



# Government Affairs Committee

September 28, 2011

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## 2011 Government Affairs Committee Calendar

Wednesday, September 28, 2011  
Wednesday, November 30, 2011

## OMA Government Affairs Committee Meeting Sponsor:





**OMA Government Affairs  
Committee**  
September 28, 2011



**AGENDA**

**Welcome & Self-Introductions**

Caroline Ramsey  
Committee Chair  
Honda of America Manufacturing

**Guest Presentations**

Christiane Schmenk  
Director, Ohio Department of Development

Peter Brown  
Quinnipiac University

Troy Judy  
Chief of Staff  
Ohio House of Representatives

**OMA Counsel's Report**  
*Bricker & Eckler L.L.P.*,

Kurt Tunnell  
Managing Partner  
OMA General Counsel

**Staff Reports**

Ryan Augsburger, OMA Staff  
Kevin Schmidt, OMA Staff

**Discussion Agenda**

**SAVE THE DATE 2011 Meeting Schedule:**

Wednesday, September 28, 2011  
Wednesday, November 30, 2011

Committee Meetings begin at 10:00 a.m. and conclude by 1:00 p.m. Lunch will be served. Please RSVP to attend meetings by contacting Judy: [jthompson@ohiomfg.com](mailto:jthompson@ohiomfg.com) or (614) 224-5111 or toll free at (800) 662-4463. Indicate if you will be participating in-person or by phone.

Additional committee meetings or teleconferences, if needed, will be scheduled at the call of the Chair.

**Thanks to Today's Meeting Sponsor:**





### **Christiane Schmenk**

Director

Ohio Department of Development

Christiane Schmenk became Director of the Ohio Department of Development on August 1, 2011. Schmenk oversees the Department's day-to-day activities and will lead the Department's restructuring efforts, ensuring Ohio's communities and businesses receive exceptional customer service. Prior to this appointment by Governor John K. Kasich, she served as chief legal counsel for the Department.

Before joining the Ohio Department of Development, Schmenk was Vice President of External Affairs at The Scotts Miracle-Gro Company. During her 17 years at Scotts, she also served as Assistant General Counsel, Chief Ethics and Compliance Officer, and Director of Environmental Stewardship. Schmenk also practiced law with Buckley, King and Bluso, LLP in Columbus, and was in-house corporate counsel with Wendy's International, Inc.

From 2008-2011, Schmenk served as Mayor of Marysville. During her tenure, the city stabilized its finances, completed a new regional wastewater treatment plant and began work on a new water plant, fire station, and police station. Active in her community, she has served as the President of the Union County Chamber of Commerce, a Trustee of Memorial Hospital of Union County as well as serving on the Executive Committee of the Ohio Chamber of Commerce Board of Directors.

Schmenk holds a law degree from The Ohio State University and a Bachelor of Arts degree in history and political science from Ohio Northern University. She was born and raised in Ohio and currently resides in Marysville with her husband, Mike, and their two children.

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**JobsOhio**

**Ohio**

Department of  
Development

**Wednesday, August 31, 2011**

**JobsOhio**

**Ohio**

Department of  
Development



# Welcome

**Dean Monske**  
**President and CEO**

***Regional Growth Partnership***



Department of  
Development

# Agenda

- *Welcome*
  - **Dean Monske, President and CEO, Regional Growth Partnership**
- *The Vision*
  - **Mark D. Kvamme, Interim Chief Investment Officer and President, JobsOhio**
- *Our Rationale*
  - **Kristi Tanner, JobsOhio**
- *Our Findings and Future of Ohio Department of Development*
  - **Christiane Schmenk, Director, Ohio Department of Development**
- *JobsOhio Structure*
  - **Mark D. Kvamme**
- *The JobsOhio - Northwest Ohio Partnership*
  - **Dean Monske, President and CEO, Regional Growth Partnership**
- *Question and Answer Session*

# The Vision

**Mark D. Kvamme**

**Interim Chief Investment  
Officer and President**

***JobsOhio***



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# Why Change?

- Customer service is severely lacking
- Slow and cumbersome approval process
- Proactive sales efforts are seemingly non-existent
- Participation from C-level execs is limited
- Coordination with regions needs improving
- Inability to maintain confidential information

# We Must Reform Our Approach

**Grow What We Have** – Build a coordinated retention and expansion program across the state

**Going on the Offense** – Create a proactive sales team that aggressively pursues new opportunities

**Fast and Smart** – Lead the market

**Peer to Peer** – Leverage private involvement

# The Way to Reform

## 1. Create JobsOhio

Creating a winning strategy, being proactive to land more investment and jobs in Ohio

## 2. Provide Sustainable Funding

Reliable, ongoing revenue stream for economic development, along with private sector support

## 3. Equip it with the best Talent, Tools, & Processes

Top talent and an economic development toolbox that's more competitive and wins more deals

# JobsOhio Metrics

- Net new job creation and increased payroll
- New capital investment to Ohio
- Return on investment

# JobsOhio Board Members

## **James C. Boland**

*Retired Vice Chairman, Ernst & Young  
Former President, CEO & Vice Chairman,  
Cavaliers Operating Company*

## **Steven A. Davis**

*Chairman of the Board & CEO,  
Bob Evans Farms Inc.*

## **E. Gordon Gee**

*President,  
The Ohio State University*

## **C. Martin Harris, M.D.**

*Chief Information Officer, Cleveland Clinic  
Chairman, Information Technology Division*

## **Gary R. Heminger**

*President & CEO,  
Marathon Petroleum Corporation*

## **Mark D. Kvamme**

*Special Limited Partner,  
Sequoia Capital*

## **Bob McDonald**

*Chairman of the Board,  
President & CEO, Procter & Gamble*

## **Pamela Springer**

*President & CEO,  
Manta Media*

# Our Rationale

**Kristi Tanner**

***JobsOhio***



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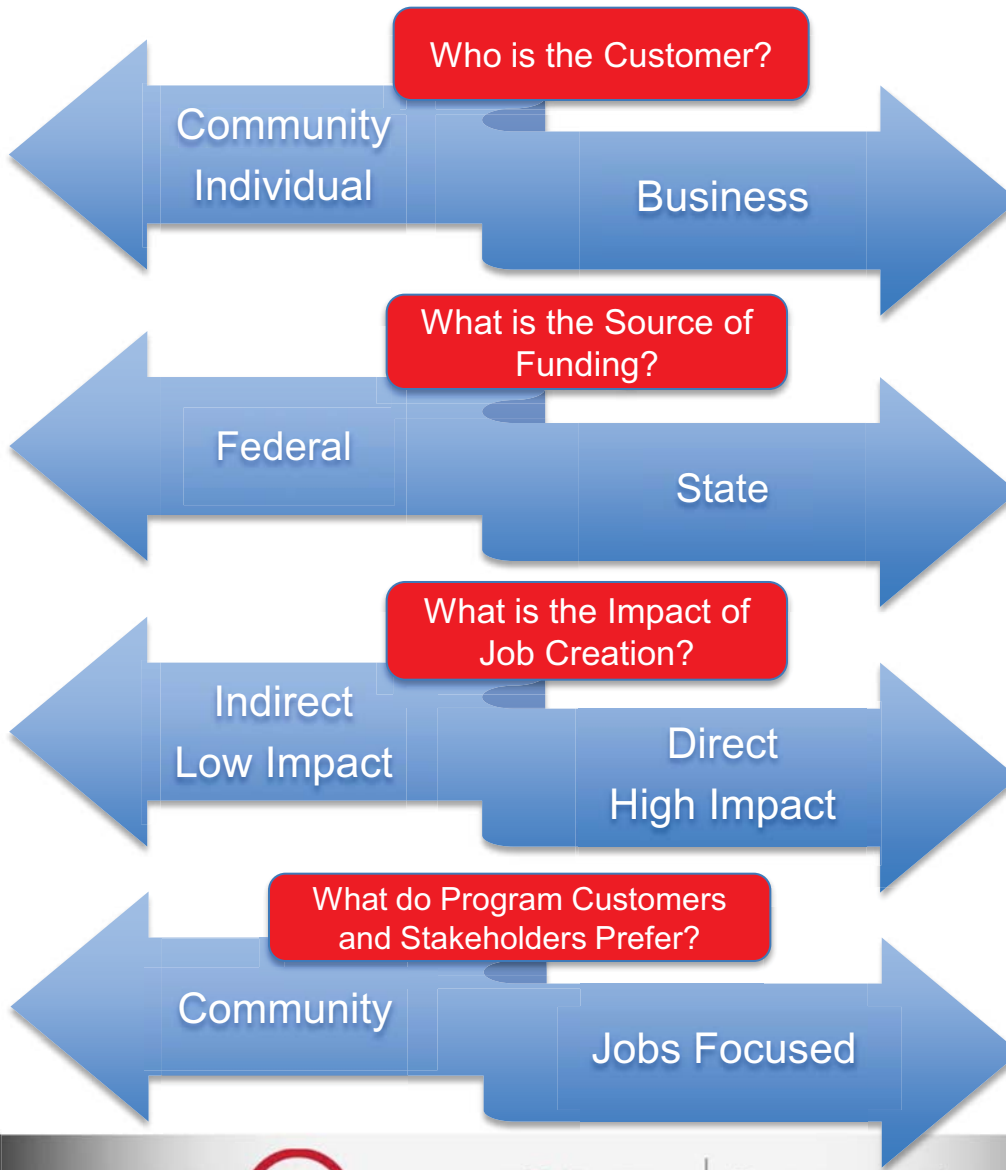
# Rationalization Criteria

