crucial area of focus for manufacturers before 2020, the pandemic has forced companies to adopt digital initiatives at a more rapid clip. **This new report** by OMA Connections Partner RSM provides a comprehensive look at how business leaders in the industrials space are approaching digital transformation and Industry 4.0 technologies. Included are key findings from an RSM survey of manufacturing executives, insights on the impact of the pandemic, and RSM's recommendations for how companies can continue their digital evolution. *7/24/2020*

Grant Funds Go to 68 Ohio Manufacturers for PPE Production

July 17, 2020

Lt. Gov. Jon Husted this week **announced** that \$20 million in grant funding will be sent from the Development Services Agency to manufacturers for retooling and reshoring projects related to personal protective equipment (PPE). He said 68 Ohio manufacturers would receive awards

worth up to \$500,000. The grants are expected to create 829 new jobs and retain 1,133 existing positions. More than half of the awards went to businesses with fewer than 25 workers.

Earlier this year, the OMA worked with key partners to establish the **Ohio Manufacturing Alliance to Fight COVID-19** to help meet the demand for more PPE used by health care workers, first responders and essential employees. Lt. Gov. Husted said the lack of PPE was a contributing factor that led to a shutdown of many businesses and other activity. "We don't want to find ourselves in this position again," he said. *7/16/2020*

OMA Urges Bipartisan Support for Transportation Infrastructure

July 17, 2020

Partnering with the National Association of Manufacturers and dozens of other national and state associations, the OMA recently **co-signed a letter** urging congressional leaders to support investment in infrastructure as an economic recovery tool. The letter specifically encourages bipartisan support for surface transportation re-authorization legislation ahead of the Sept. 30, 2020 deadline. *7/16/2020*

Think Tank Report Raises Questions About Temporary Federal Unemployment Program

July 17, 2020

As federal lawmakers prepare to debate another coronavirus emergency package, the American Enterprise Institute (AEI) **reports** that the number of people apparently collecting Pandemic Unemployment Assistance benefits far exceeds — by nearly 6 million — the total number who have applied to get on the temporary benefits program.

Important decisions impacting employers will be made soon, including whether to extend the \$600 per week federal bonus payments (which AEI says has resulted in **five of six workers** earning more in unemployment benefits than wages) . The think tank says that as options are weighed, "policymakers — and all Americans — deserve an accurate accounting of the number collecting these benefits." *7/15/2020*

DoD Seeks Cost-Sharing Agreements With Medical Supply Manufacturers

July 17, 2020

The National Association of Manufacturers reports that the Defense Department's Joint Acquisition Task Force recently **released information** about the **Commercial Solution Opening (CSO)** — a new way for manufacturers to submit proposals to help meet the federal government's needs in the fight against COVID-19. This could help interested businesses quickly secure a cost-sharing agreement to expand domestic production capacity for critical medical supplies.

The CSO's focus areas include **masks, fiber and materials; screening and diagnostics; gloves and gowns;** and **pharmaceuticals**. Reports say that \$150 million is available for domestic industrial expansion cost-sharing support through the CSO. If you are interested, you must submit your proposal before Aug. 3, 2020. *7/16/2020*

DeWine Introduces County Level Health Advisory Alert System

July 10, 2020

As Gov. DeWine announced on Tuesday during his **press briefing**, counties alert-coded red or purple under the new "**Ohio Public Health Advisory Alert System**," will be under a **new order** that generally requires a face covering while in public. The order takes effect this week for **affected counties**.

The Ohio Department of Health will update county rankings every Thursday based on data through Wednesday. Any county that increases to Red Alert Level 3 will automatically be included in the face-covering mandate. Any county that decreases from Red Alert Level 3 to Orange Alert Level 2 will automatically be released from the face-covering requirement.

A new, amended order is expected late today; we will have an analysis of it for members early next week. *7/9/2020*

Gov. Issues Guidance for Resuming School This Fall

July 10, 2020

Last week Governor DeWine announced new guidance for resuming school in the fall. The **newly issued guidance report** advises

schools to vigilantly assess symptoms, wash and sanitize hands to prevent spread, thoroughly clean and sanitize the school environment to limit spread on shared surfaces, practice social distancing, and implement a face coverings policy.

To assist schools in their efforts to implement the guidance, the Ohio Department of Education has created a document titled, "**The Reset and Restart Education Planning Guide for Ohio Schools and Districts**," which is designed to help teachers, principals, and administrators with solutions to safety challenges. The document provides resources and information for community decision-makers as they contemplate how to reopen safely.

In creating its recommendations, the administration considered — among other guidance — the **American Academy of Pediatrics, COVID-19 Planning Considerations: Guidance for School Re-entry**, which "strongly advocates that all policy considerations for the coming school year should start with a goal of having students physically present in school. ... Lengthy time away from school and associated interruption of supportive services often results in social isolation, making it difficult for schools to identify and address important learning deficits as well as child and adolescent physical or sexual abuse, substance use, depression, and suicidal ideation." *7/6/2020*

Protecting Grampa and Grandma

July 10, 2020

The National Association of Manufacturers (NAM) is responding to the rise in COVID-19 cases across the country with a new ad set featuring social media star Charles Mallet ("Grandpa Charles") that encourages the wider use of face coverings in public spaces by younger people.

View "**About Grandma**" and "**About Grandpa**" and another related **NAM PSA here**. *7/6/2020*

Manufacturers Inform Ohio Prescription Drug Council

July 10, 2020

At a meeting this week of the DeWine administration's Ohio Prescription Drug Transparency and Affordability Council, of which OMA is a member, presenters discussed the

mechanisms of drug pricing in the U.S. The council is tasked with issuing a report this fall on the state's pharmaceutical purchasing.

Kipp Snider, national vice president for state policy, Pharmaceutical Research and Manufacturers of America (PhRMA), **gave a presentation** to panelists focusing on the following: manufacturers' commitment to beat the coronavirus; an overview of medicine spending and costs – highlighting that medicine only represents 14% of total health spending and that prices grew just 0.3% in 2018 after discounts and rebates; PhRMA's commitment to **policy solutions to help patients pay less** for medicines; an overview of PhRMA's **Medicine Assistance Tool (MAT)** – a web platform designed to help patients, caregivers and health care providers learn about resources that assist in accessing medicines. Specifically regarding the fight against coronavirus, America's biopharmaceutical companies are committed to developing solutions to help diagnose and treat those with COVID-19. Snider highlighted the landmark agreement between OMA member AstraZeneca and the University of Oxford to globally develop and distribute the potential vaccine. As reported, U.S. doses will, in part, be manufactured at the West Chester, Ohio facility. Here are some of the **progressive efforts** that PhRMA members have undertaken to help defeat the coronavirus. *7/9/2020*

Webinar: New Opportunities for Ohio Exporters to Mexico

July 10, 2020

On Wednesday, July 15 Efen Flores, director of Ohio's Mexico Office will present a webinar covering: history and benefits of NAFTA and now USMCA; a review of major differences between USMCA and NAFTA; new rules of origin, customs and logistics between Mexico and the U.S.; concerns and challenges for the automotive and aerospace industries; and what to expect in the near future. There is no charge. **Register here.** *7/6/2020*

Free One-Year Subscription to Manufacturers Marketplace

July 10, 2020

Manufacturers Marketplace — a collaboration among the National Association of

Manufacturers and state manufacturing associations — connects manufacturers in the U.S. A searchable database of 140,000 manufacturers, the Marketplace can help manufacturers expand sales and strengthen supply chains.

By joining in July or August, you can access a free one-year subscription to Manufacturers Marketplace.

- Search more than 140,000 U.S. manufacturing companies.
- Filter searches by state, city, product, process, capability, certification, NAICS, and SIC codes.
- Post RFP/RFQ/RFI in the Connection Center.

How to join:

1. Go to **Manufacturers Marketplace** and click on 'Create An Account' (top right of the page).
2. Fill out the needed information and use the promo code: **COVID80**.

Questions? Please contact Marketplace account manager, **David Smart**, at 800-560-2857 or **via email**. Informational videos can be **found here.** *7/6/2020*

How Many Voted in Your Congressional District in 2018?

July 10, 2020

This **interactive graphic** uses Census Bureau population characteristics data from the American Community Survey and counts of votes cast from the Office of the Clerk, U.S. House of Representatives to highlight the percent of citizens who voted for congressional representatives in 2018 and the characteristics of the citizen voting-age population for each congressional district.

Zoom in to see state-level data. *7/6/2020*

Immunity Bill Clears Senate (Again); All Eyes on House

July 2, 2020

In an effort to advance stalled legislation that would protect businesses from COVID-related lawsuits, the Ohio Senate this week amended and approved **House Bill 606**, which now goes back to the House. The Senate's action potentially sets up yet another conference committee, unless the House accepts the Senate's changes. The amended bill was **approved 23-6** along partisan lines.

Among the Senate's changes to HB 606 was the removal of a House-approved, union-driven provision that would have expanded workers' compensation by shifting the burden of proof to the employer and eliminating an employer's defenses. **As noted in OMA testimony**, this would have especially burdened food and beverage manufacturers. Fortunately, the Senate restored the provision to current law, which **is working**.

The House is not scheduled to return to Columbus until mid-September. The OMA is urging House lawmakers to finish the job soon to provide Ohio businesses with some protection during the recovery. The OMA applauds Senate President **Larry Obhof** and members of his caucus for taking action on HB 606 before the summer recess. *7/1/2020*

RSM Manufacturing Index Shows 'Remarkable Rebound' in Industry Sentiment

July 2, 2020

OMA Connections Partner RSM reports that its **Manufacturing Outlook Index** shows "a remarkable rebound of sentiment in the U.S. manufacturing industry." The RSM index, which anticipates the direction of manufacturing activity, is a composite of six regional Federal Reserve banks' monthly surveys. RSM cautions that "while the worst might be behind us, the index remains slightly negative ... (and) suggests that a national recovery has yet to materialize. Moreover, damage to the manufacturing sector wrought by pullbacks and shutdowns of business across the economy due to an intensification of the pandemic will appear in the July sentiment and survey data, thus we do urge caution in interpreting the data going forward." *6/30/2020*

Tendon Manufacturing Named Top Workplace

July 2, 2020

Congratulations to OMA member Tendon Manufacturing, which has been named the No. 1 workplace among small companies in Greater Cleveland for 2020, according to **Cleveland.com** and *The Plain Dealer*. This is the fourth consecutive year it has been named a top workplace on the publication's "**Top Workplaces**" list. *6/29/2020*

A Look at Key Changes Under USMCA

July 2, 2020

On July 1, the United States-Mexico-Canada Agreement (USMCA) went into effect. It will have a significant impact on manufacturers across North America as they re-analyze their products to determine whether they qualify for duty-free treatment. See OMA Connections Partner Thompson Hine's **analysis of the key changes under the new trade deal**, including significant changes for the automotive industry. *7/1/2020*

Are You Ready to Comply With USMCA?

June 26, 2020

As the July 1 implementation date of the U.S.-Mexico-Canada (USMCA) trade agreement nears, many are approaching it as just a "new NAFTA" without fully understanding key changes. OMA Connections Partner Plante Moran — which says many of its clients have expressed confusion over how the new trade deal will directly impact their business — has published **this FAQ page** addressing USMCA compliance.

Also, OMA Connections Partner Thompson Hine is offering a **free webinar** at 2 p.m. (ET) on Wednesday, July 1, titled "Supply Chains: Issue-Spotting, Tips and Best Practices for Maximizing USMCA Benefits." *6/24/2020*

OMA Reiterates Need to Remove Amendment From House's COVID-19 Immunity Bill

June 26, 2020

This week, the OMA **told members of an Ohio Senate panel** that if a harmful workers' compensation amendment is not stripped from a bill that seeks to protect businesses from COVID-related lawsuits, the provision would plague food and beverage producers — who were specifically targeted by the amendment to **House Bill 606**, passed in late May.

“The last thing we should do is burden (these manufacturers) with potentially ruinous new costs,” the OMA told lawmakers. Attorney Ann Marie Sferra of OMA general counsel Bricker & Eckler **echoed the sentiments** on behalf of the Ohio Alliance for Civil Justice.

It's not too late to **take action**. The OMA remains hopeful that the Senate will revise the bill and send it back to the House for final approval without the workers' compensation amendment. *6/25/2020*

Another Statehouse Win for Labor Unions

June 26, 2020

This week, the Ohio Senate **voted 21-10** in favor of House amendments to Senate Bill 4, which provides more than \$500 million for school construction projects and public works. The House recently amended the bill to expand Ohio's prevailing wage law by requiring certain public works to pay union-scale wages. Traditionally, fiscally conservative Republicans have not favored such prevailing wage mandates;

however, Statehouse Republicans this week went along with the House language — and some even championed the proposal, reflecting the influence that labor has on some GOP lawmakers. **Watch the floor debate** starting at the 24:10 mark. *6/25/2020*

Six Myths Impeding Manufacturing's Digital Transformation

June 26, 2020

Digital transformation, or the industrial internet of things (IIoT), is considered vital to the future of manufacturing. In the U.S., IIoT promises to make manufacturers even more competitive globally. Yet digital transformation has been slow in materializing. Based on its work with manufacturers throughout the world, consulting firm McKinsey & Company has identified **six myths about IIoT** that are needlessly troubling business leaders. *6/23/2020*

OMA Board Meets; Directors Re-Elected

June 19, 2020

On June 16, the OMA board met virtually for its third meeting of 2020. Directors were briefed on recent, coronavirus-related legislative activity, as well as executive actions by the DeWine administration affecting Ohio's manufacturers. Dr. Ned Hill, professor of economics at The Ohio State University's John Glenn College of Public Affairs, **provided his economic outlook** and possible scenarios for recovery.

The board re-elected the following directors to three-year terms:

- **Dale Foerster**, vice president, Starr Manufacturing, Inc.
- **Cathy Lyttle**, senior vice president and chief human resources officer, Worthington Industries, Inc.
- **Frank Mehwald**, president & CEO, Atlantic Tool & Die
- **Bob Nelson**, senior vice president, Honda of American Mfg., Inc.
- **Brent Rosebrook**, vice president of finance and administration, PRO-TEC Coating Company, LLC
- **William Sopko**, president, Sopko & Sons Co., Inc.
- **Hunter Wright**, senior operations engineer, Ariel Corp.

This week's meeting marked the last for longtime board member **Jim Krimmel**, president and CEO at Cleveland-based Zaclon LLC. Jim has been an OMA director for more than 27 years. The OMA is grateful for his many years of committed leadership, including his service as chairman of the OMA board. *6/17/2020*

Here We Go Again: Ohio Borrows \$3.1B to Pay Unemployment Claims

June 19, 2020

This week, Gov. Mike DeWine announced that Ohio has again become dependent on borrowed federal money to pay for its unemployment insurance (UI) benefits. The state has requested

\$3.1 billion in borrowing authority to provide UI benefits, which are 100% funded — or repaid — by Ohio employers.

For the time being, there is no interest being charged by the federal government, the governor said. But he noted that Ohio has a “long-term structural problem” with its unemployment system — one that needed to be addressed before COVID-19. **This story** by *The Columbus Dispatch* provides an overview of the longstanding problem.

As of June 18, **Ohio had paid \$4.1 billion** to more than 700,000 Ohioans since mid-March. It took seven years to pay off the state’s \$3.4 billion loan when the fund went broke in 2008. 6/16/2020

Unemployment Bills Remain Unfinished as Lawmakers Break for Summer

June 19, 2020

Before the Ohio House and Senate adjourned for summer break, lawmakers took steps to address the state’s unemployment insurance (UI) funding woes. Despite some action in both chambers, nothing is headed to the governor’s desk until at least this fall.

As **reported last week**, the Senate unanimously passed Senate Joint Resolution 4 to authorize bonding as an alternative to borrowing from the federal government when Ohio’s UI fund has been exhausted. The OMA is a proponent of the measure, but it may not be taken up in the House as Senate President **Larry Obhof** (R-Medina) has told reporters that leaders are trying to determine whether this is a change that can be made statutorily — that is, without asking voters.

Also sidelined for the time being is **House Bill 614** — which would create a council to review the administration of the UI system — and **Senate Bill 282**, which would allow employers to report that an applicant for (or a recipient of) UI benefits has failed to meet the non-monetary requirements for benefit eligibility. 6/15/2020

Important Questions to Ask Your Suppliers

June 19, 2020

The pandemic has affected every aspect of business, especially supply chains. Knowing how your suppliers have been impacted is important. OMA Connections Partner Clark Schaefer Hackett has created **this checklist** to help guide your conversations with suppliers. 6/17/2020

Automation Expands During COVID-19

June 19, 2020

Expanded use of automation will make U.S. manufacturing even more competitive, according to Amar Hanspal, CEO of Bright Machines — a San Francisco-based software and robotics company. In his **column at Forbes.com**, Hanspal says that by some estimates, high levels of automation play a role in only 3% of all goods produced. But COVID-19 is expediting change. According to Thomasnet.com, sourcing for automation equipment has increased 147% year-over-year and is up more than 20% compared to last quarter. 6/15/2020

Ohio Manufacturing Counts is Online

June 19, 2020

Reminder: The new edition of *Ohio Manufacturing Counts* is **now available digitally**. Share it with employees, students, educators, policymakers and others to ensure that they know the importance of Ohio manufacturing. A special thanks to our sponsors — Constellation, Health Management Solutions and Vistra Energy — that supported the publication. 6/12/2020

When Will Life Return to Normal?

June 19, 2020

Recently, the *New York Times* interviewed 511 epidemiologists and infectious disease specialists from the U.S. and Canada, asking their opinions on when they expect to resume what used to be typical activities. VisualCapitalist.com turned the *Times*’ data into **this infographic**. Surprisingly, 6% of the surveyed epidemiologists said they do not expect to ever hug or shake hands in the post-pandemic world. More than half said the use of masks will be necessary for at least the next year. 6/20/2020

Supreme Court Incumbents Earn Endorsement of Ohio’s Key Business Groups

June 12, 2020

Ohio's major business groups — including the OMA — this week **endorsed both justices** seeking re-election to the Supreme Court of Ohio. Justices **Judith French** and **Sharon Kennedy** are both vying for their second six-year term. Although the contests are officially non-partisan, they will determine the Court's leanings and its impact on Ohio's business climate. (The OMA PAC endorsed both justices **late last year**.)

Hannah New Service recently reported that both incumbents have a large cash-on-hand advantage compared to their challengers. Justice French reported having \$398,572 on hand, while her opponent, Jennifer Brunner, reported \$201,358. Justice Kennedy reported having \$629,753 on hand compared to Cuyahoga County Judge John O'Donnell's \$136,020.90. *6/11/2020*

Ohio's Business Immunity Bill Hangs in the Balance

June 12, 2020

Negotiations remain unresolved over a pair of bills (**House Bill 606** and **Senate Bill 308**) that would provide businesses and health care professionals with temporary legal protections during COVID-19. As of late Thursday afternoon, lawmakers had not yet agreed to strip a harmful worker's compensation provision from pending legislation. As a result, the timely passage of a final immunity package is uncertain. There is still time to **take action**. *6/11/2020*

Senates Passes Bonding Measure for Unemployment Insurance

June 12, 2020

The Senate this week unanimously passed **Senate Joint Resolution 4**, which would authorize bonding as an alternative to borrowing from the federal government when Ohio's unemployment insurance system fund has been exhausted. The OMA is a proponent of the resolution.

During the last recession, Ohio borrowed nearly \$3.4 billion. Now the state is looking to borrow \$3 billion to cover unemployment benefits issued during the current pandemic. Ohio's woefully inadequate unemployment compensation fund is

one of the least solvent in the country. The OMA for years has pushed for a comprehensive overhaul of the system, including the option of a bonding mechanism. *6/11/2020*

House Passes Bill to Improve Administration of Unemployment Comp System

June 12, 2020

This week, the House of Representatives passed **House Bill 614**. The legislation, which the **OMA provided testimony** for this week in committee, is designed to provide a review the state's unemployment compensation system. It would establish a board charged with making comprehensive suggestions to enhance the administrative operations, while also allowing additional avenues to provide an efficient and transparent service to employees and employers. *6/11/2020*

Senate Bill Would Allow Employers to File Unemployment Complaints

June 12, 2020

This week, the Senate held its first hearing on **Senate Bill 282**. Sponsored by Sen. **Frank Hoagland** (R-Mingo Junction) would create an online system in which employers could file complaints with the Ohio Department of Jobs and Family Services (ODJFS) to report that an applicant for (or a recipient of) unemployment benefits has failed or is failing to meet the non-monetary requirements for benefit eligibility. As Sen. Hoagland stated in his **sponsor testimony**, "Through ODJFS, there is a process in which employers can report fraud, but there is currently not a means for businesses to report employment activity or other actions that are not necessarily considered fraud." *6/11/2020*

Report: Quick Retooling to Make PPE Shows Strength of U.S. Manufacturing

June 12, 2020

IBISWorld, a global industry research firm, **reports** that "the PPE manufacturing industry has become one of the most important industries in the U.S. nearly overnight." The firm projects that now, after the coronavirus restrictions, the industry's revenue will increase at an annualized rate of 3.8% to \$5.7 billion over five years.

Meanwhile, this **updated compilation** of more than 100 news stories (all of which have appeared on OMA social media) spotlights Ohio manufacturers that have produced or donated protective equipment and related goods in the fight against COVID-19. *6/8/2020*

Boost Your Cyber Defenses With Free Webinar, June 16

June 12, 2020

The COVID-19 crisis has opened new doors for fraud schemes and cyber scams to divert funds from your business. Join the experts at OMA Connections Partner Plante Moran for a **free webinar** at 10 a.m. (ET), June 16, as they discuss methods of fraud detection and how to proactively fight cyberthreats. *6/10/2020*

USMCA Replaces NAFTA on July 1

June 12, 2020

This week, the Ohio Development Services Agency (DSA) sent a reminder that the **U.S.-Mexico-Canada Agreement (USMCA)** takes effect on July 1, 2020. U.S. Customs and Border Protection recently **announced** it has opened the USMCA Center in Washington, D.C. to work with the private sector to coordinate implementation of the updated agreement. If you are an exporter with questions about the USMCA, call DSA's **export assistance office** at (614) 466-4996 or **use this email**. *6/10/2020*

Resiliency in Leadership During and After COVID-19

June 12, 2020

The COVID-19 pandemic has drastically changed many businesses' day-to-day operations. Learning how to lead your team through a crisis — and how to navigate and adapt through an ever-changing landscape — is vital. OMA Connections Partner RSM will host a **free webinar** at 2 p.m. (ET), Wednesday, June 17, to discuss the financial, tactical and transformative strategies that will equip business leaders to be more resilient and successful in this environment, as well as in the future. *6/11/2020*

ALERT: Ohio PPE Reshoring Grant Announced; Interested Members Should Act Quickly

June 5, 2020

This week, Lt. Gov. Jon Husted announced the **Ohio PPE Retooling and Reshoring Grant Program**. This \$20 million program will provide awards of up to \$500,000 to help small and medium-sized manufacturers repurpose existing facilities to make **needed personal protective equipment (PPE)**, as well as to reshore PPE production to Ohio. Up to 20% of funding will be reserved for manufacturers with fewer than 25 employees.

Grant funds can be used to offset costs incurred to acquire equipment necessary to manufacture PPE, retool, or construct facilities to manufacture PPE and make technological upgrades. Expenses dating back to March 21 (the date of Gov. DeWine's emergency declaration) will be eligible for reimbursement.

This funding is available on a first-come, first-served basis, so quick action is recommended. To learn more, **see this press release**. Also announced was a new grant program for small businesses that are owned and operated by minorities or women, as well as a loan program for businesses in Ohio's Appalachian region. *6/2/2020*

ACTION ALERT: OMA Urges Lawmakers to Fix, Then Pass, Immunity Bill

June 5, 2020

Following last week's House approval of **House Bill 606** — a bill to grant civil legal immunity to Ohio businesses during COVID-19 — the OMA and other statewide business groups raised concerns regarding a last-minute amendment that seeks to shift the burden of proof and leave food and beverage manufacturers vulnerable to a wave of COVID-19 workers' compensation claims that would be impossible to contest. **This letter** to Senate President Larry Obhof details the coalition's concerns.

If the HB 606 provision is enacted, claims against food and beverage manufacturers will only be the beginning, as other types of manufacturers and businesses will also experience the impact of this harmful policy change.

This week, the Senate completed its action on its version of the immunity bill, **Senate Bill 308**. It is expected that a conference committee will

soon be appointed to negotiate the differences between HB 606 and SB 308. We encourage all Ohio manufacturers to **contact their state lawmakers** and urge support for the overall immunity legislation, while requesting the removal of the floor amendment added to HB 606. **Here is sample language for members.** 6/4/2020

OMA Government Affairs Committee Reviews Recent Statehouse Activity June 5, 2020

This week, the OMA Government Affairs Committee met virtually for its second meeting of 2020. Members were briefed on the OMA's legislative activity since the start of the COVID-19 emergency. A key focus of the meeting was civil liability immunity legislation (**House Bill 606** and **Senate Bill 308**) for businesses, which is currently moving through the Ohio Legislature. Members raised numerous concerns about a provision in the House-approved bill that classifies COVID-19 as an occupational disease. (See story above.)

OMA members also heard updates on matters affecting Ohio's ballot initiatives, unemployment compensation, workforce development, and energy laws, as well as a report from OMA General Counsel Chris Slagle of Bricker & Eckler. The committee will meet again Aug. 26. (Note: This is a change from the originally published date.) 6/3/2020

Governor Announces Orders To Re-Open Certain Facilities June 5, 2020

Gov. Mike DeWine **has announced** new health orders to allow entertainment facilities to re-open beginning Wednesday, June 10. This includes aquariums, art galleries, country clubs, ice skating rinks, indoor family entertainment centers, indoor sports facilities, laser tag facilities, indoor movie theaters, museums, outdoor playgrounds, public recreation centers, roller skating rinks, social clubs, trampoline parks, and zoos. Day camps and residential camps may open at any time. 6/4/2020

Gown Production Marks Another Ohio Manufacturing Success in the Fight Against COVID-19 June 5, 2020

Last week, the Ohio Manufacturing Alliance to Fight COVID-19 **announced** that Ohio firms have worked together to produce 750,000 isolation gowns to protect frontline health care workers and first responders. Isolation gowns, typically available through overseas sources, have been in short supply since the start of the pandemic. 6/1/2020

Ohio State Coalition Develops, Delivers 3D-Printed Swabs for COVID-19 Testing June 5, 2020

The Ohio State University's Center for Design and Manufacturing Excellence (CDME) this week reported on yet another Ohio success story in the fight against the coronavirus. In **this article**, CDME highlights the university's efforts to boost production of Ohio-made 3D-printed swabs used in COVID-19 test kits. 6/3/2020

West Chester's AstraZeneca Plant Retools to Help Lead COVID-19 Vaccine Efforts June 5, 2020

It was **reported** this week that the White House is working with seven pharmaceutical companies as part of its "Warp Speed" coronavirus vaccine program. Some of that work is being done here in Ohio as the AstraZeneca plant in West Chester is working quickly to produce its own vaccine. The West Chester plant is being retrofitted for scaled-up production, **according to** Cincinnati.com. 6/4/2020

OMA Supports Bonding Potential Unemployment Compensation Debt June 5, 2020

This week, the OMA provided **proponent testimony** on **Senate Joint Resolution 4**. The resolution proposes to enact Section 18 of Article VIII of the Ohio Constitution, which would allow the General Assembly to ask Ohioans in the Nov. 3, 2020 General Election to approve obligations to repay a loan from the federal government to the Ohio unemployment compensation fund.

While not a silver bullet in solving Ohio's unemployment insurance insolvency woes, the resolution would provide a second option for

Ohio to repay the federal government. Bonding would only be used if it proves to be the most cost effective option for employers. *6/4/2020*

Revised Legislation to Enhance Ohio's Unemployment Comp System

June 5, 2020

This week, the House Ways and Means Committee accepted Substitute **House Bill 614**. The new sub bill **provides** substance to the ongoing hearings regarding the administration of Ohio's unemployment compensation system. The bill would create the Unemployment Compensation Modernization and Improvement Council, which would devise a plan to improve Ohio's unemployment system. *6/4/2020*

ISM: Manufacturing Contracted at a Slower Rate in May

June 5, 2020

This week, a report on U.S. manufacturing showed a slight improvement for the sector. **Reports note** that the Institute for Supply Management's (ISM) latest data showed that among the six largest manufacturing sub-sectors, food, beverage and tobacco products showed expansion. Sub-sectors that continued to contract at strong levels included transportation equipment, petroleum and coal products, and fabricated metal. *6/1/2020*

U.S. Commercial Service to Host Virtual Trade Show for Auto Industry

June 5, 2020

The U.S. Commercial Service — part of the U.S. Department of Commerce's International Trade Administration — is hosting a virtual trade show for the automotive industry from June 29 through July 17. This online event aims to connect U.S.

exporters with pre-screened international buyers and potential partners recruited by U.S. officials from around the world. More details are **available here**, or **email Darren Srebnick** or call (614) 273-5157. *6/4/2020*

Policy Ideas to Grow American Manufacturing

June 5, 2020

As policymakers at both the state and federal level explore ways to enhance America's manufacturing potential, Indiana University has published **this easy-to-read summary** of public policy ideas drawn from other nations, individual states, and Congress. Among them: develop a national strategy, subsidize advanced technology, enhance financing of innovation, further refine the tax code, invest in workforce skill development, and fund competitiveness programs. *6/3/2020*

Connect With Other U.S. Manufacturers by Enrolling in Manufacturers Marketplace; Free Until June 30

June 5, 2020

Manufacturers Marketplace — a collaboration of the National Association of Manufacturers and state manufacturing associations, including the OMA — is a searchable database intended to help U.S. manufacturers find and do business with one another in this era of supply chain disruption. Manufacturers Marketplace is available for free to all OMA members until June 30 using code "COVID-19." It will continue to be free as long as your company uses the platform and updates your profile. Contact the Marketplace's **David Smart** to learn more. *6/1/2020*

Miscellaneous Legislation of Interest to Manufacturers

Prepared by: The Ohio Manufacturers' Association

Report created on August 25, 2020

- HB30 EUTHANIZED ANIMAL REMAINS-FOOD** (LANESE L) To prohibit pet food from containing remains from any dog or cat or from any other animal that was euthanized by the use of an injected drug.
Current Status: 2/12/2019 - Referred to Committee House Agriculture and Rural Development
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-30>
- HB46 STATE GOVT EXPENDITURE DATABASE** (GREENSPAN D) To require the Treasurer of State to establish the Ohio State Government Expenditure Database.
Current Status: 1/22/2020 - **SUBSTITUTE BILL ACCEPTED**, Senate General Government and Agency Review , (Seventh Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-46>
- HB48 LOCAL GOVT ROAD IMPROVEMENT FUND** (GREENSPAN D) To provide for a new Local Government Road Improvement Fund for local governments to fund road improvements.
Current Status: 2/12/2019 - Referred to Committee House Finance
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-48>
- HB62 TRANSPORTATION BUDGET** (OELSLAGER S) To increase the rate of and modify the distribution of revenue from motor fuel excise taxes, to make appropriations for programs related to transportation and public safety for the biennium beginning July 1, 2019, and ending June 30, 2021, and to provide authorization and conditions for the operation of those programs.
Current Status: 4/3/2019 - **SIGNED BY GOVERNOR**; eff. 90 days, Taxes eff. 7/1/19
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-62>
- HB72 CAPITAL IMPROVEMENTS FUND** (ROGERS J, CERA J) To create the Supplemental State Capital Improvements Pilot Program funded by a temporary transfer from the Budget Stabilization Fund and to make an appropriation.
Current Status: 2/20/2019 - Referred to Committee House Finance
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-72>
- HB76 BALLOT LANGUAGE UNIFORMITY** (MERRIN D) To enact the "Ballot Uniformity and Transparency Act" to modify the form of election notices and ballot language for property tax levies.
Current Status: 1/22/2020 - Senate General Government and Agency Review , (Fourth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-76>
- HB115 REGULATOR RESTRICTION REDUCTION** (RIEDEL C, ROEMER B) To require certain agencies to reduce the number of regulator restrictions and to amend the versions of

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

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

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

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

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

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

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

Current Status: 6/10/2020 - **PASSED BY SENATE**; Amended on Floor, Bill Vote 31-1, Emergency Clause 32-0

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

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

Current Status: 6/16/2020 - **SIGNED BY GOVERNOR**; eff. 90 days

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

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

Current Status: 3/27/2019 - Introduced

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

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

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

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

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

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

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

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

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

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

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

Current Status: 10/1/2019 - House Transportation and Public Safety, (Fourth Hearing)

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

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

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

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

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

Current Status: 6/12/2019 - **REPORTED OUT AS AMENDED**, House Commerce and Labor, (Third Hearing)

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

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

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

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

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

Current Status: 2/26/2020 - **REPORTED OUT**, House Civil Justice, (Sixth Hearing)

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

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

Current Status: 5/27/2020 - **PASSED BY SENATE**; Vote 23-9

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

- HB251** **CONTRACT ACTION-PERIOD OF LIMITATION** (LANG G, HILLYER B) To shorten the period of limitations for actions upon a contract.
Current Status: 6/24/2020 - **BILL AMENDED**, Senate Judiciary, (Seventh Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-251>
- HB272** **COURTS-EXERCISE OF JURISDICTION** (OELSLAGER S, HILLYER B) To expand the basis of a court's exercise of personal jurisdiction to include any basis consistent with the Ohio Constitution and the United States Constitution.
Current Status: 5/27/2020 - **PASSED BY SENATE**; Amended on Floor, Amendment Vote 22-10, Bill Vote 24-8
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-272>
- HB319** **LOCAL CONTROL-FIREARMS** (WEST T, MILLER A) To restore local authority to generally regulate firearms-related conduct.
Current Status: 9/24/2019 - Referred to Committee House State and Local Government
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-319>
- HB320** **PENDING BACKGROUND CHECK-FIREARMS** (WEST T) To prohibit a federally licensed firearms dealer from transferring a firearm while a background check is pending unless 30 days have elapsed.
Current Status: 9/24/2019 - Referred to Committee House State and Local Government
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-320>
- HB324** **DAMAGES-ADJUST FOR INFLATION** (MILLER A) To raise the limitations on damages for noneconomic loss and punitive damages in certain tort actions based on adjustments for inflation from the year 2005 to 2019.
Current Status: 6/24/2020 - Referred to Committee Senate Health, Human Services and Medicaid
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-324>
- HB346** **VAPE PRODUCT SALES** (PATTON T) To prohibit the sale of flavored electronic smoking devices and flavored vapor products and to establish a committee to study the health risks associated with such products.
Current Status: 10/2/2019 - Referred to Committee House Health
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-346>
- HB347** **VAPE PRODUCT RETAILERS** (PATTON T) To place restrictions on retailers of vapor products.
Current Status: 10/2/2019 - Referred to Committee House Health
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-347>

- HB369** **SEXUAL, GENDER DISCRIMINATION** (HILLYER B, SKINDELL M) To enact the Ohio Fairness Act to prohibit discrimination on the basis of sexual orientation or gender identity or expression, to add mediation as an informal method that the Ohio Civil Rights Commission may use, and to uphold existing religious exemptions under Ohio's Civil Rights Law.
Current Status: 2/4/2020 - House Civil Justice, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-369>
- HB469** **HEALTH INSURANCE COST-SHARING** (MANCHESTER S, WEST T) To prohibit certain health insurance cost-sharing practices.
Current Status: 6/9/2020 - House Health, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-469>
- HB472** **CRIMINAL PERIOD OF LIMITATIONS - RAPE** (ROGERS J) To eliminate the period of limitations for the criminal prosecution of a person for rape.
Current Status: 1/28/2020 - Referred to Committee House Criminal Justice
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-472>
- HB476** **EMINENT DOMAIN** (MANNING D, HAMBLEY S) To amend the law regarding eminent domain and to declare an emergency.
Current Status: 6/9/2020 - House State and Local Government, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-476>
- HB490** **ELECTRIC/ HYBRID VEHICLE REGISTRATION FEES** (GREENSPAN D, SHEEHY M) To provide for the proration of the plug-in electric and hybrid motor vehicle registration fees.
Current Status: 2/11/2020 - Referred to Committee House Finance
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-490>
- HB499** **MOTOR FUEL TESTING PROGRAM** (KELLY B, LANG G) To authorize a county to implement a motor fuel quality testing program.
Current Status: 5/19/2020 - House Transportation and Public Safety, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-499>
- HB510** **CRIMINAL PENALTIES - VEHICLE SAFETY** (PATTON T) To increase the criminal penalties associated with failing to secure a load on a vehicle.
Current Status: 3/10/2020 - Referred to Committee House Criminal Justice
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-510>
- HB518** **TORT ACTIONS - RAPE VICTIMS** (BOGGS K, RUSSO A) To remove the cap on damages for noneconomic loss when a victim of rape or assault brings a tort action.
Current Status: 3/10/2020 - Referred to Committee House Civil Justice
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-518>

- HB560** **VOTER REGISTRATION, ELECTIONS** (LEPORE-HAGAN M, LISTON B) To modify the law governing voter registration and the method of conducting elections.
Current Status: 5/5/2020 - Referred to Committee House State and Local Government
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-560>
- HB562** **PROHIBIT EVICTION, FORECLOSURE DURING COVID-19** (LELAND D, CROSSMAN J) To prohibit foreclosure activity and the eviction of residential and commercial tenants during the state of emergency declared regarding COVID-19, to refer such proceedings caused by the state of emergency to mediation, and to declare an emergency.
Current Status: 5/5/2020 - Referred to Committee House Civil Justice
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-562>
- HB564** **PREVENT UTILITY DISRUPTION DURING COVID-19** (LELAND D) To prevent the disruption of utility service during the state of emergency declared regarding COVID-19 and to declare an emergency.
Current Status: 5/5/2020 - Referred to Committee House Public Utilities
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-564>
- HB576** **SUSPEND HOMESTEAD INTEREST PENALTY, FORECLOSURE** (ROGERS J, CROSSMAN J) To temporarily abate the charging of interest and penalties against tax-delinquent homesteads and suspend tax foreclosure proceedings and tax certificate sales regarding such homesteads and to declare an emergency.
Current Status: 5/5/2020 - Referred to Committee House Ways and Means
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-576>
- HB580** **REQUIRE INSURERS COVER TELEMEDICINE** (LISTON B, PATTON T) To require health plan issuers to cover telemedicine services during a state of emergency, and to declare an emergency.
Current Status: 5/5/2020 - Referred to Committee House Insurance
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-580>
- HB581** **ADDRESS COVID-19 CONCERNS** (CALLENDER J) To address immediate concerns related to COVID-19.
Current Status: 5/5/2020 - Referred to Committee House Health
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-581>
- HB586** **STATE AGENCIES - PROCUREMENT PROGRAMS** (GREENSPAN D, KELLY B) To require any state agency seeking to purchase supplies or services to comply with an applicable first or second procurement program and to prohibit any governmental ordering office from combining multiple parts of a larger related project to avoid using the procurement list maintained by community rehabilitation programs.
Current Status: 5/6/2020 - House State and Local Government, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-586>

- HB589 FINANCIAL DAMAGE INSURANCE COVERAGE - COVID-19** (CROSSMAN J, ROGERS J) To require insurers offering business interruption insurance to cover losses attributable to viruses and pandemics and to declare an emergency.
Current Status: 6/9/2020 - House Insurance, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-589>
- HB590 PRICE GOUGING PROHIBITION** (CROSSMAN J, ROGERS J) To prohibit price gouging after a declaration of an emergency and to declare an emergency.
Current Status: 5/5/2020 - Referred to Committee House Criminal Justice
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-590>
- HB596 DEBT COLLECTION POSTPONEMENT** (WEST T) To halt the collection of debts and to declare an emergency.
Current Status: 5/5/2020 - Referred to Committee House Civil Justice
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-596>
- HB602 PROPERTY TAX FORECLOSURE NOTICES** (ROGERS J, LIPPS S) To modify the manner in which property tax foreclosure notices may be published.
Current Status: 6/10/2020 - **REPORTED OUT**, House Ways and Means, (Fifth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-602>
- HB606 CIVIL IMMUNITY - COVID-19 TRANSMISSION** (GRENDALL D) To grant civil immunity to a person who provides services for essential businesses and operations for injury, death, or loss that was caused by the transmission of COVID-19 during the period of emergency declared by Executive Order 2020-01D, issued on March 9, 2020, and to declare an emergency.
Current Status: 6/30/2020 - **PASSED BY SENATE**; Bill Vote 23-6, Emergency Clause 23-6
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-606>
- HB614 UNEMPLOYMENT COMPENSATION REFORM** (FRAIZER M, RICHARDSON T) To study and reform the application, processing, and administration infrastructure of Ohio's unemployment compensation system.
Current Status: 7/21/2020 - Senate Government Oversight and Reform, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-614>
- HB617 LEGISLATIVE APPROVAL PROCEDURES - SHUTDOWN ORDERS** (JORDAN K) To establish certain time frames and legislative approval procedures as conditions governing the authority of the Department of Health to issue statewide shelter-in-place or stay-at-home orders for preventing the spread of contagious or infectious diseases, to invalidate existing statewide shelter-in-place or stay-at-home orders issued by the Department, and to declare an emergency.
Current Status: 5/12/2020 - Referred to Committee House State and Local Government
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-617>

- HB618** **NOW ACT** (BECKER J) To limit the authority of the Governor and the Department of Health to issue orders regarding contagious or infectious diseases, to prohibit any order from affecting the conduct of an election, to designate its provisions as the "Need Ohio Working (NOW) Act," and to declare an emergency.
Current Status: 6/9/2020 - House State and Local Government, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-618>
- HB647** **PROHIBIT MANUFACTURING, POSSESSION - MAGAZINES** (STRAHORN F) To prohibit the manufacture or possession for sale of high-capacity magazines except for authorized use by law enforcement agencies or for federal military purposes.
Current Status: 5/27/2020 - Referred to Committee House Federalism
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-647>
- HB670** **REAPPROPRIATE CAPITAL FUNDS** (MERRIN D) To make capital reappropriations for certain agencies for the biennium ending June 30, 2022, and to declare an emergency.
Current Status: 6/3/2020 - House Finance, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-670>
- HB737** **MODIFY CAMPAIGN FINANCE LAW** (MANNING G, MIRANDA J) To modify the Campaign Finance Law regarding independent expenditures and political action committees.
Current Status: 7/27/2020 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-737>
- HB739** **ANTI-CORRUPTION ACT** (SWEENEY B, RUSSO A) To modify the campaign finance law, to name this act the Ohio Anti-Corruption Act, and to amend the versions of sections of the Revised Code that are scheduled to take effect January 1, 2021, to continue the provisions of this act on and after that effective date.
Current Status: 7/29/2020 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-739>
- HB741** **ADD OFFENSES-PUBLIC RETIREMENT BENEFITS** (MANNING G, GREENSPAN D) To add extortion and perjury and certain federal offenses to the offenses that may result in forfeiture or termination of public retirement system benefits.
Current Status: 7/30/2020 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-741>
- HB747** **OFF-LABEL DRUG USAGE** (GRENDALL D, CUTRONA A) Regarding the prescribing and dispensing of drugs for off-label uses.
Current Status: 8/11/2020 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-747>
- HB750** **PUBLIC CORRUPTION CHARGES** (CROSSMAN J, BLAIR G) To prohibit a person who is currently charged with a public corruption offense from taking office as a member of the

General Assembly, to require a current member who is charged with a public corruption offense to repay certain amounts to the state, and to declare an emergency.

Current Status: 8/21/2020 - Introduced

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-750>

HJR1 **INITIATIVE PETITION SIGNATURE REQUIREMENTS** (KOEHLER K) Proposing to amend Sections 1a and 1g of Article II of the Constitution of the State of Ohio to modify certain signature requirements for a proposed constitutional amendment by initiative petition.

Current Status: 6/30/2019 - Referred to Committee House Civil Justice

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HJR-1>

SB1 **REDUCE REGULATORY RESTRICTIONS** (MCCOLLEY R, ROEGNER K) To require certain agencies to reduce the number of regulatory restrictions and to continue the provision of this act on and after August 18, 2019.

Current Status: 6/4/2020 - House Appoints Managers; S. Wiggam, B. Seitz & B. Kelly Named as House Conferees

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-1>

SB3 **DRUG SENTENCING REFORM** (EKLUND J, O'BRIEN S) To modify the controlled substance possession and trafficking prohibitions and penalties and the drug and alcohol abuse civil commitment mechanism.

Current Status: 6/30/2020 - **PASSED BY SENATE**; Vote 25-4

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-3>

SB33 **CRITICAL INFRASTRUCTURE FACILITIES OFFENSES** (HOAGLAND F) To modify certain criminal offenses with respect to critical infrastructure facilities and to impose fines and civil liability for damage to a critical infrastructure facility.

Current Status: 1/29/2020 - **REPORTED OUT**, House Public Utilities, (Seventh Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-33>

SB46 **PUNITIVE OR EXEMPLARY DAMAGES LIMITATION EXEMPTIONS** (EKLUND J) To expand the exemption from punitive or exemplary damages limitations in tort law that is related to certain felony convictions.

Current Status: 3/19/2019 - Senate Government Oversight and Reform, (Second Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-46>

SB52 **CIVILIAN CYBER SECURITY RESERVE FORCES** (GAVARONE T) To create the civilian cyber security reserve forces, to make the Secretary of State a member of the Homeland Security Advisory Council, to require the Secretary of State to appoint a chief information security officer, to require the boards of elections to audit election results, and to make an appropriation.