## Four Questions to Guide Decisions



Federally funded programs and services geared toward communities and individuals will remain with the state. Many of these programs have a more indirect impact on job creation

State funded programs and services that serve the business community and have a direct, high impact on job creation will move to JobsOhio



Department of Development

# Our Findings and Our Future

**Christiane Schmenk**

**Director**

***Ohio Department of Development***



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## Rationalization Criteria

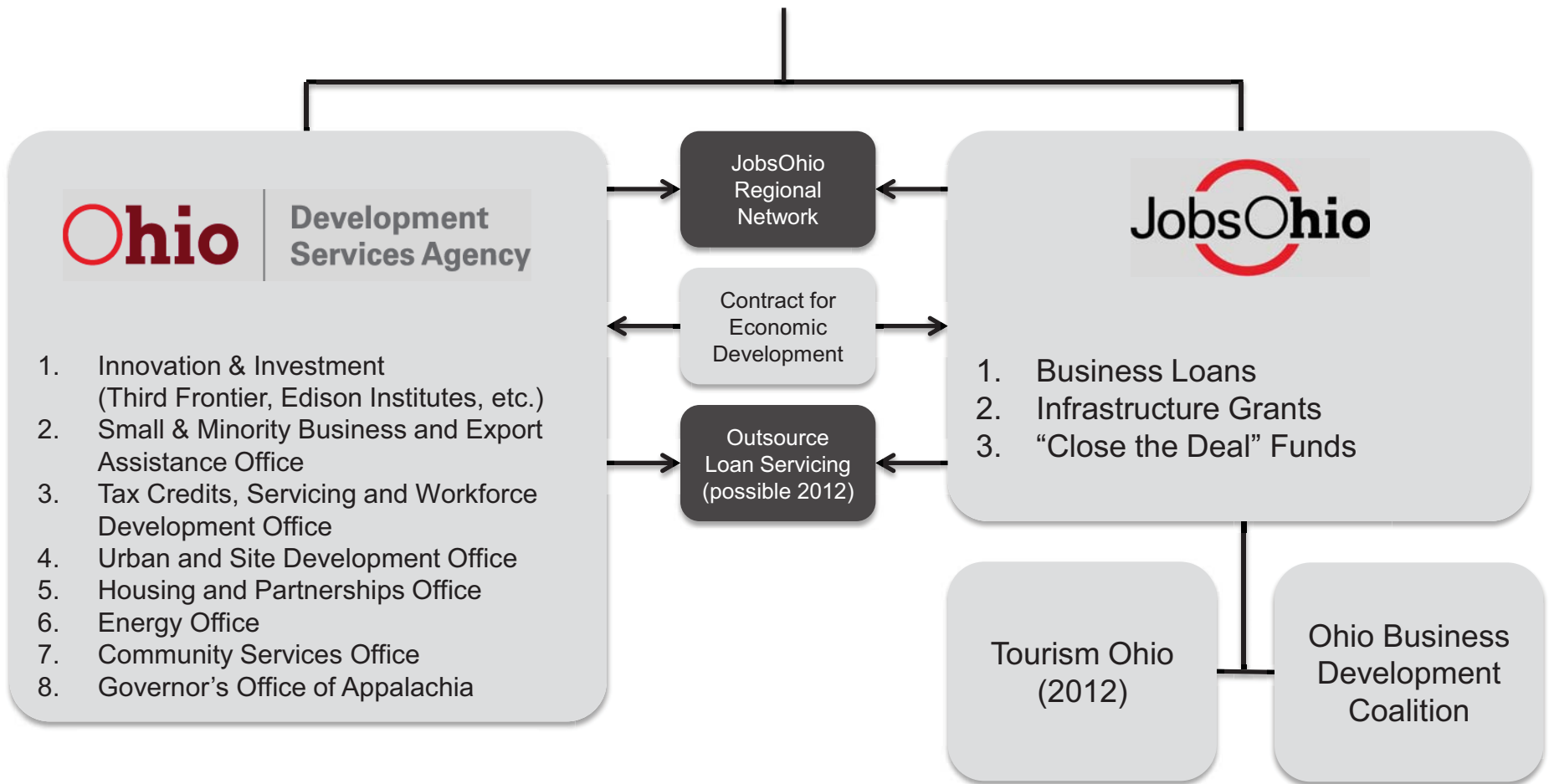
### Four Questions to Guide Decisions



- Community Development
- Small Business
- Global Markets
- Governor's Office of Appalachia
- Minority Business
- Ohio Energy Resources
- Ohio Film Office
- Policy, Research & Strategic Planning
- Regional Offices
- Technology & Innovation
- Urban Development
- Workforce & Talent
- Ohio Tourism
- Strategic Business Investment



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# Guiding Principles

- Focus on customers
- Continuously find efficiencies
- Provide a “pace of business” link to JobsOhio
- Provide assurance of strong oversight of JobsOhio
- Greater leverage of limited resources
- Metrics-driven and outcome focused





# JobsOhio

**Mark D. Kvamme**

*JobsOhio*



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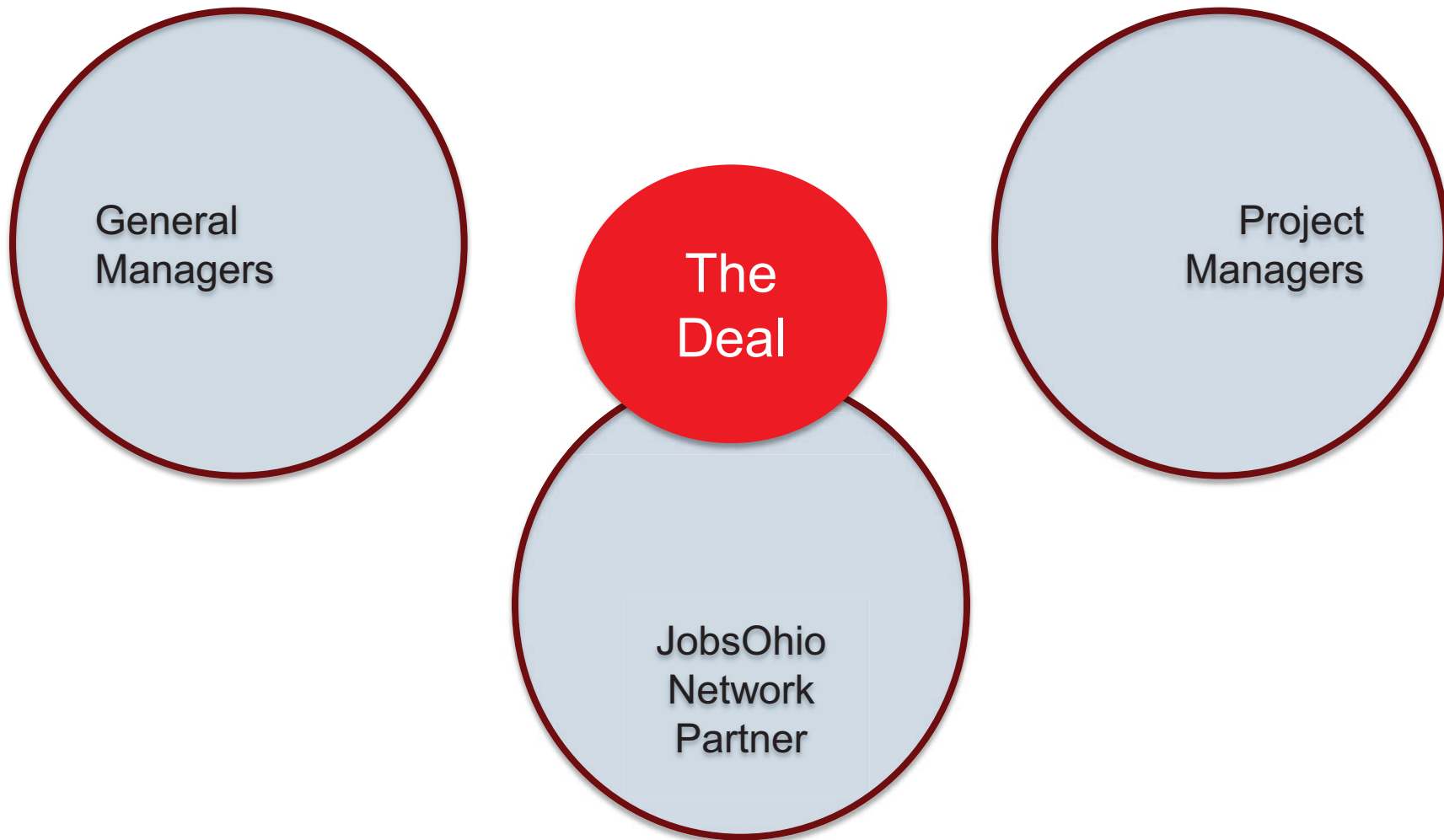
# Targeted Industries

1. Aerospace & Aviation
2. Automotive
3. Banking & Insurance
4. BioHealth
5. Consumer Products
6. Energy
7. Food Processing
8. Information Services & Software
9. Polymers

## Business Functions where Ohio is strong:

- Advanced Manufacturing
- Headquarters
- Back Office, IT
- Logistics & Distribution
- Research & Development

# JobsOhio Organization



# Regional Deal Flow Process





# The JobsOhio - Northwest Ohio Partnership

**Dean Monske**  
**President and CEO**

*Regional Growth Partnership*



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Development



# Questions

[www.jobs-ohio.com](http://www.jobs-ohio.com)



**Peter A. Brown**, assistant director of the Quinnipiac University Polling Institute, has more than 30 years of experience as a political journalist and editor in Washington, D.C., New England and Florida. Brown is the chief spokesman for the Florida, Ohio, Virginia and national polls and works with Doug Schwartz to develop, analyze and present the results of the polls.

He was previously a political reporter for United Press International, served as the White House correspondent and then political editor for Scripps Howard News Service in Washington, D.C., and also was the editor of the Insight section of the Orlando Sentinel.

Brown, who covered 11 national political conventions and presidential campaigns from 1976-96, has a BS in radio television news and an MS in journalism from Syracuse University. He was also a Neiman Fellow at Harvard.

Peter Brown, Assistant Director,  
Quinnipiac University Polling Institute  
(203) 535-6203

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Public Relations  
Contact: Pat Smith (212) 843-8026



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**FOR RELEASE: SEPTEMBER 27, 2011**

**WOMEN, UNION HOUSEHOLDS KEEP OHIO GOV UNDER WATER,  
QUINNIPIAC UNIVERSITY POLL FINDS;  
MOST VOTERS WANT TO REPEAL SB 5 LIMITING UNIONS**

A 41-point disapproval from union households and a 16-point disapproval from women keep Ohio Gov. John Kasich under water with a negative 40 – 49 percent overall job approval, according to a Quinnipiac University poll released today.

This compares to a negative 35 – 50 percent approval in a July 20 survey from the independent Quinnipiac (KWIN-uh-pe-ack) University.

Ohio voters support 51 – 38 percent repeal in a November referendum of SB 5, the law limiting collective bargaining for public employees, compared to 56 – 32 percent in July.

Republican voters approve of Gov. Kasich 72 – 18 percent, but disapproval is 74 – 17 percent among Democrats and 48 – 38 percent among independent voters. Men split 45 – 46 percent while women disapprove 51 – 35 percent.

Disapproval among voters in households with a union member is 68 – 27 percent.

In the SB 5 referendum, Republicans say keep the law 65 – 23 percent, up from 56 – 35 percent July 20. Men oppose SB 5 50 – 45 percent, compared to 55 – 37 percent. Women want to repeal the law 53 – 31 percent, compared to 56 – 28 percent in July.

“Ohio voters seem to be warming a little toward Gov. John Kasich, although he is still under water when it comes to public opinion,” said Peter A. Brown, assistant director of the Quinnipiac University Polling Institute. “The governor still has more than three years left until he faces the voters again and his numbers are moving in the right direction.

“But SB 5 is another story. Support for repealing the bill in the November referendum has dropped from a 24-point to a 13-point margin. Backers of SB 5 have only six weeks to make up the difference, although public opinion appears to be moving in their direction.”

**-more-**

## Quinnipiac University Poll/September 27, 2011 – page 2

“The referendum on SB 5 also is a referendum on John Kasich,” Brown added.

Another area where Kasich shows improvement is voter perception of the fairness of his budget. Ohioans say it is unfair 49 – 36 percent, up from 50 – 32 percent in July.

“Kasich sure has a ways to go to get his head above water, especially among women and union members, but his overall numbers are getting better,” said Brown.

Looking at the elements of SB 5, Ohio voters:

- Oppose 58 – 36 percent banning public employees from striking;
- Support 60 – 31 percent replacing automatic pay increases based on seniority with increases based on merit;
- Oppose 53 – 41 percent eliminating seniority rights as the sole factor in layoffs;
- Support 59 – 35 percent requiring public employees to pay at least 15 percent of their health insurance costs;
- Support 56 – 33 percent requiring public employees to pay 10 percent of their wages toward their pensions;
- Oppose 54 – 39 percent banning public employees from bargaining over health insurance.

Ohio voters oppose 56 – 32 percent Kasich’s proposal to lease the Ohio Turnpike to a private company to raise money to fund transportation projects.

One Ohio politician who voters think is doing a good job is U.S. Sen. Rob Portman, who earns a 41 – 23 percent approval rating.

From September 20 – 25, Quinnipiac University surveyed 1,301 registered voters with a margin of error of +/- 2.7 percentage points. Live interviewers call land lines and cell phones.

The Quinnipiac University Poll, directed by Douglas Schwartz, Ph.D., conducts public opinion surveys in Pennsylvania, New York, New Jersey, Connecticut, Florida, Ohio, Virginia and the nation as a public service and for research.

**For more data or RSS feed– <http://www.quinnipiac.edu/polling.xml>, call (203) 582-5201, or follow us on [Twitter](#).**

9. Do you approve or disapprove of the way John Kasich is handling his job as Governor?

	Tot	Rep	Dem	Ind	Men	Wom	WtBrnAgn Evnglcl
Approve	40%	72%	17%	38%	45%	35%	48%
Disapprove	49	18	74	48	46	51	36
DK/NA	11	10	9	15	9	14	16

	Cntrl	NrthE	NrthW	SthW	WstCnt	Union HsHld
Approve	43%	36%	39%	39%	45%	27%
Disapprove	52	50	50	48	45	68
DK/NA	6	14	11	13	10	5

TREND: Do you approve or disapprove of the way John Kasich is handling his job as Governor?

	Sep 27 2011	Jul 20 2011	May 18 2011	Mar 23 2011	Jan 19 2011
Approve	40	35	38	30	30
Disapprove	49	50	49	46	22
DK/NA	11	15	13	23	48

10. Do you approve or disapprove of the way Rob Portman is handling his job as United States Senator?

	Tot	Rep	Dem	Ind	Men	Wom	WtBrnAgn Evnglcl
Approve	41%	65%	31%	35%	46%	37%	43%
Disapprove	23	8	34	24	26	21	16
DK/NA	35	27	36	42	28	42	41

	Cntrl	NrthE	NrthW	SthW	WstCnt	Union HsHld
Approve	41%	34%	34%	53%	49%	35%
Disapprove	25	21	27	27	26	30
DK/NA	34	45	39	20	25	35

TREND: Do you approve or disapprove of the way Rob Portman is handling his job as United States Senator?

	Sep 27 2011	Jul 21 2011	May 19 2011	Mar 24 2011	Jan 20 2011
Approve	41	40	38	30	34
Disapprove	23	21	21	25	16
DK/NA	35	39	41	45	51

15. In general, how satisfied are you with the way things are going in Ohio today? Are you very satisfied, somewhat satisfied, somewhat dissatisfied, or very dissatisfied?

	Tot	Rep	Dem	Ind	Men	Wom	WtBrnAgn Evnglcl
Very satisfied	3%	5%	4%	1%	3%	4%	2%
Smwht satisfied	31	48	23	28	33	30	41
Smwht dissatisfied	32	26	33	35	30	34	27
Very dissatisfied	32	19	39	35	34	31	30
DK/NA	1	2	1	-	-	1	-

	Cntrl	NrthE	NrthW	SthW	WstCnt	Union HsHld
Very satisfied	5%	3%	6%	3%	2%	3%
Smwht satisfied	35	35	26	25	32	23
Smwht dissatisfied	29	28	38	38	39	33
Very dissatisfied	32	34	30	32	25	41
DK/NA	-	1	1	2	2	1

TREND: In general, how satisfied are you with the way things are going in Ohio today? Are you very satisfied, somewhat satisfied, somewhat dissatisfied, or very dissatisfied?