Current Status: 10/25/2019 - **SIGNED BY GOVERNOR**; eff. 90 days

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-52>

- SB57** **HEMP REGULATION** (HILL B, HUFFMAN S) To establish conditions and requirements governing the regulation of hemp and hemp products, and to declare an emergency.
Current Status: 7/30/2019 - **SIGNED BY GOVERNOR**; eff. immediately
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-57>
- SB119** **DAYLIGHT SAVINGS TIME** (ROEGNER K, PETERSON B) To exempt Ohio from daylight savings time.
Current Status: 11/13/2019 - Senate General Government and Agency Review , (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-119>
- SB124** **MARITIME ASSISTANCE** (WILLIAMS S) To create the Ohio Maritime Assistance Program and to make an appropriation.
Current Status: 5/21/2019 - Senate Finance, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-124>
- SB140** **EXEMPT KNIVES-CONCEALED WEAPONS** (UECKER J) To exempt knives not used as weapons from the prohibition against carrying concealed weapons and to eliminate the prohibition against manufacturing, possessing for sale, selling, or furnishing certain weapons other than firearms or dangerous ordnance.
Current Status: 11/21/2019 - House Criminal Justice, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-140>
- SB182** **RAISE MINIMUM AGE-FIREARM PURCHASES** (THOMAS C, LEHNER P) To raise the minimum age to purchase a firearm to age 21 and to increase the penalty for improperly furnishing firearms to an underage person.
Current Status: 1/21/2020 - Senate Government Oversight and Reform, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-182>
- SB183** **FIREARM TRANSFERS** (THOMAS C, LEHNER P) To require a firearm transfer to be made through a dealer, through a law enforcement agency, or pursuant to a specified exception, and to require a background check when a firearm is transferred.
Current Status: 9/17/2019 - Senate Government Oversight and Reform, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-183>
- SB186** **VOTER REGISTRATION** (MANNING N, SYKES V) To create a voter verification and registration system, to modify the requirements for the administration of the statewide voter registration database, and to allow electors to register as affiliated with a political party.
Current Status: 2/25/2020 - Senate Government Oversight and Reform, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-186>

- SB204** **AIRPORT DEVELOPMENT DISTRICT** (SCHURING K, SYKES V) To authorize the creation of an airport development district for the purpose of funding public infrastructure improvements and attracting airlines and additional flights to a qualifying airport.
Current Status: 6/10/2020 - Referred to Committee House Economic and Workforce Development
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-204>
- SB231** **INVESTIGATE INSULIN PRICING** (CRAIG H, ANTONIO N) To require the Attorney General to investigate insulin pricing and prepare and submit a report.
Current Status: 2/25/2020 - Senate Finance Health and Medicaid Subcommittee, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-231>
- SB232** **CAP COST SHARING-INSULIN DRUGS** (CRAIG H, ANTONIO N) To cap cost-sharing for prescription insulin drugs.
Current Status: 2/25/2020 - Senate Finance Health and Medicaid Subcommittee, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-232>
- SB263** **PBM PROHIBITIONS-REIMBURSEMENTS** (HACKETT R) To prohibit a pharmacy benefit manager from taking certain actions with respect to reimbursements made to health care providers that participate in the federal 340B Drug Pricing Program.
Current Status: 2/25/2020 - Senate Finance, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-263>
- SB276** **LIMITED LIABILITY COMPANIES** (ROEGNER K) To enact the Ohio Revised Limited Liability Company Act.
Current Status: 7/21/2020 - **PASSED BY SENATE**; Vote 31-0
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-276>
- SB279** **PROHIBIT PHONES WHILE DRIVING** (MAHARATH T) To generally prohibit the use of electronic wireless devices while driving.
Current Status: 3/4/2020 - Referred to Committee Senate Local Government, Public Safety and Veterans Affairs
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-279>
- SB285** **DISTRACTED DRIVING** (O'BRIEN S, KUNZE S) To revise the laws relative to distracted driving and the use of an electronic wireless communications device while driving.
Current Status: 5/27/2020 - Senate Local Government, Public Safety and Veterans Affairs, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-285>
- SB294** **ABSENTEE VOTING** (HUFFMAN M) To extend absent voting by mail for the March 17, 2020, primary election to April 28, 2020, to make an appropriation, and to declare an emergency.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Current Status: 7/30/2020 - Introduced

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

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

Current Status: 8/4/2020 - Introduced

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

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

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

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

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

Current Status: 8/4/2020 - Introduced

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

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

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

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

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

Current Status: 6/10/2020 - **ADOPTED BY SENATE**; Vote 32-0

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



MEMORANDUM

TO: Ohio Manufacturers' Association
Government Affairs Committee

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

DATE: August 26, 2020

RE: August 2020 OMA Government Affairs Committee Report

I. August 2020 Government Affairs Committee Counsel Report.

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

II. Statewide Ballot Issues Overview.

No statewide issues filed signatures by July 1, 2020. Therefore, no statewide issues will be on the ballot in November 2020.

The pending federal litigation mentioned in the amicus section of this memorandum, *Thompson, et al. v. Governor DeWine, et al.*, did not agree with the original opinion of Judge Sargus allowing the statewide ballot issues to use electronic signatures on ballot initiative petitions. The appellants filed a motion to dismiss on August 20, so the case is likely not to affect the November election. Please find additional details in the amicus section of this memorandum. Therefore, the ballot issues named below could attempt for the next election in November 2021.

- Secure and Fair Elections. Proposes amending the Ohio Constitution to allow same day voter registration in Ohio.
- Raise the Wage Ohio. A labor backed group filed its summary on January 17, 2020 to amend the Ohio Constitution to raise the minimum wage to \$13 per hour by January 1, 2025.
- Lifetime General Assembly Term Limits. A group titled Ohioans for Legislative Term Limits filed an initiative petition for a constitutional amendment that limits an individual from holding state elected office more than a total of 16 years. If the constitutional amendment is approved, only years of service beginning on or after

January 1, 2021 will be considered in determining the individual’s eligibility to take or hold office.

- Gun Background Checks. Ohioans for Gun Safety filed its summary for an initiated statute closing perceived loopholes in background checks for certain firearms purchases.
- National Popular Vote. A group filed a summary for an amendment to the Ohio Constitution requiring that Ohio presidential electors cast their Electoral College votes to the winner of the national popular vote for President of the United States.

III. Pending Legislation (2019-2020).

The House chose to recess in early June, while the Senate remained in session until the end of June. However, neither chambers have returned since to complete any legislative work. After the arrest of Speaker Householder on July 21, 2020, the House returned briefly to vote Representative Householder out of the Speaker position. Following a long caucus, the Representatives returned to the floor and elected Representative Bob Cupp (R-Lima) to the Speaker position. Speaker Cupp stated the chamber must come back to work quickly on several pending bills, such as House Bill 606 or Senate Bill 308, the qualified immunity measures for businesses and health care providers during the COVID-19 pandemic. Repealing House Bill 6 due to the connection to the recent scandal is another priority. The House and Senate have session dates scheduled for the fall, so members could return to Columbus prior to the November general election. With new leadership in the House, we are expecting a busy lame duck session after the November general election.

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

Bribery Scheme surrounding House Bill 6. On July 21, 2020, the FBI raided Speaker Larry Householder’s (R-Glenford) home and arrested him. The FBI also arrested four other individuals, Neil Clark, founder of Grant Street Consultants, a lobbying firm in Columbus; former Ohio Republican Party chair and consultant Matthew Borges; Juan Cespedes, co-founder of The Oxley Group in Columbus; and Jeffrey Longstreth, adviser to Householder. The afternoon of the same day, the U.S. Attorney for the Southern District of Ohio, David DeVillers, and the FBI special agent in charge, Chris Hoffman, held a press conference regarding the recent charges brought against Speaker Householder and the four other individuals. U.S. Attorney DeVillers reviewed the criminal complaint and presented a chart which showed how money flowed from Company A to a 501(c)(4) entity called Generation Now that the complaint states was secretly held by Speaker Householder. U.S. Attorney DeVillers called the case “likely the largest bribery, money-laundering scheme ever perpetrated against the people of Ohio.” Company A is the company

alleged to have funneled millions of dollars to Generation Now and benefited from H.B. 6, the legislation at the center of the allegations. It is reported that the bribery scheme was created to ensure that H.B. 6 was passed. Three of the individuals were registered lobbyists for Company A. Since the press conference, Company A has been identified as First Energy.

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

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

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

When the House elected Representative Bob Cupp to the Speaker role, Speaker Cupp gave a short speech at the podium describing some of his priorities. One of these priorities is to repeal House Bill 6, since the original legislation was tainted with former Speaker Householder's bribery scheme. However, House members have yet to return to the Statehouse to hold committee hearings on any of these bills. Neither has the Senate. Governor DeWine announced his support of the repeal of H.B. 6. However, he has also stated he would support another piece of legislation to provide funding for nuclear power plants because he believes it is important to Ohio's energy portfolio.

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

It also expands protection under OWPL to an employee who refuses to participate in illegal activities that the employee reasonably believes are illegal activities.

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

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

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

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

H.B. 380 - Payment to Construction Contractors. Representative Jon Cross (R-Kenton) and Representative Bride Sweeney (D-Cleveland) introduced H.B. 380 on October 23, 2019. H.B. 380 was referred to House Commerce and Labor Committee on October 29, 2019. Thus far, H.B. 380 received three hearings. Generally, H.B. 380 requires owners of commercial and public construction projects to pay contractors within 35 days after receiving a request for payment. If a payment is not timely made, then an 18% annual interest rate will be applied to the amount owed.

This modification to the Prompt Pay Act would include project owners in the act. Currently, the act only addresses payments amongst contractors, subcontractors, material suppliers, and laborers. The bill received a fourth hearing on May 20, 2020 in the House Commerce and Labor Committee.

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

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

Also, Representatives Brett Hillyer (R-Uhrichsville) and Michael Skindell (D-Lakewood) introduced similar legislation in the Ohio House on October 17, 2019. H.B. 369 was referred to the Ohio House Civil Justice Committee. H.B. 369 is nearly identical to S.B. 11; however, S.B. 11 includes a provision that makes any provision of a hiring hall contract unenforceable if it obligates a contractor to hire, only employees referred to the contractor by the union, unless within 30 days after the contract's execution the union has in effect procedures for referring qualified employees for hire without regard to sex. H.B. 369 has received two hearings, thus far. The second hearing on February 4, 2020 received nearly 300 pieces of written testimony in favor of the bill. Several organizations provided in person testimony such as the Ohio Chamber of Commerce, Columbus Chamber of Commerce, Ohio Civil Rights Commission, Ohio State Bar Association, Ohio Realtors and Equitas Health Institute.

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

Following the introduction of H.B. 34, Senator Cecil Thomas (D-Cincinnati) and Senator Hearcel Craig (D-Columbus) introduced S.B. 90, which will increase the state minimum wage and allow municipalities, townships and counties to establish a higher minimum wage requirement.

S.B. 90 increases the state minimum wage to \$12.00 beginning January 1, 2020 and then increases the minimum wage by a \$1.00 each year for the following three years.

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

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

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

H.B. 427 prohibits the Ohio EPA from adopting rules that require a public water system, in existence prior to the bill's effective date, to treat drinking water for secondary contaminants. The Ohio EPA may require treatment if the level of a secondary contaminant exceeds a health advisory limit established by the U.S. EPA. The bill defines a secondary contaminant as aluminum, chloride, color, copper, corrosivity, fluoride, foaming agents, iron, manganese, odor, pH, silver, sulfate, total dissolved solids, and zinc. Representative Wiggam stated in his sponsor testimony that the legislation is in response to the Ohio EPA's current rulemaking on public water systems and taste of water requirements. Representative Wiggam stated Ohio EPA's current rulemaking activities is not proscribed in the Revised Code.

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

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

H2Ohio Update. The biennial budget, H.B. 166, allocated \$172 million to the H2Ohio water quality plan. This funding mechanism also authorizes the Controlling Board in Fiscal Year 2021 to increase or appropriate dollars to support water protections vision and strategy. The Lake Erie

Commission will coordinate with state agencies such as the Environmental Protection Agency, Department of Natural Resources, and Department of Agriculture to submit an annual report to the governor and legislature on H2Ohio spending and funds for each fiscal year.

In 2019, ODNR unveiled several wetland projects to be created or rehabilitated through the H2Ohio water quality fund. In addition, the Ohio EPA announced several water infrastructure projects to be funded with H2Ohio Funds.

Due to the loss of revenue in the last few months, Ohio is facing a large budget deficit and Governor Mike DeWine requested each state agency to propose and plan for at least a 20% cut in each of their respective budgets. Several agencies have returned such reports to the Governor's office recently. The Ohio Department of Agriculture has stated their portion of the H2Ohio funds will remain steady and not be cut. However, the Ohio Department of Natural Resources has paused spending the appropriated \$12.4 million and offered it as a possible cut to their budget. Also, the Ohio Environmental Protection Agency predicted \$1.73 million of the agency's funding for H2Ohio may be cut as a part of the 20% reduction goal for the agency.

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

H.J.R. 2 – Prohibiting Certain Foreign Investment in Critical Infrastructure Located in Ohio. A joint resolution sponsored by Representatives Jamie Callender (R-Concord) and Don Manning (R-New Middletown), H.J.R. 2 seeks to place a constitutional amendment on the 2020 General Election ballot. Joint Resolutions require 3/5th majority votes by both chambers of the General Assembly to pass, meaning 60 votes in the House and 20 votes in the Senate. The proposal prohibits foreign businesses and individuals from having majority ownership interest in critical infrastructure located in Ohio. The resolution defines what “critical infrastructure” is subject to the resolution's requirements and includes projects like power plants (coal, nuclear, and natural gas), water treatment plants, intrastate electric transmission lines, and intrastate natural gas pipelines. It also requires divestment of foreign investment in any critical infrastructure determined to be majority owned or controlled by foreign investment. Thus far, the House Energy and Natural Resources Committee has only held one hearing for sponsor testimony on H.J.R. 2.

IV. Tort Reform.

We are currently monitoring various tort reform legislative efforts and await the possible re-introduction of certain civil justice legislative items from prior legislative cycles. We do not know whether, or if at all, civil justice efforts will be curtailed or enhanced given the new leadership in the General Assembly, Governor's Office, and other statewide executive offices.

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

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

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

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

Although, the House and Senate leadership have expressed publicly that the immunity bills are a priority of both chambers, the timeline for this legislation was lagging due to a disagreement on the different versions of the bill. Speaker Householder was adamant on keeping the worker's compensation language in H.B. 606 and refused to consider the Senate amendments to the bill. After the removal of Representative Householder as speaker and the election of Speaker Bob Cupp (R-Lima), Speaker Cupp stressed the importance of an immunity bill for Ohio's business community in his podium speech. Therefore, negotiations and discussion over the H.B. 606 and S.B. 308 started again between interested parties and the members.

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

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

The introduced language changed the statute of limitations from eight years to three years for causes of action related to agreements in writing and changed the statute of limitations from six years to three years for causes of action related to agreements not in writing. Sub. H.B. 251 changes the statute of limitations from eight years to six years for causes of action related to agreements in writing and changed the statute of limitations from six years to four years for causes of action related to agreements not in writing. Additionally, the bill explicitly states that credit card accounts and claims for an account stated fall under a six year statute of limitations. The bill also clarifies that the borrowing statute in R.C. 2305.03(B) does not apply to contract actions.

H.B. 251 passed the Ohio House unanimously. Then, the bill was referred to the Senate Judiciary Committee. The committee has held seven hearings on the bill thus far. On May 20, 2020 Senator Eklund allowed four amendments to be proposed by interested parties. Senator Coley introduced an amendment which would be change the statute of limitations from six years to seven years for written contracts. It also changes the statute of limitations from four years to five years for oral contracts. Chair Eklund asked committee members to thoughtfully review the language to determine if the amendments should be added to the bill. During the following hearing on May 27,

2020, Chair Eklund stated no amendments would be considered and the committee members should continue to have conversations with interested parties. Originally, interested parties wanted to lower the statute of limitations closer to the three years in the original bill language. However, Senator Coley's amendment jeopardizes the opportunity, and debate around this bill will likely continue into the fall committee dates. President Obhof continues to support the bill, so it may become a lame duck priority.

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

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

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

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

Another bill was recently introduced to remove the cap on noneconomic damages for rape and assault victims. Representative Kristin Boggs (D-Grandview) and Representative Allison Russo (D-Upper Arlington) introduced H.B. 518 on February 19, 2020. H.B. 518 is not assigned to a committee yet. Specifically, H.B. 518 removes the cap on compensatory damages for the noneconomic loss that is recoverable in a tort action brought by a victim of rape, felonious assault, aggravated assault, assault, or negligent assault asserting any claim. We will continue to monitor these legislative efforts.

V. Political Updates.

2020 will be another exciting and busy election year due to the presidential general election in November 2020. Ohio's campaign season is looking different for all candidates due to social distancing and many large events being cancelled as a precaution against COVID-19. Most candidates are holding virtual events to connect with constituents. Secretary of State LaRose is encouraging all voters to request their absentee ballots sooner rather than later due to the delay in the U.S. Postal Service. Ohio will still have in-person voting for the general election and Secretary of State LaRose is recruiting poll workers and procuring personal protective equipment for those poll workers.

Due to the recent arrest of former Speaker Householder, the House Democrats believe several House seats are in play again. Currently, the House Republicans hold 61 seats and the House Democrats hold 38 seats. The House Democrats must maintain their seats and win at least eleven seats to take over the majority. This may be difficult for the House Democrats to obtain, but they could win several seats and cause the House Republicans majority to dwindle some. The November general election results could impact the lame duck session in December.

The semi-annual report filed on July 31st revealed the continued fundraising efforts of the current Supreme Court Justices Kennedy and French. Justice Kennedy has \$815,780.95 on hand and Justice French has \$563,264.37. Both Justices face an opponent in the general election. Justice French's opponent, Judge Jennifer Brunner, has \$260,849.52 on hand. Justice Kennedy's opponent, Judge John O'Donnell, has \$173,927.90 on hand. If Justice Kennedy and Justice French are both not successful in their re-election efforts, the Court's composition could drastically change. These races are key to the business committee at-large and must be monitored closely.

Not only are the Ohio Supreme Court races important to the business community, these races could have lasting effects on the congressional redistricting efforts after the 2020 census. Several news reports have shown that national groups are targeting statehouse races in Ohio. The National Democratic Redistricting Committee is supported and led by Barack Obama and Eric Holder. Specifically, these efforts are aimed to change the majority at the Statehouse to have the long term effects on the congressional district map in the future years. If the Democratic Party gains two more seats on the Ohio Supreme Court and gains seats in both chambers of the Ohio legislature, the Democrats could control the congressional redistricting during the brand new process enacted through the ballot initiative in 2018. The current composition of the Court could be more favorable if the congressional maps are challenged after redistricting. If the composition changes and the Republicans maintain their majority in the Legislature, the congressional redistricting process could be an uphill battle to maintain the Republican majority in the congressional districts. The Ohio Supreme Court has a definitive role on how the congressional districts will be drawn and accepted for the 2022 election. Therefore, the November 2020 election is critical and could permanently change the political and business climate in Ohio.

VI. Litigation and Amicus Activity Update

A. Monitored Cases.

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

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

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

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

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

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

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

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

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

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

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

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

A new case scheduling order was issued in May which sets the following deadlines: (1) fact discovery – October 26, 2020; (2) expert discovery – August 16, 2021; and (3) dispositive motions – September 23, 2021.

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

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

The drug company defendants moved to dismiss the complaint and sought a stay of discovery. The motions to dismiss are fully briefed. On March 28, 2018, the trial court denied

defendants’ motion to stay discovery pending the results of the multi-district litigation, but granted their motion to stay discovery pending the trial court’s ruling on the motions to dismiss. On April 30, 2018, the trial court held oral argument on defendants’ motions to dismiss (and other pending motions).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

On July 31, 2020, Defendants filed their motions for summary judgment under seal. The motions assert that summary judgment in favor of defendants is appropriate on the following grounds: (1) failure to prove an element of the public nuisance and negligence claims; (2) failure to establish proximate cause; (3) Plaintiff's claims are abrogated by the Ohio Product Liability Act; and (4) Plaintiff cannot establish damages. The State's response has not yet been filed.

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

4. Global Opioid Settlement

On October 21, 2019, Distribution companies AmerisourceBergen, McKesson, Cardinal Health and drug manufacturer Teva Pharmaceuticals reached a \$260 million settlement with the adverse parties in the combined cases to be heard in Cleveland, Ohio. The distribution companies will pay the counties \$215 million, while Teva will pay \$20 million and donate \$25 million to Suboxone. After the settlement amounts were announced, Governor DeWine and Attorney General Yost conducted an informal meeting with local and county leaders to discuss the settlement funds being spread across the counties. Attorney General Yost had previously pressed the Legislature for a statutory change to allow the Attorney General’s office to control cases that affect the public of Ohio. Even those efforts failed, Attorney General Yost still pressed for the state’s involvement to allow all counties to receive sufficient funds and avoid disparity among separate county suits. After several months of these negotiations, Governor DeWine announced a framework for how the dollars may be distributed. On February 13, 2020, Governor DeWine stated the preliminary proposal will give 30% to local governments upfront and 15% to the state. The remaining 55% will go into a trust controlled largely by local entities, with the proceeds of the trust supporting ongoing efforts to battle addiction. Governor DeWine also stated more of the state’s portion may be allocated to the trust to help battle addiction issues in the Ohio in the future. The counties and municipalities involved have until March 6th to agree to the “One Ohio” plan. Attorney General Yost and Governor DeWine have publicly stated their optimism for the plan to be adopted. As of March 12, 2020, 73 of the state’s 88 county government agreed to the One Ohio plan. Attorney General Yost stressed that other entities may join even though it is beyond the original deadline to agree of March 6th.

The State of Ohio is still pursuing separate lawsuits against drug makers and distributors, including Cardinal Health in Ross and Madison counties. These suits are set for trial this month and October. Another separate lawsuit against pharmacies is set to go to trial in November.

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

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

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

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

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

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

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

Oral argument before the Ohio Supreme Court occurred on January 28, 2020. The issue before the Court is not whether employers have a right to randomly test employees or the right to terminate an employee who does not consent to such testing. The narrow issue before the Court is whether Ohio precedent precludes Plaintiffs, as a matter of law, from pursuing a claim that the method of collection of a urine sample could be an invasion of privacy. If the Court affirms the court of appeals, the case will go back to the trial court and the Plaintiffs will be able to proceed, meaning the company will file an answer to the complaint, discovery will be conducted, etc.

The Ohio Supreme Court has not yet issued its decision.

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

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

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

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

After the Court denied the motions to dismiss, some of the defendants filed answers and some filed a motion for reconsideration (which is still awaiting decision).

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

On July 31, 2020, Plaintiffs moved for class certification. The response to this motion has not yet been filed.

7. PFAS cases against DuPont de Nemours Inc., U.S. District Court, Southern District of Ohio, Eastern Division, Case No. 2:17-cv-998

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

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

B. Amicus Cases.

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

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

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

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

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

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

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

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

VII. Update to the Tax Counsel's Report.

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

A. Administrative Actions

Information Release ST 2020-01. In June, the Department of Taxation (the "Department") issued Information Release 2020-01 outlining the Department's position on the Internet Tax Freedom Act ("ITFA") and its impact on Ohio sales and use tax. The ITFA of 1998 (and subsequent related federal legislation) prohibited states from: (i) imposing tax on internet access; and (ii) imposing multiple or discriminatory taxes on electronic commerce. These federal laws, however, included

a grandfathering provision to allow states that already had such taxes to continue imposing them through June 30, 2020.

Ohio has historically taxed internet access and other electronic services as “automatic data processing services” and “electronic information services,” and it claimed authority to do so under the ITFA’s grandfather clause. Effective July 1, 2020, the Department concedes that to the extent “an [internet access provider] is providing its service to a consumer for the consumer’s use in business, the IAP is providing an electronic information service that will no longer be subject to Ohio’s sales and use tax.”

With respect to electronic services that do not include the provision of internet access, the Department states it will make determinations on a case-by-case basis. The Department hints, however, that it interprets the ITFA to allow most online services subject to Ohio sales and use tax to remain taxable. The analysis will depend on whether Ohio sales and use tax represents a “multiple or discriminatory tax” on electronic commerce. To this end, the Department provides the following example:

[A] wholesaler may need to obtain the value of an item that will be accepted as a tradein. The wholesaler may purchase from [a service provider] the ability to access computer equipment to obtain a range of values. Part of the subscription allows for the wholesaler to log into an account and obtain a value by entering certain parameters. The access to the data and equipment meets the definition of an electronic information service. This service would remain taxable on July 1, 2020 because if the range of values was supplied to an individual in a tangible format, the provision of this tangible item would be taxable under R.C. 5739.01(B)(1).

Information Release ST 2009-03. The Department modified its long-standing information release on sales and use tax situs rules. The Department’s modifications include new rules for marketplace facilitators. Marketplace facilitators became responsible for collecting Ohio sales and use tax under Ohio’s last budget bill.

Commercial Activity Regulations. The Department has proposed no change to the following CAT administrative regulations: (i) O.A.C. 5703-29-03 (relating to sampling audit procedures); and (ii) O.A.C. 5703-29-04 (relating to consolidated group filing). The Department proposes minor revisions to the following CAT regulations: (i) O.A.C. 5703-29-05 (electronic filing); and (ii) O.A.C. 5703-29-16 (qualified distribution center rules). The proposed changes primarily relate to cross references or to account for recent legislative changes to the qualified distribution center program.

B. Proposed Legislation

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

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

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

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

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

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

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

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

C. New Legislation

H.B. 481. Section 36 of H.B. 481 excludes forgiven CARES Act loans from the definition of gross receipts for CAT purposes. It provides the following:

Notwithstanding any provision of Chapter 5751. of the Revised Code to the contrary, “gross receipts,” as defined in section 5751.01 of the Revised Code, excludes receipts from any forgiven indebtedness that is excluded from the gross income of the taxpayer for federal income tax purposes pursuant to section 1106(i) of the “Coronavirus Aid, Relief, and Economic Security (CARES) Act,” 15 U.S.C. 9005(i).

D. Judicial Actions

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

To: OMA Government Affairs Committee
From: Ryan Augsburger / Rob Brundrett
Re: Energy Policy Report
Date: August 26, 2020

Overview

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

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

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

Bribery & Corruption at the Statehouse

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

The investigation, now in an "overt phase" continues and the US Attorney implied further criminal charges were possible in the racketeering case. Politicians are trying to respond by distancing themselves from the former Speaker and some of his policies. House Republicans acted swiftly to vacate Larry Householder from the office of Speaker and elected Bob Cupp of Lima to lead the chamber.

Repeal House Bill 6?

As soon as news of Larry Householder's arrest made its way around Cap Square, calls to repeal HB 6 started, especially from elected officials who went along with Householder's top legislative priority in 2019.

Asked about the matter within hours of the arrest, the Governor initially defended the law, but then a day later called for "repeal and replace" to adopt policies to protect the jobs and the low carbon generation that the two nuclear power plants owned by Energy Harbor.

Speaker of the House Bob Cupp called for a "revisit" of the policies in his inaugural address. Senate President Obhof also called for "repeal" and has committed his chamber will complete the task prior to election day. Three different legislative repeal bills have been introduced in both chambers.

The OMA has developed a paper on transparent policy options. See enclosed.

HB 6 Scam

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

FERC Decision Tips HB 6 on its Head

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

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

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

House Bill 6 Becomes Law

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

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

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

HB 6 Implementation

The provisions of HB 6 became effective in late-October. The bill delegated immense new authority and price-setting to the PUCO and other state agencies. The OMA Energy Group has been participating in those proceedings to protect manufacturing interests.

Decoupling Revenue Guarantees Utility Record Revenue

Among the HB 6 provisions that opened the door to unknown new customer costs was the creation of a decoupling rider. Six months after passage of the HB6, the PUCO gave approval to FirstEnergy utilities to place the new rider on customer bills. Under the mechanism, if annual revenue in a given calendar year is less (or greater) than 2018's base distribution revenue, FirstEnergy utilities will charge (or credit) the difference to customers through the decoupling rider. 2018 produced record revenue for the utilities. Additionally, the rider will move tens of millions of dollars in "lost revenue" charges from the expiring energy efficiency rider into this new rider. The OMA estimates this will benefit FirstEnergy revenue by \$355 million between through 2024 and potentially \$400 million in the following five-year term. See enclosed memo on decoupling by OMA technical consultant RunnerStone, LLC.

SEET Means More Cost for Customers

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

Post HB 6 Legislative Activity

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

House Bill 247

Months after lawmakers gave utilities and other interests the opportunity to force captive ratepayers to pay for new generation, HB 247 would go further in allowing distribution utilities to offer services beyond distribution. It seems unnecessary and anti-market. One utility is aggressively lobbying for this bill and has asked their large manufacturing customers to pen a letter of support. Don't be fooled. The OMA has been communicating extensively about this threat. The OMA opposes HB 247.

House Bill 246

Sponsor state rep. Nino Vitale (R-Urbana) unveiled a new version of House Bill 246, legislation to purportedly modernize state agencies that regulate utilities. The bill would impose new risks on manufacturers and could give utilities even more sway over the regulations that govern them. It would also provide monopoly utilities an unfair advantage against competitive energy companies, including developers of renewable energy and electric vehicle charging businesses. Other provisions of HB 246 would diminish the role and voice of customer advocates in proceedings before the PUCO.

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

House Bill 104

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

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

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

House Joint Resolution 2

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

In today's global economy, a state provision against foreign ownership seems unwise. Precedents abound for other commercial activity. For example, foreign interests invest heavily in manufacturing businesses in Ohio. No action since last report.

Senate “Comprehensive” Energy Reform

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

PJM on Resiliency and Power Auctions Delayed

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

Protecting Competitive Electric Markets

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

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

OVEC Bailout

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

On-Site Generation Taxed in Ohio

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

Energy Standards Legislation

After six years of back and forth policy battles, HB 6 dismantled the standards for efficiency and renewable energy. Siting requirements for large scale wind generation projects were not part of the debate. HB 6 will now give monopoly distribution utilities an unfair advantage in building new renewable energy at captive customers’ expense. The PUCO ordered energy efficiency programs to wind down beginning September 30, 2020, so manufacturers who are using rebates will want to claim them soon. If HB 6 is repealed these programs will reactivate.



MEMORANDUM

Date: August 20, 2019
To: The Ohio Manufacturers' Association
From: John Seryak, PE and Jordan Nader (RunnerStone, LLC)
RE: Amended Substitute House Bill 6 and the Nuclear and Renewable Generation Funds – Impact to Manufacturers

Amended Substitute House Bill No. 6 (H.B. 6) was recently signed into Ohio law. H.B. 6 significantly reworks Ohio's electricity policy in a way that substantially affects manufacturers. OMA energy counsel Kim Bojko has separately provided a legal analysis on what H.B. 6 does, and how it works.

In summary, H.B. 6 creates a \$150 million annual fund for nuclear power plants, a \$20 million annual fund for select solar power plants, extends a "power purchase agreement" for legacy, uneconomical coal plants in Indiana and Ohio that currently cost Ohioans tens of millions of dollars, defunds Ohio's competitive renewable portfolio standard, effectively eliminates Ohio's energy efficiency standards on investor-owned utilities, creates a mechanism for utility-backed renewable energy projects, and jeopardizes Ohio's participation in competitive wholesale electricity markets.

These changes in Ohio's electricity policy negatively impact three issues of interest to Ohio's manufacturers: cost, competition, and carbon-dioxide emissions.

Cost

H.B. 6 creates a net increase in customer costs, including the potential to increase manufacturers' electricity bills. First, and most obviously, H.B. 6 creates new customer charges

Impact of H.B. 6

- \$150 million/year in new subsidies for nuclear power, from 2021 through 2026
- Extends subsidies for legacy, uneconomic coal plants in Indiana and Ohio, which cost Ohio tens of millions of dollars each year through 2030
- \$20 million/year for select solar power projects, from 2021 through 2026
- Likely removes significant portions of Ohio generation and consumer load from competitive wholesale capacity auctions
- Likely to increase capacity prices
- Effectively eliminates renewable energy standards
- Utility efficiency programs
 - Continue through 2020
 - Mandate effectively eliminated starting in 2021
 - Subject to mercantile customer opt-out in 2020
- Creates reasonable arrangement mechanisms for trade-exposed industrial manufacturers



for the Nuclear Generation Fund and Renewable Generation Fund - \$10.20 per year for residential customers, \$28,800 /year for large consumers who use over 45 million kWh per year, and a charge to be determined later by the Public Utilities Commission of Ohio for other commercial and industrial businesses¹. Ohio’s four investor-owned utilities will be required to collect the combined \$170 million per year for the Nuclear Generation Fund and Renewable Generation Fund. Because residential customers and large consumers have prescribed, capped charges, all remaining revenue must be collected from small and mid-sized commercial and industrial businesses.

Second, H.B. 6 extends a subsidy for the Ohio Valley Electric Corporation (OVEC) through 2030. OVEC owns two legacy, uneconomical power plants, Clifty Creek in Indiana and Kyger Creek in Ohio. The OVEC subsidy currently collects tens of millions of dollars each year from customers of AEP Ohio, Duke, and DP&L. FirstEnergy customers would receive new charges to subsidize OVEC.

Third, H.B. 6 reduces Ohio’s Renewable Portfolio Standard from 12.5% by 2026, to 8.5%. It also eliminates a 0.5% by 2026 carve-out for solar energy projects, and creates a large-user opt-out of the compliance. The Renewable Portfolio Standard requires retail electric suppliers and electric distribution utilities to procure this percentage of their supply from renewable energy, and is currently at a 5.5% requirement in 2019. For context, we estimate that the renewable standards cost about \$40 million in 2017², and around \$60 million in 2019³.

Fourth, H.B. 6 directs the PUCO to authorize new power purchase agreements (PPA) for utility renewable energy and customer-sited renewable energy for 3-year terms or longer. The private market currently provides 3-year or greater terms for PPAs to customers who are seeking such projects.

Longer term, H.B. 6 will have an impact on wholesale electricity markets, and the impact could be severe and costly to manufacturers. The exact cost is still elusive. This is because of a domino-effect of state-level nuclear power plant subsidies has left the regional grid operator, PJM, without a FERC-approved capacity auction construct. Based on recommendations from FERC, electricity generators receiving funds from the Nuclear Generation Fund, or via a PPA, would be subject to a “bifurcated” capacity auction, in which the state of Ohio would likely set capacity prices for these power plants instead of PJM, and this potentially higher price would be flowed through to Ohioans.

On energy efficiency, the requirement for a utility to run an efficiency program is effectively eliminated, allowing utility run efficiency programs through 2020. Additionally, a “mercantile opt-out” of the efficiency programs would be enacted in 2020, wherein any customer that consumes over 700,000 kWh/year will be allowed to opt-out of paying into the efficiency programs, but will then not be allowed to receive financial assistance from the programs. While there is no allowance in

¹ Previous versions of H.B. 6 prescribed charges of \$180 per year per meter for commercial customers, and \$3,000 per year per meter for industrial customers. The per-account rate structure created issues for manufacturers that have multiple electric meters. It is not clear if the PUCO will adopt a rate structure similar to previous versions of H.B. 6, or something completely different.

² Renewable Portfolio Standard Report to the General Assembly by the Public Utilities Commission of Ohio for the 2017 Compliance Year.

³ Pro-rated from 2017’s RPS benchmark to the 2019 RPS benchmark. Costs would increase to \$142 million by 2026 at 2017 prices, though could be held in check if renewable energy credit prices fall.



H.B. 6 for utilities to continue offering energy-efficiency program, it does not expressly prohibit offering efficiency programs either. For context, during a previous legislative “freeze” of efficiency program requirements in 2015-16, AEP Ohio, Duke, and DP&L continued their programs, while FirstEnergy suspended theirs. In testimony on the original H.B. 6, AEP Ohio, Duke, and DP&L have all expressed interest in operating energy-efficiency programs. Manufacturers should note that there is sharp disagreement over whether efficiency programs represent a cost, or a net benefit, to customers.

Competition

H.B. 6 significantly erodes competition in electricity markets by subsidizing old nuclear and fossil fuel power plants, and favoring specific renewable energy projects over others. H.B. 6 creates subsidies for older generating technologies that have already received cost-recovery from Ohio’s ratepayers several times, are unable to compete in the wholesale electricity markets, and are announced for retirement.

Put another way, H.B. 6 creates subsidies to reverse the competitive electricity market formation that Ohio has supported for 20 years. This is serious - competitive electricity markets save Ohio’s manufacturers, businesses, and residents around \$3 billion per year⁴.

Carbon

H.B. 6 no longer explicitly discusses reduction in carbon or other emissions as objectives. However, purported environmental benefits have been used to justify H.B. 6. When considering carbon emissions, it is important to note several trends:

- Many global manufacturers and their supply chains are adopting greenhouse gas reduction goals, energy reduction goals, or renewable energy supply goals. Thus, the carbon intensity of the regional electric grid is important to a growing number of manufacturers. The carbon intensity of the electric grid counts towards a manufacturer’s internal accounting of Scope 2 emissions and thus impacts a manufacturer’s ability to meet their own corporate emissions reductions goals.
- The US has canceled implementation of the Clean Power Plan, and announced withdrawal from the global Paris Treaty. As a result, there is thus no current federal carbon emissions policy for electricity generation.
- States that have created their own carbon reduction policy for the electricity sector often join regional carbon markets to reduce costs, such as the Regional Greenhouse Gas Initiative comprised of mid-Atlantic and New England states.
- Competitive wholesale electricity markets produce efficiencies of several types, lowering not just cost but carbon emission as well, as producers reduce waste in order to stay competitive.

⁴ “Electricity Customer Choice in Ohio: How Competition Has Outperformed Traditional Monopoly Regulation”, Thomas, A., Bowen, W., Hill, E., Kanter, A., Lim, T. https://engagedscholarship.csuohio.edu/cgi/viewcontent.cgi?article=2420&context=urban_facpub

Thus, maintaining competitive markets is an important aspect of reducing wastes and improving efficiencies, as supported by multiple academic studies⁵.

- Ohio's existing diverse electricity generation mix is keeping costs low, as well as reducing emissions by 38% from 2005 levels⁶. This lower carbon transformation has occurred in a competitive wholesale electricity market.

In light of these trends, a state policy intended to cost-effectively reduce carbon dioxide emissions from the electric sector would likely have the following components:

- Preserve competitive electricity markets.
- Develop a carbon market, typically with regional partners and a fluctuating price.
- Allow broad competition for carbon credits that is technology neutral, and would include nuclear, large scale renewable energy, smaller scale renewable energy, behind-the-meter generation, and energy efficiency.

H.B. 6 does none of this, and in fact, subsidizes uneconomical coal plants. It could impair Ohio's already successful trend of reducing carbon-dioxide emissions in several ways. First, it erodes competitive electricity markets by introducing subsidies for specific technologies and plants. Even zero-carbon nuclear plants are shown to reduce more emissions when they are in competitive markets⁷. Second, H.B. 6 creates subsidies for the OVEC coal plants. Third, H.B. 6 eliminates support for renewable energy technologies and their significant associated emissions reductions.

In conclusion, H.B. 6 is a major reworking of Ohio's energy policy, and could result in significantly higher electricity prices for Ohio's manufacturers, would erode functioning electricity markets, and could even increase Ohio's carbon-dioxide and other emissions from the electricity sector.

⁵ Cicala, Steve. 2015. "When Does Regulation Distort Costs? Lessons from Fuel Procurement in US Electricity Generation." *American Economic Review*, 105 (1): 411-44

Fabrizio, Kira, R., Nancy L. Rose, and Catherine D. Wolfram. 2007. "Do Markets Reduce Costs? Assessing the Impact of Regulatory Restructuring on US Electric Generation Efficiency." *American Economic Review*, 97 (4): 1250-1277.

Craig, J. Dean, and Savage, S., 2013, "Market Restructuring, Competition and the Efficiency of Electricity Generation: Plant-level Evidence from the United States 1996 to 2006", *The Energy Journal*, 34 (1): 1-31

⁶ Ohio EPA letter to the US Environmental Protection Agency, Oct. 30th, 2018, Docket ID No. EPA-HQ-OAR-2017-0355

⁷ Davis, L., Wolfram, C., 2012. "Deregulation, Consolidation, and Efficiency: Evidence from US Nuclear Power," *American Economic Journal: Applied Economics*, American Economic Association, vol. 4(4), pages 194-225, October.



Obtaining the Public Trust: Transparent, Adaptable Policy Support for Ohio's Nuclear Power Plants

Amended Substitute House Bill 6 (H.B. 6) was passed and signed into Ohio law in July 2019. H.B. 6 represents a major rework of Ohio's electricity policy and continues to significantly affect customer costs, customer choice, and how Ohio electricity markets function.

Ohio Governor Mike DeWine has noted that support of H.B. 6 centered on preserving Ohio jobs associated with the two nuclear power plants that are the subject of the bill and lowering Ohio's emissions through these carbon-free generation assets. To meet these goals while minimizing the cost burden on ratepayers, the critical question for policymakers is how to fairly and transparently determine the financial requirements to meet these goals – that is, preserving jobs and lowering Ohio's carbon emissions.

The financial case for continuing the operation of nuclear power plants in Ohio has not been demonstrated, at least not publicly. Nevertheless, H.B. 6 established the collection of \$150 million annually from customers to support Energy Harbor-owned Davis Besse and Perry nuclear power plants, amounting to \$1.05 billion over seven years. The policymaking process of H.B. 6 never answered the obvious and critical question: Why \$150 million?

Much has changed in the year since H.B. 6 passed. Wholesale electricity prices have plummeted; the nuclear power plants' owner has shed bad debt in bankruptcy and spent an extra \$300 million on repurchasing its own stock; and a Federal Energy Regulatory Commission (FERC) ruling has cast doubt on the approximately \$95 million/year capacity revenue stream for the plants. If \$150 million were the appropriate subsidy at time of enactment, which is not at all clear, changes in the energy economy and its markets have certainly changed the factors that drive the plants' profits and losses.

In this challenging time, Governor DeWine said that the charge now is "those of us in public office have to work every single day to obtain the public's trust." Governor DeWine further stated that he is "a big believer in transparency" in the law.

While there is still much to debate regarding the effects of H.B. 6, this much is clear:

- Significant doubts persist as to the true financial need of the nuclear power plants.
- Ohio's law lacks transparent accountability of the \$150 million collected from customers annually for the nuclear generation fund, while prohibiting standard-practice legal intervention common to electric regulation, and while lacking a mechanism to modify the cost recovered from Ohio businesses and citizens.

- A corrective opportunity exists right now to reform Ohio’s energy policy.

In this memo, we describe the major changes to market conditions for the nuclear power plants, transparency concerns, and potential resolutions.

Major Changes to Market Conditions for Ohio’s Nuclear Power

The reality of any market is that it is ever-changing. Demand and supply for any product or service changes from year-to-year, and innovation can disrupt a market at any time. As a result, markets value adaptability. H.B. 6’s financial support for nuclear power does not have this adaptability. The \$150 million collected annually from ratepayers to subsidize these plants is fixed and unchanging even as market conditions change.

Recent market condition changes include:

- Dramatic swings in wholesale energy prices – The price of wholesale electricity has changed from an average of \$32/MWh in 2019 to \$23/MWh thus far in 2020¹. This market swing could result in approximately \$152 million less revenue in 2020 for the two nuclear power plants.
- Energy Harbor’s emergence from bankruptcy and stock buy-back – The nuclear plants’ owner, Energy Harbor, recently emerged from bankruptcy. In doing so, it executed an \$800 million stock buy-back program. This was \$300 million more than it originally planned, crediting “visible” cash flow from H.B. 6’s nuclear generation fund.
- Potentially significant revenue disruption from a FERC order – The FERC has issued an order that any power plant that receives, or is entitled to receive, a direct or indirect state subsidy will be subject to the Minimum Offer Price Rule (MOPR). In plain language, this FERC order will bar the nuclear power plants from receiving about \$95 million per year in capacity revenue from the wholesale market if the state subsidy *is needed* for the plants to operate.

The above points do not tell us how much the two nuclear plants need to remain viable, nor their financial position. Instead, these points demonstrate that the nuclear power plants’ financial needs, or profit, will vary significantly from year to year. In other words, \$150 million per year is very likely either too much support, or too little.

Transparency Concerns

Significant transparency concerns also exist. These were raised during the H.B. 6 legislative debate. Public, transparent evidence has been presented by reputable parties questioning the nuclear plants’ need for \$150 million per year.

In contrast, no financial documentation has been provided by any party to demonstrate the nuclear plants’ owner’s argument of need. As a result, public trust is eroded. This lack of trust has been exacerbated by the \$800 million stock buy-back conducted by the nuclear plants’ owner Energy Harbor.

In addition to the stock buy-back, a 2019 financial analysis completed by Dr. Paul Sotkiewicz, former chief economist for the transmission grid operator, PJM, showed that following the bankruptcy of what was formerly known as FirstEnergy Solutions, the Davis-

¹ US Energy Information Administration for PJM, <https://www.eia.gov/electricity/wholesale/>

Besse and Perry nuclear plants will likely turn an annual profit. Dr. Sotkiewicz estimated the annual profit to be \$28 million for Davis Besse and \$44 million for Perry, for a combined profit of \$72 million annually². His estimates account for the nuclear plants' financial situation following the bankruptcy and relied on plant-specific financial filings.

The general takeaway from Dr. Sotkiewicz's 2019 analysis is that the two nuclear power plants may have excess cash flow in the post-bankruptcy era. Energy Harbor's stock buy-back supports this general conclusion.

Potential Resolutions

Ohio's policymakers have several potential reform options to ensure that the nuclear power plants' financial performance is in line with market conditions. Each would improve accountability compared to existing law, whether through the checks and balances of competitive markets, or by means of transparent government regulation.

- **Market accountability** – Repealing ratepayer financial support for the nuclear power plants is a viable option. Energy Harbor has standard business decisions it can take to remain fiscally solvent. This includes bankruptcy to shed bad debt (which it has done), exploring competitive markets for clean energy credits, sharing financial risk with investors in anticipation of a federal carbon market, and trimming executive pay or corporate stock buy-back programs to maintain fiscal prudence, among others. In general, nuclear plants perform better financially and environmentally when they participate in competitive markets.
- **Best practice financial auditing and safeguards** – Because the nuclear plants' financial need will change from year to year, a transparent financial auditing process will be required to earn the public's confidence that the right amount of financial support is being provided, and that the ratepayer financial support is being used appropriately. Such a process should allow for due process, including legal intervention of customer groups that are paying for the nuclear plants. Policymakers will need to carefully consider how to select a technically competent and apolitical auditing entity, and construct safeguards for the use of ratepayer funds.
- Finally, there is a market for generation assets, including Ohio's two nuclear plants. If the plants' owner, Energy Harbor, is unable to improve management and operations to lower costs and improve competitiveness, or is unwilling to participate in a transparent financial audit of the plants, it should sell the nuclear generators.

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² "The Market and Financial Position of Nuclear Resources in Ohio", Dr. Paul Sotkiewicz, E-Cubed Policy Associations, LLC. Table 12



MEMORANDUM

Date: August 20, 2020
To: The Ohio Manufacturers' Association
From: John Seryak, PE, and Peter Worley (RunnerStone, LLC)
RE: H.B. 6 Decoupling Provision - \$355 Million for FirstEnergy through 2024, Possibly Millions More

Amended Substitute House Bill No. 6 (H.B. 6) was signed into Ohio law in 2019. H.B. 6 significantly reworks Ohio's electricity policy in a way that substantially affects manufacturers. H.B. 6 is again open for debate and examination. Governor DeWine has called for H.B. 6 to be repealed and replaced, saying that a \$61 million bribery and corruption scheme used to pass the bill has "forever tainted the bill and now the law itself."¹

H.B. 6 has well-documented provisions that affect Ohio's nuclear power plants, coal power plants, select solar power plants, and energy efficiency requirements. Less well documented, let alone understood, is a confusing decoupling provision in the bill. This provision is written opaquely even for an industry professional, and its meaning is almost certainly incomprehensible to the public. Fortunately, FirstEnergy's CEO put the effect of the provision in plain language for its investors:

"essentially it takes about one-third of our company and I think makes it somewhat recession-proof"²

As a result of this decoupling provision, FirstEnergy could collect about \$355 million in unearned revenue through 2024. Ratepayers will incur higher electricity costs with no associated benefits. Moreover, a unilateral ruling from the PUCO could extend FirstEnergy's decoupling at the utility's discretion. This could, for example, cost FirstEnergy customers an additional \$400 million if extended from 2025 through 2030.