	Sep 27 2011	Jul 20 2011	May 18 2011	Mar 23 2011	Jan 19 2011	VERY+SMWHT SAT High Mar 21 2007	Low Mar 23 2011
Very satisfied	3	3	3	3	3	5	3
Smwht satisfied	31	31	30	26	28	49	26
Smwht dissatisfied	32	32	32	34	39	28	34
Very dissatisfied	32	32	35	36	28	16	36
DK/NA	1	1	1	1	1	1	1

16. As you may know, there is a new law in Ohio that would limit collective bargaining for public employees. Do you support or oppose limiting collective bargaining for public employees?

	Tot	Rep	Dem	Ind	Men	Wom	WtBrnAgn Evnglcl
Support	40%	65%	18%	41%	46%	34%	46%
Oppose	50	26	67	51	49	50	42
DK/NA	11	9	14	8	6	16	13

	Cntrl	NrthE	NrthW	SthW	WstCnt	Union HsHld
Support	39%	38%	39%	46%	39%	25%
Oppose	52	51	51	44	47	70
DK/NA	9	11	10	10	14	5

TREND: As you may know, there is a new law in Ohio that would limit collective bargaining for public employees. Do you support or oppose limiting collective bargaining for public employees? (\*Mar 2011 "proposed" law)

	Sep 27 2011	Jul 20 2011	May 18 2011	Mar 23 2011*
Support	40	34	38	41
Oppose	50	52	50	48
DK/NA	11	14	12	10

17. As you may know there is a proposed referendum to repeal this new law. Do you think this new law which limits collective bargaining for public employees should be kept or repealed?

	Tot	Rep	Dem	Ind	Men	Wom	WtBrnAgn Evnglcl
Kept	38%	65%	18%	35%	45%	31%	42%
Repealed	51	23	71	55	50	53	43
DK/NA	11	12	11	9	5	16	15

	Cntrl	NrthE	NrthW	SthW	WstCnt	Union HsHld
Kept	42%	36%	36%	36%	39%	23%
Repealed	50	53	52	52	48	72
DK/NA	8	11	12	12	13	4

TREND: As you may know there is a proposed referendum to repeal this new law. Do you think this new law which limits collective bargaining for public employees should be kept or repealed?

	Sep 27 2011	Jul 20 2011	May 18 2011
Kept	38	32	36
Repealed	51	56	54
DK/NA	11	12	10

20. Do you think limiting collective bargaining for public employees is necessary to help balance the state budget or not?

	Tot	Rep	Dem	Ind	Men	Wom	WtBrnAgn Evnglcl
Yes	41%	70%	24%	35%	46%	36%	44%
No	50	22	65	56	49	51	42
DK/NA	9	8	11	9	5	13	14

	Cntrl	NrthE	NrthW	SthW	WstCnt	Union HsHld
Yes	43%	37%	40%	42%	43%	24%
No	52	51	48	50	44	70
DK/NA	4	12	11	8	13	6

TREND: Do you think limiting collective bargaining for public employees is necessary to help balance the state budget or not?

	Sep 27 2011	Jul 20 2011	May 18 2011	Mar 23 2011
Yes	41	38	38	37
No	50	50	52	55
DK/NA	9	11	10	8



21. The new law limiting collective bargaining for public employees would ban all public employee strikes. Do you support or oppose banning all public employee strikes?

	Tot	Rep	Dem	Ind	Men	Wom	WtBrnAgn Evnglcl
Support	36%	70%	12%	35%	43%	30%	41%
Oppose	58	25	84	57	55	61	51
DK/NA	5	5	5	8	2	9	8

	Union HsHld
Support	21%
Oppose	74
DK/NA	5

TREND: The new law limiting collective bargaining for public employees would ban all public employee strikes. Do you support or oppose banning all public employee strikes? (\*Mar 2011 "proposed" law)

	Sep 27 2011	Jul 20 2011	May 18 2011	Mar 23 2011*
Support	36	36	35	35
Oppose	58	56	58	58
DK/NA	5	8	7	7

22. The new law would require public employees to pay at least 15 percent of their health insurance premiums. Do you support or oppose requiring public employees to pay at least 15 percent of their health insurance premiums?

	Tot	Rep	Dem	Ind	Men	Wom	WtBrnAgn Evnglcl
Support	59%	87%	35%	61%	61%	56%	66%
Oppose	35	10	56	32	32	37	28
DK/NA	7	3	9	7	7	7	7

	Union HsHld
Support	42%
Oppose	52
DK/NA	6

TREND: The new law would require public employees to pay at least 15 percent of their health insurance premiums. Do you support or oppose requiring public employees to pay at least 15 percent of their health insurance premiums? (\*Mar 2011 "proposed" law)

	Sep 27 2011	Jul 20 2011	May 18 2011	Mar 23 2011*
Support	59	60	59	66
Oppose	35	33	34	27
DK/NA	7	7	7	8

23. The new law would prevent the public employee unions from bargaining over their health insurance plans. Do you support or oppose preventing the public employee unions from bargaining over their health insurance plans?

	Tot	Rep	Dem	Ind	Men	Wom	WtBrnAgn Evnglcl
Support	39%	62%	23%	37%	41%	37%	43%
Oppose	54	30	72	56	54	54	46
DK/NA	7	8	5	7	4	10	11

	Union HsHld
Support	28%
Oppose	66
DK/NA	6

TREND: The new law would prevent the public employee unions from bargaining over their health insurance plans. Do you support or oppose preventing the public employee unions from bargaining over their health insurance plans? (\*May 2011 "bargaining over health insurance plans for public employees")

	Sep 27 2011	Jul 20 2011	May 18 2011*
Support	39	36	38
Oppose	54	58	54
DK/NA	7	6	8

24. The new law would require public employees to pay at least 10 percent of their wages for their pensions. Do you support or oppose requiring public workers to pay at least 10 percent of their wages for their pensions?

	Tot	Rep	Dem	Ind	Men	Wom	WtBrnAgn Evnglcl
Support	56%	78%	39%	56%	59%	52%	57%
Oppose	33	16	49	31	33	34	31
DK/NA	11	7	12	12	8	14	12

	Union HsHld
Support	44%
Oppose	45
DK/NA	11

TREND: The new law would require public employees to pay at least 10 percent of their wages for their pensions. Do you support or oppose requiring public workers to pay at least 10 percent of their wages for their pensions?

	Sep 27 2011	Jul 20 2011	May 18 2011
Support	56	58	58
Oppose	33	33	34
DK/NA	11	9	9

25. The new law would replace automatic pay increases based on length of service with increases based on merit. Do you support or oppose replacing automatic pay increases based on longevity with merit pay for public employees?

	Tot	Rep	Dem	Ind	Men	Wom	WtBrnAgn Evnglcl
Support	60%	69%	52%	62%	66%	55%	58%
Oppose	31	25	38	29	29	34	32
DK/NA	8	6	10	9	6	11	10

Union  
HsHld

Support	57%
Oppose	39
DK/NA	4

TREND: The new law would replace automatic pay increases based on length of service with increases based on merit. Do you support or oppose replacing automatic pay increases based on longevity with merit pay for public employees?

	Sep 27 2011	Jul 20 2011	May 18 2011
Support	60	56	57
Oppose	31	35	35
DK/NA	8	9	7

26. The new law would eliminate seniority as the sole factor when determining layoffs. Do you support or oppose eliminating seniority as the sole factor when determining layoffs?

	Tot	Rep	Dem	Ind	Men	Wom	WtBrnAgn Evnglcl
Support	41%	59%	26%	44%	55%	30%	46%
Oppose	53	36	69	49	42	62	48
DK/NA	6	5	5	7	4	8	6

Union  
HsHld

Support	30%
Oppose	66
DK/NA	3

TREND: The new law would eliminate seniority as the sole factor when determining layoffs. Do you support or oppose eliminating seniority as the sole factor when determining layoffs?

	Sep 27 2011	Jul 20 2011	May 18 2011
Support	41	45	45
Oppose	53	49	50
DK/NA	6	6	5

31. Do you approve or disapprove of the way John Kasich is handling the state budget?

	Tot	Rep	Dem	Ind	Men	Wom	WtBrnAgn Evnglcl
Approve	35%	72%	11%	31%	43%	29%	44%
Disapprove	53	18	78	55	49	57	41
DK/NA	12	9	11	14	8	15	15

	Cntrl	NrthE	NrthW	SthW	WstCnt	Union HsHld
Approve	40%	32%	41%	35%	35%	27%
Disapprove	53	57	48	53	46	69
DK/NA	8	10	11	12	18	4

TREND: Do you approve or disapprove of the way John Kasich is handling the state budget?

	Sep 27 2011	Jul 20 2011	May 18 2011	Mar 23 2011
Approve	35	32	35	31
Disapprove	53	54	53	51
DK/NA	12	14	12	18

32. Do you think that the budget approved by the legislature and signed by Governor Kasich is fair or unfair to people like you?

	Tot	Rep	Dem	Ind	Men	Wom	WtBrnAgn Evnglcl
Fair	36%	67%	17%	33%	44%	29%	42%
Unfair	49	18	71	48	43	54	39
DK/NA	15	14	11	19	13	17	19

	Cntrl	NrthE	NrthW	SthW	WstCnt	Union HsHld
Fair	38%	35%	39%	39%	34%	28%
Unfair	45	53	47	46	46	63
DK/NA	17	12	14	14	20	9

TREND: Do you think that the budget approved by the legislature and signed by Governor Kasich is fair or unfair to people like you?

	Sep 27 2011	Jul 20 2011
Fair	36	32
Unfair	49	50
DK/NA	15	18

33. What do you think about the cuts in state spending used to balance the state budget? Do you think the cuts in state spending go too far, not far enough or are they about right?

	Tot	Rep	Dem	Ind	Men	Wom	WtBrnAgn Evnglcl
Too far	35%	12%	55%	33%	32%	38%	28%
Not far enough	26	34	20	24	27	25	28
About right	29	44	15	31	34	24	31
DK/NA	11	10	10	12	8	14	13

	Cntrl	NrthE	NrthW	SthW	WstCnt	Union HsHld
Too far	33%	36%	29%	35%	36%	46%
Not far enough	28	26	24	23	23	23
About right	29	27	34	30	29	23
DK/NA	10	10	12	12	13	8

TREND: What do you think about the cuts in state spending used to balance the state budget? Do you think the cuts in state spending go too far, not far enough or are they about right?

	Sep 27 2011	Jul 20 2011
Too far	35	34
Not far enough	26	25
About right	29	30
DK/NA	11	11

34. Governor Kasich says he would like to lease the Ohio Turnpike to a private company and use the funds the state would receive to fund other transportation projects for Ohio. Do you think leasing the Ohio Turnpike is a good idea or a bad idea?

	Tot	Rep	Dem	Ind	Men	Wom	WtBrnAgn Evnglcl
Good idea	32%	55%	20%	28%	35%	29%	31%
Bad idea	56	32	71	60	57	56	52
DK/NA	11	14	9	12	8	15	17

	Cntrl	NrthE	NrthW	SthW	WstCnt	Union HsHld
Good idea	39%	27%	26%	34%	39%	19%
Bad idea	48	64	65	53	44	73
DK/NA	13	9	9	13	17	8



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## OMA Government Affairs Committee September 28, 2011

### I. Tort Reform

#### A. *The American Chemical Society v. Leadscope, Inc.*, Ohio Supreme Court Case No. 2010-1335

The OMA joined with the Ohio Chamber of Commerce and the Ohio Council of Retail Merchants to file an amici curiae brief in support of The American Chemical Society (ACS) in *The American Chemical Society v. Leadscope, Inc.*, Ohio Supreme Court Case No. 2010-1335. The amici curiae brief was filed on February 28, 2011.

Chemical Abstracts in Columbus is a division of ACS. ACS is asking the Court to reverse a \$26.5 million judgment, which includes \$7.5 million in punitive damages. The case stems from an intellectual property dispute between ACS and three former employees who left ACS in 1997 to start their own business. ACS filed suit for misappropriation of trade secrets and other claims. The employees' new company, Leadscope, Inc., filed a counterclaim for "malicious litigation," defamation, and tortious interference with business relations. The bulk of the award is premised on the defamation claim.

The two statements upon which the defamation damages are based are fairly routine types of statements, yet they supported a multi-million dollar defamation verdict. The first statement was in an internal memo sent by the company to all of its employees informing them that ACS had initiated a lawsuit against the former employees and their new company "who sought and received a patent for technology indistinguishable from a project on which they worked while employees of Chemical Abstract Service in the 1990's." The memo further advised employees not to comment on or communicate about the lawsuit. The second statement, made by legal counsel and published in *Business First*, was: "Our motivation in filing suit is to acquire back the protected information that they took from us." These are the only statements underlying the defamation claim that resulted in the multi-million dollar verdict.

The OMA is participating in this case due to its potential impact on OMA members and the broader business community.

Oral argument was held on September 7, 2011. The Court was very engaged and had many questions for both parties. The Court seemed particularly interested in the issues related to "malicious litigation" and whether such a claim exists in Ohio. The Ohio Attorney General made an appearance and participated in the oral argument to assert that no claim for "malicious litigation" exists or should be recognized in Ohio. The case awaits a decision by the Ohio Supreme Court.

**B. Punitive Damages - Bifurcation**

In S.B. 80, the Ohio General Assembly amended Ohio's punitive damage statute. One of the changes was to provide for the mandatory bifurcation of the compensatory damage phase of a trial and the punitive damage phase of a trial upon request of any party. See R.C. 2315.21(B). By enacting this provision, the General Assembly sought to ensure that evidence of a defendant's wealth or misconduct did not taint the jury's assessment of liability.

The constitutionality of this provision -- R.C. 2315.21(B) -- has been attacked in recent years. The Tenth District Court of Appeals was the first appellate court to consider the constitutionality of this provision and upheld it as constitutional. See *Hanners v. Ho Wah Genting Wire & Cable*, 10th Dist. No. AP-361, 2009-Ohio-6481. More recently, the Eighth District Court of Appeals considered this same issue and held that the statute violated the Modern Courts Amendment and, thus, was unconstitutional. See *Havel v. Villa St. Joseph*, 8th Dist.No. 94677, 2010-Ohio-5251. The Ohio Supreme Court certified a conflict among the district courts and will decide whether the statute requiring mandatory bifurcation of the punitive damage phase of a trial is constitutional. The case has been fully briefed and oral argument is scheduled for September 21, 2011.

The Ohio Alliance for Civil Justice, of which the OMA is a member, participated in this case by filing an amicus brief urging the Court to uphold the constitutionality of the statute.

**C. Statute of Limitations on Written Contracts (House Bill 170)**

**Statute of Limitations on Written Contracts (House Bill 170).** Earlier this year, former Representative Robert Mecklenborg (R-Cincinnati) introduced legislation that would reduce Ohio's statute of limitations on written contracts from 15 years to six years. House Bill 170 conforms Ohio's statute of limitations to a reasonable time period – a six year period that is utilized by a plurality of states (22). Currently, Kentucky stands with Ohio in liberally allowing 15 years to bring suit on a written contract.

Allowing suits on stale claims makes cases difficult and unfair to defend, increases the burden on an overtaxed court system and imposes unnecessary expenses on the cost of doing business in Ohio. House Bill 170 will modernize Ohio's antiquated provision and sends a message to the nation's economic drivers – that Ohio is open for business.

The Ohio House approved House Bill 170 in June by a vote of 86-8. Shortly after the bill's passage, Rep. Mecklenborg was arrested for drunken driving in Indiana and has since resigned his seat. It is unclear at this point who lead the charge in moving House Bill 170 through the Ohio Senate. The OMA, along with the OACJ, has been discussing these issues with legislative leaders.

House Bill 170 is current pending before the Senate Judiciary – Civil Justice Committee. Companion legislation was also recently introduced in the Ohio Senate (SB 224) to help move forward this important reform measure.

D. **A State False Claims Act (Senate Bill 143)**

In April 2011, Senators Jim Hughes (R-Columbus) and Scott Oelslager (R-North Canton) introduced legislation that would enact a state false claims act in Ohio. The bill, Senate Bill 143, is very broad in scope and could impose a significant cost on Ohio’s businesses – costs associated with defending against allegations of fraud.

Senate Bill 143 provides for the recovery of treble damages and steep civil penalties for defrauding the state of money or property. Most significantly, Senate Bill 143 authorizes private individuals to bring *qui tam* civil actions in the name of the state to remedy the frauds. This legislation is modeled off the federal false claims law and if deemed “compatible” with the federal law, Ohio would be eligible to receive additional federal recovery dollars in relation to false claim actions. The recovery of additional federal dollars is the chief motivation to enact false claims law in Ohio.

Ohio Attorney General Mike DeWine publicly announced his support for the proposed law and recently testified as a proponent of the bill before the Senate Judiciary – Civil Justice Committee. General DeWine described the bill as necessary because he believes a false claims law is an effective tool to root out fraud committed by government vendors.

While the bill would allow the state’s attorney general to independently pursue whistleblower claims, the real concern to Ohio’s manufacturing community is the bill’s *qui tam* provisions, which allows private individuals with knowledge of possible fraudulent activity to file suits in state courts against anyone doing business with public entities or other entities that receive state funds. If enacted into law, businesses of all types would be exposed to allegations of fraud by private citizens.