Decoupling via H.B. 6

H.B. 6 enacted decoupling to specifically benefit FirstEnergy, not to benefit ratepayers or achieve other state policy goals. The decoupling provision is complicated electric policy:

"For an electric distribution utility that applies for a decoupling mechanism under this section, the base distribution rates for residential and commercial customers shall be decoupled to the base distribution revenue and revenue resulting from implementation of section 4928.66 of the Revised Code, excluding program costs and shared savings, and

¹ <https://www.dispatch.com/news/20200723/gov-mike-dewine-calls-for-quick-repeal-and-replacement-of-hb-6>

² <https://www.utilitydive.com/news/firstenergy-nears-proposal-to-decouple-ohio-utility-revenues-electricity-c/566610/>



recovered pursuant to an approved electric security plan under section 4928.143 of the Revised Code, as of the twelve-month period ending on December 31, 2018.”³

FirstEnergy CEO Chuck Jones has referenced customer energy efficiency to justify this decoupling provision, saying it “allows us to continue to promote energy efficiency with our customers so that they can get the benefit of that without impacting our base revenues.”⁴ However, this is a misleading statement. H.B. 6 ended the requirement for FirstEnergy – and Ohio’s other investor-owned distribution utilities – to achieve energy efficiency savings as of December 31, 2020. And, FirstEnergy proactively suspended the bulk of its energy-efficiency programs early, in January 2020. FirstEnergy also has taken no steps to offer non-mandated efficiency programs in 2021. Thus, it’s clear that FirstEnergy is not using the H.B. 6 decoupling provision to further promote customer energy efficiency.

The H.B. 6 decoupling provision allowed FirstEnergy to tie its annual base distribution revenue to 2018 collections. Notably, 2018 was *not* a representative year of distribution electricity sales for FirstEnergy; it is the highest electricity sales year in a 10-year span. H.B. 6 decoupling did not include a revenue cap on the base year amount. It did not include any adjustments to total base distribution revenue for weather or economic downturn.

H.B. 6 did, however, include some curious eligibility constraints to the decoupling provision that apply to the efficiency program lost revenue recovery, requiring that this revenue recovery be “recovered pursuant to an approved electric security plan under section 4928.143 of the Revised Code, as of the twelve-month period ending on December 31, 2018.” As it happens, only FirstEnergy has implemented a decoupling mechanism and is receiving decoupling revenues based on the H.B. 6 provision. AEP Ohio, Duke, and DP&L have not successfully implemented an H.B. 6 decoupling mechanism (although AEP Ohio has tried).

These decoupling costs will be charged to the residential and General Service Secondary rate classes. General Service Secondary includes many manufacturers.

Impacts to Ratepayers from Decoupled Base Distribution

Based on its 2018 base revenue, , FirstEnergy can continue to collect approximately \$978 million for base distribution revenue for each year through 2024 as a result of the H.B. 6 decoupling mechanism, no matter its electricity sales (demand), its actual costs, or Ohio’s economic environment. FirstEnergy submitted supporting paperwork at the PUCO documenting these base distribution costs for 2018. We total these costs in Table 1.

³ Ohio Revised Code, Section 4928.471 (B)

⁴ <https://www.utilitydive.com/news/firstenergy-nears-proposal-to-decouple-ohio-utility-revenues-electricity-c/566610/>



	Residential	General Service Secondary	Total (with tax)
Ohio Edison	\$ 353,312,299	\$ 122,247,953	\$ 476,799,932
CEI	\$ 200,556,856	\$ 143,676,179	\$ 345,130,374
Toledo Edison	\$ 106,504,639	\$ 48,763,226	\$ 155,672,614
Total	\$ 660,373,794	\$ 314,687,358	\$ 977,602,920

Table 1. Summary of FirstEnergy 2018 Base Distribution Cost Recovery⁵

Decoupling essentially allows the utility to recover the difference between its 2018 base distribution revenue (approximately \$978 million) and what is collected in a future calendar year through a rider, guaranteeing it a stable revenue of approximately \$978 million. FirstEnergy duplicitously named its decoupling rider “Rider CSR” which stands for “Conservation Support Rider.”

FirstEnergy expects 2018 to be the highest distribution energy delivery year in a decade, which is shown in Table 2. For example, according to FirstEnergy’s filing, its 2019 base distribution costs were \$956 million, which is approximately \$22 million less than in 2018. FirstEnergy will be able to collect the difference (approximately \$22 million) in 2020 because of the H.B. 6 decoupling provision. While the estimates in Table 2 will not perfectly correlate to distribution revenue, we can use it to gauge what future base distribution revenue differences might look like, which are also illustrated. This allows a reasonable estimate of the total cost of the H.B. 6 base distribution decoupling mechanism. H.B. 6’s decoupling provision may apply through 2024, when FirstEnergy’s current distribution rate freeze ends and FirstEnergy is authorized to file its next distribution rate case, which would reset its base distribution revenue requirements. However, note that due to a recent PUCO decision, FirstEnergy is no longer required to file its next base distribution rate case in 2024;⁶ therefore, the H.B. 6 decoupling mechanism, if favorable to FirstEnergy, could last in perpetuity.

⁵ In the Matter of Application of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company For Approval of a Decoupling Mechanism, Case No. 19-2080, <http://dis.puc.state.oh.us/TiffToPDF/A1001001A19K21B65741G03457.pdf>

⁶ In the Matter of the Application of Ohio Edison Company, the Cleveland Electric Illuminating Company, and the Toledo Edison Company for an extension of the Distribution Modernization Rider, Case No. 19-361-EL-RDR, Entry at ¶ 17 (November 21, 2019)



Year	FirstEnergy Ohio Energy Deliveries	Energy Deliveries, Percent off Peak Year	Additional Base Distribution Revenue Resulting from Decoupling
2015	62,351,282	1.6%	
2016	62,966,774	0.7%	
2017	60,973,484	3.8%	
2018	63,392,963	0.0%	
2019	61,094,619	3.6%	\$ 21,916,065
2020	61,263,393	3.4%	\$ 20,306,705
2021	61,725,825	2.6%	\$ 15,897,144
2022	62,030,096	2.1%	\$ 12,995,740
2023	62,110,144	2.0%	\$ 12,232,435
2024	62,324,025	1.7%	\$ 10,192,954
Average			\$ 15,590,174
Total			\$ 93,541,043

Table 2. FirstEnergy’s Recorded and Expected Energy Deliveries in Ohio, 2015-2024^{7,8}

It is important to note that base distribution costs were already established for FirstEnergy based on its own forecast of electricity sales, and system costs, prior to the establishment of the decoupling provision in H.B. 6. In other words, FirstEnergy was already made whole through its base distribution costs and had agreed in a rate case at the PUCO to its distribution rates. A good base distribution rate design should essentially average revenue out over time to match utility costs. Meaning, in some years the utility should collect somewhat higher distribution revenue, and others somewhat lower, due to changes in weather, business activity, etc. By tying revenue collection to its peak distribution revenue year – 2018 – FirstEnergy is thereby setting itself up to over-collect on base distribution revenue for years to come.

FirstEnergy is thus using the decoupling provision for the purpose of creating unearned bottom-line profit to the company.

This is the first way FirstEnergy earns revenue from the H.B. 6 decoupling.

Impact to Ratepayers from Decoupled Energy Efficiency Program Revenue

H.B. 6’s decoupling provision applies to more than just base distribution costs. It also applies to energy efficiency program implementation revenue incurred in 2018. The electric distribution companies collect revenue for energy efficiency program implementation in three ways: the actual program costs (administration, staffing, rebates), profit (called “shared savings” in regulatory proceedings), and lost distribution revenue. H.B. 6 allows a utility implementing a decoupling

⁷ 2020 Electric Long-Term Forecast Report to the Public Utilities Commission of Ohio, Case No. 20-657, <http://dis.puc.state.oh.us/TiffToPDF/A1001001A20D15B63247C02407.pdf>

⁸ We estimated future year costs of base distribution decoupling by prorating 2019’s cost. For example, the cost of decoupling for the 2020 year was calculated as \$21,916,065 x 3.4% / 3.6% = \$20,306,705.



mechanism to also collect revenue associated with implementing R.C. 4928.66 “excluding program costs and shared savings”.⁹ Thus, H.B. 6 allows FirstEnergy to continue to collect, for years to come, the lost revenue associated with implementing energy-efficiency programs that it collected in 2018. In fact, FirstEnergy is doing just this, by including its 2018 energy efficiency program lost distribution revenue cost as part of its decoupling filing at the PUCO. As it happens, FirstEnergy collected nearly \$66.5 million for energy efficiency program lost revenue in 2018, as shown in Table 3.

	Residential	Commercial	Total (with tax)
Ohio Edison	\$ 24,780,874	\$ 4,295,483	\$ 29,152,153
CEI	\$ 19,616,798	\$ 5,129,473	\$ 24,810,779
Toledo Edison	\$ 10,914,024	\$ 1,585,707	\$ 12,532,315
Total	\$ 55,311,696	\$ 11,010,663	\$ 66,495,247

Table 3. Summary of FirstEnergy 2018 Lost Revenue Cost Recovery¹⁰

H.B. 6 effectively allows FirstEnergy to calculate the difference of the \$66,495,247 collected in 2018, and the amount of lost revenue recovered in FirstEnergy’s energy-efficiency rider (called Rider DSE2) in a given year and recover this difference in Rider CSR. In 2019, the difference will be a credit that is applied through Rider CSR to customers in 2020. However, at the end of 2020, the efficiency programs will officially end, and FirstEnergy’s Rider DSE2 will cease. As a result, for the 2021 revenue differential the full \$66.5 million difference would flow into Rider CSR. Table 4 shows how the H.B. 6’s decoupling provision provides an additional \$261 million in revenue to FirstEnergy through 2024 from “the implementation of section 4928.66”.

Year	(A) 2018 Lost Revenue Recovery	(B) Lost Distribution Revenue Recovered in EE Rider (Rider DSE2)	(A - B) Difference in Lost Distribution Revenue Collected in Decoupling Rider (Rider CSR)
2019	\$ 66,495,247	\$ 71,290,905	\$ (4,795,659)
2020	\$ 66,495,247	\$ 66,495,247	\$ -
2021	\$ 66,495,247	\$ -	\$ 66,495,247
2022	\$ 66,495,247	\$ -	\$ 66,495,247
2023	\$ 66,495,247	\$ -	\$ 66,495,247
2024	\$ 66,495,247	\$ -	\$ 66,495,247
Total			\$ 261,185,328

Table 4. Location and Amount of Lost Revenue Cost Recovery¹¹

⁹ . The provision states that base distribution shall be decoupled to base distribution revenue “...and revenue resulting from implementation of section 4928.66 of the Revised Code, excluding program costs and shared savings... as of the twelve-month period ending on December 31, 2018.” Section 4928.66 of the Revised Code is the section of Ohio law which enabled the electric distribution utilities to operate energy-efficiency programs.

¹⁰ In the Matter of Application of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company For Approval of a Decoupling Mechanism, Case No. 19-2080, <http://dis.puc.state.oh.us/TiffToPDF/A1001001A19K21B65741G03457.pdf>

¹¹ We estimated FirstEnergy’s 2020 lost revenue recovery in the DSE2 rider as exactly equal to the 2018 amount for



Impacts to Ratepayers - Summary

The total cost of FirstEnergy's decoupling, accounting for base distribution and energy efficiency program implementation lost distribution revenue, is thus about \$355 million in total through 2024.

$\$93,541,043$ (Base Distribution Decoupling through 2024) + $\$261,185,328$ ("implementation of 4928.66" through 2024 costs) = $\$354,726,371$

There is additional risk to ratepayers. As stated by FirstEnergy's CEO, decoupling makes FirstEnergy "somewhat recession proof." The estimated \$355 million in additional revenue does not account for additional costs of decoupling should FirstEnergy's electricity sales in Ohio decline. While the severity of an economic downturn may have been in doubt when H.B. 6 was passed, COVID-19 has made this scenario a near certainty. As a result, decoupling costs during the pandemic could increase as utility sales decrease.

PUCO Implementation of H.B. 6 – Risk of Millions of Dollars More in Customer Charges Benefiting FirstEnergy

Unfortunately, the tens of millions of dollars per year in decoupling that are collected from customers for FirstEnergy may not end in 2024. H.B. 6's decoupling provision provides an expiration event for the decoupling,

"The decoupling mechanism shall remain in effect until the next time that the electric distribution utility applies for and the commission approves base distribution rates for the utility under section 4909.19 of the Revised Code."¹²

At the time of H.B. 6's passage, FirstEnergy was expected to file a distribution rate case in 2024, for implementation in approximately 2025. However, in an unrelated case ruling in November 2019 the PUCO unilaterally created the possibility for FirstEnergy to extend its distribution rates – and thus also its decoupling – in perpetuity. Specifically, the PUCO ordered that,

"... we find that it is no longer necessary or appropriate for the Companies to be required to file a new distribution rate case at the conclusion of the Companies' current ESP."¹³

Importantly, the PUCO's unilateral ruling did not provide the typical evidentiary hearing to offer supporting or opposing evidence from customers and other stakeholders. While FirstEnergy's Long-

illustrative purposes. The actual lost revenue recovery through DSE2 in 2020 could be lower than normal due to the impact of COVID-19. If so, 2021 would have additional costs in Rider CSR due to a true-up. Thus, the estimates of total cost of lost revenue decoupling we present here are conservative.

Note also that the cost differential from 2019 will be collected in calendar year 2020 as a true-up.

¹² Section 4928.471 (C) of the Ohio Revised Code

¹³ In the Matter of Application of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company For Approval of a Decoupling Mechanism, Case No. 19-2080, <http://dis.puc.state.oh.us/TiffToPDF/A1001001A19K21B65741G03457.pdf>



Term Load Forecast shows higher electricity demand starting in 2025, this is far from certain. And, any decoupling credit over-collection in base distribution revenue in future years would likely be offset by the continuing \$66.5 million revenue potential from the lost distribution revenue resulting from “implementation of 4928.66”, which would amount to \$398 million from 2025 through 2030.

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MEMORANDUM

TO: Ohio Manufacturers' Association Energy Group

FROM: Kim Bojko, Carpenter Lipps & Leland LLP

DATE: August 12, 2020

SUBJECT: Impact of 2019 FirstEnergy SEET Amendment

In the as-passed version of HB 166,¹ which established the State of Ohio's fiscal year 2020-2021 operating budget, FirstEnergy was successful in including a provision that would allow it to retain "significantly excessive profits" if the three Ohio operating utilities collectively did not significantly excessively earn, instead of requiring customer refunds if one or more of the utilities over earned.

Prior to enactment of the new law, the PUCO applied the significantly excessive earnings test (SEET) on a utility-by-utility basis to annually evaluate whether individual utilities have over earned from their electric security plans (ESPs) pursuant to R.C. 4928.143. If it is determined that a utility has significantly excessive earnings under the SEET, the utility must refund the excess earnings to its customers.

HB 166 amended the PUCO governing statute (R.C. 4928.143) to require the PUCO to consider the total earned return on equity (ROE) of all affiliated distribution utilities operating under a joint ESP when administering the SEET. Under the HB 166 amendment, a utility that is over-earning is able to offset that amount by the earnings of an affiliated distribution utility that is not as profitable. For example, FirstEnergy will be able to shield one of its over-earning distribution utilities by including the ROE of its less profitable affiliated distribution utility in the SEET calculation. As a result, FirstEnergy is able to retain significantly excessive profits that it otherwise would be required to refund to customers.

Learn more about the SEET provision by [reading this memo](#) from the OMA's energy consultant RunnerStone.

¹ The new law became effective October 17, 2019.



MEMORANDUM

Date: August 20, 2020
To: The Ohio Manufacturers' Association
From: John Seryak, PE, and Peter Worley (RunnerStone, LLC)
RE: FirstEnergy's 2019 "Significantly Excessive Profits" Amendment – Preventing Potentially \$50 Million in Customer Refunds from 2017-2019

A 2019 Ohio law change, House Bill (HB) 166, created favorable new conditions for FirstEnergy to retain "significantly excessive profits" and avoid customer refunds. A separate legal analysis has been provided by OMA energy counsel Kim Bojko on the issue¹. As stated in that memo, the law change allows FirstEnergy to "shield one of its over earning distribution utilities" from customer refunds.

How much will this shielding cost manufacturers and other customers? Unfortunately, the law also is being used to obfuscate the financial earnings of FirstEnergy's distribution utilities, and we do not yet know the exact current or future cost of this new provision. However, in this memo we show how this law change could prevent tens of millions of dollars in customer refunds, and that this could be exacerbated by the so-called "decoupling mechanism" included in HB 6.

The Significant Excessive Earnings Test (SEET) Law Change

FirstEnergy owns three electric distribution operating companies in Ohio: Ohio Edison, Cleveland Electric Illuminating, and Toledo Edison. It is important to remember that these are three separate public utilities regulated by the Public Utilities Commission of Ohio (PUCO), albeit owned by the same parent corporation. Consider in contrast that AEP formerly merged its two distribution operating companies, Columbus Southern Power and Ohio Power, into one regulated public utility, AEP Ohio. FirstEnergy has not taken this corporate merger step with its Ohio distribution companies. There are important legal, tax, and other financial implications of this difference. When evaluating the policy and financial impacts of the SEET law change, manufacturers and policymakers should consider that FirstEnergy has again modified Ohio law to receive a unique benefit that its peers do not. The SEET law change is part of a clear trend: FirstEnergy regularly seeks to modify Ohio's laws for its own benefit to avoid prior laws enacted to protect customers.

Cost Impact of Significant Excessive Earnings Test (SEET) Law Change

Distribution public utilities in Ohio do not earn a profit in competitive markets. Instead, they receive a government regulated profit via a return on equity (ROE) that is administered by state regulators

¹ Impact of 2019 FirstEnergy SEET Amendment, Memorandum to the Ohio Manufacturers' Association Energy Group, <http://www.ohiomfg.com/wp-content/uploads/OMA-Memo-2019-FE-SEET-Amendment-CLL-FINAL-August-2020.pdf>



and paid for by customers. In Ohio, the PUCO determines the ROE that the regulated public utilities receive. Ohio law allows regulated electric distribution public utilities operating under an electric security plan to retain profit earnings, even if it is “excessive”. It is not until the profit is deemed to be “significantly excessive” that the PUCO can require the electric utility to issue a refund to customers. While typical electric distribution utility ROEs are around 9.7%,² the PUCO determined that 200 basis points above the mean of the comparable utility risk group recognized by the PUCO should establish a safe harbor ROE.³ Utilizing this standard, in a recent PUCO proceeding, the PUCO established FirstEnergy’s SEET threshold ROE at 17.22%⁴. Given the high safe harbor calculation, the SEET threshold is rarely triggered in Ohio. For example, Table 1 shows the 2017 common equity, earnings, and ROE for each of FirstEnergy’s distribution corporations.

Corporation	Common Equity	Earnings	ROE
Ohio Edison	\$ 1,033,641,759	\$ 126,320,235	12.2%
Cleveland Electric Illuminating	\$ 1,463,357,709	\$ 58,142,960	4.0%
Toledo Edison	\$ 529,304,805	\$ 34,110,490	6.4%
FirstEnergy Owned Corporation Total	\$ 3,026,304,273	\$ 218,573,685	7.2%

Table 1. 2017 Common Equity, Earnings, ROE for FirstEnergy Owned Ohio Electric Distribution Utilities⁵

At first blush, it appears that all of FirstEnergy’s separate utilities are well under the SEET threshold of 17.22%. However, if an appeal of the PUCO’s decision is successful, an above-market charge that FirstEnergy’s utilities received in 2017 called the distribution modernization rider (DMR) will be added to the earnings shown in Table 1. If these DMR revenues are included, Ohio Edison’s earnings are estimated to result in a 17.39% ROE, which is above the SEET threshold, and would thus trigger a refund of about \$1.8 million to its ratepayers⁶.

The DMR earnings were not actually spent on distribution modernization. Instead, it was a straight cash infusion to these utilities. The DMR was recently ruled an unlawful charge by the Supreme Court of Ohio. Unfortunately, Ohio law also prevents customer refunds of unlawful charges. As a result, customers only hope of receiving any of their money back is through the refunds allowed by

² https://www.spglobal.com/marketintelligence/en/news-insights/trending/aln1bkurulx_2hqjihmxeg

³ *In re Significantly Excessive Earnings Test*, Case No. 09-786-EL-UNC, Finding and Order (June 30, 2010).

⁴ *In the Matter of the Determination of the Existence of Significantly Excessive Earnings for 2017 Under the Electric Security Plans of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 18-857-EL-UNC, Opinion and Order at ¶ 29 (March 20, 2019).

⁵ *In the Matter of the Determination of the Existence of Significantly Excessive Earnings for 2017 Under the Electric Security Plans of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 18-857-EL-UNC, Direct Testimony of Jason S. Petrik at 8-9 (May 15, 2018).

⁶ $(\$126,320,235 \text{ earnings} + \$58,479,765 \text{ DMR earnings}) - (0.1722 \text{ SEET} \times \$1,062,702,154 \text{ modified common equity}) = \$1,841,277 \text{ refund}$

See testimony by the Office of the Ohio Consumers’ Counsel

<http://dis.puc.state.oh.us/TiffToPDF/A1001001A18J16B54335H02196.pdf> (Page 14 of pdf)



SEET. As noted above, the question of whether the DMR should be considered as earnings is currently before the Supreme Court of Ohio.⁷

The stakes increase when evaluating the FirstEnergy companies' earnings in 2018, shown in Table 2. Ohio Edison's earnings and ROE increased significantly in 2018. Thus, the DMR collections by Ohio Edison in 2018 of about \$58.5 million push Ohio Edison further across the SEET threshold than in 2017. Ohio Edison would need to be required to refund \$18.1 million to its customers for 2018 if the DMR is determined to be earnings for SEET calculation purposes.⁸

Corporation	Common Equity	Earnings	ROE
Ohio Edison	\$ 1,066,489,590	\$ 148,242,053	13.9%
Cleveland Electric Illuminating	\$ 1,486,548,741	\$ 86,219,827	5.8%
Toledo Edison	\$ 477,684,058	\$ 32,960,200	6.9%
FirstEnergy Owned Corporation Total	\$ 3,038,887,273	\$ 267,422,080	8.8%

Table 2. 2018 Common Equity, Earnings, ROE for FirstEnergy Owned Ohio Electric Distribution Utilities⁹

The stakes in 2019 increase yet again. Table 3 shows FirstEnergy's earning information made available by FirstEnergy in its 2019 SEET application on an aggregate basis. As one can see, we no longer can evaluate Ohio Edison's earnings. This reduction in transparency is a direct result of the SEET law change. FirstEnergy has used the SEET law change to avoid customer refunds and also to obfuscate what Ohio Edison's earnings are, so that interested parties, regulators, and policymakers cannot determine how much excessive profit they are keeping. However, we can see that collective earnings have increased significantly again, as has the aggregate ROE.

Corporation	Common Equity	Earnings	ROE
FirstEnergy Owned Corporation Total	\$ 2,805,618,220	\$ 305,812,386	10.9%

Table 3. 2019 Aggregate Common Equity, Earnings, ROE for FirstEnergy Owned Ohio Electric Distribution Utilities¹⁰

Absent transparent data on what the FirstEnergy distribution utilities separate earnings were, we will have to make an educated estimate of what customer refunds should be in 2019. Table 4 shows this educated estimate, assuming the increase in earnings is evenly distributed across the three corporate entities. In this scenario, Ohio Edison has further increased earnings and ROE compared to previous years. Thus, the DMR collections by Ohio Edison in 2019 push them further across the

⁷ Ohio Supreme Court Case 2019-0961 <http://www.supremecourt.ohio.gov/Clerk/ecms/#/caseinfo/2019/0961>

⁸ (\$148,242,053 earnings + \$58,518,353 DMR earnings) – (0.1722 SEET x \$1,095,549,985 modified common equity) = \$18,106,699 refund; We adjusted common equity to account for DMR revenue per method in OCC's testimony referenced earlier

⁹ *In the Matter of the Determination of the Existence of Significantly Excessive Earnings for 2018 Under the Electric Security Plan of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 19-1338-EL-UNC, Direct Testimony of Tracy M. Ashton at 7 (July 15, 2019).

¹⁰ *In the Matter of the Determination of the Existence of Significantly Excessive Earnings for 2019 Under the Electric Security Plan of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*. Direct Testimony of Tracy M. Ashton at 7 (May 15, 2020).



SEET threshold. Its DMR collections and in 2019 would likely do this, amounting to \$29.2 million for Ohio Edison before the Supreme Court of Ohio halted its unlawful collection. A decoupling provision included in H.B. 6 will result in an additional \$4.7 million in distribution revenue for Ohio Edison from 2019¹¹. Assuming a comparable SEET threshold is established to that established in the 2017 case, this would result in \$30 million in customer refunds, now lost to customers because of H.B. 166.¹²

Corporation	Common Equity	Earnings	ROE
Ohio Edison	\$ 1,066,489,590	\$ 169,523,234	15.9%
Cleveland Electric Illuminating	\$ 1,486,548,741	\$ 98,597,285	6.6%
Toledo Edison	\$ 477,684,058	\$ 37,691,867	7.9%
FirstEnergy Owned Corporation Total	\$ 2,805,618,220	\$ 305,812,386	10.9%

Table 4. Estimates - 2019 Common Equity, Earnings, ROE for FirstEnergy Owned Ohio Electric Distribution Utilities

Therefore, considering the above assumptions, the total refund that will be lost to Ohio Edison customers from 2017-2019 due to the enactment of the HB 166 change in law is about \$50 million.

Year	Potential Ohio Edison Refund (Millions)
2017	\$ 1.8
2018	\$ 18.1
2019	\$ 30.0
Total	\$ 49.9

Table 5. Potential Customer Refunds Lost for Ohio Edison Customers

There is risk of additional losses of customer refunds under the new SEET law. The decoupling provision of H.B. 6 will result in higher than normal base distribution earnings for FirstEnergy’s distribution utilities for years to come. Additionally, the common equity of the distribution utilities could decrease in future years. New costs and riders, such as grid modernization riders, could increase earnings for the utilities. These are all ways in which FirstEnergy’s distribution utilities could achieve significantly excessive earnings and exceed a SEET threshold, and would otherwise be required to issue customer refunds were it not for the recent law change in HB 166.

¹¹ In the Matter of Application of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company For Approval of a Decoupling Mechanism, Case No. 19-2080, <http://dis.puc.state.oh.us/TiffToPDF/A1001001A19K21B65741G03457.pdf>. It is not clear how the decoupling revenue collection for prior years will be handled with earnings accounting, if it will be attributed to the 2019 year in which it is based, or the 2020 year in which it is collected. Here we assume that decoupling revenue for 2019 will be accounted for the 2019 fiscal year.

¹² (\$169,523,234 earnings + \$29,200,000 DMR earnings + \$4,704,328 decoupling earnings) – (0.1722 SEET x \$1,004,229,203 modified common equity) = \$30,499,293 refund; We adjusted common equity to account for DMR revenue per method in OCC’s testimony referenced earlier, and also new decoupling revenue



SEET Law Change – Targeting, Timing, and Transparency Issues

Manufacturers and policymakers should carefully consider several other controversial issues with the SEET law change. First, this law change was specifically targeted to benefit FirstEnergy, at the expense of its customers. No other utility benefits from this law change. There is no policy goal advanced by this law change. The SEET law change does not improve electric service, does not lower customers' costs, does not save or create jobs, does not improve reliability, and does not reduce carbon emissions. The SEET law change allows FirstEnergy to keep significantly excessive earnings for their own shareholders.

Second, transparency issues abound with the SEET law change. This law change creates significant costs for customers, but FirstEnergy is not providing any supporting, transparent reasoning for why it needs this money, or how much money it stands to gain. Moreover, it is now considerably more difficult for FirstEnergy to be held accountable at the PUCO, as its three electric distribution operating utilities, separate corporate entities, are not disclosing their individual earnings.

Third, the timing of the SEET law change is conspicuous. The SEET law change was included in HB 166, which was the budget bill for Ohio's 2020-2021 fiscal year. This bill passed in the summer of 2019, approximately the same time as the controversial HB 6 was passed. It would seem that the SEET law change, being a utility-specific law change, would have been included in HB 6, which was a major rework of Ohio's electricity law, but, instead, it was included in the state budget bill. If HB 6 had included the SEET law change for FirstEnergy's benefit, HB 6 would have been demonstrated to be even more costly to customers.

Lastly, the SEET threshold determined by the PUCO of 17.22% is concerningly high. Our refund estimates use the PUCO selected SEET value. In contrast, the Office of the Ohio's Consumers' Council provides arguments for a threshold of 14.91%.¹³ Using the OCC suggested SEET threshold would have resulted in customer refunds of \$135 million.

¹³ <http://dis.puc.state.oh.us/TiffToPdf/A1001001A18J16B54335H02196.pdf> (Page 7 of pdf)



MEMORANDUM

Date: June 11, 2020

To: The Ohio Manufacturers' Association

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

RE: Overview of HB 246: Significant Changes to Electric Rate Making, PUCO Accountability, and Customer Rights

On May 25th, 2020, substitute House Bill 246 (HB 246) was introduced into the Public Utilities Committee of the Ohio House of Representatives. Sponsors of the bill claim it is to “reform and modernize” the Public Utilities Commission of Ohio (PUCO) and the Office of the Ohio Consumers’ Counsel (OCC). It does nothing of the sort. Instead, the bill makes perilous changes to the electric ratemaking process, limits customers’ and intervenors’ rights to participate in cases, increases fees paid by competitive suppliers, creates a blank check for utilities, increases the Ohio Power Siting Board’s (OPSB) regulatory oversight and authority, and provides the PUCO with unfettered discretion. The bill is opaque and no clear reasoning exists for why its proposed changes are needed or how important modifications to existing law would work. HB 246 creates unreasonable risk to manufacturers in the following ways:

- Limits intervention rights of manufacturers and other interest groups by providing the PUCO with discretionary authority to consolidate litigation efforts of groups with “common interests.”
- Increases the authority of the PUCO. HB 246 eliminates the PUCO’s requirement to eliminate two regulatory restrictions for every new restriction created.
- Creates a blank check for monopoly utilities by authorizing a new type of ratemaking mechanism, the so-called “alternative distribution rate plan.” The costs of this type of plan are unknown, unjustified, and uncapped. There is no detail provided on what such a plan is, how it works, or why it is needed and leaves the approval of such plan to the discretion of the PUCO with only minimal limitations. It also leaves the necessity of a hearing to the PUCO’s discretion, even for applications that are for increases in rates.
- Offers monopoly utilities a path to infringe on competitive markets. An alternative distribution rate plan is required to be non-discriminatory, which could allow the monopoly utility to offer competitive products to shopping customers. This provision becomes dangerous if the PUCO defines new and emerging technologies as a “public utility service,” which it is contemplating right now with electric vehicle (EV) charging stations. As a result, HB 246 could seriously constrain an emerging, competitive market driven by private investment, and instead socialize competitive services and products through the utilities.
- Socializes what was previously private investment for select natural gas pipelines.



- Worsens restrictions on future local renewable energy development, while exempting favored subsidized solar projects from House Bill 6.

Limits on Legal Intervention Rights of Manufacturers

The bill introduces two mechanisms that can limit manufacturers’ ability to intervene in ratemaking proceedings. First, the PUCO would now have the authority to consolidate intervention from various groups if the PUCO believes the groups “have sufficiently common interests and it will expedite the proceeding” (Line 276 of bill). The bill provides no criteria for what qualifies as “sufficiently common interests,” introducing a risk that the interests of the manufacturers in the Ohio Manufacturers’ Associations could be subordinated under interventions from groups with different policy positions at the discretion of the PUCO.

Secondly, with just six sentences, the bill creates an entirely new ratemaking process, the “alternative distribution rate plan” for monopoly electric distribution utilities that can increase manufacturers’ charges. The bill does not explain if groups may intervene and contest said plan. Instead, it alludes to intervention as a mere possibility, the plan “may include a hearing at the discretion of the public utilities commission” (Line 1784 of Bill).

Increases the Authority of the PUCO

For reasons unknown, the bill enables the PUCO to be exempted from the recent General Assembly’s restriction put in place to minimize the number of regulatory restrictions imposed on businesses by state agencies. State Agencies are required to eliminate two regulatory restrictions for every new one that they create.

Lastly, the bill reduces OCC’s authority, scope of participation, and budget. OCC is a party that advocates for residential customer rights and utility accountability. The bill limits OCC’s participation to certain cases before the PUCO. It seems to prohibit OCC’s participation in FERC, FCC, and OPSB cases. It grants the PUCO the authority to consolidate OCC’s involvement with other residential advocates (e.g., municipalities, Ohio Partners for Affordable Energy, etc.). It appears to eliminate OCC’s ability to participate in proceedings at the PUCO regarding rulemakings, general public policy cases, and the operations of the PUCO.

Creation of Blank Checks for Monopoly Utilities through “Alternative Distribution Rate Plans”

As mentioned earlier, the bill creates a new ratemaking process, the “alternative distribution rate plan.” Furthermore, the bill puts no limits on what the monopoly electric distribution utilities can request in these plans and at what cost. The PUCO must accept their plans if they meet three vague criteria:

1. The utility is in compliance with not offering any undue or unreasonable preference or advantage to any person or is not subjecting any person to any undue or unreasonable prejudice or disadvantage;



2. The utility is currently in substantial compliance with the policy of the state and the alternative distribution rate plan does not take the utility out of substantial compliance with the policy of the state; and
3. The plan is just and reasonable.

What an “alternative distribution rate plan” is and why it is needed is unclear. There are no details explaining or defining the plan. Based on the minimal criteria that the plan must meet, it seems this new type of rate plan would allow a utility to deviate from the policy of the state, since it only needs to meet “substantial compliance” with the policy. If the utility is not wholly in compliance with state policy, in what ways would it be allowed to deviate from the policy? And, how are utility actions to be held accountable under the law if they are given permission by the law to ignore state policy in some cases? Worryingly, HB 264 also eliminates a requirement that the PUCO report to the General Assembly non-competitive electric services that should be available on a competitive basis. Competition and customer choice are key parts of Ohio’s energy policy.

This bestows monopoly electric utilities a vast space of options to increase rates, all left to the discretion of the PUCO.

Given that the utility is required not to offer any undue or unreasonable preference or advantage to any person or not subject any person to any undue or unreasonable prejudice or disadvantage, it appears that the utility would be required to offer utility services via the “alternative distribution rate plan” to shopping customers at the same price as non-shopping customers, as to be non-discriminatory. This could include competitive services, such as efficiency services, load management, behind-the-meter services.

Socialization of Investment in Select Natural Gas Pipelines Offers Monopoly Natural Gas Utilities a Path to Infringe on Competitive Markets

The bill creates a new government program: “the natural gas supply access investment program” for “facilitating investment... in meeting natural gas supply needs... of areas of this state in which there is ... insufficient natural gas supply access to meet those needs” (Line 119 of bill). The director of the Ohio public works commission would authorize grants and loans from this program, without limits or minimum standards. The bill provides no criteria on what qualifies as “natural gas supply needs” nor “insufficient natural gas supply access.” The program does not need to perform a cost benefit analysis. The program does not need to compare natural gas investment cost-benefits to alternative energy solutions. This enables the PUCO to decide the solution instead of the market.

Worsening Restrictions on Future Local Renewable Energy Development

By increasing the authority of the OPSB, and authorizing it to create more regulations, the bill makes local renewable energy development even more challenging. The bill makes wind turbine setbacks even more restrictive. Note that wind farm setbacks have been a subject of intense debate at the Ohio General Assembly for many years now, with the most restrictive options being put into law. Given the breadth of debate on the record, it is not clear why there is a need for yet a further restriction.



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Troublingly, the bill expands setback regulations to now include major solar projects (>50 MW) as well, as early as 12/2/2020. The bill provides no explanation for the need for setbacks for solar, nor details on what the minimum setbacks would be.

Furthermore, the bill grants the OPSB chair authority to pay outside experts to analyze applications, with no details or limits (e.g., consensus on the expert chosen or \$50,000 maximum fee). The applicant must pay the unlimited and undefined cost for the expert. The bill also increases OPSB oversight over major utility facilities. Before the OPSB oversaw facilities with voltage at 100 kV or greater, but the bill expands its authority to 69 kV or over.

Other Provisions

The bill makes a myriad of other changes to various laws, including laws regarding railroad bridges, railroad rights-of-way, rooftop solar in condo associations, increases in pipeline safety forfeitures, increases in competitive suppliers and aggregators' fees, and creates alternative rate plans for water and sewer companies. Not all provisions of the bill are covered in this memorandum.



MEMORANDUM

Date: July 8, 2020

To: The Ohio Manufacturers' Association

From: John Seryak, PE and Ryan Schuessler (RunnerStone, LLC)

RE: Overview of Substitute House Bill 104

Substitute House Bill 104 (Sub. HB 104) was successfully passed out of the Ohio House of Representatives on June 9, 2020. Sub. HB 104 establishes the Ohio Nuclear Development Authority (ONDA) within Ohio's Department of Commerce. The ONDA is charged with making Ohio a leader in "new type" advanced nuclear reactors, the commercial production of medical isotopes, and in nuclear waste reduction and storage. To carry out its mission, the ONDA is given the charge of developing public-private partnerships, developing education programs, and authorizing joint-development agreements. In addition, the ONDA is given the weighty responsibilities of approving nuclear reactor component designs, assuming regulatory powers from the federal Nuclear Regulatory Commission (NRC), the Department of Energy (DOE), and the US military, and superseding radiation control duties from the Ohio Department of Public Health. ONDA is also intended to "address matters of public necessity for which public moneys may be spent and private property acquired." ONDA's decisions would be made by a nine-member board comprised of industry appointees.

Sub. HB 104 offers multiple serious concerns for manufacturers. Sub. HB 104 is circumspect in how ONDA would influence expenditure of public moneys and acquisition of private property. Sub. HB 104 does not describe which regulatory powers ONDA would assume from the US military, the NRC, the DOE, and the Ohio Department of Public Health, and ONDA does not have staff of its own for such serious regulatory duties.

It should be noted that Sub. HB 104 appears to be primarily supported by advocates of thorium and molten salt reactor nuclear technologies. The federal government halted development of these technologies in the 1960s, and Oak Ridge National Laboratory states that the designs "are not fully mature" and have a wide range of known hazards and unknown risks.

In the remainder of this memorandum we describe Sub. HB 104's provisions, list concerns for manufacturers, and provide context and background of the bill's proponents and molten salt reactor technology.



Establishment of the Ohio Nuclear Development Authority

Sub. HB 104 establishes the Ohio Nuclear Development Authority (ONDA) within the Department of Commerce. The founding purpose of the ONDA is twofold. First, the ONDA is to be an educational resource to the United States Nuclear Regulatory Commission (NRC), all branches of the military, and the United States Department of Energy (DOE) regarding advanced-nuclear-research reactors and isotope technologies.¹ Second, the ONDA aims to make Ohio a leader in the development and construction of new-type advanced-nuclear-research reactors; a national and global leader in the commercial production of medical isotopes; and a leader in the research and development of high-level-nuclear waste reduction and storage technology.

The ONDA is given the following duties to carry out its purposes, including:²

- fostering partnerships between states public institutions of higher education, private companies, federal laboratories, and nonprofit organizations,
- development of education programs related to Ohio’s isotope industry,
- assumption of regulatory powers delegated from the NRC, DOE, military, or other similar agency governing the construction and operation of noncommercial power-producing nuclear reactors and the handling of radioactive materials,
- acting in place of the governor in approving joint-development agreements, and
- approving designs for the commercialization of nuclear reactor components.

The powers conferred to the ONDA are considered “the performance of an essential governmental function and address matters of public necessity for which public moneys may be spent and private property acquired.”³

Sub. HB 104 states that the authority shall be made up of nine members, representing nuclear engineering and manufacturing stakeholder groups including safety, industry, and engineering research and development.⁴ These members are appointed by the governor and confirmed by the senate. Members of the authority are not compensated for their service and are not required to forfeit their current employment.⁵

Concerns with Sub. HB 104

ONDA Authority Supersedes the Ohio Department of Health for the Radiation Control Program

Chapter 3748 of the Ohio Revised Code details Ohio’s radiation control program, which includes in its purview the licensing and inspection of handlers of radioactive material, identifying levels of radiation that constitute an unreasonable or unnecessary risk to human health or the environment,

¹ R.C. 4164.10

² R.C. 4164.11

³ R.C. 4164.04

⁴ R.C. 4164.05

⁵ R.C. 4164.08



standards for decommissioning funding plans, and procedures for filing complaints among other responsibilities.⁶ Sub. HB 104 adds language giving rulemaking precedence to the ONDA over the Department of Health.⁷ This is a shift in responsibility for protecting the public welfare from the Ohio Department of Health to the ONDA, an entity comprised of nine private citizens representing nuclear industry stakeholders.⁸

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

ONDA Membership Results in an Inherent Conflict of Interest

The authority is comprised of nine members representing nuclear engineering and manufacturing stakeholder groups. These members are not compensated for their service and are not required to forfeit their position of employment to serve as a member of the authority. The members are granted regulatory authority over their own industry, creating an inherent conflict of interest.

Grants the ONDA Ability to Assume Regulatory Authorities

Sub. HB 104 is opaque regarding the limitations of the ONDA’s powers and purview. The specific regulatory function of the authority is not outlined, and accountability measures are undetailed. However, ONDA is allowed to assume regulatory duties given to it by the US NRC, DOE, and the US military. The only accountability measure mentioned is the requirement of an annual report to be issued on the 4th of July⁹. Otherwise, the authority is given “extensive power to fulfill its nuclear technology purposes specifically with respect to advanced nuclear reactor commercialization, isotope production, and nuclear waste reduction.”¹⁰

Positions the State of Ohio to Approve of Nuclear Reactor Component Designs

Sub. HB 104 proposes that the state of Ohio, via the authority, approve designs for a long list of advanced nuclear reactor components including reactors, core management technology, accident-management regulations, and storage of spent fuel among others. It is concerning that the state would be in the position of approving designs rather than the commensurate federal government agencies.

Defines ONDA Actions as an “Essential Government Function” Relating to Public Expenditures and Property Acquisition

As discussed, ONDA’s duties are “the performance of an essential governmental function and address matters of public necessity for which public moneys may be spent and private property acquired.” It is unclear what exactly it means to “address matters of public necessity”, and what the

⁶ R.C. 3748.04

⁷ Sub. HB 104 PH R.C. 3748.23

⁸ Sub. HB 104 PH R.C. 4164.05

⁹ The 4th of July is a Federal and State holiday. Thus, it is not clear that the ONDA can issue its annual report on this day.

¹⁰ LSC – Bill Analysis – Sub. HB 104 PH

public moneys are spent on, how those monies are raised and from whom, and how much money is to be raised.

As introduced to the House, Sub. HB 104 originally directed a \$1 million annual budget specifically to an advocacy group called eGeneration, not including additional discretionary spending.¹¹ While this language was removed from the substitute bill, Sub. HB 104 does permit the ONDA “to foster innovative partnerships and relationships in the state and among the state’s public institutions of higher education, private companies, federal laboratories, and nonprofit organizations, to accomplish the purposes set forth.”¹² Thus, Sub. HB 104 would still permit the flow of public money to organizations, such as eGeneration, with unclear oversight or restraints outside of future legislative efforts.

Grants the ONDA the Ability to Acquire Private Property

Again, ONDA’s duties are “the performance of an essential governmental function and address matters of public necessity for which public moneys may be spent and private property acquired.” Sub. HB 104 is silent on why private property is needed, why it is needed to be acquired, how it will be acquired, how much public monies are needed, etc. Worryingly, as introduced, Sub. HB 104 explicitly gave the authority “the right of eminent domain in acquiring lands with which to meet its responsibilities as defined in this chapter.”¹³ This clause was removed in the sub bill as passed by the House.

It is unclear whether the classification of the ONDA’s duties as essential government functions would allow for the acquisition of privately held property through eminent domain. The ambiguity is concerning in that the potential remains for the authority to procure property from private owners for the development of a test reactor or for the storage of nuclear waste.

Context and Background Information

Items Eliminated from Previous Iterations of Sub. HB 104

Significant changes were made to Sub. HB 104 from when it was first introduced to the House compared to the version introduced to the Senate. However, the intent behind the original language could remain. A few major changes are highlighted below.

- The ONDA was originally founded as a non-profit, not a state agency, funded by the solicitation of grants and aid and was explicitly granted the power of eminent domain in fulfillment of its purpose.
- A consortium was to be founded by the authority as a for-profit entity. The Treasurer of State’s Office was required to provide an initial stock offering of 20 million shares at \$50 per share – a \$1 billion valuation. eGeneration would act as the agent of the consortium, able to encourage investment, educate the public, lobby the federal government, and expend Consortium funds

¹¹ Sub. HB 104 IN R.C. 4164.50

¹² Sub. HB 104 PH R.C. 4164.11

¹³ Sub. HB 104 IN R.C. 4164.05

up to \$1 million annually. A tax credit would be offered for investments in the Consortium.

- Finally, the creation of state run non-profit and for-profit organizations was intended to serve as a model to further the pursuit of innovative research and development for other industries in the state.

Background on Proponents and their Testimony

Most of the proponent testimonies (10/13) have some connection to the eGeneration Foundation, a 501(c)3 non-profit dedicated to the decentralization of nuclear reactor research and development.

eGeneration argues that the “DOE has not developed a common regulatory pattern with State governments for the research and development of new nuclear technologies...because no State has created an entity specifically tasked with asking the DOE to create these regulations.”¹⁴ Additionally, “prodding or signaling to the Federal Government is essential as the Federal Government and its agencies are never the first to move in granting such authority to a state without substantive state legislation passage.”

eGeneration’s testimony continues: “The eGeneration Foundation’s discussions with the United States Department of Energy has led us to believe that there is support for the Federal government’s decentralization of nuclear technology research and development. Passage of HB104 could position Ohio to be the first State in the union to take advantage of such decentralization efforts.”¹⁵

Thorium advocate Don Larson extols an optimistic future resulting from Sub. HB 104: “There will be a company that develops the technology that gives us a Terawatt of electricity, abundant medical isotopes and global manufacturing advantages. It is inevitable that electricity becomes too cheap to meter.”¹⁶

Background on Molten Salt Reactors (MSR)

A specific type of nuclear reactor, a molten salt reactor technology, is advocated for in proponent testimony. The concept of molten salt reactors was initially developed from the 1940s to the 1970s, starting with the 1946 Nuclear Energy for Propulsion of Aircraft (NEPA) and the 1951 Aircraft Nuclear Propulsion (ANP) programs.¹⁷ The designs developed as part of these programs were leveraged in the Civilian Molten Salt Power Reactor program, and eventually lead to the Molten Salt Reactor Experiment (MSRE). The MSRE demonstration was considered successful, reached criticality in June of 1965 and was shutdown in December of 1969. The program was restructured to focus on tritium management and alloy development to address tellurium cracking, and then was terminated for budgetary reasons.¹⁸ To date, “only two relatively small MSR test reactors have ever been operated.”¹⁹

¹⁴ eGeneration – <https://egeneration.org/decentralization/>

¹⁵ Jon Morrow – Proponent Testimony

¹⁶ Don Larson – Thorium and Molten Salt Reactor Association – Proponent Testimony

¹⁷ History of the ORNL Molten Salt Program – Dr. Jess C. Gehin – ORNL

¹⁸ History of the ORNL Molten Salt Program – Dr. Jess C. Gehin – ORNL

¹⁹ Review of Hazards Associated with Molten Salt Reactor Fuel Processing Operations – ORNL – page 55



A recent study on the hazards associated with molten salt reactor fuel procession operations concludes that “fuel salt processing involves a wide range of hazards depending on the fuel salt, processing operation, fissile material concentration, radiation level, and presence of other toxic or hazardous materials.” “Also, key reactor specific hazards such as inadvertent criticality while performing initial fuel transfer into the reactor vessel have no direct antecedents in solid fueled reactors.” Finally, “MSR designs are not fully mature; nor are the designs for the primary and ancillary support systems for the synthesis and treatment of molten salt fuel.”²⁰ Molten-salt reactors are often associated with using thorium as fuel.