The OMA has been working diligently to communicate key concerns and unintended consequences to key policymakers. **The Senate Judiciary – Civil Justice Committee recently scheduled this bill for a hearing on September 21. The Committee’s Chair, Senator Mark Wagoner (R-Ottawa Hills), intends to hold a series of interested party meetings and at least one additional hearing for opponents. The OMA, through the OACJ, is working to line up witnesses for that meeting.**



**E. Offers of Judgment (Senate Bill 52)**

Earlier this year, Senate Eric Kearney, a Democrat from Cincinnati, introduced legislation requesting the Ohio Supreme Court to amend Rule 68 of the Ohio Rules of Civil Procedure to reflect Federal Rule 68's offer of judgment. However, the legislation also asks the Court to extend Federal Rule 68's offer of judgment to plaintiffs.

Senator Kearney sponsored a similar bill last General Assembly. The Senator's original bill, SB 36, was supported by the OACJ because of its limited approach to the offer of judgment tool – extending it only to defendants. The OACJ withdrew its support when the bill was amended to request the Court to consider a bilateral offer of judgment rule, which would allow either a defendant or a plaintiff to utilize offers of judgment. SB 36 died in the Senate Rules Committee.

The manufacturing community, along with many other business groups, continues to be concerned with Senator Kearney's current bill and its bilateral offer of judgment approach. Senate Bill 52 is pending in the Senate Judiciary – Civil Justice Committee and has not been scheduled for another hearing since March.

**F. Employer Intentional Torts**

On July 6, 2011, the Ohio Supreme Court decided *Ward v. United Foundries, Inc.*, holding that there was no insurance coverage for employer intentional torts under the insurance policy at issue. The case is important to all employers and particularly to manufacturers.

In Ohio, employees injured on the job may receive benefits under Ohio's workers' compensation system. They can also sue their employer in court to recover damages for an employer intentional tort. Such lawsuits, which fall outside of the workers compensation system, can be very expensive to defend and can result in large damage awards against employers. For years, insurers have offered a "stop-gap" insurance endorsement to their commercial general liability policies in Ohio, and many employers have purchased them believing that this endorsement provided a duty to defend the insured in the event of an employer intentional tort suit against it.

Such was the case with United Foundries, Inc. until the Ohio Supreme Court held that United Foundries did not have the coverage it thought it had and, thus, its insurer, Gulf Underwriter's Insurance Company, did not have a duty to defend it in the employer intentional tort action. Thus, United Foundries was required to hire attorneys to defend it in the employer intentional tort suit. If the case is

resolved by judgment or settlement, United Foundries will be responsible for that payment as well.

This decision underscores the need for employers to understand their insurance coverage. As a result of this 7-0 decision (with Justice Pfeifer concurring in judgment only), employers with similar stop-gap endorsements should be prepared to handle employer intentional tort actions entirely on their own, including paying all defense costs (such as attorney fees), any settlement, or any judgment rendered in favor of the employee. For more information regarding this decision see the attached summary.

## **Honoring the Legacy of the Late Chief Justice Thomas J. Moyer**

The mission of the Chief Justice Moyer Legacy Fund is to honor the late Chief Justice Thomas J. Moyer by sustaining and enhancing the most important tenets for which he stood, including legal and civic education, dispute resolution, personal integrity, ethics, civility, judicial independence, and the rule of law.

The funds that are raised over the years will be used for ongoing, statewide projects consistent with these ideals. "Justice Moyer provided tremendous leadership to the Ohio Judiciary for nearly 24 years," said OACJ Chairman Ryan Augsburger. "His philosophy of judicial restraint was evident in many favorable decisions for Alliance members." Honor Justice Moyer's legacy by making a contribution. Learn more by visiting <http://www.osbf.net/make-a-gift/moyer-legacy-fund>

## Memorandum

**TO:** Ryan R. Augsburger  
Ohio Manufacturers' Association

**FROM:** Miranda C. Motter  
Bricker & Eckler LLP

**DATE:** September 12, 2011

**RE:** State Issue 1 – Judicial Retirement Age

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This November, Ohio voters will be asked to approve a constitutional amendment that would raise the age at which a state judge could be elected or appointed to 75 from the current age of 70. Ohio judges are not term limited; they are limited by age and may not run if they will be 70 on the day they would have been sworn into the office they are seeking. As a result, when a judge must retire depends strictly on his or birth date and the date of his or her election (re-election) or appointment. The retirement age for the state's judges is established in the Ohio Constitution and consequently, voters need to approve a constitutional amendment to make this change.

If approved, the measure would increase the mandatory retirement age for all judges in the state from 70 to 75 years. If the issue fails, 72 of Ohio's 718 judges would be prevented from running for new terms, according to statistics provided by the Ohio Supreme Court.

**State Issue 1.** The Ohio Constitution, Article IV, Section 6 paragraph C states: "No person shall be elected or appointed to any judicial office if on or before the day when he shall assume the office and enter upon the discharge of its duties he shall have attained the age of seventy years." This section was last amended on November 6, 1973 by Ohio voters.

Issue 1 proposes to:

- (1) Increase the maximum age for assuming elected or appointed judicial office from seventy to seventy-five;
- (2) Eliminate the General Assembly's authority to establish courts of consolidation;<sup>1</sup> and
- (3) Eliminate the Governor's authority to appoint members to the Supreme Court Commission.<sup>2</sup>

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<sup>1</sup> Issue 1 proposes to repeal Article IV, Section 19 of the Ohio Constitution. There are currently no courts of consolidation in Ohio and none have ever been established.

Mr. Ryan Augsburger  
September 12, 2011  
Page 2 of 2

If approved, the amendment would take effect immediately.

**Background.** The late Chief Justice Moyer was a long-time supporter of increasing the mandatory retirement age for Ohio's judges and Representative Matt Huffman (R-Lima), the House Majority Floor Leader, has sponsored two different pieces of legislation over the past few years to facilitate debate on this topic.

Rep. Huffman's most recent effort was House Joint Resolution 1 ("HJR 1")<sup>3</sup> and proponents of the retirement age change included: Ohio Supreme Court Chief Justice Maureen O'Connor, the Ohio Judicial Conference, the Ohio State Bar Association, and the Association of Municipal/County Judges. The Ohio Prosecuting Attorneys Association publicly opposed the measure. Supporters argued that the quality of life and life expectancy rates have improved significantly over the past thirty to forty years and as a result, people are still sound mentally, physically, and intellectually at 70 years of age. The Ohio Supreme Court also identified a number of ways to remove a judge if there are concerns about a particular judge's ability to serve. Besides the normal election cycle where the public can decide, there are both procedural and constitutional methods for the removal of a judge including impeachment in the General Assembly.

According to research provided by Rep. Huffman during the legislative discussion, 18 states have no age limit.<sup>4</sup> Four states set judicial retirement at age 72;<sup>5</sup> seven states at age 75;<sup>6</sup> and one state – Vermont – at age 90. The following twenty states, including Ohio, set judicial retirement at age 70: Alabama, Alaska, Arizona, Connecticut, Florida, Hawaii, Kansas, Louisiana, Maryland, Massachusetts, Minnesota, Missouri, New Hampshire, New Jersey, New York, Pennsylvania, South Dakota, Virginia, and Wyoming.

As previously noted, 10% of Ohio's judges will be impacted if Issue 1 fails. Ohio Supreme Court Justices Paul Pfeifer and Judith Lanzinger both will turn seventy before their terms expire, and consequently, will be prohibited from serving another term on the high court if voters don't approve Issue 1.

HJR 1 was approved by the Ohio General Assembly in June 2011 and will be considered by Ohio voters via Issue 1 on November 8, 2011.

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<sup>2</sup> Issue 1 proposes to repeal Article IV, Section 22 of the Ohio Constitution. The Supreme Court Commission has not been utilized since 1875.

<sup>3</sup> Resolutions generally are formal expressions of opinion and wishes of the General Assembly and do not require approval of the Governor.

<sup>4</sup> Arkansas, California, Delaware, Georgia, Idaho, Kentucky, Maine, Mississippi, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Rhode Island, Tennessee, West Virginia, and Wisconsin.

<sup>5</sup> Colorado, Iowa, North Carolina, and South Carolina.

<sup>6</sup> Illinois, Indiana, Michigan, Oregon, Texas, Utah, and Washington.



**CONTACT**

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**FOR IMMEDIATE RELEASE**

August 31, 2011

**Ohio Manufacturers' Association Endorses Defense of Senate Bill 5**

*Law will give state and local governments needed flexibility for  
controlling costs, managing budgets and providing essential public services*

[Columbus, OH]: The Board of Directors of The Ohio Manufacturers' Association (OMA) has voted to endorse the defense of Senate Bill 5 against the November 2011 voter referendum to repeal the law, according to OMA President Eric Burkland. A 'yes' vote on State Issue 2 upholds the new law.

In support of its endorsement, the OMA Board released the following statement:

“Ohio faces an economic imperative to exert greater controls over spending and to improve efficiency and productivity in the delivery of government services. The OMA supports public policies that lower the cost of providing government services while increasing efficiency and productivity without compromising quality or putting our most vulnerable citizens at risk.

“Senate Bill 5 updates Ohio’s public employee collective bargaining law by modernizing the collective bargaining process and giving state and local governments needed flexibility for controlling costs, managing budgets and providing essential public services”

The OMA is Ohio’s public policy advocacy organization strictly for manufacturing. The mission of the OMA is to protect and grow Ohio manufacturing.

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## Action


Ready to fight for Ohio taxpayers? Please use the tools below to get involved today!



### Sign Up for Updates

Sign Up to learn more and get involved in the campaign for Ohio taxpayers.

[Sign Up >](#)



### Volunteer

Become a volunteer and help us return control of our schools and services to the taxpayers, not the union bosses.


[Volunteer >](#)



### Write a Letter to the Editor

Send in a letter supporting our campaign for taxpayers and tell your story.


[Write >](#)



### Donate Today

Make a generous contribution to help us get our message out.


[Donate >](#)



### Volunteer Activities

Find a call center near you or upcoming door-to-door activities

[Find >](#)



### Request a Speaker

Provide us with the details about an event in your community.

[Request >](#)



Enclosed is my check, made payable to "Building a Better Ohio" for \$ \_\_\_\_\_

I am wiring my donation to "Building a Better Ohio." for \$ \_\_\_\_\_

**Address Instructions**

Checks should be mailed to:      **Building a Better Ohio**  
 PO Box 6590  
 Columbus, OH 43206

**Wiring Instructions**

Bank	Huntington National Bank
Account #	01892779917
Routing # (ACH)	044000024
Routing # (Wire Transfer)	
Customer	<b>Building a Better Ohio</b>
Customer DDA	

I understand that contributions to Friends for a Better Ohio are not deductible as charitable contributions for federal income tax purposes. Contributions from foreign nationals will not be accepted.

Signature: \_\_\_\_\_

Contributions to Building a Better Ohio will be used for grassroots lobbying and other similar activities and, therefore, may not be deductible as business or trade expenses. Please consult with your attorney or accountant concerning how this information applies specifically to your contribution.

**Please Check One:**     Individual Contribution       Corporate Contribution

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Occupation: \_\_\_\_\_ Employer: \_\_\_\_\_

Phone: \_\_\_\_\_ E-mail: \_\_\_\_\_

There are no limits on the amounts that may be contributed to Building a Better Ohio by an individual, corporation, union, or trade association. All contributions will be reported to the Internal Revenue Service on IRS Form 990 as required by law.

Contributions to Building a Better Ohio do not count against an individual's biennial aggregate contribution limit under the Federal Election Campaign Act, as amended.





# Bricker & Eckler LLP

*Prepared for the Ohio Manufacturers' Association*

## MEMORANDUM

**TO:** Ohio Manufacturers' Association  
**FROM:** Bricker & Eckler LLP  
**DATE:** August 5, 2011  
**RE:** Health Care Opt-Out Amendment to Ohio Constitution

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This November, Ohio voters will see on their ballots a proposed amendment to the Ohio Constitution, which purports to have Ohio opt out of the federal “Patient Protection and Affordable Health Care Act of 2010” (the “Health Care Act”), the national health care overhaul enacted last year. The following is a brief explanation of the proposed Amendment, the federal constitutional issues that arise from it, and the possible impact of the Amendment in other areas of law in the event that the Amendment passes and survives constitutional challenge.

### **I. The Text and Purpose of the Amendment**

The Amendment certified for the Ohio ballot proposes to add Section 21 to Article I of the Ohio Constitution. The full text of the proposed constitutional amendment is as follows:

#### **Preservation of the freedom to choose health care and health care coverage**

**Section 21(A)** No federal, state, or local law or rule shall compel, directly or indirectly, any person, employer, or health care provider to participate in a health care system.

**Section 21(B)** No federal, state, or local law or rule shall prohibit the purchase or sale of health care or health insurance.

**Section 21(C)** No federal, state, or local law or rule shall impose a penalty or fine for the sale or purchase of health care or health insurance.

**Section 21(D)** This section does not affect laws or rules in effect as of March 19, 2010; affect which services a health care provider or hospital is required to perform or provide; affect terms and conditions of government employment; or affect any laws calculated to deter fraud or punish wrongdoing in the health care industry.

**Section 21(E)** As used in this Section,

- (1) “Compel” includes the levying of penalties or fines.
- (2) “Health care system” means any public or private entity or program whose function or purpose includes the management of, processing of, enrollment or individuals for, or payment for, in full or in part, health care services, health care data, or health care information for its participants.
- (3) “Penalty or fine” means any civil or criminal penalty or fine, tax, salary or wage withholding or surcharge or any named fee established by law or rule by a government established, created, or controlled agency that is used to punish or discourage the exercise of rights protected under this section.

The purpose of the Amendment is to essentially nullify in Ohio those features of the Health Care Act that mandate the purchase of health insurance. The Amendment would also prohibit Ohio from enacting a health care program similar to the one in Massachusetts, where the state requires a minimum level of insurance coverage.

**The Potential Constitutional Challenge to the Amendment if Passed**

If the Amendment passes, proponents of the federal Health Care Act will undoubtedly seek to have the Amendment declared unenforceable. The primary basis for this position will undoubtedly be the Supremacy Clause of the United States Constitution. The Supremacy Clause states that the “Constitution, and the Laws of the United States which shall be made in Pursuance thereof . . . shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.” (U.S. Const., Art. VI, cl. 2.) Any constitutional challenge to the Amendment (if passed) will undoubtedly rest on the argument that the Supremacy Clause ensures that the Health Care Act trumps any state law or state constitutional amendment that purports to nullify it. In other words, the Supremacy Clause operates to preempt the Ohio Amendment.

The success of the Supremacy Clause argument depends upon the validity of the Health Care Act. The United States Supreme Court has held that the preemptive force of a federal law under the Supremacy Clause applies only if Congress has acted within its Constitutional authority. *See e.g. Wyeth v. Levine*, 555 U.S. 555 (2009). Thus, a federal law is the “supreme Law of the Land” only if it is (1) within Congress’ power to enact and (2) validly enacted pursuant to constitutional procedures. Proponents of the Amendment will argue that the Health Care Act is not entitled to Supremacy Clause preemptive force because it is itself unconstitutional.

So the effect of these two competing sides is this: the effectiveness and enforceability of the Ohio Amendment (if passed) depends upon whether the federal Health Care Act is a valid exercise of the federal Government’s constitutional power. The main

constitutional arguments to attack the Health Care Act's validity are (1) the Commerce Clause and (2) the Tenth Amendment to the U.S. Constitution. As to the Commerce Clause, opponents of the Health Care Act have already argued in federal litigation that the Act exceeds Congress's enumerated Commerce Clause power. That argument has been successful in a Virginia district court case, which is on appeal to the United States Court of Appeals for the Fourth Circuit. Closer to home, however, the Sixth Circuit Court of Appeals (which covers Ohio) has recently upheld the Health Care Act against a Commerce Clause challenge. That decision has been appealed to the United States Supreme Court.

Meanwhile, there is also a potential Tenth Amendment challenge to the Health Care Act that, if successful, would also preserve the Ohio Amendment (if passed). The Tenth Amendment to the federal Constitution says, "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." Opponents of the Health Care Act (and proponents of the Ohio Amendment) can be expected to raise the Tenth Amendment as a basis to say that the mandates included in the Health Care Act are legislative matters that belong, if anywhere, within the power of the States.

### **Impact of the Amendment in Unrelated Areas**

By its own force, the Amendment would not appear to have broad-based impact in other areas. The Amendment is drafted with specific reference to the compelled participation in a health care system, prohibitions on purchasing health care/insurance, and penalties for the sale or purchase of health care/health insurance. And because the Amendment's language "grandfathers" preexisting laws in effect as of March 19, 2010, health care/health insurance-related laws like Medicare, Medicaid, workers' compensation, and ERISA would appear to be unaffected by the Amendment (at least as to the extent those laws existed as of March 19, 2010).

No impact on other areas of law would arise from the Amendment's passage by its own force. But there could be an indirect impact upon the potential for future laws (or state constitutional amendments) that might gain traction in the event that the Amendment survives a constitutional challenge. If the Amendment is upheld on the basis that the federal Government exceeded its enumerated power in the Health Care Act, it is possible that opponents of federal regulation could attack any number of federal laws in a variety of areas. It is unlikely, however, that federal regulation in matters that are indisputably related to interstate commerce (*e.g.*, utility regulation, insurance, transportation) could be successfully challenged by a similar Ohio constitutional amendment. In areas that involve regulation of purely intrastate activity, however, challengers to federal regulation could feel empowered to challenge federal law if the Ohio Amendment passes and survives the inevitable constitutional challenge.