A key takeaway for manufacturers is that thorium and molten-salt reactor technologies have not been developed for commercialization.

²⁰ Review of Hazards Associated with Molten Salt Reactor Fuel Processing Operations – ORNL – page 55

Energy Legislation

Prepared by: The Ohio Manufacturers' Association
Report created on August 25, 2020

- HB6** **CLEAN AIR PROGRAM** (CALLENDER J, WILKIN S) To create the Ohio Clean Air Program, to facilitate and encourage electricity production and use from clean air resources, and to proactively engage the buying power of consumers in this state for the purpose of improving air quality in this state.
Current Status: 7/23/2019 - **SIGNED BY GOVERNOR**; Eff. 10/22/19
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-6>
- HB20** **SOLAR PANEL LIMITATIONS** (BLESSING III L) To prohibit condominium, homeowners, and neighborhood associations from imposing unreasonable limitations on the installation of solar collector systems on the roof or exterior walls of improvements.
Current Status: 6/26/2019 - House State and Local Government, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-20>
- HB55** **OIL AND GAS WELL ROYALTY STATEMENTS** (CERA J) To require the owner of an oil or gas well to provide a royalty statement to the royalty interest holder when the owner makes payment to the holder.
Current Status: 2/26/2019 - House Energy and Natural Resources, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-55>
- HB94** **LAKE ERIE DRILLING** (SKINDELL M) To ban the taking or removal of oil or natural gas from and under the bed of Lake Erie.
Current Status: 9/17/2019 - House Energy and Natural Resources, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-94>
- HB95** **BRINE-CONVERSION OF WELLS** (SKINDELL M) To alter the Oil and Gas Law with respect to brine and the conversion of wells.
Current Status: 9/17/2019 - House Energy and Natural Resources, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-95>
- HB104** **NUCLEAR DEVELOPMENT** (STEIN D) To enact the Advanced Nuclear Technology Helping Energize Mankind (ANTHEM) Act by establishing the Ohio Nuclear Development Authority and the Ohio Nuclear Development Consortium and authorizing tax credits for investments therein.
Current Status: 7/21/2020 - Senate Energy and Public Utilities, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-104>
- HB223** **WIND SETBACKS** (STRAHORN F, SKINDELL M) To alter the minimum setback requirement for wind farms of five or more megawatts.
Current Status: 5/8/2019 - Referred to Committee House Public Utilities

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-223>

HB245 **PROPERTY TAX EXEMPTION TIMELINES** (SMITH J) To remove the current deadlines by which an owner or lessee of a qualified energy project must apply for a property tax exemption.

Current Status: 5/21/2019 - Referred to Committee House Energy and Natural Resources

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-245>

HB246 **PUCO/OCC REFORM** (VITALE N) To reform and modernize the Public Utilities Commission and the Consumers' Counsel.

Current Status: 5/28/2020 - **SUBSTITUTE BILL ACCEPTED**, House Public Utilities, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-246>

HB247 **RETAIL ELECTRIC SERVICE LAW** (STEIN D) Regarding the competitive retail electric service law.

Current Status: 10/23/2019 - House Public Utilities, (Third Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-247>

HB260 **CLEAN ENERGY JOBS** (DENSON S, WEINSTEIN C) To maintain operations of certified clean air resources, establish the Ohio generation and jobs incentive program and the energy performance and waste reduction program, and make changes regarding wind turbine siting.

Current Status: 5/28/2019 - Referred to Committee House Energy and Natural Resources

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-260>

HB401 **TOWNSHIP REFERENDUM - WIND FARMS** (REINEKE W) To require inclusion of safety specifications in wind farm certificate applications, to modify wind turbine setbacks, and to permit a township referendum vote on certain wind farm certificates.

Current Status: 12/3/2019 - House Energy and Natural Resources, (Third Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-401>

HB499 **MOTOR FUEL TESTING PROGRAM** (KELLY B, LANG G) To authorize a county to implement a motor fuel quality testing program.

Current Status: 5/19/2020 - House Transportation and Public Safety, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-499>

HB564 **PREVENT UTILITY DISRUPTION DURING COVID-19** (LELAND D) To prevent the disruption of utility service during the state of emergency declared regarding COVID-19 and to declare an emergency.

Current Status: 5/5/2020 - Referred to Committee House Public Utilities

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-564>

- HB738 REPEAL HB6 - REVIVE PRIOR LAWS** (SKINDELL M, O'BRIEN M) To repeal Sections 4 and 5 of H.B. 6 of the 133rd General Assembly to repeal the changes made by H.B. 6 of the 133rd General Assembly to the laws governing electric service, renewable energy, and energy efficiency and the changes made to other related laws.
Current Status: 7/29/2020 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-738>
- HB740 EARNINGS - UTILITY SECURITY PLAN** (SKINDELL M, DENSON S) Regarding the significantly excessive earnings determination for an electric distribution utility's electric security plan.
Current Status: 7/29/2020 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-740>
- HB746 REPEAL HB6** (LANESE L, GREENSPAN D) To repeal the changes made by H.B. 6 of the 133rd General Assembly to the laws governing electric service, renewable energy, and energy efficiency and the changes made to other related laws.
Current Status: 8/6/2020 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-746>
- HJR2 CRITICAL INFRASTRUCTURE PROTECTION AMENDMENT** (MANNING D, CALLENDER J) Proposing to enact Section 12 of Article XV of the Constitution of the State of Ohio to provide Ohio critical infrastructure protection.
Current Status: 10/30/2019 - House Energy and Natural Resources, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HJR-2>
- SB86 UTILITY SERVICE RESELLERS** (MAHARATH T) To regulate certain resellers of utility service.
Current Status: 12/10/2019 - Senate Energy and Public Utilities, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-86>
- SB234 WIND FARMS** (MCCOLLEY R) To require inclusion of safety specifications in wind farm certificate applications, to modify wind turbine setbacks, and to permit a township referendum vote on certain wind farm certificates.
Current Status: 2/11/2020 - Senate Energy and Public Utilities, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-234>
- SB346 REPEAL HB6** (O'BRIEN S, KUNZE S) To repeal the changes made by H.B. 6 of the 133rd General Assembly to the laws governing electric service, renewable energy, and energy efficiency and the changes made to other related laws.
Current Status: 7/28/2020 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-346>

Energy

Ohio's Energy Policies Result in Hundreds of Millions of Dollars in Customer Charges

August 21, 2020

Ohio's nuclear bailout law (House Bill 6) contains a poorly understood regulatory construct called the "decoupling mechanism." The provision has been implemented and may allow FirstEnergy to collect \$355 million through 2024 — and hundreds of millions more in later years — from Ohio's electric ratepayers, including manufacturers. **Read this memo** by OMA's energy consultant RunnerStone for more on this issue. (A key reason the OMA opposed HB 6 was the blank check that the decoupling provision imposes on customers.)

In addition, the House Finance Committee last year inserted language into the state budget (House Bill 166) to alter Ohio's prohibition of excessive profits by regulated utilities. The provision, which would allow FirstEnergy to keep "significantly excessive" profits rather than issue refunds to customers, is set to take effect next year. **Read this memo** from OMA energy counsel Kim Bojko of Carpenter Lipps & Leland for more information.

OMA members can join the discussion on these topics at the upcoming virtual meetings of the OMA **Government Affairs Committee** (Aug. 26) and **Energy Committee** (Sept. 10). *8/20/2020*

Even During COVID-19, More Power Producers Switching to Natural Gas

August 21, 2020

The U.S. Energy Information Administration (EIA) **reports** that natural gas-fired generation in the lower 48 states increased nearly 9% in the first half of 2020 compared with the first half of 2019.

The monthly Henry Hub natural gas spot price, a benchmark for U.S. wholesale prices, averaged \$1.81 per million British thermal units (MMBtu) through the first half of the year, compared with an average of \$2.74/MMBtu one year earlier. *8/18/2020*

House Bill 6 Aftershocks Continue

August 14, 2020

Ned Hill, a professor at The Ohio State University's John Glenn College of Public

Affairs, recently joined a **panel presentation** at the Cleveland Metropolitan Bar Association to discuss state energy policy. Hill speculated on the need for transparent reforms in the wake of the House Bill 6 bribery scandal and called for PUCO reform, referring to Ohio's regulatory process as "an insiders game."

Meanwhile, HB 6 sponsor Rep. **Jamie Callendar** (R-Concord) has written **an editorial defending the bailout** and professing ignorance to the scheme. Rep. Callendar and others in the General Assembly continue to advocate for the policy behind the bailout, which requires Ohioans to subsidize investors — regardless of the corrupt process that brought HB 6 approval last year. *8/13/2020*

Another Measure Introduced to Repeal HB 6

August 7, 2020

This week, State Reps. **Laura Lanese** (R-Grove City) and **David Greenspan** (R-Westlake) introduced **House Bill 746** to undo the nuclear power plant bailout and all other provisions of the bill.

Also this week, the OMA Vice President and Managing Director of Public Policy Services Ryan Augsburger **discussed the importance of state energy policy** and recent developments in Ohio as a guest on Lincoln Radio Journal's "Capitol Watch," moderated by Pennsylvania Manufacturers' Association President David Taylor. *8/6/2020*

More Than 100 U.S. Coal-Fired Plants Replaced or Converted to Natural Gas Since 2011

August 7, 2020

According to **newly published data** from the U.S. Energy Information Administration (EIA), 121 U.S. coal-fired power plants — mostly in the eastern half of the country — were repurposed to burn other types of fuels between 2011 and 2019. Of these plants, 103 were converted to or replaced by natural gas-fired plants, including five plants in Ohio. *8/5/2020*

OMA Committees Explore Energy Policy Reform

July 31, 2020

A joint briefing of the OMA Energy Committee and Government Affairs Committee was held July 28 to address recent events surrounding former Ohio House Speaker Larry Householder, who's facing federal racketeering charges related to the nuclear bailout (**House Bill 6**) he pushed last year.

After hearing a summary of the **federal complaint** against Householder and four others — as well as a report on recent Statehouse activity following the charges — members reviewed the harmful provisions in HB 6 and discussed **options to make Ohio's energy law more transparent** for the benefit of electric consumers.

OMA Government Affairs Committee Chair Scott Corbitt, region vice president for Anheuser-Busch, told nearly 125 attendees the association has the “opportunity to be transformational” in Ohio's energy policy as lawmakers re-examine HB 6. OMA Energy Committee Chair Brad Belden, president of Belden Brick, thanked OMA members who testified against HB 6 during last year's hearings and encouraged more members to get involved.

Email Ryan Augsburger, the OMA's managing director of public policy services, to learn how you can take an active role in the reform efforts. *7/28/2020*

What Are the Real Economics Around Ohio's Two Nuclear Plants?

July 31, 2020

Many Ohio lawmakers are clamoring to repeal and replace **House Bill 6**, the bailout for nuclear power plants. But what does that mean? Significant data was ignored by policymakers when the bill was rocketed through the legislative process just one year ago. Many anti-market provisions of the law were not well understood when HB 6 was debated.

A key reason for support of HB 6 was to protect the jobs and carbon-free generation of First Energy's two nuclear generation plants. But the finances of the plants were never examined in the legislative process. Was there really a need for subsidies? **Read more in this OMA memorandum.** *7/30/2020*

Bill Could Mitigate Nuke Plant Decommissioning Funds

July 31, 2020

Before the Ohio House adjourned for summer recess, members approved **House Bill 104**, the Advanced Nuclear Technology Helping Energize Mankind (ANTHEM) Act. On July 21, as former Speaker Larry Householder was being arrested, the sponsor of HB 104 delivered testimony before the Senate Public Utilities Committee.

The bill is intended to spur research and development of largely unproven molten salt and thorium nuclear reactors. In doing so, HB 104 would establish an unwise and elaborate state agency that would take regulatory authority away from professional agencies — including the U.S. Nuclear Regulatory Commission — and instead place it under the Ohio Department of Commerce, which has no expertise in this arena. Moreover, the bill would empower bureaucrats at this new agency to act in the place of the governor in approving joint-development agreements.

The new agency would have some influence over nuclear plant decommissioning plans, according to an **analysis prepared for the OMA**. “Of special note is that Ohio's two nuclear power plants are required to maintain decommissioning funds, and that whether their decommissioning plans were fully funded was a point of contention in the recent FirstEnergy Solutions (now Energy Harbor) bankruptcy.” *7/30/2020*

Ohio a Top 10 State for Energy Production

July 31, 2020

A new report from the U.S. Energy Information Administration's (EIA) shows **Ohio ranked tenth in energy production** in 2018, the latest year of data available. Check out the EIA's **2018 primary energy production estimates for all states** for both fossil fuels and renewables, as well as **Ohio's updated energy profile.** *7/27/2020*

U.S. Energy Use at 30-Year Low Due to Pandemic

July 31, 2020

U.S. energy consumption dropped to its lowest level in more than 30 years this spring due to

coronavirus-related shutdowns, according to a **new report** by the U.S. Energy Information Agency. Overall, U.S. energy consumption dropped 14% during April compared to a year earlier — the largest decrease since data collection began in 1973. *7/30/2020*

House Bill 6: Why It's Harmful to Ohio Manufacturers

July 24, 2020

Nearly a year ago, state lawmakers approved **House Bill 6** to provide guaranteed income — a bailout — to Ohio's two nuclear power plants. The **OMA opposed the measure** due to its harmful economic impact on manufacturers, including the following provisions:

- \$150 million a year in new subsidies for nuclear power from 2021 through 2026;
- An extension of subsidies for legacy, uneconomic coal plants in Indiana and Ohio, which will cost Ohioans tens of millions of dollars each year through 2030;
- \$20 million a year for select solar power projects from 2021 through 2026; and
- Likely removes significant portions of Ohio generation and consumer load from competitive wholesale capacity auctions.
-

Other key reasons the OMA opposed HB 6 are in **this memo documenting its impact on manufacturers**. *7/24/2020*

Will House Bill 6 Be Repealed?

July 24, 2020

Gov. Mike DeWine on Thursday **told reporters** he supports “repealing and replacing” the controversial **House Bill 6** — Ohio's nuclear bailout law approved last year. He said he still supports the underlying policy, but that the process leading to its passage “forever tainted the bill and now the law itself.” The governor said HB 6 should be revisited with legislation that is transparent in its implementation.

On Thursday, July 23, a group of legislators from both chambers held a press conference

and **announced a bipartisan effort** to repeal HB 6. Rep. **Rick Carfagna** (R-Genoa Township) said the bill has up to 33 co-sponsors in the 99-member House. He was joined by Rep. **Laura Lanese** (R-Grove City), a member of House leadership. Sen. **Stephanie Kunze** (R-Hilliard) is working on a Senate version with Sen. **Sean O'Brien** (D-Bazetta). *7/24/2020*

Natural Gas Spot Prices Reached Record Lows in First Half of 2020

July 24, 2020

The EIA **reports** that in the first half of 2020, natural gas prices at the U.S. Henry Hub benchmark reached record lows. The average monthly spot price in the first six months of the year was \$1.81 per million British thermal units (MMBtu). Monthly prices reached a low of \$1.63/MMBtu in June, the lowest monthly inflation-adjusted price since at least 1989. *7/20/2020*

PUCO Rejects AEP's Recession-Proofing Rider

July 17, 2020

This week, the Public Utilities Commission of Ohio (PUCO) rejected AEP's request to establish a decoupling mechanism authorized by House Bill 6, the nuclear bailout legislation. The PUCO determined that AEP's proposed decoupling mechanism was not consistent with HB 6's language since AEP proposed to decouple only from “other commercial customers.” Ohio law requires the decoupling mechanism to apply to residential and commercial customers.

The OMA Energy Group was the only party to intervene and file comments in the case, which could have resulted in new costs for all customers in AEP service territories. In their **ruling**, the PUCO acknowledged concerns expressed by the OMA Energy Group about the potential for AEP to double recover lost demand revenues through the decoupling mechanism and the already-authorized COVID-19 deferral. This decision is good for customers and we congratulate OMA Energy Counsel Kim Bojko. Unfortunately, **customers in FirstEnergy territories** are already paying additional costs to guarantee FirstEnergy utilities can collect the same record revenue as they collected in 2018, despite lower electricity use. *7/16/2020*

Report: Appalachian Energy is Key to COVID Recovery

July 17, 2020

A **new federal report** touts the abundance of natural gas in Ohio and other states as vital for national and state economics recovering from the pandemic. The Department of Energy study says, "Appalachia can expect to grow via energy resource production, next-generation manufacturing, and petrochemical industry development and expansion." An accompanying **fact sheet** notes "85% of the growth in U.S. natural gas production over the past decade has occurred in northern to central Appalachia." 7/14/2020

Study Shows Ohio's Residential Energy Expenses Are About Average

July 17, 2020

Financial website WalletHub.com **recently compared** the monthly energy bills in all 50 states and the District of Columbia. The study considered the following residential energy types: electricity, natural gas, motor fuel and home heating oil. Ohio has the 23rd lowest average energy bill for households, according to WalletHub. 7/14/2020

Water Infrastructure Refinancing Bill Passes Senate With HB 6 Provision

July 2, 2020

This week, the Ohio Senate approved a notable amendment to a water infrastructure bill, **House Bill 264**. The amendment modifies last year's nuclear bailout law (House Bill 6) to provide up to \$300,000 to the state agency charged with reviewing financials of Ohio's two nuclear power plants to verify they are losing money before the plants can receive \$150 million a year in ratepayer-funded subsidies.

Recently, Energy Harbor, the owner of the power plants, **rewarded investors** with hundreds of millions of dollars in stock buybacks. Not bad for a company that just emerged from bankruptcy. 7/1/2020

Coalition Formed for Transportation Fairness

July 2, 2020

A national coalition has been formed to advance public policies that support a competitive and equitable transportation sector. According to the **Transportation Fairness Alliance**, the coalition is comprised of associations that "represent manufacturers, small business owners, farmers, and folks who pay utility bills." They are taking aim at public policies that create incentives for electric vehicles and related infrastructure.

The OMA has monitored Statehouse proposals that would require Ohioans to subsidize the construction of electric vehicle charging stations via a rider on customer power bills. The OMA has pointed out to policymakers that a competitive market for such infrastructure is a preferable approach.

Meanwhile, a coalition of environmental organizations and others has launched a **website** to counter the Transportation Fairness Alliance. At issue is the ongoing debate of markets versus mandates. A deeper dive is planned for the Sept. 10 OMA Energy Committee meeting. 7/1/2020

Last Year's Petroleum Imports Hit 70-Year Low

June 26, 2020

Providing further evidence that the fracking revolution has been positive for American energy independence, the U.S. Energy Information Administration (EIA) **reports** that last year, net imports of petroleum from foreign countries accounted for about 2.7% of the U.S. average daily petroleum consumption. This was the lowest percentage of net petroleum imports since 1949, the first year for which the EIA has historical data. 6/22/2020

Report: Appalachia Natural Gas Productivity Increased Again in 2019

June 19, 2020

Increased U.S. natural gas production has helped bring lower energy costs to manufacturers. The U.S. Energy Information Administration's (EIA) **latest drilling report** shows that domestic production increased in 2019 due to, in part, greater productivity of new wells drilled in shale and tight formations. Since 2007, gross natural gas production from the EIA's Appalachia (includes eastern Ohio) and Haynesville (Arkansas,

Louisiana and Texas) regions has grown at an average annual rate of 20%. *6/17/2020*

Another Energy Bill Appears to Take Aim at Ohio Customers

June 12, 2020

Last week, State Rep. **Nino Vitale** (R-Urbana) unveiled a new version of **House Bill 246**, legislation to purportedly modernize state agencies that regulate utilities. The bill would impose new risks on manufacturers and could give utilities even more sway over the regulations that govern them. It would also provide monopoly utilities an unfair advantage against competitive energy companies, including developers of renewable energy and electric vehicle charging businesses. Other provisions of HB 246 would diminish the role and voice of customer advocates in proceedings before the PUCO.

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

The OMA will convey its concerns to the General Assembly in the coming weeks. **View our preliminary analysis.** *6/11/2020*

U.S. Renewable Energy Consumption Surpasses Coal for First Time in 135 Years

June 5, 2020

In 2019, U.S. annual energy consumption from renewable sources exceeded coal consumption for the first time since before 1885, **according** to the U.S. Energy Information Administration. This outcome mainly reflects the continued decline in the amount of coal used for electricity generation over the past decade, as well as growth in renewable energy, mostly from wind and solar. *6/4/20*

TO: OMA Government Affairs Committee
FROM: Ryan Augsburger / Rob Brundrett
RE: Environment Public Policy Report
DATE: August 26, 2020

Overview

The COVID-19 pandemic and the Larry Householder bribery scandal slammed the brakes on any robust legislative agenda through the spring and summer months. The General Assembly is expected to return intermittently through the summer to take care of lingering issues. However no new or major environmental legislation or policy is expected in the coming months.

With the reduction of tax revenue there was concern that H2Ohio would lose funding. All first year funding was fully distributed. A wide variety of projects tied to H2Ohio continue as planned.

PFAS water testing was delayed due to COVID-19. The agency was attempting to test the vast majority of Ohio's public water systems. Testing was restarted last month and expected to continue through the end of 2020.

The OMA continues to be heavily engaged at the agency level regarding rules and regulations that impact Ohio's manufacturers.

OHIO EPA COVID-19 INFORMATION

Ohio EPA Requests Electronic Filings of Plans, Permit Applications

Ohio EPA has announced that because its district offices and central office are temporarily closed, businesses are encouraged to submit plans, permit applications, and other required documents electronically when there are existing avenues to do so, such as eBiz. Plans under 25 MB can be emailed. For large plans over 25 MB, entities should work with the reviewer/division to upload via LiquidFiles. Directions for submitting docs via LiquidFiles are available on YouTube (<https://www.youtube.com/watch?v=BkeiTm5e9zE&feature=youtu.be>).

Ohio EPA staff has been told they will be working from home until January 4, 2021.

How to Contact Ohio EPA Staff During the COVID-19 Crisis

Due to COVID-19 concerns, Ohio EPA is currently operating with many staff members working remotely. The agency wants businesses to know that if you are working with staff on a current project — and you know the name of the employee you are working with — you can email them using this format: `firstname.lastname@epa.ohio.gov`. Or call the employee directly.

The agency's website has contact information for every district, division, and office. Businesses can contact Ohio EPA's main phone line at (614) 644-3020. To report a spill or environmental emergency, contact the spill hotline (800) 282-9378 or (614) 224-0946.

Ohio EPA COVID-19 Guidance

Ohio EPA has announced that all regulated entities remain obligated to take all available actions necessary to ensure compliance with environmental regulations and permit requirements.

Of course, in some instances regulated entities will have an unavoidable non-compliance situation directly related to COVID-19. In these cases, the director of Ohio EPA may consider providing regulatory flexibility, where possible, to assist entities in alternative approaches to

maintaining compliance, such as extending reporting deadlines, waiving late fees, and exercising enforcement discretion.

An email address (EPA.COVID-19REGFLEX@epa.ohio.gov) has been established by the agency to accept such requests.

General Assembly News and Legislation

Senate Bill 2 – Statewide Watershed Planning

The bill's goal is to create a comprehensive statewide watershed planning structure to be implemented by local soil and water conservation districts to encourage efficient crop growth, soil conservation and water protection methods. The bill specifically states that it is the General Assembly's intent to collaborate with organizations representing agriculture, conservation, the environment, and higher education to establish a certification program for farmers that utilize practices designed to minimize impacts to water quality.

The Senate sees the bill as a complementary piece of legislation to the work done in the budget on creating and funding H2Ohio. The House of Representatives has held five hearings on the Senate bill.

House Bill 7 – H2Ohio Trust Fund

The bill creates the H2Ohio Trust Fund for the protection and preservation, and restoration of the water quality of Ohio's lakes and rivers. It requires the Ohio Water Development Authority to act as trustee of the fund and grants them full powers to invest money. It also creates the H2Ohio Advisory Council to establish priorities for use of the fund for water quality initiatives.

The House initially removed most of the funding for H2Ohio from the state budget. However, the startup funding was reinserted during House and Senate discussions along with other H2Ohio framework provisions. The House passed the bill and it has received one hearing in the Senate last fall.

Senate Bill 50 – Increase Solid Waste Disposal Fee

Senator Eklund has reintroduced Senate Bill 50. The bill would increase one of the state fees levied on the transfer or disposal of solid waste in Ohio. The proceeds of this increase will be deposited into the Soil and Water Conservation District Assistance Fund. Last General Assembly the OMA worked with allies to oppose the fee increase. Recently the Soil and Water Conservation Districts have been the point agency on any new water programs to battle nutrient runoff. The bill has had two hearings. The budget bill provided increased state funding to the soil and water conservation districts.

Senate Bill 222 – Container Use Restriction

The Senate version of House Bill 242 also authorizes the use of an auxiliary container for any purpose; it also prohibits the imposition of a tax or fee on those containers and applies existing anti-littering laws to those containers. The OMA provided proponent testimony on the bill in Senate committee.

House Bill 242 – Container Use Restriction

The bill authorizes the use of an auxiliary container for any purpose, to prohibit the imposition of a tax or fee on those containers, and to apply existing anti-littering law to those containers.

This so-called bag bill is aimed at providing uniformity across the state regarding packaging and other products that have been ground zero for local government bans. The OMA provided strong support in committee. The bill passed the House 58-35.

The full Senate passed the bill at the end of May. The OMA provided proponent testimony. The bill was amended in committee adding a 12-month sunset. The House has yet to concur on the Senate amendments. The goal is to get the House to concur as soon as possible.

House Bill 328 – PFAS Firefighting Foam

The bill prevents testing and training with firefighting foam with PFAS added. The bill which is supported by the industry has received two hearings in the House.

House Bill 491 – Plastic Pollution Awareness Day

The bill designates the fifteenth day of February as "Plastic Pollution Awareness Day." The bill has not had any hearings.

House Bill 497 – PFAS Drinking Standard

The bill would require the Director of Environmental Protection to adopt rules establishing maximum allowable contaminant levels in drinking water and water quality standards for certain contaminants (PFAS). The has not had any hearings and was referred to the House Health committee.

House Bill 522 – Waste Disposal Conservancy Districts

The bill authorizes conservancy districts to provide for the collection and disposal of solid waste. The bill has not had any hearings to date.

Regulations

OMA Files Federal Comments on Ohio Air Pollution Nuisance SIP

This summer the OMA led a coalition of business groups by filing comments to the U.S. EPA's correction of the inclusion of Ohio's air pollution nuisance rule. The comments agree with U.S. EPA's proposal to remove the nuisance rule from the Ohio SIP. Ohio's public nuisance provision is a general rule prohibiting public nuisances and has not connection with the purposes for which SIPs are developed and approved. Manufacturers often find themselves in the crosshairs of lawsuits based on the SIP provision even though they are in total compliance with the permit limits. The coalition recently filed supporting comments. Early indications from U.S. EPA seem positive.

Ohio Lake Erie Commission Releases 2020 Plan and Ohio Submits 2020 Integrated Water Quality Monitoring and Assessment Report

The Ohio Lake Erie Commission recently approved its 2020 Lake Erie Protection and Restoration Plan (LEPR). The LEPR, last published in 2016, reflects actions that the commission and its member agencies will take over the next several years to protect and restore the lake, while promoting economic development for the region. The state's actions complement federal and local initiatives. The plan is available at the Ohio Lake Erie Commission website.

Ohio Environmental Protection Agency submitted the final 2020 Integrated Water Quality Monitoring and Assessment Report to U.S. EPA for approval. The final report is available here.

The OMA and its nutrient water working group worked tirelessly with Ohio EPA and others to ensure manufacturing is not disproportionately harmed by any new regulations on nutrients.

The OMA commented on both the draft plans prior to their release and submittal.

OMA Submits Comments on Ambient Water Quality Criteria

The OMA submitted comments regarding the U.S. EPA's Draft Ambient Water Quality Criteria Recommendations for Lakes and Reservoirs of the Conterminous United States. The OMA outlined serious concerns regarding the proposed use of the draft recommendations, as well as some of the assumptions underlying the recommendations.

The OMA stated that the draft recommendations, if pursued, "should not be issued as Clean Water Act Section 304(a) criteria, but rather as guidance for the limited purpose of evaluating whether nutrients may be a cause of a confirmed use impairment in a lake or reservoir, and only after the models are revised to address their overly conservative assumptions."

Manufacturers Could See More Regulation Due to Federal Ozone Standards

Ohio EPA hosted two regional meetings for interested parties, including manufacturers and the OMA, to discuss the likelihood that the Cleveland and Cincinnati airsheds will be bumped up from "marginal" to "moderate non-attainment" under the federal ozone standard. The standard was lowered to 70 parts per billion during the Obama administration.

A change in status will trigger additional compliance requirements under the federal Clean Air Act. One of the key components of additional regulatory restrictions would be emissions offsets, so that any new emissions creator would need to be set at the New Source Review offset ratio 1.15:1.

The OMA will continue to work with members and Ohio EPA on this important issue that could affect many of the state's manufacturers and Ohio's overall economy.

U.S. EPA Proposes to Retain Current Particulate Matter Standards

On April 14, U.S. EPA proposed to retain the current national ambient air quality standards (NAAQS) for particulate matter (PM) without revision. After reviewing the air quality criteria and primary and secondary NAAQS for fine and coarse PM, the agency concluded that there is insufficient scientific evidence to support tightening these standards. U.S. EPA Administrator Andrew Wheeler stated he believes the current levels will be protective of public health while the agency continues to evaluate PM. EPA will accept public comment for 60 days after the proposed standards are published in the Federal Register.

Good News for Manufacturers: U.S. EPA Declines to Tighten Ozone Standards

Ohio manufacturers should note that the U.S. EPA last week did not propose stricter ozone standards despite pressure from environmental groups. The EPA's new proposal retains the 70-part-per-billion (ppb) standard for ozone, commonly referred to as smog, set under the Obama administration. Even under the current standard, the Cincinnati and Cleveland areas are both at high risk of being elevated to "moderate non-attainment" status, which would mean tighter controls on emitting industries.

"At a time when we are facing record-breaking unemployment, a lower ozone standard could slow our economic rebound and threaten manufacturing competitiveness," the National Association of Manufacturers wrote in a statement of support for the EPA's proposal.

Ohio Submits Ozone Documents to U.S. EPA

Last month, Ohio EPA submitted to U.S. EPA the emissions inventory and emission statement program to satisfy attainment demonstration requirements under the 2015 ozone National Ambient Air Quality Standard (NAAQS).

OMA Comments on U.S. EPA Stormwater Permits

The OMA submitted comments on the U.S. EPA's National Pollutant Discharge Elimination System (NPDES) 2020 Issuance of the Multi-Sector General Permit (MSGP) for stormwater discharges associated with industrial activity. The EPA's draft was more than 1,000 pages. The OMA has followed the MSGP closely for years as it is a good indication of where Ohio EPA will fall on the issue.

Three States Push to Include PFAS in Stormwater Permit

Three states are urging the U.S. EPA to impose new mandates related to the monitoring and reduction of per- and polyfluoroalkyl substances (PFAS) from industrial stormwater discharges. Colorado, Massachusetts, and New Mexico recently submitted comments on the draft Multi-Sector General Permit (MSGP) that ask EPA to require permitted industrial facilities to monitor PFAS in their stormwater discharges and to develop practices intended to minimize the potential for PFAS to be introduced into stormwater.

The OMA also submitted comments on the draft permit. The comment period closed June 1, and it remains to be seen whether the EPA will adopt the three states' suggestions. If it does, it could have wide-ranging implications for states like Ohio that use the federal MSGP as a model for the state general permit. If your company is tracking PFAS issues in Ohio, contact Rob Brundrett to keep up to date on Ohio's PFAS response.

OMA Comments on General Permit for Isolated Wetlands and Ephemeral Streams

On June 5, the OMA submitted comments on Ohio EPA's proposed General Permit for Isolated Wetlands and Ephemeral Streams. The new general permit is a product of the recent federal rule addressing "waters of the United States" (WOTUS) under the Navigable Waters Protection Rule.

In its comments, the OMA wrote: "This proposed draft MSGP continues a recent trend towards a more top-down, command-and-control approach to stormwater regulation, with a highly prescriptive stormwater sampling/corrective action regime as its cornerstone. ... This is a most unfortunate trend that increases the regulatory burden on industry with no tie to a corresponding, quantifiable benefit to receiving waters. The new requirements in the proposed MSGP go well beyond what is required by the 2016 MSGP settlement and beyond what Congress intended in the Clean Water Act."

Ohio EPA Agency News

Ohio EPA Launches 'Ask an Expert'

Ohio EPA's Office of Compliance Assistance and Pollution Prevention (OCAPP) has created a new avenue for companies to receive free and confidential environmental assistance regarding regulatory concerns about air, waste, water, and other environmental requirements. This service is available Monday through Friday, from 10 a.m. to 12 p.m. — and from 1 p.m. to 3 p.m.

<https://ohioepa.custhelp.com/app/contactus>

Ohio Changes Direction on PFAS Testing

Due to the COVID-19 pandemic, Ohio paused its statewide PFAS testing plan due to COVID-19. The state resumed testing last month.

Last year Gov. Mike DeWine directed state agencies to analyze the prevalence of per- and polyfluoroalkyl substances (PFAS) in Ohio's drinking water. This action followed a Sept. 18 letter from Gov. DeWine and 14 other governors to federal lawmakers, calling for more comprehensive federal legislation on PFAS standards.

In December an action plan was released to study all of Ohio's drinking water for PFAS chemicals. The plan contains education and other support for communities who's water tests positive for certain PFAS chemicals. The OMA worked with the agency to ensure that the plan would be fairly developed as concerned to Ohio's manufacturers.

The debate over PFAS has become controversial as plaintiffs' lawyers aggressively attempt to litigate against manufacturers.

Ohio EPA Compliance Assistance Conference Set for Sept. 21 – Oct. 8

Ohio EPA's Compliance Assistance Conference is going virtual this year. The annual event will be held Sept. 21 through Oct. 8. The free conference will provide daily interactive sessions focusing on compliance with air, waste, and water regulations — spaced over three consecutive weeks. The agency says registration and more information will be coming soon.



American Petroleum Institute
Ohio



OHIO CHAMBER
of COMMERCE

July 31, 2020

VIA ELECTRONIC AND REGULAR MAIL

U.S. Environmental Protection Agency
EPA Docket Center
Docket No. EPA-R05-OAR-2020-0055, FRL-10006-83-Region 5
Mail Code 28221T
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Re: Supplemental Comment on the United States Environmental Protection Agency's ("EPA's") "Air Plan Approval; Ohio; Technical Amendment", Docket ID No. EPA-R05-OAR-2020-0055, FRL-10006-83-Region 5

Dear Administrator Wheeler:

The Ohio Chamber of Commerce, the Ohio Chemistry Technology Council, The Ohio Manufacturers' Association, API Ohio, and the Ohio Oil and Gas Association (the "Commenters") previously submitted comments in support of the agency's March 23, 2020 proposal to use the Clean Air Act ("CAA") error correction provision¹ to remove the air pollution nuisance rule OAC 3745-15-07 ("Nuisance Rule") from the Ohio State Implementation Plan ("SIP").² The Commenters are submitting this supplemental comment to call EPA's attention to a relevant new development after the close of the public comment period. Specifically, on July 15, 2020, EPA published a final rule removing general nuisance provisions and other rules from California's SIP that, like the Ohio rule, were approved in error and were inconsistent with the CAA.³

¹ 42 U.S.C.A. § 7410(k)(6).

² See Ohio Chamber of Commerce, Ohio Chemistry Technology Council and the Ohio Manufacturers' Association, Comments on the United States Environmental Protection Agency's "Air Plan Approval; Ohio; Technical Amendment", Docket ID No. EPA-R05-OAR-2020-0055, FRL-10006-83-Region 5, pp. 3-5 (detailed discussion on how the CA, MI, GA and other states' nuisance rules that have been removed; the definition of "air contaminants" under both CA and OH are the same.)

³ Air Plan Revisions; California; Technical Amendments, 85 Fed. Reg. 42728 (July 15, 2020) (final rule).

In its proposal, EPA explained that “[r]ules that prohibit emissions causing general nuisance or annoyance in the community, [] address local issues but have essentially no connection to the purposes for which SIPs are developed and approved, namely the implementation, maintenance, and enforcement of the national ambient air quality standards (NAAQS). *See* CAA section 110(a)(1).”⁴ The California general nuisance provisions are nearly identical to the Ohio nuisance rule. In general, they prohibit any person from “. . . [discharging] from any source whatsoever such quantities of air contaminants or other material which cause injury, detriment, nuisance or annoyance to any considerable number of persons or to the public or which endanger the comfort, repose, health or safety of any such persons or the public or which cause or have a natural tendency to cause injury or damage to business or property.”⁵

EPA’s decision to remove the general nuisance provisions from the California SIP further supports EPA’s proposal to issue a technical amendment to the Ohio SIP by removing the general nuisance provisions. Like California’s general nuisance provision, the prohibition of emissions causing general nuisance or annoyance in the community addresses local issues that have no connection to the purposes for which SIPs are developed and approved, namely the “implementation, maintenance, and enforcement of the national ambient air quality standards (NAAQS). *See* CAA section 110(a)(1).”⁶

Sincerely,

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⁴ 85 Fed. Reg. 22384, 22385 (Apr. 22, 2020).

⁵ 83 Fed. Reg. at 43576 n.1 (Aug. 27, 2018) *See also* Ohio Admin. Code 3745-15-07 (“The emission or escape into the open air from any source or sources whatsoever, of smoke, ashes, dust, dirt, grime, acids, fumes, gases, vapors, or any other substances or combinations of substances, in such manner or in such amounts as to endanger the health, safety or welfare of the public, or cause unreasonable injury or damage to property, is hereby found and declared to be a public nuisance. It shall be unlawful for any person to cause, permit or maintain any such public nuisance.”).

⁶ 85 Fed. Reg. 22384, 22385 (Apr. 22, 2020).



August 20, 2020

Submitted Via <https://www.regulations.gov>

Mr. Lester Yuan
Health and Ecological Criteria Division
Office of Water
U.S. EPA
1200 Pennsylvania Avenue
Washington, DC 20460

Re: Comments on the *Draft Ambient Water Quality Criteria Recommendations for Lakes and Reservoirs of the Conterminous United States*, Docket ID No. EPA-HQ-OW-2019-0675

Dear Sir or Madam,

On May 22, 2020, the United States Environmental Protection Agency (USEPA) announced the availability of the Draft Ambient Water Quality Criteria Recommendations for Lakes and Reservoirs of the Conterminous United States: Information Supporting the Development of Numeric Nutrient Criteria (Draft Recommendations) and opened a 60-day public comment period. (85 FR 31184) On July 21, 2020, USEPA announced an extension of this comment period through August 20, 2020. (85 FR 44071) The Ohio Manufacturers' Association (OMA) appreciates the opportunity to submit these comments regarding the Draft Recommendations.

The OMA represents more than 1,300 members throughout Ohio. For more than 100 years, the OMA has supported reasonable, necessary, and transparent regulation that promotes the health and well-being of Ohio's citizens and the environment. Manufacturers across the state are actively engaged in protecting and improving the health of Ohio's important water resources, including lakes and reservoirs throughout the state, while supporting a vibrant and healthy economy. As detailed in these comments, many OMA members have a vital interest in, and the potential to have their operations impacted by, the Draft Recommendations.

While the Draft Recommendations reflect significant work and progress since the 2000 and 2001 "reference method" recommendations, the OMA has serious concerns regarding both the proposed use of the Draft Recommendations as well as some of the assumptions underlying the Draft Recommendations. In particular, and as detailed in our comments below, the Draft Recommendations, if pursued, should not be issued as Clean Water Act (CWA) Section 304(a) criteria but rather as guidance for the limited purpose of evaluating whether nutrients may be a cause of a confirmed use impairment in a lake or reservoir, and only after the models are revised to address their overly-conservative assumptions.

1. Relationship of Nutrient Parameters to Actual Impairment.

As published, the Draft Recommendations present a statistical method for calculating numeric criteria for phosphorus (P) and nitrogen (N) in lakes and reservoirs at concentrations that are designed to protect the designated uses of the target waterbodies. This type of bright-line criteria development is typically seen with toxic chemicals, where the presence of such a chemical above the bright-line value is specifically and definitively known to interfere with a designated use. In those cases, an exceedance of the criteria means that the water body is, in fact, not attaining its uses and an impairment designation is necessary and appropriate under the CWA.

For nutrients, the required analysis is different. Nutrients are naturally occurring and support and nourish the ecosystem at a variety of concentrations. Additionally, the link between nutrient concentrations and the target uses (aquatic life, drinking water or recreational) is indirect and impacted by many confounding variables, making it difficult to identify a direct link between a bright-line nutrient value (P or N) and a designated use. Under the Clean Water Act, federal ambient water quality criteria and state water quality standards are established at a level necessary to protect designated uses, requiring a verifiable link between the criteria and the use. (40 C.F.R. § 131.2) Contrary to this CWA structure, the Draft Recommendations instead look to estimate potentially protective criteria for N and P using a statistical analyses that establishes the target values by relating N and P to chlorophyll-a (Chl *a*) concentrations, and by further relating Chl *a* up through a secondary correlation to microcystin or to zooplankton/phytoplankton ratios. Because the Draft Recommendations do not establish a process for identifying a direct link from the nutrient concentration to a use impairment, this formulaic approach may result in estimated P and N bright-line criteria that are exceeded in a target water body that, in reality, meets the actual designated use. In those cases, an attaining water body suddenly becomes artificially, or presumptively, “impaired”, triggering a waterfall of new regulatory restrictions on nutrients notwithstanding the functional use of the water body. This result runs contrary to, and is not justified under, the Clean Water Act’s reliance on designated uses as establishing the ultimate attainment goals for our Nation’s waters.

Additionally, because the new Draft Recommendations, if adopted, would result in some water bodies moving to “impaired” designations even where uses are met, the Draft Recommendations would result in unreasonable and unnecessary CWA permit limits designed to meet the artificial criteria. The CWA allows the agency to issue limits in CWA permits where necessary to achieve water quality standards and restore a designated use, but that authority does not extend to situations where a water body meets its uses and such limits would do nothing to protect or restore such a use. (40 C.F.R. § 122.44(d)) Accordingly, under the Draft Recommendations, manufacturers and other dischargers face the threat of unnecessarily stringent permit limits for N and P.

However, after peer review in accordance with the Office of Management and Budget's Bulletin on Peer Review (70 Fed. Reg. 2664)¹ and public comment and response are complete and the overly-conservative assumptions within the proposal are revised, the Draft Recommendations may have a role to play in a subsequent causal evaluation if a water is confirmed as impaired and nutrients are a suspect cause. If a water body is impaired (for example, high microcystin concentrations impair recreational use), the causal assessment process will identify potential sources for the impairment. Where nutrients are suspect (again, in our example, due to harmful algal blooms), the Draft Recommendations could be used as a screening tool to evaluate whether site-specific N or P targets should be developed in the total maximum daily load (TMDL) or similar process. Actual N or P targets could then be calculated for that particular lake or reservoir and set at site-specific concentrations designed to attain the designated use without over-regulating nutrients.

2. Impact of Overly-Conservative Model Outputs on Attainment Designations.

Further to Comment 1 above, because the Draft Recommendations do not establish a direct link between an N or P criteria and a verified impairment and because they include multiple layers of conservative assumptions, the Recommendations risk placement of many new water bodies into the "impairment" category notwithstanding the fact that such waters actually achieve their designated use. This risk is exacerbated by the conservative nature of the proposed models, which fail to account for the many variables that may contribute to an impairment and which may mischaracterize acceptable nutrient concentrations as harmful. By way of specific example, consider a lake that exhibits healthy aquatic life, enjoys recreational use and meets drinking water needs. If this lake were to face new N and P criteria developed under the Draft Recommendations that are lower than the lake's concentrations, the lake, by definition, will be labelled as "impaired", and the lake will face a nutrient total maximum daily load (TMDL) and new restrictions on discharges to that lake. When this example is extrapolated across the thousands of lakes that might fall into this scenario, it becomes evident that the "presumptive impairment" outcomes would lead to millions of dollars in unnecessary and wasteful control technology and impose an extraordinary burden on the regulatory agencies who oversee TMDL programs.

The defining purpose of water quality criteria is to protect the designated uses of a waterbody. It is evident that application of the Draft Recommendations would alter this purpose and create the arbitrary and capricious outcome of implied impairment, completely contrary to the requirements of the CWA. For the reasons outlined in Comments 1 and 2, we urge USEPA to withdraw the Draft Recommendations and believe that any further action on the Draft Recommendations should be limited, at most, to guidance on the causal assessment process following a confirmed impairment determination.

¹ <https://www.epa.gov/osa/office-management-and-budgets-final-information-quality-bulletin-peer-review>

3. Role of Limiting Nutrient Concept in Assessing Causes of Impairment.

If USEPA proceeds with final publication of the Draft Recommendations, the Draft Recommendations should be revised to clarify that nutrient causes of impairment should be evaluated on a “limiting nutrient” approach. The Draft Recommendations as proposed indicate that “[d]raft national criteria models are provided for both TN and TP as the simultaneous control of both nutrients provides the most effective means of controlling the deleterious effects of nutrient pollution.” (Draft at 2) This approach could result in an “independent applicability” assessment where one nutrient is regulated even where the other nutrient (also regulated) controls the target condition. This secondary regulation of the non-limiting nutrient would result in significant regulatory compliance costs for no measurable progress towards attainment of the designated use. Such an outcome runs contrary to the CWA and would impose unreasonable burdens on the regulated community.

* * *

As outlined in these comments, we request that USEPA withdraw the Draft Recommendations as potential water quality criteria. If USEPA does issue the Draft Recommendations, either as federal criteria guidance or as an impairment causation assessment tool, we request that USEPA revise the proposed models to reflect the technical concerns raised by the regulated community regarding the overly-conservative nature of the models.

We very much appreciate the opportunity to comment on the Draft Recommendations. Please contact me at (614) 629-6814 or rbrundrett@ohiomfg.com should you have any questions regarding the OMA’s comments.

Sincerely,



Rob Brundrett
Director, Public Policy Services

cc: Julianne Kurdila, Chair, OMA Environment Committee
Frank Merrill, Esq., Bricker & Eckler LLP



June 1, 2020

VIA WWW.REGULATIONS.GOV

United States Environmental Protection Agency
Office of Water, Office of Wastewater Management (4203M)
1200 Pennsylvania Avenue, NW,
Washington, DC 20460

Re: Comments to the 2020 Issuance of the proposed USEPA NPDES Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity: Docket ID EPA-HQ-OW-2019-0372

Dear Sir/Madam:

Pursuant to USEPA's Public Notice, issued on March 2, 2020 (85 Fed. Reg. 12288, Federal Register No. 2020-04254), The Ohio Manufacturers' Association (OMA) is hereby providing USEPA with written comments on USEPA's proposed NPDES Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity (MSGP).

The OMA is dedicated to protecting and growing manufacturing in Ohio. The OMA represents over 1,300 manufacturers 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.

Although Ohio is a delegated state for stormwater NPDES permitting, our membership of Ohio manufacturers are concerned about the guidance that this USEPA MSGP may provide to delegated states such as Ohio. We submit these comments in accordance with the June 1, 2020 extended comment deadline.

Of note, this proposed draft MSGP continues a recent trend towards a more top-down, command-and-control approach to stormwater regulation, with a highly prescriptive stormwater sampling/corrective action regime as its cornerstone. Prime examples of this trend in the draft MSGP include the Additional Implementation Measures (AIM), the Universal Benchmarks, and the new, voluminous Appendix Q of Stormwater Control Measures (SCMs). This is a most unfortunate trend that increases the regulatory burden on industry with no tie to a corresponding, quantifiable benefit to receiving waters. The new requirements in the proposed MSGP go well beyond what is required by the 2016 MSGP settlement and beyond what Congress intended in the Clean Water Act.

The following are additional detailed comments on the draft MSGP:

1. Request for Comment 2: Coal-Tar Sealcoat Prohibition

There appears to be some confusion that all sealcoat products are “coal-tar sealcoats”, although this is not the case. In fact, USEPA has indicated in its MSGP fact sheet that there are viable alternatives that include “asphalt emulsion sealants and acrylic sealants”. Therefore, we suggest that a sentence be added to Section 1.1.8 to indicate alternatives that can be used instead of coal-tar sealcoats, such as “Substitutes for coal-tar sealcoats are available, such as asphalt emulsion sealants and acrylic sealants.”

Additionally, there may be regulated facilities who use coal-tar sealcoats in only limited areas of their facilities. If the agency keeps Section 1.1.8, it should include a de minimis exception based on the ratio of the area with coal-tar sealcoats to the overall drainage area of the permitted facility.

2. Request for Comment 4: 60-day Discharge Authorization Wait Period

We oppose this new 60-day wait period for discharge authorization. It is a needless expansion of the NOI processing times, and would allow USEPA to relax on permit processing efficiency by extending the permit backlog processing times with impunity. The regulated community needs efficient permit processing, which includes timely feedback on their permit applications, including application deficiencies.

There is an existing category in Table 1-2 of the MSGP for “[e]xisting facility without permit coverage” that specifies discharge authorization in “30 calendar days after EPA notifies you that it has received a complete NOI, unless EPA notifies you that your authorization has been denied or delayed.” Therefore, USEPA already has the ability to deny or delay authorization for unpermitted sites with pending stormwater enforcement action without the need of the proposed new category. USEPA just needs to continue to improve their permit processing efficiency to make these denial or delay determinations in a timely manner under the current category, without the need for this proposed category.

3. Request for Comment 6: Public Posting of Permit Coverage

We oppose this new proposal for public posting of permit coverage. It is another capricious expansion of the existing MSGP “process” without any stormwater benefit. There are already USEPA and state EPA websites that list stormwater permittees. The enforcement risk for “non-compliance of process” is real, such as inadvertent non-posting, or not posting in the “right” location. This requirement would also add the burden of maintenance of the sign, often in natural bank environment that would disturb surrounding vegetation and create a visual obstruction to the natural water system. This proposal also raises precedential concerns on public postings of other non-stormwater operating permit programs.

4. Request for Comment 7: No Exposure Certification Acronym from “NOE” to “NEC”

We agree with this proposal to change the acronym for No Exposure Certification from “NOE” to “NEC” to more accurately represent what the acronym stands for.

5. Request for Comment 8: Enhanced Stormwater Controls for Major Storms

We oppose the proposed Section 2.1.1.8 for prescriptive enhanced flood controls, because the MSGP is an environmental permit, not a one-size-fits-all nationwide stormwater design manual. Flood controls have been, and continue to be, addressed in federal, state and local flood control laws, rules and ordinances as well as in local stormwater design codes and manuals.

We are also concerned that these proposed requirements appear to be regulating stormwater flowrate and volume as a “stormwater pollutant”, which is outside of the CWA’s permitting authority and which has been rejected by the courts. If implemented, USEPA would become a flood management agency, sharing the responsibility and liability for failures of any flood controls implemented under this section.

6. Request for Comment 9: Alternatives to Benchmark Monitoring

There has been over 20 years of stormwater sampling, with the data submitted to USEPA and/or the state EPAs. This existing stormwater dataset should be sufficient for USEPA to make characterizations about industrial sites’ stormwater discharges in order to provide some stormwater sampling relief. Unfortunately, it appears that USEPA is moving in the opposite direction, towards greater stormwater sampling to meet expanded, lowered benchmarks, coupled with more onerous, prescriptive corrective actions. This trend raises the enforcement liability for “non-compliance of process” on the regulated community, apart from any real stormwater quality benefit, and is characteristic of a top-down, command-and-control regulatory regime.

For these reasons, USEPA should develop alternatives to benchmark monitoring. In particular, the MSGP should provide improved off-ramps for facilities to rely on visual inspections, without analytical sampling, once they have developed record of meeting benchmarks. This is particularly true for the new Universal Benchmark monitoring requirements (see comment 7). Additionally, the benchmarks should align more closely with water quality standards, because in many cases the benchmarks are far more stringent than the applicable in-stream standard. Adjusting the benchmarks will relieve unnecessary burden by making the off-ramps more available and minimizing the risk of perpetual BMP escalation.

7. Request for Comments 10 & 13: Universal Benchmark Monitoring

We strongly oppose the introduction of stormwater benchmark requirements to **all permittees** with the addition of universal benchmarks. The intent of this new requirement has been addressed by the BMP approach in the MSGP, a successful cornerstone of stormwater management from a wide variety of sites.

Universal benchmark monitoring, at this point in time in the stormwater permitting program, would be more compliance “busy work” for no purpose other than to provide for more enforcement or citizen lawsuit opportunities for “non-compliance of process” in the implementation of these universal benchmark monitoring. Stormwater sampling is arduous, costly, and should be reserved for cases of known, significant stormwater pollutants (e.g., SARA Title III, Section 313 water priority chemicals), in order to mitigate real, actual pollution concerns.

Rather than mandating quarterly universal benchmark monitoring, USEPA should make this type of stormwater sampling an alternative to existing BMP approaches. Also, rather than mandating the three (3) parameters (i.e., pH, TSS, COD) for all permitted sites, each site should be able to determine which parameters should be monitored, if at all, if these parameters are significant stormwater pollutants from the site’s industrial activities. Another suggestion, if USEPA persists with this universal benchmark monitoring, is to mandate only pH monitoring, which is a cost-effective field test, and leaving benchmark monitoring of other parameters as optional. Additionally, if the universal benchmark is included, the proposed language should be revised to clarify that annual averaging is allowed and to add efficient and permanent off-ramps for those facilities that meet the benchmarks in the first year. Quarterly sampling for the entire permit period (and for subsequent permits) is unreasonable and of no substantive value.

Finally, once this universal benchmark monitoring is inserted into the MSGP, there is real concern that what starts out as three (3) parameters (i.e., pH, TSS, COD) will expand to a host of other parameters in future MSGPs.

8. Request for Comment 11: Inspection-only Option for “Low-Risk” Facilities

We support an “inspection-only” option, but are concerned about the potential for additional, onerous requirements to utilize this option. For this option to work, it should not end up involving more resources on the regulated community than what is required for benchmark monitoring. We would recommend that the quarterly facility inspections (Part 3.1 of the draft MSGP) be the basis for this inspection-only option, perhaps at increased frequency (e.g., monthly).

Also, the “Qualified Personnel” defined in Appendix A of the draft MSGP should be the person(s) able to perform the inspections under this option, and the qualification requirements should not be made more restrictive (e.g., no specialized licensures). Many environmental laws allows facility personnel/authorized representatives to certify environmental results, and this precedent should apply to the inspection-only protocols under the MSGP, where facility personnel knowledgeable about the site conditions is qualified to certify under the MSGP.

Additionally, the “inspection-only” option should be available to facilities that have historically met benchmarks, with the inspection protocol providing the basis for continued compliance.

9. Request for Comment 19: Site-specific Benchmark Basis

We support this proposal for this “off-ramp” from the copper national benchmarks, on a site-specific basis, and suggest that this site-specific risk assessment “off-ramp” option be made available for all of the other benchmark parameters.

10. General Comments on Additional Implementation Measures (AIM)

We strongly oppose the introduction of the Additional Implementation Measures (AIM) to the MSGP. We note that this requirements has been added solely as a result of a 2016 USEPA “sue-and-settle” case, (now contrary to federal policy) in which the regulated community was not given adequate opportunity to provide input or to object. The AIM attempts to impose a definitive SCM requirement on all facilities, irrespective of relevance or benefit, and without any link at all to in-stream water quality. This proposal simply goes far beyond the reach of the CWA.

If USEPA intends to finalize the AIM provisions, over our objections, then the potential exists for many sites to be in “perpetual” “non-compliance of process”. To mitigate this untenable situation, all of the proposed exceptions provided for each of the three (3) AIM tiers should be made available to every tier: (a) background or run-on, (b) “aberrant event”, and (c) demonstration that the stormwater discharges do not result “...in any exceedance of water quality standards...” Additionally, if AIM is included, USEPA must update all benchmarks to link them to actual water quality standards, as a minimum benchmark, not urban run-off studies from the 1970s and early 1980s.

In addition, we propose a fourth AIM exception, which is a non-industrial pollutant source demonstration, where the benchmark chemical(s), such as Zinc, is not from the industrial activities of the site (e.g., not in raw materials), but from ubiquitous items (e.g., building envelope, fencing) found in every industrial, non-industrial and residential sites.

Regarding the AIM compliance schedules, subject to our objections to the unreasonable, rigid nature of the new Appendix Q requirements, we further object to the time frames for compliance with AIM triggers. If included in the final MSGP, these time frames must include more flexibility for facility management to review, develop and secure funding for the new SCMs, which in some cases will involve ordering new equipment, modifying site layout, constructing new control features, and retaining experts to assist in planning. The “hammers” of 30 and 45 days reflect the top-down, command and control regulatory approach that unnecessarily burdens businesses. A simple narrative time frame will achieve the same water quality goals without creating “noncompliance of process” issues.

Also, in order to not overwhelm all USEPA offices with applications for approvals of AIM exceptions, sites that are able to make AIM exception claims should be required to

document these exceptions in their SWPPP, subject to disclosures already provided for in the MSGP, but not needing USEPA approval.

11. Request for Comment 21: Additional AIM Tier 1 Trigger for Facility Changes

We oppose this additional AIM Tier 1 trigger based on facility changes, as it is qualitative in nature, and risks subjective interpretation. The AIMS, as proposed, are onerous requirements, unlike a SWPPP review and revision (per Part 4.2 of the 2015 MSGP), so any AIM trigger needs to be quantitative in nature to address actual stormwater pollution.

12. Request for Comment 22: “Aberrant Event” AIM Exception

With reference to our previous AIM general comments, we are in support of extending this “aberrant event” exception from AIM to all three (3) tiers. In addition, we had suggested another exception to the AIM provisions, which is a non-industrial pollutant source demonstration, where the benchmark chemical(s), such as Zinc, is not from the industrial activities of the site (e.g., not in raw materials), but from ubiquitous items (e.g., building envelope, fencing) found in industrial, non-industrial and residential sites.

Also, in order to not overwhelm all USEPA offices with applications for approvals of AIM exceptions, sites that are able to make AIM exception claims should be required to document these exceptions in their SWPPP, subject to disclosures already provided for in the MSGP, but not needing USEPA approval.

13. Request for Comment 23: “Discharges Not Resulting in any Exceedance of Water Quality Standards” AIM Exception

With reference to our previous AIM general comments, we are in support of extending this AIM exception for “discharges not resulting in any exceedance of water quality standards” to all three (3) tiers. Again, in order to not overwhelm all USEPA offices with applications for approvals of AIM exceptions, sites that are able to make AIM exception claims should be required to document these exceptions in their SWPPP, subject to disclosures already provided for in the MSGP, but not needing USEPA approval.

14. Request for Comment 24 & 25: Natural Background AIM Exception

With reference to our previous AIM general comments, we are in support of extending this natural background exception from AIM to all three (3) tiers. However, it is our observation that the definition of “natural background” is too strict to be practically useful. By this, we mean that it is commonly interpreted that “natural background” means pre-Industrial Revolution, undisturbed soils - a situation which does not exist outside of the most pristine of the National Parks.

The reality is that what constitutes natural background is highly location-specific, and as varied as the topography and land use of this country. A greater acceptance of this variability in “natural backgrounds” is needed, as has been the case in other USEPA programs. A good definition of what is “natural” is warranted (e.g., undeveloped, rural, agricultural), but may be a challenge in the current political climate.

We believe that the National Stormwater Quality Database (NSQD) is a good resource to define the “natural backgrounds” from developed, urban areas. If agricultural lands are assumed to constitute the “natural background” of soils, then data from USDA and/or Soil and Water Conservation Districts could also be good resources.

Another suggestion is for USEPA to allow for the methods prescribed in other USEPA programs (e.g., Superfund) for determining natural background for stormwater compliance.

We also agree that the exception for natural and run-on background contributions must allow for a demonstration that but for the background contribution, the facility’s discharge would meet benchmarks. In practice, many jurisdictions already acknowledge this important component of a background exception and it would simply reflect the actual facility discharge.

Finally, the run-on exception in Section 5.2.4.2 should be revised to remove the conditions related to notifying the upstream party and USEPA. This poses an onerous burden on the innocent party to play “police”. While in some cases the regulated parties will in fact notify the neighboring contributor as a matter of its normal business relationships, in other cases such an approach could result in business interruptions.

15. Appendix Q – Stormwater Control Measures (SCM)

We are strongly opposed to the inclusion of the new Appendix Q of SCMs in the MSGP. Instead, this extensive list of SCMs should be made a separate USEPA guidance document, and not be a part of the MSGP or otherwise imposed as a requirement in any way.

At a time when our leaders are talking about regulatory reform and making regulatory programs more efficient, it is disappointing that USEPA is “ballooning” the MSGP with the proposed **672-page** Appendix Q of SCMs, forming the majority of this **1000+ page MSGP!** USEPA may have intended to provide more guidance to the regulated community with this appendix, but its inclusion has the unfortunate consequence of imposing greater legal jeopardy on the regulated community.

The inclusion of this Appendix Q in the MSGP requires permittees to wade through its 672-pages to ensure compliance with all applicable SCMs, with the real potential of legal liability of missing SCM items, even if due to inadvertent human error. In addition, each SCM in Appendix Q is followed by the requirement for the permittee to state the “Reason Why Inappropriate/Not Done”. Again, this raises concerns about “non-compliance of process” for not answering the SCM question to the satisfaction of USEPA and in fact flips the idea of facility-selected BMPs entirely on its head: under the new proposal, USEPA has selected the BMPs as the starting point for facility management.

USEPA Docket ID EPA-HQ-OW-2019-0372

May 26, 2020

Page 8

Another concern with this Appendix Q is that what is now a 672-page appendix will “balloon” out even more with each future MSGP renewal. Therefore, we again strongly oppose the inclusion of this Appendix Q of SCMs in the MSGP, and suggest that it be made a separate USEPA guidance document.

The OMA appreciates the opportunity to comment on the MSGP. We look forward to the Agency’s incorporation of our recommendations in the final MSGP. If USEPA has any questions regarding the foregoing, please do not hesitate to contact me (614-629-6814) or OMA’s environmental counsel, Frank Merrill at Bricker & Eckler LLP (614-227-8871).

Regards,



Rob Brundrett
Director, Public Policy Services

cc: Frank L. Merrill, Esq.



June 5, 2020

VIA epa.dswcomments@epa.ohio.gov

Ohio EPA
Division of Surface Water – Permits Processing Unit
P.O. Box 1049
Columbus, Ohio 43216-1049

Re: General Permit for Isolated Wetlands and Ephemeral Streams

Dear Sir/Madam:

Pursuant to Ohio EPA's public notice, dated May 18, 2020, the Ohio Manufacturers' Association (OMA) is hereby providing Ohio EPA with written comments on the proposed General Permit for Isolated Wetlands and Ephemeral Streams ("General Permit").

The OMA is dedicated to protecting and growing manufacturing in Ohio. The OMA represents over 1,300 manufacturers throughout Ohio. For more than 100 years, the OMA has supported reasonable, necessary, and transparent environmental regulations that promote the health and well-being of Ohio's citizens.

OMA's comments are as follows:

1. The proposed General Permit (Part II(B)(2)) requires that the Pre-Activity Notice (PAN), if required, must contain a "determination from the U.S. Army Corps of Engineers that the wetlands and ephemeral streams proposed to be covered by this General Permit are not Waters of the United States" (i.e., not jurisdictional). If Ohio EPA is assuming jurisdiction for impacts to ephemeral streams under O.R.C. Chapter 6111, why does the applicant have to first obtain concurrence from the Army Corps of Engineers that the streams are not subject to the jurisdiction of the Clean Water Act? This will complicate the process and add time to obtain regulatory approval for certain projects. The Agency should consider revising the order of this process and provide General Permit coverage first and then leave it up to the applicant to seek further concurrence from the Corps, if necessary or warranted, given the situation.
2. As a less-preferred alternative to Comment 1, Ohio EPA should provide for concurrent review and processing of a PAN while the Corps is processing the jurisdictional determination for the impacted waterbody, such that once the Corps issues its determination that the waterbody is not subject to its jurisdiction, the PAN has already been granted and the applicant can proceed immediately under the General Permit.

3. Please confirm that proposed impacts to ephemeral streams less than 300 feet do not require any notice or pre-approval to Ohio EPA, and that the permittee can just proceed under the General Permit to conduct the activity in question.
4. Is it Ohio EPA's position that an ephemeral stream has an "ordinary high water mark" as noted in Part IV, (K)(BMPs)(6) when heavy equipment is prohibited below the OHWM of "any surface water?" If the ephemeral stream is to be permanently filled or impacted, then any heavy equipment will more than likely be below any OHWM of the ephemeral stream.
5. Please confirm that impacts to roadside ditches connecting two ephemeral streams or jurisdictional waters are not subject to the General Permit and are unregulated by Ohio EPA.
6. Is it Ohio EPA's opinion that projects covered by a certification from the Federal Energy Regulatory Commission (FERC) must also obtain PAN approval and be subject to Ohio EPA's General Permit for impacts to ephemeral streams greater than 300 feet?

The OMA appreciates the opportunity to comment on the proposed General Permit. We look forward to the Agency's consideration of our comments in any final General Permit covering this area. If Ohio EPA has any questions regarding the foregoing, please do not hesitate to contact me (614-629-6814) or OMA's environmental counsel, Frank Merrill at Bricker & Eckler LLP (614-227-8871).

Regards,



Rob Brundrett
Director, Public Policy Services

cc: Frank L. Merrill, Esq.
Julianne Kurdila

Environment

OMA Submits Comments on Ambient Water Quality Criteria

August 21, 2020

The OMA this week submitted **comments** regarding the U.S. EPA's *Draft Ambient Water Quality Criteria Recommendations for Lakes and Reservoirs of the Conterminous United States*. The OMA outlined serious concerns regarding the proposed use of the draft recommendations, as well as some of the assumptions underlying the recommendations.

The OMA stated that the draft recommendations, if pursued, "should not be issued as Clean Water Act Section 304(a) criteria, but rather as guidance for the limited purpose of evaluating whether nutrients may be a cause of a confirmed use impairment in a lake or reservoir, and only after the models are revised to address their overly conservative assumptions." Members with questions should contact **Rob Brundrett**. *8/20/2020*

Ohio EPA Compliance Assistance Conference Set for Sept. 21 – Oct. 8

August 21, 2020

Ohio EPA's Compliance Assistance Conference is going virtual this year. The annual event will be held Sept. 21 through Oct. 8. The free conference will provide daily interactive sessions focusing on compliance with air, waste, and water regulations — spaced over three consecutive weeks. The agency **says** registration and more information will be coming soon. *8/19/2020*

Wanted: Proposals to Address Recycling, Reuse and Remanufacturing Challenges

August 21, 2020

The U.S. Department of Energy said this week that approximately \$35 million will be distributed to support research and development that will enable U.S. manufacturers to increase the recovery, recycling, reuse, and remanufacturing of plastics, metals, electronic waste, and fibers. **Learn more** about this initiative to increase U.S. manufacturing competitiveness

and promote a sustainable national manufacturing R&D infrastructure. *8/19/2020*

Guidance for Industrial Storm Water Permitting

August 21, 2020

Ohio EPA has put together a **handy document** to help determine if your facility qualifies for a no exposure certification (NOE) for industrial storm water discharge permitting. This guidance will help businesses understand the NOE and changes you can make that may make you eligible for the NOE. *8/20/2020*

Ohio Lake Erie Commission Seeks Comments on Ashtabula River Area of Concern

August 14, 2020

The Ohio Lake Erie Commission and Ohio EPA are accepting comments for the proposed removal of a beneficial use impairment that restricts navigational dredging activities within the Ashtabula River Area of Concern. **Learn more here**. *8/11/2020*

Ohio Submits Ozone Documents to U.S. EPA

July 31, 2020

Last week, Ohio EPA submitted to U.S. EPA the emissions inventory and emission statement program to satisfy attainment demonstration requirements under the 2015 ozone National Ambient Air Quality Standard (**NAAQS**). The submissions and associated attachments **can be read here**. *7/30/2020*

Ohio EPA Comment Opportunities

July 31, 2020

Ohio EPA has a number of upcoming opportunities to comment on a variety of rules, regulations and programs. In order of the fastest approaching deadline, opportunities include:

- Aug. 10, 2020, comments due, Division of Materials and Waste Management (DMWM), **Municipal Solid Waste Landfill Operations Rule: OAC Rule 3745-27-19**.

- Aug. 10, 2020, comments due, Division of Materials and Waste Management (DMWM), **Coal Combustion Residual Rules**.
- Aug. 12, 2020, comments due, Division of Environmental Response and Revitalization (DERR), **Voluntary Action Program**.
- Aug. 13, 2020, comments due and virtual public hearing, Division of Materials and Waste Management (DMWM), **Solid Waste Management District Rule**.
- Aug. 13, 2020, comments due, Division of Air Pollution Control (DAPC), **Sulfur Dioxide Regulations**.
- Aug. 17, 2020, comments due and virtual public hearing, Division of Environmental Response and Revitalization (DERR), **Hazardous Waste Set Gen**.

If you are interested in working with the OMA on any of the above, please contact **Rob Brundrett**. 7/30/2020

Good News for Manufacturers: U.S. EPA Declines to Tighten Ozone Standards

July 24, 2020

Ohio manufacturers should note that the U.S. EPA last week **did not propose stricter ozone standards** despite pressure from environmental groups. The EPA's new proposal retains the 70-part-per-billion (ppb) standard for ozone, commonly referred to as smog, set under the Obama administration. Even under the current standard, the Cincinnati and Cleveland areas are both at high risk of being elevated to "moderate non-attainment" status, which would mean tighter controls on emitting industries. "At a time when we are facing record-breaking unemployment, a lower ozone standard could slow our economic rebound and threaten manufacturing competitiveness," the National

Association of Manufacturers wrote in a **statement** of support for the EPA's proposal. 7/20/2020

White House Overhauls Environmental Reviews to Boost Infrastructure Development

July 24, 2020

In another recent federal development, the Trump administration has **announced** a "top to bottom overhaul" of the regulations to "right-size the federal government's environmental review process." The goal is to speed up approval for major projects like pipelines and highways. The administration's new regulations are expected to reduce the types and number of projects subject to review under the National Environmental Policy Act (NEPA), shorten the timeline for reviews, and drop a requirement that agencies consider the cumulative environmental effects of projects. **Read the National Association of Manufacturers' supportive comments**. 7/20/2020

Report: U.S. Carbon Emissions From Power Production Dropped 8% Last Year

July 17, 2020

According to a report released last week by Ceres, a non-profit environmental organization, carbon dioxide (CO2) emissions from the U.S. electric power sector fell 8% between 2018 and 2019. This is due largely to the increasingly rapid shift away from coal-fired power, according to **reports**. The U.S. power sector has reduced carbon emissions 30% since the sector's peak in 2007, the report said, even as the economy grew. 7/13/2020

Ohio EPA Issues General Permit for Impacts to Ephemeral Streams

July 2, 2020

Ohio EPA **has announced** the availability of a general permit that will be available to applicants for projects that impact ephemeral streams, which flow only for a short time, usually after a large storm or snowmelt.

The general permit comes in response to U.S. EPA's recently finalized Navigable Waters Protection Rule. The new federal rule removes

certain waters from federal jurisdiction under the federal Clean Water Act. States retain the authority to determine oversight of these non-jurisdictional waters. *6/30/2020*

Ohio EPA Offers Grants for Electric Vehicle Charging Stations

July 2, 2020

Ohio EPA is **accepting applications** for \$3.25 million in grants for publicly accessible electric vehicle charging stations. Eligible applicants include public or private entities in the 26 counties that Ohio EPA has identified as eligible to receive funds from the grant program. Applications will be accepted through Sept. 30, 2020. *7/1/2020*

Three States Push to Include PFAS in Stormwater Permit

June 26, 2020

Three states are **urging the U.S. EPA** to impose new mandates related to the monitoring and reduction of per- and polyfluoroalkyl substances (PFAS) from industrial stormwater discharges. Colorado, Massachusetts, and New Mexico recently submitted comments on the draft Multi-Sector General Permit (MSGP) that ask EPA to require permitted industrial facilities to monitor PFAS in their stormwater discharges and to develop practices intended to minimize the potential for PFAS to be introduced into stormwater.

The OMA also **submitted comments** on the draft permit. The comment period closed June 1, and it remains to be seen whether the EPA will adopt the three states' suggestions. If it does, it could have wide-ranging implications for states like Ohio that use the federal MSGP as a model for the state general permit. If your company is tracking PFAS issues in Ohio, contact **Rob Brundrett** to keep up to date on Ohio's PFAS response. *6/25/2020*

Monitoring Ohio's Air Quality From Your Computer

June 26, 2020

Summer heat can bring air quality concerns. Ohio EPA's Division of Air Pollution Control offers an **online air quality data and reporting system** that allows Ohioans to monitor conditions from home or work. Tools include a map showing current air quality in several

locations across Ohio, as well as air quality index forecasts. *6/24/2020*

Ohio EPA Accepting Comments About Plan to Study Large Rivers

June 19, 2020

Ohio EPA is accepting public comments regarding the **agency's plan** to study the state's largest rivers in 2020-21. Comments will be accepted through July 8. **Learn more here.** *6/18/2020*

Materials Marketplace to Host Webinar on Film Plastics

June 19, 2020

On Tuesday, June 23, at 11 a.m. (ET), the Ohio Materials Marketplace (OMM) — a free online platform of the Ohio EPA that allows businesses to connect and find reuse and recycling solutions for waste and by-product materials — will conduct a **webinar discussing film plastics**. This material is used in an increasingly wide variety of industrial, commercial and consumer applications, such as boat wrapping, nursery and agricultural sheeting, and single-use plastic bags. *6/18/2020*

OMA Comments on General Permit for Isolated Wetlands and Ephemeral Streams

June 12, 2020

Last Friday, June 5, the OMA **submitted comments** on Ohio EPA's proposed General Permit for Isolated Wetlands and Ephemeral Streams. The new general permit is a product of the recent federal rule addressing "waters of the United States" (WOTUS) under the Navigable Waters Protection Rule. *6/11/2020*

U.S. EPA Clarifies Rules to Prevent Delays of Energy Projects

June 5, 2020

The Trump administration this week **announced** a final rule that clarifies a key section of the U.S. Clean Water Act (CWA) in a move that should expedite the approval of energy infrastructure projects. The U.S. EPA's new final rule on Section 401 of the CWA requires states and Native American tribes to rule on permit requests within one year of being submitted and clarifies that decisions should be

based solely on the project's effect on water quality.

Rachel Jones, vice president of energy and resources for the National Association of Manufacturers, **supported the rule change**, saying: "By strengthening the state-federal partnership, the EPA is empowering manufacturers to make sustainable investments." *6/2/2020*

OMA Comments on U.S. EPA Stormwater Permits

June 5, 2020

This week, the OMA **submitted comments** on the U.S. EPA's National Pollutant Discharge Elimination System (NPDES) 2020 Issuance of the Multi-Sector General Permit (MSGP) for stormwater discharges associated with industrial activity. The EPA's draft was more than 1,000 pages. The OMA has followed the MSGP

closely for years as it is a good indication of where Ohio EPA will fall on the issue.

In its comments, the OMA wrote: "This proposed draft MSGP continues a recent trend towards a more top-down, command-and-control approach to stormwater regulation, with a highly prescriptive stormwater sampling/corrective action regime as its cornerstone. ... This is a most unfortunate trend that increases the regulatory burden on industry with no tie to a corresponding, quantifiable benefit to receiving waters. The new requirements in the proposed MSGP go well beyond what is required by the 2016 MSGP settlement and beyond what Congress intended in the Clean Water Act." *6/4/2020*

Environment Legislation
Prepared by: The Ohio Manufacturers' Association
Report created on August 25, 2020

- HB7** **H2OHIO PROGRAM** (GHANBARI H, PATTERSON J) To create the H2Ohio Trust Fund for the protection and preservation of Ohio's water quality, to create the H2Ohio Advisory Council to establish priorities for use of the Fund for water quality programs, and to authorize the Ohio Water Development Authority to invest the money in the Fund and to make recommendations to the Treasurer of State regarding the issuance of securities to pay for costs related to the purposes of the Fund.
Current Status: 10/22/2019 - Senate Finance, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-7>
- HB94** **LAKE ERIE DRILLING** (SKINDELL M) To ban the taking or removal of oil or natural gas from and under the bed of Lake Erie.
Current Status: 9/17/2019 - House Energy and Natural Resources, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-94>
- HB95** **BRINE-CONVERSION OF WELLS** (SKINDELL M) To alter the Oil and Gas Law with respect to brine and the conversion of wells.
Current Status: 9/17/2019 - House Energy and Natural Resources, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-95>
- HB242** **BAN PLASTIC BAG FEES** (LANG G, JONES D) To authorize the use of an auxiliary container for any purpose, to prohibit the imposition of a tax or fee on those containers, and to apply existing anti-littering law to those containers.
Current Status: 5/27/2020 - **PASSED BY SENATE**; Vote 23-9
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-242>
- HB340** **DRAINAGE LAW** (CUPP B) To revise the state's drainage laws.
Current Status: 7/21/2020 - Senate Agriculture and Natural Resources, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-340>
- HB491** **PLASTIC POLLUTION AWARENESS DAY** (CRAWLEY E) To designate the fifteenth day of February as "Plastic Pollution Awareness Day."
Current Status: 2/11/2020 - Referred to Committee House State and Local Government
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-491>
- HB497** **SAFE DRINKING WATER ACT** (LIGHTBODY M, RUSSO A) To require the Director of Environmental Protection to adopt rules establishing maximum allowable contaminant levels in drinking water and water quality standards for certain contaminants.
Current Status: 2/11/2020 - Referred to Committee House Health

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-497>

- HB522 WASTE DISPOSAL - CONSERVANCY DISTRICTS** (SOBECKI L, SWEARINGEN D) To authorize conservancy districts to provide for the collection and disposal of solid waste.
Current Status: 3/10/2020 - Referred to Committee House State and Local Government
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-522>
- HB675 REGARDING CLEAN OHIO PROGRAM** (HILLYER B, SWEARINGEN D) Relating to the Clean Ohio Program and to make an appropriation.
Current Status: 5/27/2020 - Referred to Committee House State and Local Government
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-675>
- HR247 AIR QUALITY STANDARDS** (ROEMER B) To respectfully urge Congress and President Donald Trump to amend the Federal Clean Air Act to eliminate the requirement to implement the E-Check Program and direct the Administrator of USEPA to begin new rule-making procedures under the Administrative Procedures Act to repeal and replace the 2015 National Ambient Air Quality Standards; to respectfully urge Congress and President Donald Trump to pass legislation to achieve improvements in air quality more efficiently while allowing companies to innovate and help the economy grow; to urge the Administrator of USEPA to alleviate burdensome requirements of the E-Check Program and the Clean Air Act if Congress and the President fail to act; and to encourage OEPA to explore alternatives to E-Check in Ohio.
Current Status: 2/20/2020 - **PASSED BY HOUSE**; Vote 62-29
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HR-247>
- HR307 PLASTIC POLLUTION AWARENESS DAY** (CRAWLEY E) Designating Plastic Pollution Awareness Day in Ohio, February 15, 2020.
Current Status: 2/4/2020 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HR-307>
- SB2 STATEWIDE WATERSHED PLANNING** (PETERSON B, DOLAN M) To create a statewide watershed planning structure for watershed programs to be implemented by local soil and water conservation districts.
Current Status: 2/19/2020 - **BILL AMENDED**, House Energy and Natural Resources, (Fifth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-2>
- SB50 INCREASE SOLID WASTE DISPOSAL FEE** (EKLUND J) To increase state solid waste disposal fee that is deposited into the Soil and Water Conservation District Assistance Fund, and to make an appropriation.
Current Status: 4/2/2019 - Senate Finance, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-50>

To: OMA Government Affairs Committee
From: Ryan Augsburger / Rob Brundrett
Re: Human Resources Report
Date: August 26, 2020

Overview

Due to the COVID-19 pandemic Ohio has found itself with unprecedented increases in unemployment. State agencies and services are stretched thin.

Ohio's unemployment compensation system blew through what little reserves it contained and Ohio made a request to borrow \$3 billion from the federal government to ensure that state payments would still be made to claim filers.

A large amount of legislation has been introduced impacting employers, employees, and the state unemployment compensation system.

The Lt. Governor continues to champion workforce solutions including TechCred and Industry Sector Partnerships. Both were able to avoid the budget ax as agencies were required to cut expenses due to the unprecedented shortfall in state tax revenue. Requirements for TechCred have been loosened and companies are still waiting for the Industry Sector Partnership round one of funding to be awarded.

The OMA plans to host its fourth annual OMA Workforce Summit at the end of October. The event will be held virtually. Continue to be on the lookout for more information over the course of the summer.

General Assembly News and Legislation

House Bill 2 – Credential Assistance Program

The budget bill included money for credential assistance and industry sector partnerships. The House removed the funding language from the budget bill and introduce a piece of legislation based on the budget recommendations. HB 2 is a priority workforce bill in the House. The OMA is supportive of the purpose of the legislation and is working with the bill sponsors to ensure that the money allocated will be used in programs that support the OMA industry sector partnership network.

The House and Senate shifted gears in conference committee and included all workforce funding in the budget bill but implementation language remains with HB 2. The Senate recently passed House Bill 2 from its Finance Committee and is awaiting a full floor vote which is expected as early as this week. The OMA was able to get several changes in the bill to benefit the statewide sector partnership network and industry sector partnership grant program.

Senate Joint Resolution 4 – Bond Unemployment Compensation Debt

The bill proposes to enact Section 18 of Article VIII of the Constitution of the State of Ohio to allow the General Assembly to provide for the issuance of obligations to repay outstanding advances made by the federal government to the unemployment compensation program of the state. The OMA has supported a bonding alternative to help pay off unemployment compensation debt. OMA provided proponent testimony on the on the resolution in Senate committee. The full Senate passed the resolution in June.

Senate Bill 9 – Health Plan Claim Information

The bill requires a health plan issuer, beginning in July 2020, to release specific information to a requesting group policyholder. This information includes, net claims data paid or incurred by month, monthly enrollment data, monthly prescription claims information, and, for paid claims over \$30,000, the amount paid toward each claim and claimant health condition. The bill has passed the Senate and House. Conference committee was expected over the summer but has been derailed due to the bribery scandal.

Senate Bill 11 – Ohio Fairness Act

The bill prohibits discrimination on the basis of sexual orientation or gender identity or expression. The bill adds mediation to the list of informal methods by which the Ohio Civil Rights Commission may use to induce compliance with Ohio's Civil Rights Law before instituting a formal hearing. The bill also upholds existing religious exemptions under Ohio's Civil Rights Law. OMA was supportive of the House version in the previous General Assembly. The Senate has held three hearings on the bill but none since last May.

House Concurrent Resolution 17 – Expand SNAP Benefits to Striking Workers

The Resolution Congress to expand Supplemental Nutrition Assistance Program eligibility to include the households of striking workers. The resolution has had one hearing in the House.

House Bill 21 – Unemployment Comp: Mass Layoffs

The bill would grant an additional 25 weeks of unemployment benefits to an individual who was laid off or separated from their most recent employment as part of a group of 75 or more individuals who were laid off or separated by the same employer within a seven-day period due to lack of work. The bill is a major concern for manufacturers and other businesses who fund the unemployment system.

House Bill 34 – State and Local Minimum Wage Increase

The bill would increase the state minimum wage and to allow municipalities, townships, and counties to establish higher minimum wage requirements. The bill had one hearing in January.

House Bill 91 – Family Medical Leave

The bill would establish family and medical leave insurance benefits. The bill has had one hearing in the House. House Insurance has held two hearings and is expected to hold at least one more hearing.

Senate Bill 92 – Wage Discrimination

The bill would enact the "Fair and Acceptable Income Required (FAIR) Act" and revises the enforcement of the prohibitions against discrimination in the payment of wages. The bill had its first hearing last March.

Senate Bill 94 – Pregnant Workers

SB 94 creates the "Ohio Pregnant Workers Fairness Act" to generally require employers to make reasonable accommodations for employees who are pregnant or breastfeeding. The bill has had one hearing.

Senate Bill 149 – Employee Wage History

The bill prohibits employers from seeking a prospective employee's wage or salary history. The bill had its first hearing this January.

Senate Bill 201 – Alternate Employer Organizations

The bill creates alternative employer organizations. The AEO mirrors the functions of PEOs (Professional Employer Organizations) with the exception that an AEO must file federal payroll taxes under the tax identification number of its client instead of its own, which is the traditional model. The bill has had three hearings.

Senate Bill 207 – Drug Test for Unemployment Benefits

The bill requires unemployment benefit applicants to take a drug test under certain circumstances, to create the Ohio Works First drug testing pilot program, and to make an appropriation. The bill has had one hearing.

House Bill 221 – Wage Discrimination Complaints

The bill would require the Ohio Civil Rights Commission to establish a system for individuals to make anonymous complaints regarding wage discrimination. It has had three hearing in the House.

Senate Bill 282 – Unemployment Comp Complaints

The bill would require the Director of Job and Family Services to establish a process for employers to make complaints regarding unemployment compensation benefits. The bill has had one hearing.

House Bill 352 – Civil Rights Employment Law

The bill is Ohio's latest attempt to clean up its outdated and complex employment laws. The bill brings Ohio more closely in uniform with federal laws and includes the following changes:

Creates a uniform two-year statute of limitations for all employment discrimination claims.

- Unites the filing of age discrimination claims to the same procedures and remedies as all other protected classes.
- Eliminates individual statutory liability for managers and supervisors.
- Requires individuals file an administrative charge of discrimination with the Ohio Civil Rights Commission as a prerequisite to filing a discrimination lawsuit in court.
- Establishes certain affirmative defenses

The bill was reported out of House Committee in May.

House Bill 369 – Ohio Fairness Act

Much like its companion bill in the Senate, House Bill 369 prohibits discrimination on the basis of sexual orientation or gender identity or expression. The bill adds mediation to the list of informal methods by which the Ohio Civil Rights Commission may use to induce compliance with Ohio's Civil Rights Law before instituting a formal hearing. The bill also upholds existing religious exemptions under Ohio's Civil Rights Law. OMA is supportive of the Senate version and is supportive of the House version.

House Bill 378 – Striking Employees Unemployment Compensation

The bill would provide unemployment benefits to striking workers. This would be a complete reversal of unemployment compensation law which is for workers who are unexpectedly out of work through no fault of their own. The OMA opposes this massive overreach.

House Bill 508 – Unemployment Compensation: Domestic Violence Victims

The bill allows an individual to be eligible for unemployment compensation benefits for unemployment due to domestic violence. The bill has not had any hearings.

House Bill 584 – Unemployment Compensation Work Requirements

The bill would temporarily change eligibility and work search requirements under the Unemployment Compensation Law and declares an emergency.

House Bill 588 – COVID-19 Public Assistance Programs

The bill would delay eligibility redeterminations for certain public assistance programs, temporarily modify income eligibility requirements for certain public assistance programs, and to declare an emergency.

House Bill 593 – COVID-19 Paid Leave

The bill requires paid leave for an employee who is unable to work due to quarantine or mandatory isolation, creates a grant program to compensate contract workers who cannot perform services during public health emergencies, makes an appropriation, and declares an emergency.

House Bill 614 – Unemployment Compensation Reform

House Republicans introduced House Bill 614. The bill's goal is to study and reform the application, processing, and administration infrastructure of Ohio's unemployment compensation system. The focus is not on solvency but instead the administrative challenges due to COVID-19. The bill passed the House in June and has had one hearing in the Senate.

House Bill 672 – Worker Protection Act

The bill would allow Ohioans on unemployment to retain their jobless benefits if they are recalled or offered their jobs back. The bill is aimed at workers who are considered high risk under the following conditions: their employer does not comply with state safety guidelines, they are the primary caregiver, and their child care is not operating — or if they have COVID-19 symptoms or a positive diagnosis. OMA staff will continue to monitor this bill and similar legislation that could impact manufacturing employers.

Supreme Court Rules LGBTQ Employees are Protected From Job Discrimination

The U.S. Supreme Court ruled that federal law prohibits employers from discriminating against employees for being homosexual or transgender. In a 6-3 decision, the Court's majority said these workers are protected against discrimination under Title VII of the Civil Rights Act of 1964. The landmark ruling resolves a long-standing and complicated debate.

OMA Connections Partner Thompson Hine suggests that employers consider the following actions in response to this week's Court action:

Review policies relating to non-discrimination and equal employment; Amend equal employment opportunity policy to incorporate a statement that the business does not discriminate or retaliate against applicants or employees based on sex, sexual orientation, sexuality, transgender status, or gender identity or expression; Implement training for managers or others who regularly interview applicants; and Remind human resources staff to maintain records of sex-related medical conditions as confidential medical records under the ADA.

Workforce Services

The OMA's fourth annual workforce summit will take place on October 28. Due to COVID-19 the event will be held virtually. More information will continue to come over the course of August and September. We hope your company might consider a sponsorship. Please contact Dan Noreen at the OMA if you are interested in learning more about sponsoring the summit.

TechCred

Monday, Aug. 31 is the deadline to apply for the current round of funding for Ohio TechCred. Under this workforce development program, employers are reimbursed up to \$2,000 for every worker (up to \$30,000 in total per round) who improves his/her tech-focused skills.

To date, 695 Ohio employers have been allocated funding through four rounds, supporting 7,473 technology-focused credentials to be earned by Ohio employees. The majority of approved applicants have been manufacturers.

Sector Partnership Grants

On Thursday, Jan. 23, Ohio Lt. Gov. Jon Husted announced the launch of the Industry Sector Partnership grant program. The program's development was spearheaded by the OMA to expand and enhance Ohio's partnerships and their workforce development efforts.

Established by House Bill 2 and funded through the state operating budget (HB 166), the program will invest \$5 million over two years to strengthen the state's network of industry sector partnerships.

There will only be one round of funding and it will be awarded in FY21 based off the applications submitted earlier this year.

Manufacturing Mentorship Program

On Aug. 20, Ohio's long-awaited Manufacturing Mentorship Program will go live. Under the program, which was driven by the OMA and created in the state operating budget (House Bill 166), Ohio manufacturers will now be able to employ 16- and 17-year-olds on a part-time basis in manufacturing occupations.

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

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

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



www.lsc.ohio.gov

OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

S.J.R. 4
133rd General Assembly

Bill Analysis

[Click here for S.J.R. 4's Fiscal Note](#)

Version: As Adopted by the Senate

Primary Sponsor: Sen. Peterson

Paul Luzzi, Attorney

SUMMARY

- Proposes a constitutional amendment to permit the issuance of obligations to repay outstanding advances made by the federal government to Ohio's unemployment compensation program.
- Specifies that the obligations issued under the proposed amendment are not general obligations of the state.
- Requires obligations issued under the proposed amendment to be secured by a pledge of all or a portion of taxes, excises, assessments, or surcharges imposed by the General Assembly on employers who are subject to Ohio's unemployment laws, along with other moneys generated as part of the sale of the obligations and pledged to the bond proceedings for the payment of the debt service.

DETAILED ANALYSIS

Authority to issue obligations to finance advances

The resolution proposes an amendment to the Ohio Constitution authorizing the General Assembly to enact laws for the issuance of obligations for the purpose of financing or assisting in the financing of the cost to repay outstanding advances made by the federal government (essentially, loans) to the Ohio unemployment compensation program (see "**Background**," below). For purposes of the proposed amendment, "obligations" means bonds, notes, or other evidence of obligation, including interest coupons pertaining to the obligation.

Under the proposed amendment, obligations to finance or assist in financing the cost of outstanding federal advances can be issued only if the Governor or the Governor's designee determines and certifies that the total cost of repaying outstanding advances from the federal government to the state, including the cost of paying interest on the advances, exceeds the

total cost of the obligations issued under the proposed amendment, including the cost of paying interest on the obligations.¹

Maturity of obligations

The proposed amendment authorizes the General Assembly to determine the maturity dates and the principal amounts of any obligations issued. The authority provided by the proposed amendment is in addition to, cumulative with, and not a limitation on, the General Assembly's authority under other provisions of the Ohio Constitution. The proposed amendment specifies that it does not impair any law previously enacted by the General Assembly and that laws implementing the proposed amendment must be consistent with federal law.²

Debt service

Obligations issued under the proposed amendment are not general obligations of the state. The proposed amendment generally prohibits the full faith and credit, revenue, and taxing power of the state from being pledged to the payment of the principal, interest, and other accreted amounts payable on the obligations (known as "debt service"). However, the proposed amendment requires the obligations to be secured by a pledge of all or a portion of taxes, excises, assessments, or surcharges imposed by the General Assembly on employers who are subject to Ohio's unemployment laws, along with other moneys generated as part of the sale of the obligations and pledged in the bond proceedings for the payment of debt service.

For the purpose of the full and timely payment of debt service on obligations issued under the proposed amendment, the General Assembly is required to enact laws for all of the following:

1. The creation of bond retirement funds;
2. The sufficiency and appropriation of revenues and receipts pledged;
3. Covenants to continue to impose, collect, and apply sufficient taxes, excises, assessments, and surcharges pledged under the proposed amendment, including any revenue therefrom.

No further act of appropriation is necessary for the purpose of paying debt services on obligations issued under the proposed amendment.

The obligations authorized by the proposed amendment, and the provisions for the payment of them, are not subject to the following provisions in the Ohio Constitution:

1. A requirement that every tax be imposed in pursuance of a law, and that every law imposing a tax state the purpose to which the tax must be applied;

¹ Proposed Article VIII, Section 18(A)(2), (B), (C), and (H), Ohio Constitution.

² Proposed Article VIII, Section 18(H), Ohio Constitution.

2. A prohibition against the state contracting debt for internal improvements;
3. A prohibition against the state, or any political subdivision, issuing or renewing bonds unless the legislation issuing or renewing the bonds provides for annual taxes that are sufficient to pay the interest on the bonds and provides a sinking fund for their final redemption;
4. A prohibition against the state giving or loaning its credit to, or in aid of, an association or corporation or becoming a joint owner, or stockholder in a company or association;
5. A prohibition against the state assuming the debts of any county, city, town, or township, or of any corporation unless the debt was created to repel invasion, suppress insurrection, or defend the state during a war;
6. Limitations on the state's ability to issue obligations on which principal and interest exceed 5% of estimated revenues from the General Revenue Fund and state lottery proceeds during the fiscal year in which the obligations are issued.

Fees and taxes received in connection with the use of public highways by motor vehicles may not be pledged to the payment of debt service on the general obligations authorized under the amendment.³

Tax exemption

Under the proposed constitutional amendment, the obligations, their transfer, and the interest or other income from the obligations, including any profit made on the sale, exchange, or other disposition of them, are at all times free from taxation within Ohio.⁴

Election and effective date

The resolution provides that the proposed constitutional amendment will be submitted to the electors at the general election to be held on November 3, 2020. If approved by a majority of the electors voting on the proposal, the constitutional amendment takes effect immediately.

Background – advances under the Federal Unemployment Tax Act

The Federal Unemployment Tax Act⁵ creates a federal-state partnership for unemployment under which employers who contribute to a state unemployment compensation system approved by the U.S. Department of Labor receive a significant tax credit on their federal unemployment taxes. If the state has insufficient funds to pay unemployment

³ Proposed Article VIII, Section 18(A)(1), (C), (D), (E), and (F), Ohio Constitution, by reference to Ohio Const., art II, sec. 22, Ohio Const., art. XII, secs. 5, 5a, 6, and 11, and Ohio Const., art. VIII, secs. 4, 5, and 17 not in the resolution.

⁴ Proposed Article VIII, Section 18(G), Ohio Constitution.

⁵ 26 United States Code (U.S.C.) 3301 *et seq.*

benefits, federal law permits a state’s governor, or the governor’s designee (in Ohio, the JFS Director) to apply to the U.S. Secretary of Labor to receive three-month “advances” (loans).⁶ If a state does not repay advances as required, the basic penalty is a “graduated” loss of the federal tax credit for all employers in the state.⁷

HISTORY

Action	Date
Introduced	05-12-20
Reported, S. Finance	06-10-20
Adopted by Senate (32-0)	06-10-20

SJR0004-AS-133/ec

⁶ 42 U.S.C. 1321, 20 Code of Federal Regulations 606.4, and R.C. 4141.43(F).

⁷ 26 U.S.C. 3302(c)(2).

OMA MEMBER NOTIFICATION



New Application Period for TechCred: August 2020

One way to boost Ohio's manufacturing talent is through the use of [TechCred](#) – an innovative program that reimburses employers that help employees earn industry-recognized, technology-focused credentials. ([See this infographic](#) for an easy-to-understand explanation of the program.) In the first four rounds of the program, 695 Ohio employers were allocated TechCred funding, supporting 7,473 technology-focused credentials to be earned by employees. Manufacturers have accounted for more than half of all approved applications.

Earlier this year, [updates were made to TechCred](#) to support the changing needs of Ohio businesses and workers during the COVID-19 crisis. The [list of eligible TechCred credentials](#) now includes examples of education and training providers that offer each certificate or certification as a resource to employers. Employers are welcome to work with a training provider that is not listed.

OMA members interested in applying for TechCred reimbursement have another opportunity. The new online application period opened August 4, 2020 and will end Monday, Aug. 31, 2020. Here are some key points about the program:

- Employers can receive up to \$2,000 for each current or new employee who earns a qualified credential (up to \$30,000 per funding round).
- Businesses of all sizes are eligible.
- There is a [pre-approved list of credentials](#), including industrial maintenance and welding certifications. Employers may request that new credentials be added simply by submitting an application, which will be reviewed by a panel of stakeholders. The OMA is involved in this effort to review newly submitted credentials.
- More than 400 of the program's approved credentials can be earned online.
- Here is a [recorded webinar](#) about the TechCred program that the OMA created in conjunction with the Governor's Office of Workforce Transformation.

Employers that apply for TechCred funding have good odds of approved. If your business is interested, visit [TechCred.Ohio.gov](#) and submit your application by August 31. For questions regarding your application, [click here](#).



FACT SHEET: Ohio's Manufacturing Mentorship Program Introduces Young People to Manufacturing Careers, Builds Workforce Pipeline

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

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

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

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

How does the program work?

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

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

The Ohio Department of Commerce has created [this document](#) for ease of compliance with any record requirements.

Specific training requirements for students in the program:

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

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

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

Ensuring safety: Restrictions on tools operated by minors

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

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

Tools permitted for Manufacturing Mentorship Program Participants

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

General tools:

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

Tools permitted with conditions:

1. Welding tools only while under direct supervision;
2. Waterjet cutting machines with devices for fully automatic feeding and ejection and with a fixed guard that prevents operators or helpers from placing any part of their bodies in the point-of-operation area;
3. Computer numerical control (CNC) machines while under direct supervision;
4. Production press machines that are not already listed as a specific prohibition or exception in Chapter 4101:9-2 of the Administrative Code, so long as those devices include fully automatic feeding and ejection and a fixed guard that prevents operators or helpers from placing any part of their bodies in the point-of-operation area;
5. Plastics molding machines when fitted with the proper guarding (not manually fed);
6. Plastics extruders while under direct supervision; and
7. Soldering irons while under direct supervision.

Tools restricted by type of use:

1. Certain tools that require the placing of material on a moving chain or in a hopper or slide for automatic feeding, such as:
 - a. Band resaw only when it incorporates the use of a chain feed and there is no direct interaction with the tool;
 - b. Automatic nailing machine only when it incorporates the use of a hopper, belt, or chain feed, and there is no direct interaction with the tool;
2. Automatic wire-stitching machines only when it incorporates the use of a hopper or chain feed and there is no direct interaction with the tool; and
3. Tools designed for carrying or moving nonhazardous material from one machine to another (hike-a-way).

Miscellaneous Tools:

Any other tools that are permitted under the Fair Labor Standards Act and are not specifically prohibited by section 4109.05 or the Revised Code or the rules adopted thereunder.

Starting Your Manufacturing Mentorship Program

Manufacturers that are ready and willing to follow the Manufacturing Mentorship Program requirements described in this document and in Section 4109.22 of the Ohio Revised Code may implement their programs.

Ohio Manufacturers' WORKFORCE SUMMIT 2020 SPONSOR & EXHIBITOR PACKAGES



97% of 2019 Summit attendees said **they would attend a similar future event.**

"Each year the summit continues to get better."

- WHAT:** The 2020 Ohio Manufacturers' Workforce Summit
- WHEN:** Wednesday, October 28, 2020
- WHERE:** Online!
- WHO:** Expected attendance of 1000+ Ohio manufacturers; policymakers; K-12, community college and university leaders; economic development professionals; and statewide workforce development suppliers.
- WHY:** The purpose of the event is to provide resources, tools and support to manufacturers and their regional workforce partners/suppliers to improve the skills and supply of workers in Ohio's manufacturing industry.

THANK YOU! Your generous support will help develop and support the appropriately skilled workforce essential to Ohio manufacturing, for now and for the future.

PLATINUM - \$25,000

- Eight (8) complimentary registrations to the Summit
- Listing on the Sponsor page, with link to your website
- Dedicated webpage featuring:
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 - Company name
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GOLD - \$10,000

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 - GOLD Sponsor label at the top of the page
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SILVER - \$5,000

- Six (6) complimentary registrations to the Summit
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**NEW FOR 2020!
PROMOTE YOUR
ORGANIZATION IN
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EXHIBITING ORGANIZATIONS - \$2,000

- Two (2) complimentary registrations to the Summit
- Listing in Exhibit Hall, with link to your website
- Dedicated exhibitor booth page in event website, featuring:
 - Company name and logo
 - Product /service name
 - 500-word description
 - Lead generation form
 - Product video
 - Zoom link for Meet Now feature
- Exhibitor pages are featured 12-3 p.m. on the day of the event so attendees can take advantage of "meet live now" capability
- Exhibitor page remains available for 3 months following event

RESERVE NOW!

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94% of surveyed attendees said the 2019 Summit was a **good use of their time.**



SPONSOR AND EXHIBITOR COMMERCIAL VIDEO CONTENT



With this year's Workforce Summit taking place online, video is an essential component of engaging with attendees, creating excitement, and demonstrating your commitment to Ohio manufacturing.

Sponsors and exhibitors can have videos created specifically for the Summit to support your participation in the event by the same video production team that is doing the conference videos. Take advantage of custom-scripted videos for product demos, marketing, and to promote key initiatives.

Videos produced for the show are yours to use on your website, in email, and in your own social media.

PLATINUM

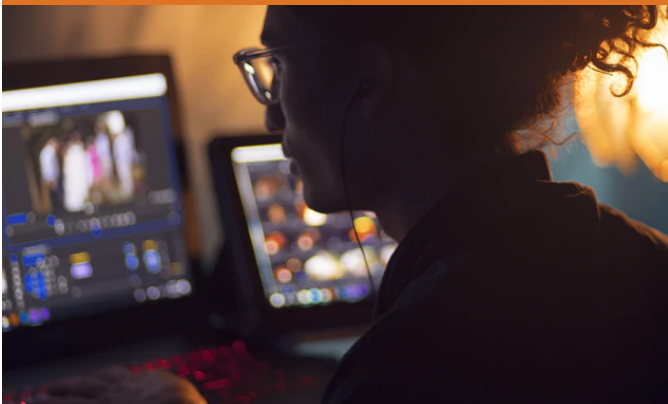
Have the show producers create a broadcast-quality production tailored to your exact needs. Incorporate supporting media such as photos, videos, graphs, graphics, and design. Take advantage of a professional spokesperson or narrator. The length can vary to fit your requirements.



PLATINUM VIDEO EXAMPLE



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Video length up to five (5) minutes. The show producers will script and produce your video remotely using any supporting media you provide, including existing videos, PowerPoint, or photos.

GOLD VIDEO EXAMPLE



SILVER

Video length up to three (3) minutes. The show producers will script and produce your video remotely using any supporting media you provide, including existing videos, PowerPoint, or photos.

SILVER VIDEO EXAMPLE



The video production team, Potomac Digital Group, has created hundreds of ads for local, regional and national brands and is excited to support this year's virtual experience with custom video content.

If you have the need for an on-camera speaker for any part of your video, please note that the team provides a custom production kit for remote recordings as well as the coaching and support needed.

See this two-minute video to learn more.



Interested in video? Schedule a consultation with the executive producer, John Carter.

john@creativevirtualevent.com (571) 437-6777



Human Resources

Survey: Employers Say Child Care Issues Are Impacting Workforce

August 21, 2020

A **new survey** conducted by the U.S. Chamber of Commerce Foundation has found that employers cited child care nearly as often as they did health and safety issues as a reason why some employees are unable to return to work.

HR Dive **reports** that the chamber's findings mirror those released last month by **Morning Consult**, which found 60% of parents receiving unemployment insurance benefits and with no plans to return to work said care-giving duties stood in the way. More than 40% specifically cited school closures. *8/20/2020*

Guidance on Workforce Challenges Due to Schools Remaining Closed to In-Person Learning

August 21, 2020

OMA Connections Partner Thompson Hine has published **this new guidance** to address workforce challenges related to back-to-school season. According to the firm, "Those who work for employers with 500 or fewer employees may be entitled to up to 12 weeks of paid child care leave under the Families First Coronavirus Response Act. While some employees may have exhausted all 12 weeks of eligible leave during the spring, those who still have leave remaining may use it if their child's school remains closed (or partially closed) to in-person learning this fall." *8/19/2020*

Flu Season (and Possible COVID-19 Vaccine) Will Spotlight Workplace Vaccination Policies

August 21, 2020

As flu season approaches and COVID-19 continues, employers' mandatory vaccination policies may soon become more important than ever. **Here is guidance** from OMA Connections Partner Fisher Phillips regarding the balancing act of maintaining a safe workplace and respecting the rights of employees. *8/20/2020*

In Just 15 Minutes, Learn About Employee Health Care Options for Manufacturers

August 21, 2020

In only 15 minutes, learn how the OMA is helping members with 100 employees or fewer provide their employees **affordable, comprehensive health care plans** similar to what Fortune 500 companies offer.

Register here for a free webinar on Wednesday, Aug. 26 from 3:15 to 3:30 p.m. (ET). This opportunity is being made possible due to a collaboration of the OMA, the National Association of Manufacturers, Mercer, and UnitedHealthcare. *8/20/2020*

New Rule Seeks to Help Workers Gauge Retirement Readiness

August 21, 2020

The U.S. Department of Labor's Employee Benefits Security Administration has **announced** an interim final rule to help workers determine their retirement readiness by allowing them to estimate how their current savings in a 401(k)-type plan might translate into lifetime monthly payments. The rule implements section 203 of the recently enacted SECURE Act. *8/19/2020*

OSHA Webinar Will Address Paid Leave, COVID-19 Requirements

August 14, 2020

The U.S. Department of Labor's Wage and Hour Division and OSHA will present a webinar for Ohio employers and HR professionals to discuss the paid leave requirements of the Families First Coronavirus Response Act (FFCRA), as well as safety guidance for **returning to work** and maintaining a safe working environment. The webinar is set for 10 a.m. (ET) today (Friday), Aug. 14. There will be a segment for questions and answers. **Register here.** *8/14/2020*

ACA Affordability Percentages Will Increase for 2021

August 14, 2020

OMA Connections Partner **One Source Advisors** reports that the IRS recently issued **Revenue Procedure 2020-36** to index

the contribution percentages to determine affordability of an employer's plan under the Affordable Care Act. For plan years beginning in 2021, employer-sponsored coverage will be considered affordable if the employee's required contribution for self-only coverage does not exceed:

- 9.83% of the employee's household income for the year, for purposes of both the pay or play rules and premium tax credit eligibility; and
- 8.27% of the employee's household income for the year, for purposes of an individual mandate exemption (adjusted under **separate guidance**). Although this penalty was reduced to zero in 2019, some individuals may need to claim an exemption for other purposes.

This is a slight increase from the affordability contribution percentages for 2020. As a result, some employers may have additional flexibility in setting their employee contributions for 2021 to meet the adjusted percentage. *8/10/2020*

Federal Court Expands FFCRA Paid Leave

August 7, 2020

This week, a New York district court set aside several U.S. Department of Labor (DOL) rules that interpreted and restricted eligibility for paid leave under the Families First Coronavirus Response Act (FFCRA), finding them inconsistent with the underlying FFCRA statute.

Read **this analysis** from OMA Connections Partner Thompson Hine, which says the ruling means the emergency paid sick leave and emergency family medical leave under the FFCRA are — at least temporarily — available to more workers, subject to whether the DOL appeals the decision.

Also, see **this summary** of the court action as analyzed by OMA general counsel Bricker & Eckler. *8/5/2020*

COVID-19 Lawsuits Against Employers Continue to Grow

August 7, 2020

At last check, employees from across the country had filed more than 430 COVID-19-related lawsuits against their employers. Not all of the claims have focused on the Family First Coronavirus Response Act (FFCRA) — the federal legislation governing paid sick leave and family leave requirements — but rather a substantial number of lawsuits have alleged employer impropriety using COVID-19 as a factual backdrop.

How should employers prepare for potential litigation? Read **this update** from OMA Connections Partner Fisher Phillips. *8/5/2020*

Politics and the Workplace in 2020

August 7, 2020

A **new national survey** by the Cato Institute — a libertarian think tank — provides insight into today's political climate. The poll found that nearly two-thirds (62%) of Americans are reluctant to openly discuss their political beliefs, especially at work. Nearly one-third say they fear their political views could harm their employment.

Substantial numbers of respondents said they would support the firing a business executive who donated his/her own money to a particular presidential candidate. Half of "strong liberals" supported firing Trump donors, while 36% of "strong conservatives" supported firing Biden donors. *8/3/2020*

New Employment Issues Raised by the Pandemic

July 31, 2020

OMA Connections Partner Thompson Hine will host a free webinar Thursday, Aug. 13, at 1 p.m. (ET) to provide guidance on COVID-19-related employment issues. Topics will include:

- COVID-19-related absences and requests for leave, including for quarantines and the re-opening of schools;
- Requests for COVID-19 accommodations such as those for employees with underlying health conditions or those who are pregnant;

- Federal and state COVID-19-related orders that are impacting employers and the workplace; and
- Updates from the Department of Labor regarding OSHA, wage and hour, and the Families First Coronavirus Response Act.

Register for this important webinar. 7/30/2020

DOL Releases Updated FMLA Forms

July 31, 2020

OMA Connections Partner Dinsmore has published **this update** following the U.S. Department of Labor's Wage and Hour Division (WHD) release of streamlined forms employers may use to coordinate leave under the Family and Medical Leave Act (FMLA).

Dinsmore's experts note that "although employers are not required to use the WHD forms, employers should be sure to include all relevant information as required by the FMLA and its regulations." 7/28/2020

Let's Chat About Your Employee Health Care Plan

July 31, 2020

If you have 30 minutes on Wednesday, Aug. 5 at 1:30 p.m. (ET), you can learn how the OMA helps members offer their employees **affordable, comprehensive health care plans** similar to what much larger companies offer. **Register here for the free webinar.**

The collaboration of the OMA, the National Association of Manufacturers, Mercer, and UnitedHealthcare, allows members to offer an easy, Fortune 500-type benefits buying and enrollment experience to employees and their families. 7/29/2020

Addressing 'Invisible Disabilities' in the Era of COVID-19

July 31, 2020

During the COVID era, more employers have questions about accommodating employees with high-risk underlying disabilities and mental health impairments, ADA experts say. **This article by HR Dive** addresses steps employers can take to accommodate workers with

disabilities, including those that are not obvious. 7/27/2020

NLRB Poised to Make More Changes to Union Elections

July 31, 2020

This week, the National Labor Relations Board (NLRB) announced another round of rule changes that would impact representation election procedures in two significant ways. OMA Connections Partner Benesch has summarized the latest NLRB developments in **this analysis.** 7/30/2020

Updated Guidance on Sick Leave, Family Leave Laws

July 24, 2020

The U.S. Department of Labor (DOL) has updated its guidance regarding COVID-19 protections under the **Fair Labor Standards Act**, the **Family and Medical Leave Act**, and the **Families First Coronavirus Response Act** (FFCRA). According to DOL, the new guidance provides plain-language questions and answers addressing critical issues under all three laws.

The agency has also published this **fact sheet for employers**, as well as **FAQs**, about paid sick and expanded family and medical leave under the FFCRA. Available guidance includes **this poster** to fulfill notice requirements for employers obligated to inform employees about their rights under the FFCRA. 7/22/2020

Managing PTO Donation Requests During COVID-19

July 24, 2020

As the pandemic continues, some employees have expressed an interest in donating their own PTO to help co-workers and community members adversely impacted by COVID-19. OMA Connections Partner Fisher Phillips has published **this guidance** on how employers can provide employees with an opportunity to donate leave to assist pandemic victims. 7/20/2020

EEOC's Pay Data Report to Arrive by 2022

July 24, 2020

The U.S. Equal Employment Opportunity Commission (EEOC) has enlisted the National Academies of Sciences, Engineering, and

Medicine's Committee on National Statistics (CNSTAT) to assess EEO-1 Component 2 data from FY 2017 and 2018, the agency **recently announced**. CNSTAT will finish its analysis by Dec. 31, 2021.

The independent assessment will "answer critical questions about the data" and inform the Commission as it considers "the future of pay data collection," EEOC Chair Janet Dhillon said in a press release. *7/20/2020*

NLRB Decision Facilitates Return to Workplace Civility

July 24, 2020

OMA Connections Partner Frantz Ward reports that the National Labor Relations Board (NLRB) this week gave employers "a clearer pathway to disciplining employees who engage in abusive workplace conduct — including profane, racist, and sexually harassing remarks — even when the conduct coincides with concerted activities otherwise protected by the National Labor Relations Act (NLRA). According to the firm, the NLRB's decision also provides much-needed clarity for avoiding conflicts between the NLRA and various state and federal anti-discrimination laws.

Read the summary of this week's NLRB activity. *7/24/2020*

Untangling the Web of Local, State, and Federal Protected Leave During COVID-19

July 17, 2020

OMA Connections Partner Fisher Phillips will host a **free webinar** Thursday, July 30, at 3 p.m. (ET) to discuss what employers should know about the tangled web of various federal, state and local laws that provide employees with protected leave. The webinar will aim to prepare employers for a possible "second wave" of COVID-19, including being prepared when employees ask to take leave for things like school closures, suspected exposure to coronavirus, or government mandated closures. *7/15/2020*

Best Practices for Workers Traveling to and From 'Hot Spots' States

July 17, 2020

In the wake of the pandemic, many states and localities have adopted interstate travel restrictions to maintain lower levels of spread and contain the virus. OMA Connections Partner Thompson Hine has published **this update** to summarize what employers need to know to get critical workers to and from these hot spots. *7/16/2020*

Manufacturing Labor Productivity Saw Widespread Declines in 2019

July 17, 2020

Labor productivity declines were widespread among manufacturing industries in 2019, with decreases in 54 of the 86 industries studied. According to a **new report** from the U.S. Department of Labor, since 1987, the manufacturing subsectors seeing the greatest productivity increases have been computer and electronic products, textile mills, and transportation equipment. *7/14/2020*

EEOC Announces Mediation Pilot Programs

July 17, 2020

The U.S. Equal Employment Opportunity Commission (EEOC), recently announced two six-month pilot programs that will expand opportunities for parties to voluntarily resolve charges through mediation and increase the effectiveness of the conciliation process. Mediation is a voluntary, informal, and confidential way to resolve disputes with the help of a neutral mediator who is trained to help people discuss their differences. **Learn more here.** *7/13/2020*

Ohio to Use CARES Funding for Employer Layoff Aversion Benefits

July 10, 2020

Ohio employers will not be charged for layoff aversion benefits paid to employees as a result of an Executive Order issued last week by Governor DeWine. The order enables the **Ohio Department of Job and Family Services (ODJFS) to draw down federal funding** authorized under the Coronavirus Aid, Relief, and Economic Security Act for the purpose of paying SharedWork Ohio compensation through the end of this year.

SharedWork Ohio is the state's layoff aversion program that allows workers to remain employed and employers to retain trained staff during

times of reduced business activity. As a part of the program, participating employers agree to reduce the affected employees' hours, between 10% and 50%, for up to 52 weeks. In return, those employees receive SharedWork compensation (which is a prorated unemployment benefit).

Participating employers may receive retroactive credits for any SharedWork Ohio bills paid dating back to March 29. *7/9/2020*

U.S. DOT Issues Notice of Enforcement Discretion

July 10, 2020

Recognizing some organizations subject to controlled substance (drug) and alcohol testing under 49 CFR part 382 may be unable to comply with certain testing requirements due to the ongoing impacts of the COVID-19 emergency, the Federal Motor Carrier Safety Administration **issued this notice** of enforcement discretion. *7/9/2020*

Pandemic Effect on Employee Drug and Alcohol Use

July 10, 2020

OMA Connections Partner *Working Partners^(R)* reports that there has been a 55% increase in the sales of alcoholic beverages this year over the same time last year.

In light of concerns over employee wellness with respect to drugs and alcohol, *Working Partners^(R)* partnered with the National Drug and Alcohol Screening Association (NDASA) and created **this article** and **infographic** to help employers understand what their employees are facing and how they might help.

If you need help with your drug-free workplace program, contact *Working Partners^(R)* **here**. *7/6/2020*

Manufacturers Share Insights on Diversity Efforts

July 2, 2020

Manufacturers are looking to make their workplaces more diverse and inclusive, but what steps should they take? As part of its Diversity and Inclusion pillar, The Manufacturing Institute — an arm of the National Association of Manufacturers — has begun hosting roundtables to draw on the expertise of diversity

and inclusion chiefs from across a wide range of companies. **Here's a brief recap of a recent event**. *7/1/2020*

Ohio's Diversity & Inclusion Technology Internship Program Offers Wage Reimbursement to Employers

July 2, 2020

Ohio manufacturers are encouraged to consider participating in the Development Services Agency's (DSA) Diversity and Inclusion Technology Internship Program. It offers employers with technology-related needs the opportunity to connect with diverse, young talent through paid internships. Qualified employers will be reimbursed two-thirds of the intern's wages — up to \$10,000.

Participating companies must provide a meaningful internship experience, have non-residential work space, and hire interns as employees (W-2). Employers may hire up to three interns for different positions. The program's minimum wage is \$15 an hour. **Learn more here**. *7/1/2020*

COVID-19 Checklist for Employers

June 26, 2020

Whether it's health and safety protocols, employee leave policies, or responding to cases of COVID-19, businesses have a lot on their plates. To help stay organized, Connections Partner Clark Schaefer Hackett **has published this handy checklist** so businesses can identify important return-to-work considerations during COVID-19. The checklist is also helpful for businesses that have maintained operations throughout the pandemic. *6/24/2020*

Pattern of COVID-19 Workplace Litigation Begins to Emerge

June 26, 2020

OMA Connections Partner Fisher Phillips reports that more COVID-19-related lawsuits raising FMLA and ADA concerns have begun to emerge. According to the **firm's analysis**, recent lawsuits filed across the U.S. show a trend of litigation regarding employees with pre-existing health care conditions. *6/22/2020*

Supreme Court Rules LGBTQ Employees are Protected From Job Discrimination

June 19, 2020

This week, the U.S. Supreme Court ruled that federal law prohibits employers from discriminating against employees for being homosexual or transgender. In a 6-3 decision, the Court's majority said these workers are protected against discrimination under Title VII of the Civil Rights Act of 1964. The landmark ruling resolves a long-standing and complicated debate.

OMA Connections Partner **Thompson Hine** suggests that employers consider the following actions in response to this week's Court action:

- Review policies relating to non-discrimination and equal employment;
- Amend equal employment opportunity policy to incorporate a statement that the business does not discriminate or retaliate against applicants or employees based on sex, sexual orientation, sexuality, transgender status, or gender identity or expression;
- Implement training for managers or others who regularly interview applicants; and
- Remind human resources staff to maintain records of sex-related medical conditions as confidential medical records under the ADA.

See guidance from other OMA Connections Partners, including **Frantz Ward, Dinsmore,** and **Roetzel.** 6/15/2020

NAM Comments on DACA Ruling

June 19, 2020

Following this week's U.S. Supreme Court decision on the Deferred Action for Childhood Arrivals (DACA) program, National Association of Manufacturers President and CEO Jay Timmons **issued this statement.** Timmons said NAM will "continue to call on Congress to provide long-term certainty" for DACA recipients,

and he encouraged elected officials to use the NAM's immigration plan. 6/18/2020

Guarding Against Fraudulent Unemployment Claims

June 19, 2020

This week, Lt. Gov. Jon Husted reminded Ohioans to be on alert for fraudulent unemployment insurance (UI) claims as criminals are filing fake claims on behalf of real people who have not lost their jobs. The Ohio Department of Job and Family Services (ODJFS) has identified **at least 3,000 cases** of fake unemployment claims.

The Federal Trade Commission (FTC) says that employees learn about UI fraud when they get a notice from their state unemployment benefits office or their employer regarding their supposed application for benefits. If this happens to one of your employees, it means someone is misusing their personal information — and the FTC recommends quick action by taking **these steps.**

For more resources on how to guard against fraud, see **this checklist** on avoiding scams. If you think you have been a victim of fraud, **contact the Ohio Attorney General's office.** 6/18/2020

Communication in the Time of COVID: Lessons Learned

June 19, 2020

Effective communications with employees have been particularly important the past few months as normal routines have been disrupted. *IndustryWeek* recently interviewed senior communications leaders in manufacturing and **compiled these seven lessons** learned from their experiences. 6/17/2020

Revisiting the Timeless Principles of Mr. Mac

June 19, 2020

In a times like these, it's refreshing to revisit the leadership principles that helped shape Ohio manufacturing into the global leader it is today. Many of these principles were practiced by the late John H. McConnell, founder of Worthington Industries.

In his 2004 book "Our Golden Rule" — published four years before his passing — Mr.

Mac wrote: "People should be treated well not because they are tools for building a successful company, but because they are valuable as human beings. ... My best advice is to wake up each day committing yourself to lead by example and to act in the same ethical, hard-working manner you expect from your employees. ... Live by the Golden Rule." 6/15/2020

Addressing Employee Social Media Activity During Protests

June 12, 2020

Following days of nationwide protests and many Americans taking to social media to express their opinions, employers may now be faced with the tricky question of what to do if an employee posts racist, threatening or other objectionable content on his or her social media platform. OMA Connections Partner Frantz Ward has shared **this legal perspective**, noting that in all cases, employers should conduct thorough investigations before taking disciplinary action. 6/10/2020

EEOC Issues Updated COVID-19 Guidance

June 12, 2020

The U.S. Equal Employment Opportunity Commission (EEOC) has posted an updated and expanded technical assistance publication addressing questions arising under federal equal employment opportunity laws related to the COVID-19 pandemic. The EEOC publication, which contains a Q&A section of common workplace questions, is **available here**. 6/11/2020

Operating Your Drug-Free Workplace Remotely

June 5, 2020

The COVID-19 pandemic and government actions to flatten the curve caught many businesses off guard, with many scrambling to figure out how to do business from a remote location. How prepared was your business to operate its drug-free workplace program remotely? To help prepare for future challenges, OMA Connections Partner *Working Partners*® has published **this checklist** to aid in the development of a successful game plan for operating your drug-free program from any work location. 6/3/2020

Human Resources, Health Care & Employment Law Legislation

Prepared by: The Ohio Manufacturers' Association

Report created on August 25, 2020

- HB21** **MASS LAYOFFS-UNEMPLOYMENT COMP** (HOLMES G, MILLER A) Regarding notices, resources, and benefits under the Unemployment Compensation Law when a mass layoff occurs.
Current Status: 2/12/2019 - Referred to Committee House Commerce and Labor
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-21>
- HB34** **STATE-LOCAL MINIMUM WAGE** (KELLY B) To increase the state minimum wage and to allow municipalities, townships, and counties to establish higher minimum wage requirements.
Current Status: 1/22/2020 - House Commerce and Labor, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-34>
- HB38** **COMMERCIAL CREDIT REPORTING** (HILLYER B) To require a commercial credit reporting agency to provide credit reports to businesses and to establish a procedure whereby a business may dispute statements on the report.
Current Status: 6/9/2020 - Senate Insurance and Financial Institutions, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-38>
- HB78** **PREVAILING WAGE-PUBLIC IMPROVEMENTS** (RIEDEL C, MANCHESTER S) To allow political subdivisions, special districts, and state institutions of higher education to elect to apply the Prevailing Wage Law to public improvement projects.
Current Status: 12/11/2019 - House Commerce and Labor, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-78>
- HB91** **FAMILY-MEDICAL LEAVE** (BOGGS K, BOYD J) To establish family and medical leave insurance benefits.
Current Status: 2/12/2020 - House Insurance, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-91>
- HB221** **WAGE DISCRIMINATION COMPLAINTS** (BOYD J, CRAWLEY E) To require the Ohio Civil Rights Commission to establish a system for individuals to make anonymous complaints regarding wage discrimination.
Current Status: 6/18/2019 - House Civil Justice, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-221>
- HB268** **VACCINES-EMPLOYMENT** (HOOD R, KENT B) To enact the "Medical Consumer Protection Act" to prohibit an employer from taking an adverse employment action against a person who has not been or will not be vaccinated.
Current Status: 6/4/2019 - Referred to Committee House Commerce and Labor
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-268>

- HB292 UNIVERSAL HEALTH CARE COVERAGE** (SKINDELL M, KENT B) To establish and operate the Ohio Health Care Plan to provide universal health care coverage to all Ohio residents.
Current Status: 9/10/2019 - House Health, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-292>
- HB304 ELIMINATE SEX-BASED WAGE DISPARITIES** (CLITES R, HOWSE S) To enact the Ohio Equal Pay Act to require state contractors and economic incentive recipients to obtain an equal pay certificate, to require public employers to establish a job evaluation system to identify and eliminate sex-based wage disparities, to prohibit employers from seeking a prospective employee's wage or salary history, and to prohibit employer retaliation against an employee who discusses salary or wage rates with another employee.
Current Status: 6/30/2019 - Referred to Committee House Commerce and Labor
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-304>
- HB352 CIVIL RIGHTS EMPLOYMENT LAWS** (CROSS J, LANG G) To modify Ohio civil rights laws related to employment.
Current Status: 5/12/2020 - **REPORTED OUT AS AMENDED**, House Civil Justice, (Fourth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-352>
- HB369 SEXUAL, GENDER DISCRIMINATION** (HILLYER B, SKINDELL M) To enact the Ohio Fairness Act to prohibit discrimination on the basis of sexual orientation or gender identity or expression, to add mediation as an informal method that the Ohio Civil Rights Commission may use, and to uphold existing religious exemptions under Ohio's Civil Rights Law.
Current Status: 2/4/2020 - House Civil Justice, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-369>
- HB378 STRIKING WORKER UNEMPLOYMENT BENEFIT** (CROSSMAN J, LEPURE-HAGAN M) To provide unemployment benefits to striking workers and to declare an emergency.
Current Status: 10/23/2019 - Referred to Committee House Insurance
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-378>
- HB469 HEALTH INSURANCE COST-SHARING** (MANCHESTER S, WEST T) To prohibit certain health insurance cost-sharing practices.
Current Status: 6/9/2020 - House Health, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-469>
- HB508 UNEMPLOYMENT COMPENSATION - DOMESTIC VIOLENCE VICTIMS** (CERA J, SWEENEY B) To allow an individual to be eligible for unemployment compensation benefits for unemployment due to domestic violence.
Current Status: 2/19/2020 - Referred to Committee House Criminal Justice
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-508>

- HB512 INSURANCE COVERAGE - EPINEPHRINE, GLUCAGON (ROGERS J)** Regarding insurance and Medicaid coverage of epinephrine and glucagon.
Current Status: 6/3/2020 - House Insurance, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-512>
- HB574 TRANSFER FUNDS - UNEMPLOYMENT COMPENSATION FUND (MILLER J)** To transfer moneys to the Unemployment Compensation Special Administration Fund, to make an appropriation, and to declare an emergency.
Current Status: 5/19/2020 - House Insurance, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-574>
- HB584 WORK SEARCH REQUIREMENTS - COVID-19 (CRAWLEY E, LELAND D)** To temporarily change eligibility and work search requirements under the Unemployment Compensation Law and to declare an emergency.
Current Status: 5/5/2020 - Referred to Committee House Insurance
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-584>
- HB588 PUBLIC ASSISTANT PROGRAMS - COVID-19 (RUSSO A, SOBECKI L)** To delay eligibility redeterminations for certain public assistance programs, temporarily modify income eligibility requirements for certain public assistance programs, and to declare an emergency.
Current Status: 5/5/2020 - Referred to Committee House Health
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-588>
- HB593 REQUIRED PAID LEAVE - COVID-19 (BOYD J, BOGGS K)** To require paid leave for an employee who is unable to work due to quarantine or mandatory isolation, to create a grant program to compensate contract workers who cannot perform services during public health emergencies, to make an appropriation, and to declare an emergency.
Current Status: 5/5/2020 - Referred to Committee House Commerce and Labor
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-593>
- HB607 GENDER PAY DISPARITY TASK FORCE (HOWSE S, LEPORE-HAGAN M)** To create the Gender Pay Disparity Task Force.
Current Status: 5/5/2020 - Referred to Committee House Commerce and Labor
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-607>
- HB672 WORKER PROTECTION ACT (LELAND D, SOBECKI L)** To enact the "Worker Protection Act" to require the Director of Job and Family Services to consider certain factors related to COVID-19 when determining, for purposes of unemployment benefit eligibility, whether an individual had just cause to quit work or refuse employment and to declare an emergency.
Current Status: 5/27/2020 - Referred to Committee House Insurance
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-672>

- HB679 TELEHEALTH SERVICE REQUIREMENTS** (FRAIZER M, HOLMES A) To establish and modify requirements regarding the provision of telehealth services and to declare an emergency.
Current Status: 6/10/2020 - **PASSED BY HOUSE**; Amended on Floor, Bill Vote 91-3
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-679>
- HCR17 EXPAND SNAP TO STRIKERS** (SOBECKI L, RUSSO A) Urging Congress to expand Supplemental Nutrition Assistance Program eligibility to include the households of striking workers.
Current Status: 2/11/2020 - House Health, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HCR-17>
- SB9 HEALTH PLAN CLAIM INFORMATION** (HUFFMAN M) To require health plan issuers to release certain claim information to group plan policyholders.
Current Status: 6/30/2020 - , (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-9>
- SB11 PROHIBIT DISCRIMINATION-SEXUAL ORIENTATION, GENDER IDENTITY** (ANTONIO N) To enact the Ohio Fairness Act to prohibit discrimination on the basis of sexual orientation or gender identity or expression, to add mediation as an informal method that the Ohio Civil Rights Commission may use, and to uphold existing religious exemptions under Ohio's Civil Rights Law.
Current Status: 5/22/2019 - Senate Judiciary, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-11>
- SB91 FAMILY AND MEDICAL LEAVE** (MAHARATH T) To establish family and medical leave insurance benefits.
Current Status: 9/25/2019 - Senate Insurance and Financial Institutions, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-91>
- SB92 WAGE DISCRIMINATION** (MAHARATH T) To enact the "Fair and Acceptable Income Required (FAIR) Act" and to revise the enforcement of the prohibitions against discrimination in the payment of wages.
Current Status: 3/20/2019 - Senate General Government and Agency Review , (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-92>
- SB94 PREGNANT WORKERS** (MAHARATH T) To enact the "Ohio Pregnant Workers Fairness Act" to generally require employers to make reasonable accommodations for employees who are pregnant or breastfeeding.
Current Status: 9/10/2019 - Senate Government Oversight and Reform, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-94>

- SB149** **EMPLOYEE WAGE HISTORY (MAHARATH T)** To prohibit employers from seeking a prospective employee's wage or salary history.
Current Status: 1/29/2020 - Senate Transportation, Commerce and Workforce, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-149>
- SB201** **ALTERNATE EMPLOYER ORGANIZATIONS (DOLAN M)** To create alternate employer organizations.
Current Status: 1/22/2020 - Senate Transportation, Commerce and Workforce, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-201>
- SB207** **DRUG TESTS-UNEMPLOYMENT BENEFITS (SCHAFFER T)** To require unemployment benefit applicants to take a drug test under certain circumstances, to create the Ohio Works First drug testing pilot program, and to make an appropriation.
Current Status: 11/13/2019 - Senate General Government and Agency Review , (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-207>
- SB254** **MENTAL HEALTH BENEFIT PARITY (GAVARONE T, O'BRIEN S)** Regarding mental health and substance use disorder benefit parity.
Current Status: 2/12/2020 - Senate Insurance and Financial Institutions, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-254>
- SB259** **STATE-OWNED REAL PROPERTY (SYKES V)** To authorize the conveyance of state-owned real property.
Current Status: 6/3/2020 - Referred to Committee House State and Local Government
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-259>
- SB282** **UNEMPLOYMENT COMP COMPLAINTS (HOAGLAND F)** To require the Director of Job and Family Services to establish a process for employers to make complaints regarding unemployment compensation benefits.
Current Status: 6/9/2020 - Senate Insurance and Financial Institutions, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-282>

TO: OMA Government Affairs Committee
FROM: Ryan Augsburger / Rob Brundrett
RE: Safety and Workers' Compensation Report
DATE: August 26, 2020

Overview

Workers' compensation law continues to be a legislative hotspot even amid COVID-19. Under the Householder regime the House made workers' compensation expansion a priority. PTSD was recently passed from the House and is now being heard in the Senate.

A workers' compensation amendment was slipped into the COVID-19 immunity bill and caused massive problems for that piece of priority legislation.

The OMA continues to work with allies to fight back against these attacks on workers' compensation law.

A plethora of new workers' compensation legislation was introduced because of the pandemic.

Last week the Governor announced yet another billion back for state fund employers for the 2019 premium year.

Legislation and Rules

House Bill 81 – Workers' Comp for Bodily Fluid Exposure

Originally the bill provided workers' compensation coverage of post-exposure medical diagnostic services for a detention facility employee's exposure to blood or bodily fluids.

The House expanded the bill to include several additional workers' compensation provisions that were in its version of the workers' comp budget bill before the Senate striped the bill to budget provisions only. Included in HB 81 by the House were:

- reducing the statute of limitations for violations of a specific safety rule (VSSR) from two years to one year;
- increasing the funeral expense benefit cap for inflation;
- changing rules for final claim settlement agreements;
- continuing jurisdiction changes; and
- clarifying the voluntary abandonment doctrine.

The OMA provided proponent testimony for these changes in both the House and Senate. The bill has passed both chambers and signed by the Governor back in June.

House Bill 197 – Pandemic Emergency Legislation

Earlier this year, Gov. DeWine signed into law House Bill 197 in response to the COVID-19 pandemic. Among the legislation's many provisions is one that tolls the statute of limitations for any administrative action or proceeding set to expire between March 9, 2020, and July 30, 2020. This includes workers' compensation timelines.

House Bill 308 – PTSD First Responders

Earlier this year, on a 74-22 vote, the Ohio House passed House Bill 308, legislation that would provide first responders with workers' compensation benefits to treat post-traumatic stress disorder (PTSD) even when there's no physical injury. Under current Ohio law, only mental conditions stemming from on-the-job physical injuries/illnesses are eligible for workers' compensation benefits.

Due to the risk of substantial premium increases for employers, the OMA has long opposed any legislation that would permit PTSD compensation or other mental claims when there is no associated physical injury or illness. As the OMA noted in its "key vote alert" to House members, HB 308, if enacted, "will inevitably result in increased workers' compensation costs for both public and private employers. The consequences of those cost increases will be felt across the Ohio economy and will negatively impact Ohio's business climate."

The OMA and other business allies crafted a competing plan that would have provided first responders with the same coverages they would receive under workers' compensation that was more streamlined.

The bill now pending in the Senate, where Senate President Larry Obhof (R-Medina) has already been quoted saying he supports the legislation. Members who are concerned with this precedent setting legislation should reach out to their Senators and urge them to vote no on the bill. The OMA and like-minded groups sent a letter to the committee chairman reiterating our opposition to the bill. The OMA provided opponent testimony in the Senate committee this summer.

House Bill 571 – COVID-19 Occupational Disease First Responders

The bill makes COVID-19 contracted by a peace officer, firefighter, or emergency medical worker an occupational disease under the Workers' Compensation Law under certain circumstances and declares an emergency. The bill has had one hearing.

House Bill 573 – COVID-19 Occupational Disease Workers

The bill makes COVID-19 contracted by any worker required to work during the pandemic an occupational disease under Ohio's workers' compensation laws. The bill has had one hearing.

House Bill 605 – COVID-19 Occupational Disease Food Workers

The bill makes COVID-19 contracted by a food worker including a food manufacturer during the pandemic an occupational disease. The bill has had one hearing. The bill in amendment form was included in the House passed liability bill. This is a major concern for food manufacturers as it changes current Ohio workers' comp law and would now put the burden of proof on the employer.

BWC Agency Notes

Governor Asks BWC to Send \$1.5B in Dividend Payments to Ohio Employers This Fall

To provide economic relief to employers amid the ongoing pandemic, Gov. Mike DeWine last week asked the Ohio Bureau of Workers' Compensation (BWC) board of directors to send up to \$1.5 billion in dividend payments to Ohio employers this fall. This dividend would equal approximately 100% of the premiums paid in policy year 2019. Checks are expected to go out by late October.

If approved by the Board, this would be the second dividend of \$1 billion or more since April and the third dividend since 2019.

Additionally, Gov. DeWine asked the BWC board to approve a second distribution of face coverings to Ohio employers and their employees. In the first distribution, BWC shipped 20.6 masks to 197,000 employers.

Workers' Comp Implications of COVID-19 for Employers

OMA legal counsel Bricker & Eckler notes that the BWC has not provided a specific stance regarding compensability of COVID-19. The firm notes that claims of exposure to viruses or other potentially dangerous substances are generally not covered by workers' compensation unless an injury or occupational disease results from such exposure. Therefore, a claim of exposure to COVID-19 at work is not, in itself, a compensable injury or disease. Each claim will need to be evaluated on a case-by-case basis.

Safety Issues

OSHA Revises Enforcement Policies

As states begin reopening their economies, OSHA has issued two revised enforcement policies to "ensure employers are taking action to protect their employees."

First, OSHA is increasing in-person inspections at all types of workplaces. Second, OSHA is revising its previous enforcement policy for recording cases of coronavirus. Under OSHA's recordkeeping requirements, coronavirus is a recordable illness, and employers are responsible for recording cases of the coronavirus, if the case:

- Is confirmed as a coronavirus illness;
- Is work-related as defined by 29 CFR 1904.5; and
- Involves one or more of the general recording criteria in 29 CFR 1904.7, such as medical treatment beyond first aid or days away from work.



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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

H.B. 605
133rd General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsors: Reps. Kelly and Patton

Paul Luzzi, Attorney

SUMMARY

- Creates a presumption that COVID-19 is an occupational disease under the Workers' Compensation Law for a retail food establishment employee or a food processing establishment employee who contracts COVID-19 during the emergency declared by Executive Order 2020-01D, issued March 9, 2020.
- Allows the presumption to be rebutted by affirmative evidence.
- Applies the presumption to claims arising only during the period of the emergency declared by the Order.
- Declares an emergency.

DETAILED ANALYSIS

Presumption that COVID-19 was contracted during employment

For purposes of the Workers' Compensation Law,¹ the bill creates a presumption that a retail food establishment employee or a food processing establishment employee who contracts COVID-19 contracted the disease in the course of and arising out of the employee's employment during the emergency declared by Executive Order 2020-01D, issued March 9, 2020. The presumption applies to claims arising only during the period of the emergency declared by the Order. The presumption may be refuted with affirmative evidence.²

Under continuing law, a retail food establishment is a premises where food is stored, processed, prepared, manufactured, or otherwise held or handled for retail sale (for example, a

¹ R.C. Chapters 4121, 4123, 4127, and 4131.

² R.C. 4123.68(CC), by reference to R.C. 3715.021 and 3717.01, not in the bill.

grocery store).³ A food processing establishment is a premises where food is processed, packaged, manufactured, or otherwise held or handled for distribution to another location or for sale at wholesale. An individual who produces nonhazardous food items in the individual's home is not a food processing establishment. Additionally, a processor of syrup, apple syrup, apple butter, sorghum juice, or honey is not a food processing establishment if 75% or more of the sap, apples, sorghum, or honey is produced or harvested directly from the processor's own trees, plants, or hives.⁴

The bill includes the presumption in the schedule of occupational diseases that are compensable under continuing law. An employee who is disabled by a scheduled occupational disease, or the dependent of an employee whose death is caused by the disease, is typically entitled to any compensation and benefits provided by the Law. The schedule, however, is not exclusive; any disease that satisfies the continuing law definition of occupational disease is compensable. For a disease to be considered an occupational disease under the Law, all of the following conditions must be satisfied:

1. The disease is contracted in the course of employment;
2. The employment creates a risk of contracting the disease in greater degree and in a different manner from the general public;
3. Either of the following applies:
 - a. The disease is peculiar to that type of employment by the disease's causes and the characteristics of the disease's manifestations;
 - b. The conditions of the employment results in a hazard that distinguishes the employment in character from employment generally.⁵

Emergency

The bill declares it to be an emergency law, meaning that it will take immediate effect once signed by the Governor.⁶

HISTORY

Action	Date
Introduced	04-10-20

H0605-I-133/ec

³ R.C. 3717.01, not in the bill.

⁴ R.C. 3715.01 and 3715.021, not in the bill.

⁵ R.C. 4123.68; R.C. 4123.01(F), not in the bill, and *State ex rel. Ohio Bell Tel. Co. v. Krise*, 42 Ohio St.2d 247, 253-254 (1975).

⁶ Section 3.

BWC Board considers Governor DeWine's \$1.5 billion dividend proposal, approves more masks for Ohio employers

August 21, 2020 | [BWC](#)

NEWS RELEASE

Aug. 21, 2020

2nd dividend this year to ease COVID-19 financial impact

COLUMBUS – The Ohio Bureau of Workers' Compensation Board of Directors will vote next month on Governor Mike DeWine's proposal Thursday to send Ohio employers up to \$1.5 billion in dividends to ease the impact of COVID-19 on Ohio's economy and business community.

The Board will vote on the governor's proposal at its monthly virtual meeting Sept. 25. If approved, the dividend would be the second one of that magnitude this year to ease the pandemic's impact and the third since 2019, all at Governor DeWine's request.

"Once again, this is great news for Ohio's businesses because it will provide some immediate financial relief for employers amid this ongoing pandemic," said Governor DeWine.

Meanwhile, the Board met virtually this morning and approved Governor DeWine's request to send another round of face coverings to employers to reduce the spread of COVID-19.

BWC has shipped 20.6 million masks to 197,000 Ohio employers since late May as part of Protecting Ohio's Workforce — We've Got You Covered. In a second round, BWC will begin this fall sending approximately 23 million masks to employers, who will not be billed for the items. The funding will come from BWC's Division of Safety & Hygiene at no impact to the division's safety services and grant programs. BWC is working to purchase as many of these masks as possible from manufacturers making them here in Ohio.

The Board heard Governor DeWine’s dividend proposal Thursday afternoon, immediately after the governor’s daily news conference on the coronavirus. The proposed dividend would equal 100% of the premium employers paid in policy year 2019. As with prior disbursements, the dividend is possible because of strong investment returns on employer premiums, a declining number of claims each year, and prudent fiscal management. Checks could be mailed as soon as late October.

“Our robust investment earnings indicated a dividend was feasible next year, but providing it now supports Governor DeWine’s efforts to provide businesses relief during this pandemic,” said BWC Administrator/CEO Stephanie McCloud. “This means, in all likelihood, we will not issue a dividend in 2021.”

Of BWC’s \$1.54 billion dividend in April, \$1.35 billion went to private employers and \$184 million went to local government taxing districts, such as counties, cities, townships, and school districts.

BWC provides workers’ compensation insurance to more than 248,000 private and public employers in Ohio. Despite COVID-19’s impact, the agency’s investment returns remain strong. It earned \$922 million in returns in July and had a net position (assets minus liabilities) of \$12.4 billion as of July 31. BWC is funded by employer premiums.

[Click here for a fact sheet on the proposed dividend and our masks initiative.](#)

For more on COVID-19 as it relates to BWC, visit this [Frequently Asked Questions](#) page. For other questions about COVID-19 related to BWC, email BWCCOVID19@bwc.state.oh.us.

For the latest on COVID-19, visit the Ohio Department of Health website coronavirus.ohio.gov, or call 1-833-4-ASK-ODH (1-833-427-5634).

###

Coronavirus (COVID-19) Frequently Asked Questions

To minimize the spread of coronavirus (COVID-19) and continue business operations, our BWC staff is teleworking. While we may be operating from a different physical location, we do not currently anticipate major issues with continuing to provide our employers, injured workers, and the many others we serve, with service. Phone numbers and email addresses for our customer service representatives remain the same.

We are monitoring the situation closely and will provide updates as necessary. We know you may have questions that we are just not able to immediately answer. We promise to keep you updated and share information as we have it. In the meantime, thank you for your patience as we all work through COVID-19 together.

For the latest information on coronavirus (COVID-19) visit coronavirus.ohio.gov. For questions about COVID-19's effect on BWC not listed here, you can email BWCCOVID19@bwc.state.oh.us.

Last updated at 8/10/2020 5:08 PM

New! See Q 2 about COVID-19 claims and experience rating.

Note to Medical Providers: BWC has developed an FAQ document specifically for medical providers that addresses COVID-19 issues. To download, click [here](#).

Face Coverings for Employers and Workforce: For FAQs related to our [Protecting Ohio's Workforce — We've Got You Covered](#) plan, [visit this link](#).

Frequently Asked Questions

Note: This is a "living" document. The following is updated routinely to reflect our most recent policy changes and initiatives, with new Q&As at the end.

Claims and Policy Processing

Q 1: What is BWC doing to help employers during this unprecedented time?

A: At the request of Ohio Governor Mike DeWine, in late April we sent up to \$1.6 billion to Ohio employers to ease the economic impact of the coronavirus (COVID-19) on Ohio's economy and business community. This dividend equals approximately 100% of the premiums employers paid in policy year 2018. BWC applied the dividend to an employer's outstanding balances first, including the recent installment deferrals. Any amounts exceeding outstanding balances were sent to the employer. For those employers, it means one less bill to worry about. As in previous years, the dividend is possible due to strong investment returns on employer premiums, a declining number of claims each year, and prudent fiscal management. It's also due to employers who work hard to improve workplace safety and reduce injury claims. Even with the downturn in the market, BWC is able to provide this important dividend to employers while maintaining funds to take care of injured workers for years to come. All checks were issued by the end of April. **Employers: For frequently asked questions about the dividend, [visit this link](#).**

Q 2: Will BWC exclude the cost of claims related to COVID-19 from experience rating?

A: As of Aug. 10, 2020, BWC has not decided whether to exclude the cost of allowed COVID-19 claims from an employer's experience calculation. BWC is still evaluating the impact, costs, and longevity of COVID-19. With these unknowns, BWC is not prepared to make a decision at this point.

Since the Public Employer – State Agencies program operates on a pay-as-you-go basis, BWC will include any costs related to COVID-19 claims in the development of their contribution rates.

Q 3: Will BWC allow employers to delay installment payments due to COVID-19's hardship?

A: To ease the continuing financial impact on Ohio businesses due to the COVID-19 pandemic, BWC is deferring installment payments for Policy Year 2020 for June, July, and August to Sept. 1, 2020. If employers are able to follow the normal installment payment scheduled due date, such payments may still be submitted. BWC will not lapse coverage or assess penalties for unpaid installments during this deferral period.

We previously deferred installments for March, April, and May until June 1, 2020. Following that decision, we gave Ohio employers nearly \$1.6 billion in dividends, but for most employers, we first applied the dividends to the unpaid balance for March, April, and May.

Q 4: How does BWC's deferral of premium installment payments apply to state fund employers that are Professional Employer Organizations (PEOs)?

A: PEO employers are required to report actual payroll and pay premiums on a monthly basis, but as state fund employers operating under the COVID-19 climate, they may defer reporting and payments for March through July until Sept. 1, 2020. As for the August payroll report and premium payment, it will be due as normally scheduled, on or before Sept. 15, 2020. The deferral is automatic, there is no "opt in" requirement to take advantage of this option.

Q 5: How does this impact state fund clients of PEO employers?

A: A client of a PEO employer must maintain active workers' compensation coverage throughout the duration of any type of PEO agreement. Client employers will be treated the same as all other state fund employers and will have the option to defer payments until Sept. 1 without a lapse in coverage.

Q 6: If I contract COVID-19, is it a compensable workers' compensation claim?

A: It depends on how you contract it and the nature of your occupation. Generally, communicable diseases like COVID-19 are not workers' compensation claims because people are exposed in a variety of ways, and few jobs have a hazard or risk of getting the diseases in a greater degree or a different manner than the general public. However, if you work in a job that poses a special hazard or risk and contract COVID-19 from the work exposure, BWC could allow your claim.

Q 7: If I am quarantined due to COVID-19 can I receive workers' compensation wage replacement benefits?

A: BWC can only pay compensation in an allowed claim for disability resulting from the allowed conditions. An executive order issued by Governor DeWine, however, expands flexibility for Ohioans to receive unemployment benefits during Ohio's emergency declaration period. For more information on unemployment benefits go to the [Ohio Department of Job and Family Services](#).

Q 8: Are you making determinations on new claims?

A: Yes. Our staff is teleworking and has access to our systems.

Q 9: How will my benefits be extended when my doctor's office is closed, and they haven't completed my Medco-14?

A: BWC and the Managed Care Organizations are working with your physicians to ensure medical care and any necessary paperwork are completed so that benefits can continue uninterrupted. You may want to check with your treating provider to determine if telemedicine is available. Telemedicine can be an effective treatment tool and can be used when a new MEDCO-14 is needed.

Q 10: Will my benefits be extended if I am participating in a rehab program?

A: BWC is working with the vocational rehabilitation providers to ensure that those injured workers who are participating in a rehab program have the necessary documentation submitted to continue benefits.

Q 11: Will my wage-loss benefits be discontinued if I'm unable to complete the job searches?

A: BWC is working with injured workers to complete online job searches. Information about job postings is also available on the JobSearch.Ohio.Gov website. We encourage individuals who have been affected by COVID-19 to visit the website and apply for a position. Job search activities could also include the injured worker submitting resumes, taking online interviewing or resume tutorials, or working on sharpening their interview skills.

Q 12: I have an Independent Medical Exam (IME) scheduled and it has been cancelled, will my benefits be suspended?

A: If the examining physician has cancelled your examination, your benefits will not be suspended. Another examination will be scheduled at a later date.

Q 13: How will BWC be handling 90-day and extent of disability IMEs?

A: BWC has resumed scheduling examinations. We are asking injured workers and examining physicians to follow protocols outlined by the Ohio Department of Health to ensure the health and well-being of all who enter the facilities.

Q 14: Will I be able to speak with my claim representative?

A: If you are represented by an attorney, call your attorney first. Staff will be monitoring voice mail on a limited basis, but the most efficient method of communication will be via email messaging. The email address for your claims service specialist (CSS) can be found on the bottom of any correspondence you have previously received or look up your claim [here](#). For general questions, you may also call our call center at 1-800-OHIOBWC.

Q 15: What happens if my claim is denied or my employer does not agree with my claim?

A: Parties to the claim can still file an appeal if they disagree with the decision on a claim. The Ohio Industrial Commission (IC) will continue to have hearings. For the latest information visit the IC website at www.ic.ohio.gov.

Q 16: Will my Ohio Industrial Commission hearing be cancelled?

A: Please feel free to visit the IC website at www.ic.ohio.gov to view updated information and press releases.

Q 17: Will I be able to pick up a check for a compensation payment in a local service office?

A: After March 18, 2020, you will no longer be able to pick up your check from a local service office. We will address requests for overnight delivery on a case by case basis.

Q. 18: I have questions about the electronic delivery of my benefits, but I can't reach Key Bank.

Where do I turn?

A. Key Bank is BWC's vendor that provides electronic delivery of funds through electronic fund transfers (EFT) and electronic benefit transfer (EBT) cards to our workers' compensation claimants. Key Bank's call center is currently experiencing an extremely high call volume that has resulted in difficulty reaching a Key Bank agent. Key Bank has notified BWC of this issue and has assured BWC they are taking corrective steps. Meanwhile, if you continue having difficulty reaching Key Bank, try calling Key Bank's call center during off hours. Their call center is currently open 24/7, and call volume is much lower outside normal business hours.

Q 19: How will BWC handle additional allowance and Temporary Total (TT) entitlement requests that would ordinarily require an IME?

A: BWC continues to process additional allowance and TT entitlement requests but is using physician file reviews instead of in-person examinations whenever possible. In some cases, BWC will schedule an in-person examination. We are asking injured workers and examining physicians to follow protocols outlined by the Ohio Department of Health to ensure the health and well-being of all who enter the facilities.

Q 20: How is BWC addressing C-92 applications?

A: BWC has resumed scheduling examinations. We are asking injured workers and examining physicians to follow protocols outlined by the Ohio Department of Health to ensure the health and well-being of all who enter the facilities. However, if injured workers prefer to schedule their examination at a later date due to COVID-19 concerns, no penalties will be assessed.

Q 21: Will BWC be extending program reporting/requirement completion deadlines?

A: BWC is waiving all safety education and training requirements for this policy year (July 1, 2019 June 30, 2020 for private employers) for participants in the following programs:

- Drug Free Safety Program.
- EM Cap Program.
- Grow Ohio.
- Industry Specific Safety Program.
- One Claim Program.
- Policy Activity Rebate Program.

Discounts offered through these programs will be applied automatically.

Public Employers (PEC) participating in the One Claim or EM Cap programs for the Jan. 1, 2020 policy year will be permitted to complete the first year safety training requirements by completing three hours of online training by the last business day of September 2020.

Private Employers (PA) participating in the Drug-Free Safety Program, One Claim or EM Cap programs for the July 1, 2020 policy year will be permitted to complete online safety training to satisfy in-person training.

More on these programs can be found at bwc.ohio.gov.

Q 22: Will BWC be suspending audits of self-insuring (SI) and state fund (SF) employers?

A: Yes, BWC has suspended face-to-face audits for both SI and SF employers. Paper and virtual audits will continue. We will be issuing temporary certificates to SI employers.

Q 23: What are employers supposed to do about the classes that were cancelled? What about the ½ day classroom training?

A: We have waived several requirements for many of our programs (see Q 20), but we encourage employers to take advantage of online classes while we continue to assess other training options.

Q 24: Will BWC extend the public employer taxing district (PEC) true-up grace period that ended March 16?

A: We extended the grace period to June 1, 2020.

Q 25: Is emergency sick leave and expanded FMLA paid to employees under the Families First Coronavirus Response Act reportable when submitting true-up payroll?

A: No. Emergency sick leave and expanded FMLA paid to employees under the Families First Coronavirus Response Act are not reportable to BWC for premium purposes. While regular paid sick leave (including third-party sick pay) is reportable to BWC, emergency sick leave and expanded FMLA paid under this act are not reportable.

Effective April 1, 2020, through Dec. 31, 2020, wages companies pay under the act for sick leave related to COVID-19 are not reportable to BWC. Also, leave time to care for a child whose school or childcare provider is closed or unavailable for COVID-19-related reasons is not reportable to BWC. Employers must follow the federal government’s eligibility and documentation guidelines to exclude these wages from their reportable payroll and premium calculation at true-up. Wages reported to BWC for premium calculation purposes are subject to verification by a premium audit.

Q 26: How will employers report wages at true-up for operational employees who are teleworking as a result of Governor Mike DeWine’s State of Emergency order (Executive Order 2020-01D) while receiving wages from the employer?

A: To ease the economic impact of the COVID-19 crisis on businesses, private employers may report operational staff currently teleworking to class code **8871 – Clerical Telecommuter** during a declared state of emergency. For public employer taxing districts, we created a new class code, **9444 - Public Employee Clerical Telecommuter**, to report staff currently teleworking.

- The employer must contact BWC to request the addition of classification code 8871 – Clerical Telecommuter for private policies and 9444 - Public Employee Clerical Telecommuter for public employer taxing districts to their policy. This will allow the employer to report teleworking wages to class code 8871 or 9444 during the true-up period.
- Sole Proprietors and Partners who have elected to cover themselves will continue to report their wages to the assigned operating class code.
- Private employer staff currently reported under class code 8810-Clerical will continue to be reported under class code 8810, not 8871.
- The employer is responsible for recording, tracking, and documenting the wages associated with the operational employees now teleworking for premium audit purposes.
 - If the worker performs their regular duties on an intermittent basis, such as working at the employer location Monday, Wednesday and Friday and is paid to stay home Tuesday and Thursday, all wages are to be reported to the operating class code and not to class code 8871 or 9444.
- If a worker continues to perform the same duties from home while teleworking, the employer will continue reporting that worker’s wages to the appropriate operational classification code, not to the class code for teleworking.

- For example: the private employer manufactures surgical masks. The employer has sent workers home with the equipment and materials to continue making masks. These workers are not 8871 Clerical Telecommuter employees. They would remain under classification **2501 – Cloth, canvas and related products manufacturing**. The exposures for them do not change.

Examples relating to public employer taxing districts

- Any public employees performing clerical duties while working from home are reportable to 9444 during the emergency period.
 - Public employee teachers who conduct classes on-line working from home are reportable to classification 9444 during the emergency period. If tutoring is done by the teacher away from the teacher's home, then their entire payroll is reported to the operational classification.
 - Public employee teachers who ended the previous school year working from home are reportable to 9444 during the emergency period, including summer break, and as long as the schools remain closed.
 - After a public school has students return to in-school classes, all payroll for teachers will be reportable to the operational classification code again.
- This temporary revision to the class code assignment rule only applies during the time of Governor DeWine's State of Emergency order, which he initiated March 9, 2020.
 - The employer is to cease reporting operational employees' wages to teleworking class code 8871 or 9444 once the State of Emergency order has ended or if the operational employee(s) return to performing their previous job duties.

To request the addition of class code 8871 - Clerical Telecommuter or 9444 for public employer taxing districts to your policy, please call 1-800-644-6292 or send an email to RTSclass@ohiobwc.com. Remember to include your policy number in your email request.

Q 27: How will BWC address late payments for Self-Insured employer assessments?

A: As you are aware, assessment payments for the July 1, 2019, to Dec. 31, 2019, period were due by Feb. 28, 2020. Normally, payments not received by the due date are subject to additional late payment penalty fees.

However, to provide financial relief to employers amid the coronavirus (COVID-19) pandemic, we are waiving the late payment penalty fees applicable to the semi-annual assessments that were due Feb. 28, 2020. We also are reimbursing employers who had submitted late payment penalty fees levied for the assessment period.

This waiver does not apply to future semi-annual assessment invoice payments. **It is only for the assessment period of July 1, 2019, to Dec. 31, 2019.**

Q 28: Will BWC continue to assess increases in security and require Letters of Credit as a result of annual reviews?

A: BWC is continuing its annual review of Self-Insured employers' workers compensation policies. A satisfactory review permits renewal for the next policy year. BWC will perform its annual financial analysis in accordance with its normal procedures and financial analysis parameters. BWC has a responsibility to protect the Self-Insuring Employers Guaranty Fund (SIEGF) and is continuing to require Letters of Credit for Self-Insuring employers that are deemed to pose risk to the SIEGF.

Q 29: I am a self-insuring (SI) employer or a client of a self-insuring Professional Employer Organization (PEO). Why don't I receive a dividend payment like the state fund employers?

A: The recent dividend announcement was made possible for state insurance fund employers because of strong investment returns on the premiums BWC collects and lower than expected claims costs in recent policy periods. Self-insuring employers and self-insuring Professional Employer Organization(s) (PEO) do not pay premiums to the state insurance fund. Thus, the SI community has not provided the premium dollars that through the strong investment returns allow the payment of dividend dollars back to the state insurance fund premium payers.

SI assessments are used to cover the cost of the annual involvement of the BWC and the Industrial Commission in self-insured employer and claim issues as well as the cost related to previous SI employers that have defaulted on their workers' compensation claim obligations. These assessments are used within the year of collection with very little money available for investment. Any investment on SI provided money is used to lower the annual assessment rates.

Q 30: Will employers who have suspended operations due to the COVID-19 who are paying employees while they are idle at home need to report the payments as payroll?

A: No. Employers are not required to report to BWC the wages paid to employees who are idle at home because of the COVID-19 pandemic. We encourage employers to keep track of such payments, however, for purposes that might surface during potential audits.

Q 31: Has BWC modified its delivery of care for injured workers through telemedicine and telephone services?

A: Yes. BWC released three policy alerts to date to address the expanded use of telemedicine and telephone services.

- Policy alert [2020-01](#) announces a more flexible use of telemedicine and expands the site of care delivery to the injured worker's home, as well as relaxing the requirements for using a secure platform of communication. It also reduces some administrative burden to notify or request additional authorization from the managed care organization (MCO) to change the care-delivery method.
- Policy alert [2020-02](#) permits telephonic communication as a temporary substitute for some vocational rehabilitation services.
- Policy alert [2020-03](#) expands the service providers eligible to provide and bill for virtual check in and/or telephone services (audio only).

Q32: Will BWC reimburse for COVID-19 testing prior to an elective surgery?

A: Yes. Generally, COVID-related testing would not be covered or reimbursable unless COVID-19 was allowed in the claim. However, BWC recognizes that an injured worker who is positive for COVID-19 may be at greater risk for negative surgical complications, such as deep vein thrombosis (DVT), secondary pulmonary infections, unexpected progression to acute respiratory distress syndrome, cardiac injury, kidney failure and even death following the scheduled surgery. Therefore, to enable the Managed Care Organization, surgeon and injured worker to determine if surgery postponement is appropriate and to prevent greater risk for negative health consequences during or following surgery, **one pre-surgical COVID-19 test may be authorized when the injured worker is scheduled for an inpatient or outpatient surgery to be performed at a hospital or Ambulatory Surgical Center (ASC).** For additional information regarding reimbursement for this testing, providers can refer to Policy Alert #2020-04.

Q33: Will BWC extend the Public Employer Group-Experience Rating program roster filing deadline?

A: Yes. Normally, PEC employers would need to apply for a group rating plan by the last business day of May (May 29th this year). We have approved an extension of this deadline to June 12, 2020, with consideration that many PEC may not have had the opportunity to perform normal work duties that would require attention to such applications and deadline dates.

Q34: Will BWC extend the Private Employer (PA) Industry-Specific Safety Program (ISSP), Drug-Free Safety Program (DFSP) and Transitional Work Bonus (TWB) program enrollment deadlines?

A: Yes. Normally, the deadline for PA employers to apply for ISSP, DFSP, and TWB would be the last business day of May (May 29th this year). We have approved an extension of this deadline to June 30, 2020, for new employers, as well as those employers who withdrew from the program previously, to apply for these programs with consideration that many employers may not have been working and able to submit applications timely.

Q35: Is COVID-19 bonus pay to workers reportable when submitting true-up payroll?

A: Yes, any form of bonus pay is considered reportable wages and therefore must be included in the true-up payroll. This includes bonus pay to essential workers' who are required or mandated to work during the COVID-19 pandemic and any increase in pay to working employees as an incentive to work during COVID-19.

Please continue to monitor bwc.ohio.gov for updated information.

Safety & Workers' Compensation

Governor Asks BWC to Send \$1.5B in Dividend Payments to Ohio Employers This Fall

August 21, 2020

To provide economic relief to employers amid the ongoing pandemic, Gov. Mike DeWine this week asked the Ohio Bureau of Workers' Compensation (BWC) board of directors to send **up to \$1.5 billion in dividend payments** to Ohio employers this fall. This dividend would equal approximately 100% of the premiums paid in policy year 2019. Checks are expected to go out by late October. If approved by the Board, this would be the second dividend of \$1 billion or more since April and the third dividend since 2019.

Additionally, Gov. DeWine asked the BWC board to approve a second distribution of face coverings to Ohio employers and their employees. In the first distribution, BWC shipped 20.6 masks to 197,000 employers. *8/20/2020*

BWC Webinar on Inspections of Personal Fall Protection Equipment

August 21, 2020

Lack of proper fall protection is a major driver in workplace injuries and fatalities. The Ohio Bureau of Workers' Compensation (BWC) will host a **free webinar** Tuesday, Aug. 25, at 11:00 a.m. (ET) to walk businesses through the inspection of fall protection systems. *8/20/2020*

At a Glance: OSHA's Revision of Beryllium Standard

August 21, 2020

OSHA recently passed a revised final rule of the beryllium standard for general industry, set to be enforced beginning Sept. 14, 2020. OMA Connections Partner Safex has published **this analysis** of the rule, highlighting what has changed from the previous rule. *8/20/2020*

BWC Redesigns Its Website

August 21, 2020

The Ohio Bureau of Workers' Compensation (BWC) has **redesigned its website**. The BWC has made available **this tool** to spotlight the site's 50 most-visited pages. *8/20/2020*

BWC Updates COVID-19 FAQs

August 14, 2020

The Ohio Bureau of Workers' Compensation has updated its **COVID-19 frequently asked questions document**.

Question 2 on the document addresses COVID-19 claims and experience ratings. As of Aug. 10, BWC had not decided whether to exclude the cost of allowed COVID-19 claims from an employer's experience calculation. *8/13/2020*

Best Practices for 3D Printing Safety

August 14, 2020

Dr. Marilyn Black, vice president and senior technical advisor for Underwriters Laboratories, recently provided a list of best practices for 3D printing safety. In an **IndustryWeek** article, Dr. Black wrote that many desktop 3D printers, while in operation, generate ultra-fine particles and numerous volatile organic compounds that may affect human health. *8/10/2020*

Take Your OSHA Recordkeeping Skills to the Next Level

August 14, 2020

Earlier this year, the OMA hosted a webinar addressing the **basics of OSHA recordkeeping**. Now it's time to review more challenging OSHA recordkeeping and recording situations in our follow-up webinar set for 11 a.m. (ET) on Thursday, Sept. 3.

Presented by OMA Connections Partner Safex, this session will be interactive. Using the webinar polling feature, participants will determine if the cases are recordable and whether the cases result in lost time or restricted-work days. A variety of complicated cases will be presented for evaluation, including some COVID-19 scenarios. **Learn more or register here.** *8/11/2020*

BWC-Sponsored Safety Councils Modified Due to COVID-19 Pandemic

August 14, 2020

Due to the pandemic, the Bureau of Workers' Compensation has made changes to how it will manage the **safety council program**.

Most of the more than 80 safety councils are now conducting virtual meetings.

The Safety Council Rebate Program is suspended for the July 1, 2020 – June 30, 2021 fiscal year. Safety councils are not collecting semi-annual accident reports. Subsequently, there will be no awards presented for the 2020 calendar year. *8/11/2020*

Important BWC Deadlines Approaching Quickly August 14, 2020

The following deadlines are quickly approaching for key Ohio Bureau of Workers' Compensation (BWC) programs:

- Aug. 15 – Private employer payroll **true-up deadline**.
- Aug. 30 – Drug-Free Safety Program Action Plan due from advanced-level private employer participants.
- Aug. 31 – Self-insuring employer assessments due.

Meanwhile, a **new BWC website** is expected to be unveiled in late August. *8/12/2020*

Cleveland Clinic Publishes COVID-19 Safety Guidance for Manufacturers August 7, 2020

The Cleveland Clinic has published **this COVID-19 workplace safety guide for manufacturers**. The guide is part of a series of documents the clinic has produced to help employers protect employees in the workplace. To see all the guidance, visit the Cleveland Clinic's **COVID-19 workplace safety page**. *8/5/2020*

Can HVAC Systems Help Prevent Transmission of COVID-19? July 31, 2020

Modifications to heating, ventilation, and air-conditioning systems might help reduce the spread of the novel coronavirus by purifying air, improving ventilation, and managing airflows. McKinsey & Company has published **this**

insight on steps to optimize ventilation and airflow indoors and limit viral spread. *7/27/2020*

Survey: Many Americans Believe COVID-19 Is More Widespread, Deadlier Than Data Show July 31, 2020

According to **new global research** from strategic communications firm Kekst CNC, some people think the coronavirus is more widespread and deadlier than official figures show.

The research shows that 20% of Americans believe the number of COVID-19 cases is 20 times greater than the **CDC's figures**, and 9% of Americans believe the number of COVID-19 deaths is 225 times greater than the **CDC's data** (which would mean more than 33 million U.S. deaths).

The firm's research also found that returning to work has been a good experience for many employees, and that large majorities agree mask wearing should be required in indoor public spaces. *7/30/2020*

Statewide Mask Mandate Now in Effect July 24, 2020

Early last night, July 23, the DeWine administration issued its **latest public health order**. Per **Section 2** of this order, individuals ages 10 and older in all 88 Ohio counties must wear facial coverings in public at all times when:

- At any indoor location that is not a residence;
- Outdoors and unable to consistently maintain a distance of six feet or more from people who are not members of their family or household; and
- Waiting for, riding, driving, or operating public transportation, a taxi, car service, or ridesharing vehicle.

The administration's action comes after **more counties** were moved this week to Level 3 (red alert) status.

For manufacturers, the mask exceptions in the new order mirror those of the previous order. For members' convenience, **the OMA has again updated its guidance document for use of masks and face coverings.** *7/24/2020*

Travel Advisory Issued for States With COVID-19 Surges

July 24, 2020

The DeWine administration this week issued **COVID-19 travel advisory** for states with above a 15% or greater test-positivity rate to protect against spread of the coronavirus. When issued on Wednesday, July 22, states on Ohio's advisory list were Alabama, Arizona, Florida, Georgia, Idaho, Mississippi, Nevada, Puerto Rico, South Carolina, and Texas. All travelers entering Ohio from these states are asked, but not required, to self-quarantine for at least two weeks.

The Ohio Department of Health has published **this FAQ document** regarding the travel advisory, which will be updated weekly. *7/23/2020*

Upcoming Deadline for BWC Employer Programs

July 24, 2020

Friday, July 31 marks the deadline for several Bureau of Workers' Compensation (BWC) employer programs. By this deadline:

- Employers that are interested in participating in the Safety Council Rebate Program must enroll in a local safety council.
- Businesses participating in the Drug-Free Safety Program (DFSP) or Industry-Specific Safety Program (ISSP) must submit a Safety Management Self-Assessment (SH-26).
- Employers in their initial program year of DFSP must complete online the accident-analysis training. New supervisors must

complete the training within 60 days of becoming a supervisor.

Learn more here. *7/24/2020*

PSAs Encourage Mask Use to Slow Spread of COVID-19

July 24, 2020

The Ohio BWC is sponsoring two new public service announcements encouraging the use of masks and facial coverings to slow the spread of the coronavirus.

The **first PSA** features real Ohioans explaining why all Ohioans should all wear a mask. The **second PSA** features Dr. Steve Markovich, a former Air National Guardsman and fighter pilot, who is CEO of OhioHealth.

Meanwhile, the National Association of Manufacturers has produced **this PSA** to dispel common myths about the use of facial coverings. *7/22/2020*

COVID-19 Signs, Posters for Ohio Employers

July 17, 2020

Ohioans will be required to wear facial coverings in public in **19 of the state's 88 counties** beginning 6 p.m. Friday (July 17) based on the latest data from the **state's coronavirus warning system.**

To help communicate with employees and customers, the Ohio Department of Health has made available numerous posters and signs for businesses to download and print. This includes **signs encouraging the use of face coverings**, as well as **"face coverings are mandatory" signs** for businesses in counties that are at levels 3 or 4 under the Ohio Public Health Advisory System.

See the full offering of signs. *7/15/2020*

When Can a COVID-Infected Employee Return to Work?

July 17, 2020

With cases of COVID-19 on the rise again, more employers are asking: When can employees who have had COVID-19 — or may have had the virus — return to work?

The CDC has **provided guidance** regarding when home isolation can end for infected people. OSHA, **in its FAQs**, has simplified the guidance as follows:

- If an employee has been isolating at home, a health care provider or **local health department** can provide the best information about when the employee can discontinue isolation and return to essential activities, such as going to work.
- If an employee has been hospitalized with COVID-19, he/she should follow the health care provider's discharge and follow-up instructions, which should include information about when he/she can return to work.

Also, the Ohio Department of Health has **published this guidance** for businesses, noting that employers should immediately report employee or customer infections to their local health district — and then **take these actions**. *7/16/2020*

Safe + Sound Week is Set For Aug. 10-16

July 17, 2020

OSHA is encouraging workplaces to commit to workplace safety and health by participating in Safe + Sound Week, Aug. 10-16. This nationwide event recognizes the successes of workplace safety and health programs, and offers information and ideas on how to keep workers safe. **Learn more here**. *7/15/2020*

On-Demand Webinar: Reducing Electrical Hazards

July 17, 2020

Electrical safety violations continue to be among the top standards cited by OSHA for manufacturers. The OMA has made available **this recorded, one-hour webinar** to help you avoid common electrical citations. The subject matter expert is Safex's **Brian Basagill**, who has more than 20 years of construction and manufacturing safety experience. *7/14/2020*

BWC Announces Safety Innovation Award Winners

July 10, 2020

The Bureau of Workers' Compensation (BWC) recently awarded \$3,500 cash prizes to **five Ohio employers** as part of its annual Safety Innovation Awards. The award winners are typically announced at the Ohio Safety Congress & Expo, which did not take place due to the COVID-19 pandemic.

Four of the five winners were manufacturers including OMA members BASF Fort Amanda Specialties LLC and TFO Tech Co., LTD. Read about their innovations **here**.

The BWC has placed the award program on hiatus for 2021 and will review the program and prepare to return in 2022. *7/6/2020*

Reminder: True Up Your Payroll with BWC

July 10, 2020

All private employers have until August 15 to true up payroll for the 7/1/19 through 6/30/20 policy year with the Bureau of Workers' Compensation (BWC).

Although BWC has deferred premium payments until Sept. 1, employers still must true up for this past policy year by the August 15 deadline.

For additional information, view the **Payroll true up reports overview page**. **General guidelines** for reporting payroll to BWC may be found on the **What payroll is reportable page** (note the changes associated with the COVID-19 pandemic).

As you true up, it's a good time to take advantage of the Go-Green Rebate Program; employers can receive a 1-percent premium rebate, up to \$2,000 each policy year. Visit the **Go-Green web page** to review program requirements. *7/6/2020*

Guidance for Holiday Travel During COVID-19

July 2, 2020

With Independence Day weekend nearly here, members have raised questions about guidance

for employees who are traveling, especially to areas experiencing a surge in COVID-19 cases.

The CDC recently revised its considerations for travelers within the U.S. The page contains:

- **COVID Data Tracker**, which includes **this map** showing the number of COVID-19 cases and deaths in every U.S. county.
- **Tips to protect yourself and others** during your trip;
- **Tips for overnight travel**; and
- **Frequently asked questions.**

For more, see the **CDC's page for domestic travelers**. For international travel health notices, **click here**. 7/2/2020

Recap of HB 81: Important Changes to Ohio Workers' Compensation Law

July 2, 2020

OMA Connections Partner Roetzel has published **this recap of House Bill 81**, recently signed by Gov. Mike DeWine to implement several important changes to the Ohio workers' compensation system. The new law, which takes effect Sept. 14, includes a reduction in the statute of limitations for filing a violation of specific safety requirement (VSSR) application — reducing the threshold from two years to one.

Roetzel's experts advise employers: "If an employee waits more than one year from the date of their injury or occupational disease to file their VSSR claim, such claim should be summarily rejected by the employer based upon a statute of limitations defense." 6/30/2020

Important Deadlines for These BWC Programs

July 2, 2020

The end of July will bring **deadlines** for key programs under the Ohio Bureau of Workers' Compensation. By July 31, private employers:

- interested in participating in the **Safety Council Rebate Program** must enroll in a local safety council;

- participating in the **Drug-Free Safety Program (DFSP)** or **Industry-Specific Safety Program (ISSP)** must submit a Safety Management Self-Assessment (SH-26); and
- in their first program year of DFSP must complete online the accident-analysis training (new supervisors must complete the training within 60 days of becoming a supervisor).

• In the meantime, employers should be receiving their 2019 true-up notice and can **start reporting payroll online**. 7/2/2020

Nearly 650 COVID-19 Workers' Comp Claims Filed in Ohio

June 26, 2020

This **new report** from the Ohio Bureau of Workers' Compensation (BWC) shows that from March 11 to June 16, a total of 642 Ohio workers filed claims alleging they contracted COVID-19 on the job. More than 500 of those claimants wor in health care or as first responders, while the 123 remaining cases were filed by employees in other sectors of the economy. According to the report, 109 of the claims have already been rejected.

According to the BWC's FAQ document (**Question 5**), whether a COVID-related workers' compensation claim is compensable depends on how an employee contracts the virus and the nature of his/her occupation. "Generally, communicable diseases like COVID-19 are not workers' compensation claims because people are exposed in a variety of ways, and few jobs have a hazard or risk of getting the diseases in a greater degree or a different manner than the general public," the BWC notes. 6/24/2020

How Workers' Comp Addresses COVID-19 in All 50 States

June 26, 2020

How cases of COVID-19 are covered by workers' compensation depends on state law. OMA Connections Partner Fisher Phillips has

updated its **50-state COVID-19 Workers' Compensation chart** that compares how states define an occupational disease, as well as legislative actions related to the pandemic.

Also, the firm is **tracking lawsuits** across the country that are a direct result of the pandemic and are traditional employee vs. employer cases — both individual plaintiff and class actions. *6/22/2020*

NAM Calls for Widespread Use of Face Coverings

June 26, 2020

The National Association of Manufacturers (NAM) has **released a new ad** that urges all Americans to help get our economy roaring, protect jobs, and stop the spread of COVID-19 by wearing a face covering in public spaces. NAM President and CEO Jay Timmons said, "Today, we know that the best and most certain way to stop the spread is for everyone to wear a facial covering. It isn't fun. It isn't pleasant. But through shared responsibility, we can get this pandemic under control and save small businesses and jobs." *6/25/2020*

Court Won't Force OSHA to Issue Emergency Workplace COVID-19 Standards

June 19, 2020

HR Dive has published **this summary** of a recent decision by a federal appeals court that declined to force OSHA to issue temporary emergency workplace standards during COVID-19. The AFL-CIO had requested an emergency standard on infectious diseases, while the U.S. Chamber sided with OSHA, supporting the agency's approach of coupling existing safety standards with flexible, industry-specific guidance. *6/17/2020*

Study: Ohio Has Second-Lowest Workers' Comp Costs

June 12, 2020

Over the years, the OMA has worked hard to advocate for more competitive workers' compensation costs. So it is encouraging to see **this new infographic** by HowMuch.net showing that when compared to other states, Ohio has the nation's second-lowest workers' compensation costs.

Based on the most recent data from the National Academy of Social Insurance, the infographic shows that Ohio's average workers' compensation costs (as of 2017) were 67 cents per \$100 of payroll, compared to the national average of \$1.21. Texas was the only state with a lower cost than Ohio's, according to the comparison. *6/9/2020*

OMA Safety & Workers' Comp Committee Hears From OSHA, Ohio BWC

June 12, 2020

On June 11, the OMA Safety and Workers' Compensation Committee met virtually for its second meeting of 2020. Members were briefed on recent legislative activity and actions by the DeWine administration that could impact Ohio's workers' compensation system. In addition, members received updates from experts from Ohio BWC and OMA Connections Partner **Safex**. The keynote speaker was Howie Eberts, area director for OSHA, who provided **Ohio-specific updates** from the agency.

This week's meeting marked the last for longtime committee Chairman Larry Holmes, vice-president of finance and treasurer for Fort Recovery Industries, Inc. Holmes is currently a candidate for the Darke County Board of Commissioners. We thank Larry for his many years of committed leadership and service to the OMA. Matt Shurte, general counsel and secretary at Lancaster Colony Corporation, will follow Holmes as committee chair.

The committee — which is open to all OMA members — is **scheduled to meet again Nov. 4**. *6/11/2020*

OSHA Provides Guidance on Masks in the Workplace

June 12, 2020

Earlier this week, OSHA **released new guidance**, in the form of **frequently asked questions and answers**, regarding the use of masks and cloth face coverings in the workplace. The new guidance serves to help employers inform employees on how to properly wear masks and face coverings — and know what is appropriate under different circumstances.

Also, the CDC this week updated its **guidance on how to wear cloth face coverings**. *6/11/2020*

OMA Updates Workplace Safety Resources Document

June 12, 2020

In case you missed it, the OMA has updated its **collection of resources to address general workplace safety concerns** during COVID-19. This document includes updated guidance on the use of face coverings/masks, cleaning and disinfecting, employee health checks, and reporting confirmed or suspected COVID-19 cases. *6/9/2020*

Update: Ohio BWC's Frequently Asked Questions During COVID-19

June 12, 2020

The Ohio Bureau of Workers' Compensation (BWC) has updated its **COVID-19 FAQ document**. This list of questions and answers includes information on the BWC's recently announced premium deferral for June, July and August. *6/9/2020*

Thermal Imaging Systems in the Workplace: Panacea or Problem?

June 12, 2020

Employers are looking for better ways to monitor whether individuals entering their workplaces have been exposed to or are infected with COVID-19. The use of more sophisticated thermal scanning cameras or similar systems that can process many people quickly has emerged as a possible solution. OMA Connections Partner Fisher Phillips has published **this insight** to examine the advantages and disadvantages of using this technology. *6/8/2020*

Cleaning Tips for Frequently Touched Electronic Devices

June 5, 2020

The COVID-19 pandemic has made us acutely aware that electronic devices are among the most frequently touched surfaces by employees — and an easy way to spread the coronavirus. *USA Today* recently published this handy list of cleaning tips for phones, tablets and other electronic devices with surfaces on

which the coronavirus can survive for up to 72 hours. *6/3/2020*

OMA Updates Face Coverings Guidance Document

June 5, 2020

Following the release of Ohio's latest public health order late last Friday, May 29, the OMA has updated its guidance document on masks and face coverings. The OMA worked to include exceptions on the use of masks in the manufacturing workplace due to high temperatures, or employees separated by more than six feet or by a barrier. Mask exceptions should still be documented to explain why an employee is not wearing a face covering. *6/4/2020*

OMA Testifies Against PTSD Bill

June 5, 2020

This week, the OMA provided opponent testimony on House Bill 308, legislation to allow first responders to receive PTSD benefits through workers' compensation in the absence of a physical injury. In its testimony, the OMA stated that it has historically opposed proposals to permit PTSD compensation in cases in which there is no associated physical injury or illness — and that “the adoption of a mental-only diagnosis would mark a significant change to the Ohio workers' compensation system.” The OMA outlined other potential avenues to provide benefits to first responders for lawmakers' consideration. *6/4/2020*

BWC's Next Employer Webinar Set for June

9

June 5, 2020

The Ohio Bureau of Workers' Compensation will hold its monthly 25-minute employer update webinar at 1:30 p.m. (ET) on Tuesday, June 9, as well as at 11:30 a.m. (ET) on Thursday, June 25. This month's webinar will cover updates on COVID-19, policy year 2020 renewal, the annual true-up report, and reminders of important BWC dates. The webinar will last about 25 minutes. To attend this month's webinar, or to see recordings of previous webinars, click [here](#). *6/3/2020*

BWC Offers Free Safety Webinars: June Lineup

June 5, 2020

Several free safety webinars are being offered by the Ohio Bureau of Workers' Compensation

this month. Details and registration links can be found here. *6/2/2020*

Workers' Compensation Legislation
Prepared by: The Ohio Manufacturers' Association
Report created on August 25, 2020

- HB79** **INDUSTRIAL COMMISSION BUDGET** (OELSLAGER S) To make appropriations for the Industrial Commission for the biennium beginning July 1, 2019, and ending June 30, 2021, and to provide authorization and conditions for the operation of Commission programs.
Current Status: 6/27/2019 - **SIGNED BY GOVERNOR**; eff. 6/27/19
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-79>
- HB80** **BWC BUDGET** (OELSLAGER S) To make appropriations for the Bureau of Workers' Compensation for the biennium beginning July 1, 2019, and ending June 30, 2021, and to provide authorization and conditions for the operation of the bureau's programs.
Current Status: 7/22/2019 - **SIGNED BY GOVERNOR**; Eff. Immediately
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-80>
- HB81** **WORKERS COMP-BODILY FLUID EXPOSURE** (PERALES R) Regarding Workers' Compensation coverage of post-exposure medical diagnostic services for a detention facility employee's exposure to another person's blood or bodily fluids.
Current Status: 6/16/2020 - **SIGNED BY GOVERNOR**; eff. 90 days
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-81>
- HB167** **OCCUPATIONAL LUNG CONDITIONS** (CERA J) To modify workers' compensation benefit amounts for occupational pneumoconiosis claims and to create the Occupational Pneumoconiosis Board to determine medical findings for such claims.
Current Status: 2/12/2020 - House Commerce and Labor, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-167>
- HB308** **PTSD COVERAGE - FIRST RESPONDERS** (PATTON T) Concerning workers' compensation and disability retirement for peace officers, firefighters, and emergency medical workers diagnosed with posttraumatic stress disorder arising from employment without an accompanying physical injury.
Current Status: 6/3/2020 - Senate General Government and Agency Review , (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-308>
- HB330** **FIREFIGHTER CANCER CLAIMS** (PATTON T) Regarding charging workers' compensation experience in firefighter cancer claims.
Current Status: 6/3/2020 - House Insurance, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-330>
- HB571** **COVID-19 - OCCUPATIONAL DISEASE** (BOGGS K) To make COVID-19 contracted by a peace officer, firefighter, or emergency medical worker an occupational disease under the Workers' Compensation Law under certain circumstances and to declare an emergency.
Current Status: 5/19/2020 - House Insurance, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-571>

- HB573** **COVID-19 - OCCUPATIONAL DISEASE** (SOBECKI L, BOGGS K) To make COVID-19 an occupational disease under the Workers' Compensation Law under certain circumstances and to declare an emergency.
Current Status: 5/12/2020 - House Insurance, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-573>
- HB605** **COVID-19 - OCCUPATIONAL DISEASE** (KELLY B, PATTON T) To make COVID-19 contracted by an employee of a retail food establishment or food processing establishment an occupational disease under the Workers' Compensation Law under certain circumstances and to declare an emergency.
Current Status: 5/28/2020 - House Insurance, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-605>
- HB633** **COVID-19 - OCCUPATIONAL DISEASE** (BOGGS K) To make COVID-19 contracted by specified types of employees an occupational disease under the Workers' Compensation Law under certain circumstances and to declare an emergency.
Current Status: 5/19/2020 - Referred to Committee House Insurance
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-633>
- HB667** **COVID-19 OCCUPATIONAL DISEASE - CORRECTIONS OFFICER** (BALDRIDGE B) To make COVID-19 contracted by a corrections officer an occupational disease under the Workers' Compensation Law and to declare an emergency.
Current Status: 5/27/2020 - Referred to Committee House Insurance
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-667>
- HB668** **COVID-19 OCCUPATIONAL DISEASE - EMERGENCY WORKER** (BALDRIDGE B) To make COVID-19 contracted by a peace officer, firefighter, or emergency medical worker an occupational disease under the Workers' Compensation Law and to declare an emergency.
Current Status: 5/27/2020 - Referred to Committee House Insurance
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-668>

TO: OMA Government Affairs Committee
FROM: Ryan Augsburger / Rob Brundrett
SUBJECT: Tax Public Policy Report
DATE: August 26, 2020

Overview

Prior to the pandemic Ohio's fiscal outlook was positive. With the economic shutdown in the spring, Ohio's tax revenue plunged. Revenue has begun to bounce back but the state is looking at massive deficits for fiscal year 2021. In may state agencies shave \$775 million from their budgets to keep Ohio in the black for 2020.

OMA worked with the General Assembly to ease certain tax deadlines. While successful working with legislative leaders to provide authority to move deadlines, the administration only used the power sparingly. While the income tax deadline was moved back to coincide with the federal tax deadlines, the state refused to defer CAT or excise tax deadlines. The state did keep local withholding laws in place to ease the burden of a new regulatory compliance issue for companies as employees were sent home to work. This has become a hot button issue over the summer generating repeal legislation and lawsuits.

Aggressive tax relief legislation will become much harder to pass. OMA is working with Development Services Agency to ensure that manufacturers receiving tax credits will not be penalized in the coming year because of COVID-19.

Tax Legislation

Senate Bill 37 – Motion Picture Tax Credit

The bill makes a variety of changes to the current motion picture tax credit and expands it to allow for more types of entertainment productions. There is no new money tied with this bill, however its sponsor, Senator Schuring has indicated he would like to see the credit more than double to \$100 million. The Senate voted out the bill after six hearings. No new money was included in the bill. The OMA continues to be a vocal opponent over such tax credits.

House Bill 92 – County Sales Tax Voting

The bill would require voter approval of any increase in the rate of a county sales tax. The bill has had one hearing.

Senate Bill 95 – State and Local Tax Inducements

The bill will enhance state and local tax inducements for businesses making substantial fixed asset and employment investments and their suppliers. The bill provides a CAT credit the integrated supply chain to a qualifying project. The OMA submitted a letter with likeminded allies regarding protecting the integrity of the CAT. The Senate passed the bill. The House Ways and Means Committee has had three hearings on the bill. Again the OMA submitted interested party testimony warning about carving up the CAT.

Senate Bill 109 – Workforce Scholarship Program

SB 109 establishes the Workforce Scholarship Program. The bill would terminate the provisions of the Scholarship Program on December 31, 2023 and authorize tax credits for graduates of the Scholarship Program and their employers. The bill includes a CAT credit. It had its second hearing in early October of 2019.

House Bill 134 – March Sales Tax Holiday

The bill provides a three-day sales tax "holiday" each March during which sales of qualifying Energy Star products are exempt from sales and use taxes. The bill had its first hearing in October.

House Bill 175 – Tax Exemption on Goods Movement

The bill provides an exemption from sales and use tax for things used primarily to move completed manufactured products or general merchandise. The bill has been referred to the House Ways and Means Committee and has had two hearings this fall.

House Bill 197 – Pandemic Emergency Legislation

House Bill 197 became the pandemic emergency legislation bill back in March. Among the items included in the bill was a provision that gave the Tax Commissioner the authority to change deadlines for a variety of state taxes. The OMA worked with the House and Senate to include a provision that would allow companies to continue their previous withholding practices during the state of emergency.

House Bill 222 – CDL Training Tax Credit

The bill provides an income tax credit for an employer's expenses to train a commercial vehicle operator. The bill passed the House 91-1. It has had one hearing in the Senate.

Senate Bill 257 – Electric Vehicle Tax Credit

Earlier this month, Sens. Michael Rulli (R-Salem) and Sean O'Brien (D-Bazetta) introduced Senate Bill 257, designed to make Ohio — and particularly the Mahoning Valley — the nation's leader in the electric vehicle revolution. The bill would create two different tax credits:

- A sales tax credit for the purchase of an electric vehicle; and
- An income tax and commercial activity tax credit for the purchase and installation of a charging station for an electronic vehicle.

The bill has had three hearings in the Senate.

Senate Bill 352 – Municipal Income Tax Withholding

Sen. Kristina Roegner (R-Hudson) introduced her long-anticipated Senate Bill 352, which would repeal Sec. 29 from House Bill 197. That section has allowed manufacturers and other Ohio businesses to continue withholding employees income tax from the business' principal location and not employees' homes.

With many Ohioans working remotely due to COVID-19, the General Assembly acted wisely to save businesses the burden, expense and compliance nightmare of revamping their tax systems in the midst of the pandemic.

Over the summer, Sen. Roegner and others have discussed repealing the provision in HB 197 so that withholdings would be redirected to the local governments of an

employee's home address if he/she is working remotely. The bill comes on the heels of the Buckeye Institute's lawsuit over the provision in HB 197.

The OMA has a small working group discussing longer term solutions regarding this issue.

House Bill 378 – Striking Worker Unemployment Benefit

The bill would provide unemployment benefits to striking workers. This adds a new group of workers eligible to receive benefits in Ohio and would put even more stress on the system.

House Bill 440 – Abolish Tax on Manufacturing Temp Labor and Sales Tax on Manufacturing Janitorial Supplies and Equipment

House Bill 440 is an OMA-sponsored bill to eliminate the sales tax on temporary workers, while also eliminating the sales tax on industrial janitorial services purchased to clean machinery in a manufacturing facility.

Both provisions — longtime priorities of the OMA Tax Committee — are contained House Bill 440, bipartisan legislation offered by State Reps. Sara Carruthers (R-Hamilton) and Jessica Miranda (D-Forest Park). HB 440 was referred to the House Ways and Means Committee; and had its first hearing in January.

Ohio remains one of a handful of states that taxes temporary workers and is the only state that double taxes those workers on both the service fee and wages. Eliminating the sales tax on janitorial services would bring much-needed certainty for manufacturers and this type of service, which is often contested under the manufacturing sales and use tax exemption.

A second hearing was set for April. However that hearing was canceled due to the pandemic. Like many other tax provisions with a price tag, this bill loses its momentum due to COVID-19.

House Bill 467 – Pass-Through Entity Tax Reduction

The bill reduces the pass-through entity withholding tax rate to four percent. The bill was expected to clear the House Ways and Means Committee this winter. Like so many other pieces of legislation it has fallen victim to both COVID-19 and the Speaker's bribery scandal.

Senate Joint Resolution 3 – Require a Supermajority for an Income Tax Increase

Proposing to enact Section 7 of Article XII of the Constitution of the State of Ohio to require that any increase in income tax rates be approved by a supermajority of the membership of each house of the General Assembly. The resolution was reported out of the Senate Ways and Means Committee.

Senate Joint Resolution 4 – Unemployment Compensation Bonding

Proposes to allow the state to bond future unemployment compensation debt, allowing the state to either pay off the federal loan directly or issues bonds to pay the debt. The OMA has been supportive of such a method and testified in support of the plan. The resolution passed the Senate.

Tax News

Legal Challenge Posed to Ohio's Local Income Tax

A conservative think tank in Ohio has challenged a recent state law intended to protect local income tax revenue during a time when many employees are working from a different municipality than their employer's workplace.

Earlier this year, the OMA and numerous other business interests supported House Bill 197, bi-partisan legislation that contained numerous COVID-19 relief measures. HB 197 won unanimous approval in the General Assembly in late March and contained a provision to extend Ohio's "20-day rule" for municipal tax withholding for employees who are now working from home.

The Buckeye Institute argues that allowing cities to continue collecting taxes from employees who are now working in other municipalities is an unconstitutional expansion of their taxing authority. The lawsuit is pending in the Franklin County Common Pleas Court. The OMA Tax Committee will discuss the issue at its next meeting.

Many Employers Likely to See Unemployment Tax Rate Increases

With more than 40 million Americans having filed for unemployment insurance (UI) since mid-March, many states could be forced to borrow federal dollars to meet their UI obligations, as Ohio already has.

Assuming Ohio's loan balance is still outstanding as of Nov. 10, 2022, manufacturers in Ohio could be subject to a 0.30% increase in their FUTA tax rate for all of 2022, increasing the rate from 0.60% to 0.90%. FUTA tax rates can increase further — in increments of 0.30% per year — should loans remain outstanding in subsequent years.

OMA Asks Tax Commissioner to Defer Deadlines

The OMA wrote Ohio Tax Commissioner Jeff McClain, asking him to act on the authority granted in House Bill 197 to defer tax payments and deadlines during the COVID-19 emergency. The OMA — which advocated for this authority when HB 197 was considered by the General Assembly — specifically asked the commissioner to defer approaching deadlines of the commercial activity tax, as well as the beer and wine excise tax.

Governor Announces \$775M Reduction in State Spending

Gov. DeWine announced a \$775 million reduction in planned state spending for the remainder of Fiscal Year 2020, which ends June 30. The cuts, which are due to a \$1 billion swing in the state's coffers since late February, will impact:

- Medicaid spending (approximately \$210 million);
- K-12 foundation payments (\$300 million);
- Other education line items (\$55 million);
- Higher education (\$110 million);
- All other state agencies (\$100 million).

Sales Tax Exemption for All Food Manufacturers Now in Effect

Good news for all food manufacturers! During last summer's debate on the state budget (House Bill 166), the OMA led tax changes for food manufacturers as lawmakers approved an expanded sales-and-use tax exemption for equipment and supplies used to clean equipment that produces or processes food for human consumption. (Previously, the exemption applied only to dairy food processors. Now it applies to all Ohio food manufacturers.)

The expanded exemption went into effect Oct. 1, 2019. Make sure you are tracking the necessary information.

Ohio Supreme Court Hears Muni Tax Case

In May the Ohio Supreme Court held oral arguments on the municipalities' appeals to the municipal income tax cases. The OMA joined a business group coalition and filed an amicus brief.

Municipal income tax: temporarily relocated employees (From HB197 LSC Final Analysis)

The act specifies that, for municipal income tax purposes, employees who must, as the result of the COVID-19 emergency, report to a temporary worksite, including their home, are temporarily considered to be working at their otherwise principal place of work, i.e., the location where the employee reports for work on “a regular and ordinary basis.” This treatment affects which municipal corporation the employer must withhold income taxes for, which municipal corporation may tax the employee’s pay, and whether and how much of the employer’s own income is subject to a municipality’s income tax. In effect, considering this income to be earned in the location of the employee’s principal place of work potentially allows the employer to avoid withholding taxes for that employee in the municipality where the employee’s temporary worksite is located and prevents the employer from becoming subject to that municipality’s income tax. It also potentially prevents the employee from being taxed on that income by that municipality, unless the employee is a resident of that municipality. (Resident municipalities may tax individual taxpayers on their entire income, regardless of where the income is earned.)

Under continuing law, a nonresident employee may work in a municipality for up to 20 days per year without the employer becoming subject to that municipality’s tax withholding requirements and the employee becoming subject to that municipality’s income tax. And, if an employee does not exceed the 20-day threshold, that employee’s pay is not counted toward the business’s payroll factor, one of three factors – along with property and sales – that determines whether, and the extent to which, an employer’s own income is subject to the municipality’s tax on net profits.

As Introduced

**133rd General Assembly
Regular Session
2019-2020**

S. B. No. 352

Senator Roegner

A BILL

To repeal Section 29 of H.B. 197 of the 133rd 1
General Assembly to modify municipal income tax 2
employer withholding rules for COVID-19-related 3
work-from-home employees. 4

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That Section 29 of H.B. 197 of the 133rd 5
General Assembly is hereby repealed. 6

The Buckeye Institute Files Suit Against City of Columbus and State of Ohio

Jul 09, 2020

Columbus, OH – The Buckeye Institute, along with three of its individual employees, [filed a lawsuit](#) calling for the court to declare unconstitutional a state law allowing the City of Columbus to tax income from workers who do not live in, and were prohibited from working within, the city’s jurisdiction during Ohio’s Stay-at-Home order.

“The law in this case is straight out of a dystopic novel: the state first prohibited workers from going into their offices during the Stay-At-Home order, then passed an emergency law absurdly ‘deeming’ all work that was actually performed at home to have been performed in the higher-taxed office location instead. It is a legal fiction, and it is unconstitutional,” said Robert Alt, president and chief executive officer of The Buckeye Institute.

Alt continued, “Not only have our employees—along with thousands of others like them across Ohio—had municipal income taxes unlawfully taken from them during the Stay-at-Home order, but The Buckeye Institute also has been forced to participate in perpetrating this constitutional violation, betraying the very principle of limited government that is an essential component of our organization’s mission.”

The lawsuit—filed on July 2 in Franklin County Common Pleas Court against the City of Columbus and the State of Ohio on behalf of The Buckeye Institute, Rea S. Hederman, Jr. of Powell, Greg R. Lawson of Westerville, and Joe Nichols of Newark Township—states that as a result of the COVID-19 pandemic and to comply with Ohio’s emergency orders requiring nonessential businesses to close, The Buckeye Institute required its employees to work from home. Subsequently, House Bill 197 “deemed” all work performed at private homes during the health emergency to have been performed at the employees’ principal place of work for the purposes of taxation, and the City of Columbus then continued to unlawfully take taxes from Hederman, Lawson, and Nichols despite the fact that these employees were no longer working within and did not live in the city’s jurisdiction.

This unlawful taxation is a clear violation of due process rights under the Fifth and Fourteenth Amendments to the U.S. Constitution and violates Article I, Section 1 of the Ohio Constitution.



May 7, 2020

Jeff McClain
Tax Commissioner
Ohio Department of Taxation
30 E. Broad, 22nd Floor
Columbus, OH 43215

Dear Commissioner McClain,

We appreciate your leadership and the leadership of the DeWine administration as we all continue to navigate the COVID-19 pandemic.

We're grateful for leadership on House Bill 197. That bill included important tax changes that benefit Ohio's manufacturing community, including aligning the state's income tax filing date with the federal date and ensuring that businesses would not be required to make massive changes to their withholding systems to account for local taxes of employees working from home.

House Bill 197 also granted the Tax Commissioner the authority to extend state tax filings and payment deadlines for the duration of the state emergency and to waive interest and penalties.

Therefore, we request that you move to defer both the quarterly commercial activity tax filing due on May 11 and follow the lead of the Alcohol and Tobacco Tax and Trade Bureau and defer Ohio's beer and wine state excise taxes.

As you know, a top priority for many businesses in this environment is access to cash and protecting cash flow. By deferring the two upcoming tax deadlines the state would be throwing a needed lifeline to countless manufacturers desperately in need of cash. This measure is critical to the survival of many companies.

We appreciate your leadership at the Ohio Department of Taxation during this unprecedented public health crisis and applaud your efforts to continue to operate in an efficient and creative manner. Your consideration of this matter is of utmost importance.

Sincerely,

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

Rob Brundrett
Director, Public Policy Services
rbrundrett@ohiomfg.com
(614) 629-6814

CC: Speaker Householder
President Obhof

Tax

OMA's Economic Outlook Webinar Is August 27

August 21, 2020

The OMA will host a special economic outlook webinar on Thursday, Aug. 27 from 10 to 11 a.m. (ET). Attendees will hear from leading economist Dr. George Mokrzan, director of economics for OMA Connections Partner Huntington National Bank, who will provide important information for business planning. Topics will include:

- Forecasts for economic growth, inflation, and interest rates;
- The state of consumers, businesses, manufacturing, and the international economy;
- Strengths and risks of the broad U.S. economy;
- Impacts of trade policy, monetary and fiscal policies, labor markets, and export trends; and
- Special areas relevant to the national economy and Ohio manufacturers.

Learn more and register here. 8/20/2020

Analysis: The Biden 'Tax Vision'

August 21, 2020

The Tax Foundation has published **this analysis** of former Vice President Joe Biden's "tax vision." Among some of Biden's key proposals are raising the corporate income tax from 21% to 28% and increasing the top individual income tax rate to 39.6% on those earning more than \$400,000. 8/20/2020

Study: 80% of Ohio Municipalities Expected to See Sales Tax Revenue Loss Due to COVID-19

August 21, 2020

Ohio municipalities that rely on retail sales taxes from apparel, vehicle sales, restaurants, and tourism could see as much as a 50% decline in

tax revenue because of the pandemic. That's the finding of a **new study** by Yas Motoyama, an assistant professor of city and regional planning at The Ohio State University.

Motoyama's projections show that more than 80% of the analyzed municipalities will experience some revenue loss, while about 18% communities could see an increase. 8/18/2020

Where Do People Pay the Most in Property Taxes?

August 21, 2020

How do your local property taxes compare nationally? The Tax Foundation has created **this interactive map** that allows users to examine the median property tax paid in nearly every U.S. county. 8/20/2020

Transfer Pricing for Manufacturers During COVID-19

August 21, 2020

As the pandemic lingers, businesses continue to raise tax-related questions. This is especially true for multi-national manufacturers. OMA Connections Partner Crowe has produced **this new insight** into transfer pricing issues for manufacturers during COVID-19. 8/20/2020

Study: Your \$100 Goes Further in Ohio

August 14, 2020

The Tax Foundation has compared **the value of \$100 in all 50 states**, based on cost-of-living data from U.S. Bureau of Economic Analysis. The Buckeye State fares well in the study, coming in seventh best.

The Foundation writes: "Ohio is a low-price state. There, \$100 will buy goods and services that would cost \$113.12 in a state at the national average price level. Put another way, Ohioans are, on average, about 13% richer than their nominal incomes suggest." 8/10/2020

Bill Would Affect Ohio's Withholding Taxes During COVID-19

August 14, 2020

This week, Sen. **Kristina Roegner** (R-Hudson) introduced her long anticipated **Senate Bill 352**, which would repeal Sec. 29 from **House Bill**

197. That section has allowed manufacturers and other Ohio businesses to continue withholding employees income tax from the business' principal location and not employees' homes. With many Ohioans working remotely due to COVID-19, the General Assembly acted wisely to save businesses the burden, expense and compliance nightmare of revamping their tax systems in the midst of the pandemic.

Over the summer, Sen. Roegner and others **have discussed** repealing the provision in HB 197 so that withholdings would be redirected to the local governments of an employee's home address if he/she is working remotely. The bill comes on the heels of the Buckeye Institute's **lawsuit** over the provision in HB 197.

The OMA has a small working group discussing longer term solutions regarding this issue. We will discuss the topic at the **OMA's Aug. 26 Government Affairs Committee meeting**. 8/13/2020

Unlocking Cash During COVID-19 Webinar Series

August 14, 2020

OMA Connections Partner CliftonLarsonAllen is hosting a **free webinar series** to highlight helpful tips for finding tax savings and increasing cash flow during the pandemic.

The next 30-minute webinar — set for 2 p.m. (ET) on Wednesday, Aug. 26 — will address employer incentives for employee retention. 8/13/2020

Ohio Sees Strong July Revenues Driven by Sales Tax

August 14, 2020

July was a good month for Ohio tax revenues. Total General Revenue Fund receipts came in at \$2.43 billion, 8.2% above estimates, according to **preliminary revenue tables** from OBM. The first month of the state's new fiscal year saw overall sales and use taxes up \$145.8 million (14.8%) compared to estimates, while personal income tax revenue was up \$33.7 million (2.9%). 8/11/2020

Ohio's Spending Up 16.5% in July, Fueled by Medicaid

August 14, 2020

Soaring Medicaid enrollment in Ohio contributed to increased state expenditures in July. According to **OBM's Monthly Financial Report**, the state spent \$4.1 billion through the General Revenue Fund in July — up \$577.6 million (16.5%) compared to the same month a year ago. More than \$2.1 billion of that was for Medicaid costs. Enrollment in Medicaid has risen by about 225,000 since February. 8/12/2020

How Technology is Evolving the CFO Role

August 14, 2020

The role of today's CFO is being transformed by technological innovation and access to massive amounts of data, both inside and outside the organization. OMA Connections Partner Clark Schaefer Hackett has produced **this insight** into how three key technologies — automation, data visualization and analytics — are leading this transformation. 8/12/2020

New Guidance on PPP Loan Forgiveness

August 7, 2020

This week, the Small Business Administration **released 23 new FAQs** to provide guidance on loan forgiveness under the Paycheck Protection Program (PPP). OMA Connections Partner CliftonLarsonAllen **issued this summary**, stating that the FAQs provide additional clarity, but questions remain.

For insight into what the new guidance says about transportation expenses, read **this summary** from OMA Connections Partner GBQ Partners.

Also, check out **this free on-demand webinar** by OMA Connections Partner Crowe LLP, which addresses how to simplify the PPP loan forgiveness process. 8/6/2020

IRS Provides Guidance on Recapturing Excess Employment Tax Credits

August 7, 2020

The IRS **recently issued** a temporary regulation and a proposed regulation to reconcile advance payments of refundable employment tax credits and recapture the benefit of these credits when necessary.

For more information on the employer credits, [visit this site](#). 8/6/2020

Key Tax Credits in the Senate's Coronavirus Relief Package

July 31, 2020

OMA Connections Partners RSM has published **this helpful summary** of the U.S. Senate Republicans' \$1 trillion coronavirus relief package introduced this week. The following provisions, which did not receive much media attention, are included in the bill:

- A significant expansion of the employee retention credit;
- A new hiring incentive to target workers who lost their jobs due to the pandemic;
- A new payroll tax credit to give employers a 50% credit for expenses incurred for PPE, cleaning supplies, and other various workplace safety expenses;
- A tax credit to encourage the manufacturing of designated types of PPE; and
- A provision under which the business meal deduction would be temporarily increased from 50% to 100% for food or beverage expenses provided by a restaurant.

Also, check out the **summary by the National Association of Manufacturing**, which spotlights the bill's liability protections for businesses. 7/29/2020

PPP Loan Forgiveness Applications Can Be Submitted Starting Aug. 10

July 31, 2020

The Small Business Administration will begin to accept Paycheck Protection Program (PPP) loan forgiveness applications on Monday, Aug. 10. To help you prepare your application and avoid delays, OMA Connections Partner GBQ Partners has prepared **this insight and checklist for businesses**. 7/30/2020

IRS Provides Guidance on Recapture of Excess Employment Tax Credits

July 31, 2020

The IRS has issued guidance in the form of temporary and proposed regulations relating to the recapture of erroneously issued employment tax credit refunds tied to the Families First Coronavirus Response Act's paid sick and family leave tax credit, as well as the CARES Act's employee retention tax credit. Read the **temporary regulations** and the **proposed regulations**. 7/29/2020

IRS Issues Guidance on Business Interest Expense Deduction Limits

July 31, 2020

The IRS has issued final regulations regarding the provision of the Tax Cuts and Jobs Act that limits the deduction for business interest expense, including basic statutory amendments made by the CARES Act. **See the IRS' press release here**. 7/29/2020

Main Street Lending Program: A Financial Resource in Reserve

July 24, 2020

The Federal Reserve's new **Main Street Lending Program** isn't getting much use now, but it will be an important safety net should COVID-19 cases create the need for more economic shutdowns. OMA Connections Partner Plante Moran has published **this new insight** on what companies should know about the program. 7/24/2020

Legal Challenge Posed to Ohio's Local Income Tax

July 17, 2020

A conservative think tank in Ohio has challenged a recent state law intended to protect local income tax revenue during a time when many employees are working from a different municipality than their employer's workplace.

Earlier this year, the OMA and numerous other business interests supported **House Bill 197**, bipartisan legislation that contained numerous COVID-19 relief measures. HB 197 won unanimous approval in the General Assembly in late March and contained a provision to extend Ohio's "20-day rule" for municipal tax

withholding for employees who are now working from home.

The Buckeye Institute argues that allowing cities to continue collecting taxes from employees who are now working in other municipalities is an unconstitutional expansion of their taxing authority. WOSU radio **reports** on this development. The **lawsuit** is pending in the Franklin County Common Pleas Court. The OMA Tax Committee will discuss the issue at its **next meeting**. 7/16/2020

Ohio's Revenue Collection Falls \$1.1B Short of FY 2020 Forecast

July 17, 2020

The Office of Budget and Management (OBM) recently released its full **monthly financial report for June**, showing Ohio ended FY 2020 roughly \$1.1 billion (4.6%) below budgeted estimates.

The report notes that Ohio's non-farm payroll employment increased to 4.83 million jobs in May, a 2.7% increase over April — including 19,000 new manufacturing jobs. Despite the increase, non-farm employment remained 13.6% below last year's levels. 7/13/2020

Tax Foundation Reviews Legislative Proposals to Boost U.S. Manufacturing

July 17, 2020

The non-partisan Tax Foundation has published **this review** of several federal proposals to reshore and/or expand manufacturing in the U.S. The Foundation cautions that "before creating subsidies in the form of tax credits, policymakers should make sure that the current tax code is not biased against these factories coming to the U.S." 7/14/2020

RSM 's Tax Insights, Manufacturing Insights for July

July 17, 2020

OMA Connections Partner RSM has published its **Tax Insights newsletter** for July. Among the topics discussed are transfer pricing policies, tax planning under the CARES Act, and payroll tax credits and deferrals for employers.

RSM has also published its monthly **Manufacturing Insights newsletter**. 7/13/2020

SBA Disaster Relief Loans Available for Licking, Muskingum, Delaware, and Franklin County Businesses

July 10, 2020

Storms and flooding in late March devastated homes, local businesses, and communities around Central Ohio. In response, the Small Business Administration announced low-interest loan assistance for businesses affected by these floods.

July 20 is the deadline **to apply** for one of these loans that cover uninsured or under-insured losses. Business owners can borrow up to \$2 million for damaged real estate and other business assets, for economic injury, or a combination of both. You can **contact Congressman Balderson's office** for assistance. 7/8/2020

New Fiscal Year Brings Harsh Reality to Ohio Budget

July 2, 2020

The Columbus Dispatch reports that at midnight July 1, "Ohio closed its financial books on a painful fiscal year." And the new fiscal year confronts state policymakers with a projected \$2.1 billion shortfall in the \$35 billion general revenue fund budget.

The story notes that "while seen as a last resort, the depth of the problem could prompt talk of tax or fee increases in the tax-averse GOP-controlled General Assembly."

The OMA is monitoring this situation carefully. 7/1/2020

IRS: July 15 Tax Payment Deadline Nears; Electronic Payments Recommended

July 2, 2020

The IRS **reminds** taxpayers and businesses that 2019 income tax liabilities, as well as postponed April 15 and June 15, 2020 estimated tax payments, are due July 15, 2020. This postponement provided temporary tax relief in response to the COVID 19 pandemic.

A list of forms due July 15 is on the **Coronavirus Tax Relief: Filing and Payment Deadlines** page. The IRS says **electronic payment options** are the optimal way to make a tax payment. (Also, here is the **Ohio Department of Taxation online services page**.) 6/29/2020

Trade Adjustment Program Provides Smaller Manufacturers Up to \$75,000 to Boost Competitiveness

July 2, 2020

Are you a smaller manufacturer that is losing significant sales to imports? The federal Trade Adjustment Assistance for Firms (TAAF) program can help qualified manufacturers enhance their competitiveness by providing as much as \$75,000 in matching funds for business improvement projects such as quality certifications, employee training, and productivity improvement.

For Ohio companies, the TAAF program is managed by the Great Lakes Trade Adjustment Assistance Center (**GLTAAC**), funded by the U.S. Department of Commerce to support some of **these helpful projects**. To learn more or determine if your firm qualifies for matching funds, email GLTAAC Project Manager **Scott Phillips** or call (734) 787-7509. 6/30/2020

Study: Median-Income Earners Do Better in the Buckeye State

June 26, 2020

With the extended **July 15 tax deadline** quickly approaching, HowMuch.net **has produced this infographic** examining the federal-state income tax burden faced by median income earners in all 50 states. The study found Ohio had the fifth-lowest combined income tax burden, with 18% taken from the paychecks of those earning the state's median income of \$54,533 (based on 2018 U.S. Census data). That's compared to a tax rate of more than 25% in Maryland and nearly 27% in Hawaii.

The Buckeye State did not fare nearly as well in **another tax study** released this week. WalletHub.com found Ohio to have the nation's 12th highest overall tax burden after factoring the main three types of state taxes — property taxes, individual income taxes, and sales and

excise taxes — as a share of total personal income. 6/24/2020

IRS Updates FAQs on Employee Retention Tax Credit

June 26, 2020

The IRS has issued updated FAQs for the employee retention tax credit, the temporary refundable payroll credit for eligible employers impacted by COVID-19. The updated FAQs relate to the tax credit's governmental order test and can be found **here** and **here**. 6/24/2020

Two Years After SCOTUS' Sales Tax Decision, Questions Remain

June 26, 2020

On the second anniversary of the U.S. Supreme Court's *South Dakota v. Wayfair* decision, OMA Connections Partner RSM **has examined** the current sales tax landscape, the evolving compliance obligations of remote sellers, and the questions that linger still today. 6/24/2020

Cleveland Fed Predicts Low Inflation Over Next Decade

June 26, 2020

Recently, financial publications, including **The Wall Street Journal**, have reported that some investors are betting inflation could eventually spike as central banks and governments across the globe print money and spend in response to the pandemic. But for the time being, inflation does not appear to be a threat, according to **this model by the Cleveland Federal Reserve**. The online tool, which considers several factors, predicts a 1.23% annualized rate of inflation over the next decade. 6/24/2020

RSM: Many Employers Likely to See Unemployment Tax Rate Increases

June 19, 2020

With more than 40 million Americans having filed for unemployment insurance (UI) since mid-March, OMA Connections Partner RSM says many states could be forced to borrow federal dollars to meet their UI obligations, as Ohio already has.

In this analysis, RSM notes that assuming the loan balance is still outstanding as of Nov. 10, 2022, employers in these states could be subject to a 0.30% increase in their FUTA tax rate for all of 2022, increasing the rate from 0.60% to 0.90%. FUTA tax rates can increase further — in increments of 0.30% per year — should loans remain outstanding in subsequent years.

Deadline Approaches to Apply for PPP Loan

June 19, 2020

If you are interested in applying for a **Paycheck Protection Program (PPP)** loan on behalf of your business, you must submit an application to your lender soon so it can be submitted to the SBA before the June 30 deadline.

Meanwhile, the administration this week released a **new and simplified forgiveness application** for small business owners who received a PPP loan. OMA Connections Partner GBQ Partners has published **this analysis** of the revised application, while OMA Connections Partner Clark Schaefer Hackett has published **this summary with links** to key forms and instructions. *6/18/2020*

Accounting Guidance for Forgivable PPP Loans

June 19, 2020

Many businesses that have received loans under the PPP now have questions about the proper accounting for the funds. OMA Connections Partner Clark Schaefer Hackett offers **this guidance** to provide some clarity under several scenarios. *6/18/2020*

IRS Reminder: July 15 Filing Deadline

June 19, 2020

The July 15 tax-filing deadline — postponed from April 15 — is quickly approaching. The IRS is **reminding all taxpayers** who have yet to file their 2019 federal tax return to file electronically

now, choose direct deposit for their refund, or pay any tax owed electronically. *6/15/2020*

OMA Tax Committee Reviews Recent State, Federal Activity

June 12, 2020

This week, the OMA Tax Committee — chaired by Meredith Mullett, manager of tax compliance for The J.M. Smucker Company — met virtually for its second meeting of the year. Members were briefed on recent tax-related developments since the start of the COVID-19 emergency and were provided an overview of the state's deteriorating revenues. Guest speakers included Matt Peters, assistant director of the Ohio Development Services Agency (DSA), and John Werkman, chief of DSA's business services division.

OMA members were **briefed by experts from RSM** on recent federal activity to provide more flexibility for recipients of Paycheck Protection Program (PPP) business loans and tax relief in response to COVID-19. The committee is **scheduled** to meet again Nov. 18. *6/10/2020*

New Insight on Changes to PPP Loans

June 12, 2020

Last week, the U.S. Senate passed and President Trump signed the Paycheck Protection Program (PPP) Flexibility Act, giving businesses more leeway on how and when to spend the loan funds. Originally, loan recipients needed to spend their funds within eight weeks of receipt. That time limit has been expanded to 24 weeks under the new law. No new loans can be approved after June 30, 2020.

OMA Connections Partner Gilmore Jason Mahler has posted **this recording of its June 10 webinar** that examines changes under the new PPP law as businesses work to manage their loans and ensure forgiveness. Also, OMA Connections Partner Crowe has published **this summary** of the new law. *6/10/2020*

OBM: \$2.4B Shortfall for Upcoming Fiscal Year

June 12, 2020

In its **latest monthly financial report**, released this week, the Ohio Office of Budget and Management (OBM) projects the state's Fiscal Year 2021 budget shortfall to be \$2.43 billion.

The state's new fiscal year begins July 1. The DeWine administration has already initiated actions to control spending, including continuing freezes on state hiring.

Four taxes account for the bulk of the deficit. The auto and non-auto sales taxes are projected to fall 13% below estimates. The Commercial Activity Tax (CAT) and personal income tax are estimated to be roughly 10% and 7%, respectively, below forecasts.

For the current fiscal year, total General Revenue Fund receipts are \$686.3 million (-2.2%) below estimates. Gov. Mike DeWine **has said** he expects to tap the state's \$2.7 billion rainy day fund at some point. *6/10/2020*

PPP Loans Get More Flexible for Small Businesses **June 5, 2020**

Small businesses will have more time to spend their Paycheck Protection Program (PPP) loans, should new legislation approved this week by the U.S. Senate be enacted. Originally, loan recipients needed to spend their funds within eight weeks of receipt. That time limit has been expanded to 24 weeks under the Senate-approved bill.

For more details, **see this analysis** from OMA Connections Partner Clark Schaefer Hackett. **Additional insight** has been published by Plante Moran.

As of our publishing deadline, the bill was awaiting signature by President Donald Trump. *6/4/2020*

OMA Urges Simplified, Streamlined PPP Process **June 5, 2020**

Last week, the OMA joined the Ohio Bankers League and other Ohio business organizations, **urging** U.S. Treasury Secretary Steven Mnuchin and the U.S. Small Business Administration to streamline and simplify the process for recipients of small business loans made under the Paycheck Protection Program (PPP). Specifically, the group recommend that Treasury and SBA create a streamlined forgiveness application for loans under \$350,000. *6/1/2020*

More State Cuts Announced to Offset Budget Deficit **June 5, 2020**

Ohio's Office of Budget and Management (OBM) this week estimated the state's looming budget deficit for the coming fiscal year, FY 2021, to be \$2.5 billion. OBM Director Kimberly Murnieks announced a number of steps to curb personnel costs, including pay cuts and step freezes. These follow adjustments announced in early May by Gov. Mike DeWine to address the budget shortfall for the current fiscal year, which ends on June 30.

While Gov. Mike DeWine has **ruled out** an income tax increase, there are increasing concerns that the growing state deficit could result in increased taxes on businesses — or rescinded business tax credits. The OMA will continue to monitor the situation. *6/2/2020*

Taxation Legislation
Prepared by: The Ohio Manufacturers' Association
Report created on August 25, 2020

- HB17** **SURVIVING SPOUSES-HOMESTEAD EXEMPTION** (GINTER T) To allow an enhanced homestead exemption for surviving spouses of public safety personnel killed in the line of duty.
Current Status: 2/11/2020 - Senate Ways and Means, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-17>
- HB19** **PINK TAX EXEMPTION** (ANTANI N, KELLY B) To exempt from sales tax the sale of tampons and other feminine hygiene products associated with menstruation.
Current Status: 5/7/2019 - House Ways and Means, (Fourth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-19>
- HB46** **STATE GOVT EXPENDITURE DATABASE** (GREENSPAN D) To require the Treasurer of State to establish the Ohio State Government Expenditure Database.
Current Status: 1/22/2020 - **SUBSTITUTE BILL ACCEPTED**, Senate General Government and Agency Review , (Seventh Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-46>
- HB47** **TAX COMPLAINTS-LEGAL ASSISTANCE FOUNDATION** (GREENSPAN D) To increase the time within which property tax complaints must be decided.
Current Status: 10/22/2019 - Senate Ways and Means, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-47>
- HB54** **LGF TAX REVENUE INCREASE** (CERA J, ROGERS J) To increase the proportion of state tax revenue allocated to the Local Government Fund from 1.66% to 3.53% beginning July 1, 2019.
Current Status: 2/12/2019 - Referred to Committee House Ways and Means
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-54>
- HB56** **MINE SAFETY EXCISE TAX** (CERA J) To allocate 3.75% of kilowatt-hour excise tax revenue for mine reclamation, mine drainage abatement, and mine safety.
Current Status: 2/26/2019 - House Energy and Natural Resources, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-56>
- HB57** **HEATING SOURCES TAX EXEMPTION** (PATTERSON J, CERA J) To exempt certain heating sources from sales taxation and to hold local governments and libraries harmless from the revenue effect.
Current Status: 2/4/2020 - House Ways and Means, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-57>

- HB60** **DIAPER SALES TAX EXEMPTION** (ANTANI N, KELLY B) To exempt from sales and use tax the sale of child and adult diapers.
Current Status: 3/19/2019 - House Ways and Means, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-60>
- HB62** **TRANSPORTATION BUDGET** (OELSLAGER S) To increase the rate of and modify the distribution of revenue from motor fuel excise taxes, to make appropriations for programs related to transportation and public safety for the biennium beginning July 1, 2019, and ending June 30, 2021, and to provide authorization and conditions for the operation of those programs.
Current Status: 4/3/2019 - **SIGNED BY GOVERNOR**; eff. 90 days, Taxes eff. 7/1/19
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-62>
- HB75** **PROPERTY VALUE CONTESTS** (MERRIN D) To require local governments that contest property values to formally pass an authorizing resolution for each contest and to notify property owners.
Current Status: 2/12/2020 - Referred to Committee Senate Local Government, Public Safety and Veterans Affairs
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-75>
- HB92** **VOTE ON COUNTY SALES TAX** (ANTANI N, SMITH J) To require voter approval of any increase in the rate of a county sales tax.
Current Status: 3/13/2019 - House State and Local Government, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-92>
- HB109** **SAP EXTRACTION TAX BREAK** (PATTERSON J, LATOURETTE S) To authorize a property tax exemption for land used for commercial maple sap extraction.
Current Status: 1/28/2020 - House Ways and Means, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-109>
- HB112** **TAX REMITTANCE-BAD DEBTS** (SCHAFFER T) To allow vendors to receive a refund of sales tax remitted for certain bad debts charged off as uncollectible by credit account lenders.
Current Status: 5/14/2019 - House Financial Institutions, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-112>
- HB121** **TAX CREDIT-CLASSROOM MATERIALS** (SCHAFFER T) To allow a credit against the personal income tax for amounts spent by teachers for instructional materials.
Current Status: 3/19/2019 - House Primary and Secondary Education, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-121>

- HB134** **MARCH SALES TAX HOLIDAY** (ANTANI N, WEINSTEIN C) To provide a three-day sales tax "holiday" each March during which sales of qualifying Energy Star products are exempt from sales and use taxes.
Current Status: 10/29/2019 - House Ways and Means, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-134>
- HB135** **SALES TAX HOLIDAY EXPANSION** (ANTANI N) To expand the class of products exempt from sales tax if bought during a sales tax holiday.
Current Status: 11/5/2019 - House Ways and Means, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-135>
- HB162** **MOTION PICTURE TAX CREDIT** (PATTON T) To increase the overall cap on the motion picture tax credit from \$40 million per fiscal year to \$100 million per fiscal biennium.
Current Status: 3/26/2019 - Referred to Committee House Finance
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-162>
- HB166** **OPERATING BUDGET** (OELSLAGER S) To make operating appropriations for the biennium beginning July 1, 2019, and ending June 30, 2021, and to provide authorization and conditions for the operation of state programs.
Current Status: 7/18/2019 - **SIGNED BY GOVERNOR**; Eff. Immediately
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-166>
- HB175** **TAX EXEMPTION-GOODS MOVEMENT** (ANTANI N) To exempt from sales and use tax things used primarily to move completed manufactured products or general merchandise.
Current Status: 10/22/2019 - House Ways and Means, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-175>
- HB183** **TAX CREDIT-BEGINNING FARMERS** (MANCHESTER S, PATTERSON J) To allow income tax credits for beginning farmers who participate in a financial management program and for businesses that sell or rent agricultural land, livestock, facilities, or equipment to beginning farmers.
Current Status: 11/19/2019 - **REPORTED OUT AS AMENDED**, House Agriculture and Rural Development, (Fifth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-183>
- HB187** **TAX ISSUES-AUGUST** (MERRIN D, WIGGAM S) To prohibit local tax-related proposals from appearing on an August special election ballot.
Current Status: 4/10/2019 - Referred to Committee House State and Local Government
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-187>

- HB197** **OMNIBUS MEASURES ON CORONAVIRUS** (POWELL J, MERRIN D) To continue essential operations of state government and maintain the continuity of the state tax code in response to the declared pandemic and global health emergency related to COVID-19, to make appropriations, and to declare an emergency.
Current Status: 3/27/2020 - **SIGNED BY GOVERNOR**; eff. 3/27/20
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-197>
- HB222** **CDL TRAINING TAX CREDIT** (STOLTZFUS R, HOWSE S) To authorize an income tax credit for an employer's expenses to train a commercial vehicle operator.
Current Status: 6/9/2020 - Senate Ways and Means, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-222>
- HB245** **PROPERTY TAX EXEMPTION TIMELINES** (SMITH J) To remove the current deadlines by which an owner or lessee of a qualified energy project must apply for a property tax exemption.
Current Status: 5/21/2019 - Referred to Committee House Energy and Natural Resources
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-245>
- HB382** **PROHIBIT INCOME TAX-MUNICIPAL NONRESIDENTS** (JORDAN K) To prohibit municipal corporations from levying an income tax on nonresidents' compensation for personal services or on net profits from a sole proprietorship owned by a nonresident.
Current Status: 11/6/2019 - Referred to Committee House Ways and Means
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-382>
- HB410** **SALES TAX EXEMPTION - COLLEGE TEXTBOOKS** (SWEENEY B, ANTANI N) To exempt from sales and use tax textbooks purchased by post-secondary students.
Current Status: 12/10/2019 - House Ways and Means, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-410>
- HB440** **SALES TAX EXEMPTIONS-MANUFACTURING** (MIRANDA J, CARRUTHERS S) To authorize sales tax exemptions for property and services used to clean or maintain manufacturing machinery and for employment services used to operate manufacturing machinery.
Current Status: 1/28/2020 - House Ways and Means, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-440>
- HB467** **PASS-THROUGH ENTITY TAX REDUCTION** (SCHERER G) To reduce the pass-through entity withholding tax rate to four percent.
Current Status: 2/19/2020 - **SUBSTITUTE BILL ACCEPTED**, House Ways and Means, (Fourth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-467>

- HB479** **BASEBALL STADIUMS - PROTECTIVE NETTING** (PATTERSON J, PERALES R) To require certain baseball stadiums to install protective netting.
Current Status: 1/28/2020 - Referred to Committee House State and Local Government
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-479>
- HB490** **ELECTRIC/ HYBRID VEHICLE REGISTRATION FEES** (GREENSPAN D, SHEEHY M) To provide for the proration of the plug-in electric and hybrid motor vehicle registration fees.
Current Status: 2/11/2020 - Referred to Committee House Finance
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-490>
- HB507** **DELINQUENT TAX LIEN PAYMENTS** (MANNING D) To prohibit enforcement of delinquent property tax liens against owner-occupied homesteads and to require that any delinquent tax be paid before the title to a homestead may be transferred.
Current Status: 2/19/2020 - Referred to Committee House Ways and Means
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-507>
- HB523** **STEM DEGREE LOAN REPAYMENT PROGRAM** (PATTERSON J, CARFAGNA R) to establish theSTEM Degree Loan Repayment Program, to authorize a refundable tax creditfor employers who make payments on student loans obtained by a graduate toearn a STEM degree, and to make an appropriation.
Current Status: 2/21/2020 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-523>
- HB565** **EXTEND INCOME TAX FILING DEADLINE** (ROGERS J, CROSSMAN J) To extend the filing and payment dates for state, municipal, and school district income taxes by the same period as any federal income tax extension granted in response to the COVID-19 disease outbreak and to declare an emergency.
Current Status: 5/5/2020 - Referred to Committee House Ways and Means
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-565>
- HB567** **PARTIALLY REFUNDABLE INCOME TAX CREDIT** (ROGERS J, CROSSMAN J) To temporarily authorize a partially refundable earned income tax credit and to declare an emergency.
Current Status: 5/5/2020 - Referred to Committee House Finance
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-567>
- HB582** **MAKE APPROPRIATIONS, REAPPROPRIATIONS** (CALLENDER J) To make appropriations for the biennium ending June 30, 2021, and capital reappropriations for the biennium ending June 30, 2022.
Current Status: 5/5/2020 - Referred to Committee House Finance
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-582>

- HB591** **SUSPEND EMPLOYER MUNICIPAL INCOME TAX** (ROGERS J) To suspend some employer municipal income tax withholding requirements during the COVID-19 state of emergency and to declare an emergency.
Current Status: 5/5/2020 - Referred to Committee House Ways and Means
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-591>
- HB614** **UNEMPLOYMENT COMPENSATION REFORM** (FRAIZER M, RICHARDSON T) To study and reform the application, processing, and administration infrastructure of Ohio's unemployment compensation system.
Current Status: 7/21/2020 - Senate Government Oversight and Reform, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-614>
- SB1** **REDUCE REGULATORY RESTRICTIONS** (MCCOLLEY R, ROEGNER K) To require certain agencies to reduce the number of regulatory restrictions and to continue the provision of this act on and after August 18, 2019.
Current Status: 6/4/2020 - House Appoints Managers; S. Wiggam, B. Seitz & B. Kelly Named as House Conferees
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-1>
- SB8** **TAX CREDITS-OHIO OPPORTUNITY ZONE** (SCHURING K) To authorize tax credits for investments in an Ohio Opportunity Zone.
Current Status: 5/8/2019 - House Economic and Workforce Development, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-8>
- SB37** **MOTION PICTURE TAX CREDIT** (SCHURING K) To extend eligibility for and make other changes to the motion picture tax credit.
Current Status: 6/30/2019 - Referred to Committee House Finance
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-37>
- SB39** **MIXED USE DEVELOPMENT PROJECTS-TAX CREDIT** (SCHURING K) To authorize an insurance premiums tax credit for capital contributions to transformational mixed use development projects.
Current Status: 2/12/2020 - **BILL AMENDED**, House Economic and Workforce Development, (Seventh Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-39>
- SB95** **STATE AND LOCAL TAX INDUCEMENTS** (KUNZE S, PETERSON B) To enhance state and local tax inducements for businesses making substantial fixed asset and employment investments and their suppliers.
Current Status: 5/19/2020 - House Ways and Means, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-95>

- SB109** **WORKFORCE SCHOLARSHIP PROGRAM** (SCHURING K) To establish the Workforce Scholarship Program, to terminate the provisions of the Scholarship Program on December 31, 2023, to authorize tax credits for graduates of the Scholarship Program and their employers, and to make an appropriation.
Current Status: 10/8/2019 - Senate Finance, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-109>
- SB125** **TAX DEDUCTION-529 PLANS** (HOTTINGER J, BRENNER A) To expand the income tax deduction allowed for contributions to Ohio's 529 education savings plans to include contributions to 529 plans established by other states.
Current Status: 6/10/2020 - House Ways and Means, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-125>
- SB132** **GAS TAX-LOCAL GOVERNMENT ALLOCATION** (WILLIAMS S) To modify the amount of revenue derived from any increase in the motor fuel tax rate that is allocated to local governments and to change the manner in which that revenue is divided between municipal corporations, counties, and townships.
Current Status: 5/1/2019 - Referred to Committee Senate Transportation, Commerce and Workforce
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-132>
- SB153** **JOB RETENTION TAX CREDIT-ALTERNATIVE REQUIREMENTS** (DOLAN M) To permit manufacturers to meet alternative minimum employment and investment requirements to qualify for the Job Retention Tax Credit.
Current Status: 6/4/2019 - Senate Ways and Means, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-153>
- SB268** **CAPITAL APPROPRIATION** (SYKES V) To modify the purpose of a capital appropriation.
Current Status: 2/25/2020 - Senate Finance, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-268>
- SB307** **SALES TAX EXEMPTION-PPE** (GAVARONE T) To authorize a temporary sales and use tax exemption for personal protective equipment and to declare an emergency.
Current Status: 6/9/2020 - Senate Ways and Means, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-307>
- SB310** **FEDERAL COVID FUNDING** (DOLAN M) To provide for the distribution of some federal coronavirus relief funding to local subdivisions, to make an appropriation, and to declare an emergency.
Current Status: 6/10/2020 - Consideration of House Amendments; Senate Does Not Concur, Vote on Emergency Clause 10-22
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-310>

- SB316** **CAPITAL REAPPROPRIATIONS** (DOLAN M) To make capital reappropriations for the biennium ending June 30, 2022, and to declare an emergency.
Current Status: 6/3/2020 - **REPORTED OUT**, Senate Finance, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-316>
- SB352** **MUNICIPAL INCOME TAX WITHHOLDING** (ROEGNER K) To modify municipal income tax employer withholding rules for COVID-19-related work-from-home employees.
Current Status: 8/11/2020 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-352>
- SJR3** **REQUIRE SUPERMAJORITY-INCOME TAX INCREASE** (BURKE D) Proposing to enact Section 7 of Article XII of the Constitution of the State of Ohio to require that any increase in income tax rates be approved by a supermajority of the membership of each house of the General Assembly.
Current Status: 6/9/2020 - **REPORTED OUT**, Senate Ways and Means, (Sixth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SJR-3>