## **PUBLIC POLICY SERVICES REPORT**

### **September 2011**

#### **Overview**

The controversial state budget process concluded June 30, realigning aspects of state government. The legislature has been on recess and is likely to be session only briefly in late September to adopt revisions to state and congressional legislative districts.

OMA policy activity since has been dominated by various energy-related opportunities and threats. Significant electric rate design issues have occurred and are being favorably influenced for manufacturing by the OMA Energy Group. The Governor held an Energy Summit in Columbus September 21-22; OMA has supported development of programming and subject matter experts and is supporting the student program portion of the event

The policy outlook is clouded by the November General Election, most especially State Issue 2, the referendum on collective bargaining legislation enacted early this year.

#### **State Budget**

The budget was signed into law by Governor Kasich with only a few minor vetoes. Revenue collection has been coming in above projections alleviating concerns about the need to make further cuts for the two-year state budget. The state budget included repeal of Ohio's Estate Tax. Governor Kasich has in recent weeks indicated he may want to reopen the budget next year to accomplish his next set of government reforms. Stand by.

#### **AEP-Ohio Rate Case – Precedent Setting**

AEP-Ohio's rate case has taken a dramatic turn over the summer. AEP-Ohio had initially proposed to remain a fully integrated regulated utility with its plan introduced back in March. Through various riders and other regulatory mechanisms this plan would have killed any shopping opportunity for customers now or looking to become active in the electricity marketplace.

In early August AEP-Ohio announced that it would consider selling its generating assets and fully deregulate the electricity generation portion of its business (result: it would look a lot like FirstEnergy). After the OMA initially signaled some concern with this move in the context of a confidential settlement, it was made clear that this was the direction the state was headed and parties needed to be constructive.

The overall structure of the settlement is described in more detail later in your briefing materials but it benefits manufacturing overall. That is not to say some manufacturers will not see large increases; however, the results obtained by the OMA Energy Group are better for the industrial community at large. Due to the OMA Energy Group's participation in the AEP case we are in a position to assist those companies who will see large increases. If your company is one that will see large increases talk to OMA staff to learn about your options.

## **Labor Agenda**

Labor unions and Democrat political leaders have been waging a campaign to repeal SB 5 on the November ballot. Framing the issue as an attack on the civil rights of workers, the pro-repeal side holds a polling advantage. Republican leaders completed the state budget before launching their campaign to defend SB 5. Building A Better Ohio is now up and running and on television and in grassroots in support of state issue 2. Following the OMA board's decision to support issue 2, OMA President Burkland and staff have been participating in campaign tactics.

In recent meetings, state leaders have tied passage of SB 5 to potential state enactment of card check, increase in CAT tax rate to bailout public pension systems (inferring union board management) and a halt to any possible workers' comp reforms. To say the least, the stakes are high for both sides. An effort to negotiate a moderated version of the bill stalled out over the summer. Each side is expected to spend \$20 million.

## **Redistricting / Reapportionment**

Following the decennial census of 2010, authorized state policymakers are required to review and make changes to both congressional districts, known as "redistricting," and to state general assembly legislative districts, known as "reapportionment." The General Assembly redistricts Congressional districts via legislation.

Maps of the proposed boundaries have been released for comment and are included in meeting materials. Both processes should be completed by the end of September.

## **Governor's Energy Summit**

The Ohio Governor's 21 Century Energy & Economic Summit took place September 21 and 22. The OMA was heavily involved with organizers in identifying speakers, nominating 150 individuals for attendance to the event, and paying for college students to attend the event. The OMA staff will be attending the event and watching for trend development and issue identification coming out of the panel discussions.

## **SB 221 Revisit?**

Senate Bill 216 was recently introduced by Senator Kris Jordan (R-Delaware) and would repeal the advanced and renewable energy portfolio in Ohio. The OMA has learned that at this time neither chamber seems terribly interested in modifying or opening up S.B. 221.

## **Storm Water Permits**

Ohio EPA has been considering revisions to its current storm water permit. This is in response to U.S. EPA making motions that it will ratchet up regulations on total dissolved solids (TDS) in waterways. The major contributor to TDS is agricultural and road run-off;; however, Ohio EPA does not regulate either of those. The revisions being contemplated will add thousands of dollars in regulatory expenses to those companies that have storm water permits. The OMA is working with a business coalition to keep Ohio EPA from instituting the proposed permit and revisit the need for the enhanced program.

## **Ozone**

President Obama sent U.S. EPA a communication telling it to withdraw its proposal to tighten the ozone standard. This move was a major victory in keeping regulatory costs in check in Ohio. If the proposed ozone regulations had gone through nearly every county in Ohio would have had enhanced regulations on businesses and consumers. Interesting fact – if U.S. EPA had adopted the lower end of their proposed threshold, then Yellowstone Park would have been in violation.

## **Civil Justice**

The OMA chairs the Ohio Alliance for Civil Justice (OACJ), the coalition of business groups that work together in support of a competitive legal climate. Threats and opportunities are evident. The top opportunity is HB 170 to revise the statute of limitations for actions to be brought against breach of business contracts from 15 years down to 6 years. The top threat comes from SB 143, legislation to adopt a state false claims act which creates a new cause of action, exposing government contractors to more frivolous lawsuits. The proponent: Attorney General Mike DeWine. See counsel's report which will be distributed during the Board meeting.

## **Tax Exemption for Business Allowed**

House Bill 114, the transportation budget, included an amendment to exempt certain petroleum transactions from the commercial activity tax (CAT). See attached memo from OMA Tax Counsel describing the bad precedent and raising questions for the OMA about the appropriate level of OMA advocacy energy.

## **JobsOhio – Economic Development**

Governor Kasich's top priority has been to restructure state economic development functions. Over the quarter the umbrella corporation, JobsOhio, was launched with a rollout intended to describe the new roles. The remaining elements of the state development department are to be renamed the Development Services Agency. Regional partners, such as Columbus 2020 and TeamNEO, will serve as the front door to companies for attraction and retention.

## **Workers' Compensation Policy**

Talk of reforming the BWC continues; however it appears most substantive changes are on hold pending favorable outcome of state issue2, the referendum on Senate Bill 5. Staff has met with BWC leadership on numerous occasions and legislative proposals seem meaningful.

## **Constitutional Study Committee**

HB 188 (Batchelder-R) will create a 32-member task force to convene over a ten-year period with the purpose of reviewing Ohio's constitution to recommend updates. Among suggestions could be legislative term limits, the process for citizen-initiated legislation, workers' compensation privatization, etc. Following endorsement by OMA directors at the June Board meeting, staff has communicated support for the measure.

## Leadership

### NAM President Addresses OMA Board

At its meeting this week, the OMA board of directors heard remarks from National Association of Manufacturers present, Jay



Timmons. As a Chillicothe native and grandson of a paper manufacturer, Timmons has a passion not only for manufacturing but for Ohio manufacturing.

Timmons itemized the pain points of U.S. policy as they relate to manufacturing competitiveness and

indicated that it is 18% more expensive to manufacture in the U.S. than the top industrial countries against which we compete. NAM is currently revising this cost analysis and is retooling its policy blueprint for manufacturers, “The NAM Strategy for Jobs,” which will focus on four critical areas: investment, trade, skills and innovation.

OMA board leadership will seek ways for the association and members to collaborate with the NAM for effective advocacy in 2012.

Timmons made a point to thank all OMA members for their involvement in the OMA, their specific industry associations and in the NAM as they all play a distinct role in addressing their interests.

09/23/2011

### Issue 2 Campaign Encourages Action

As the general election approaches, the campaign to defend Senate Bill 5 is asking supporters of the bill to take action. View the new ad, “**The Facts.**” Share this video with associates, friends and family. The campaign has also created an **Adwatch** for rebuttals to the opposition’s ads.

For more opportunities to engage on the issue, visit the **action center**. The OMA has endorsed a “yes” vote on Issue 2 to uphold the collective bargaining reforms of Senate Bill 5.

09/23/2011

### State Lawmaker District Boundaries Redrawn

The state **apportionment board** today posted revised district maps for state representatives and state senators. Since Republicans controlled the process, the newly proposed boundaries favor Republicans, making the swing districts safer for Republicans, likely safeguarding Republican majorities in the Ohio House and Ohio Senate in coming elections.

Click to view the proposed **house map** and **senate map**. The board will take testimony on Monday and finalize the boundaries shortly thereafter. Learn more about the process at **Reshape Ohio**.

09/23/2011

### Leahy-Smith America Invents Act

On September 16, 2011, President Barack Obama signed into law the Leahy-Smith America Invents Act, which represents the most comprehensive overhaul to the United States patent system since 1836. The new legislation seeks to encourage innovation, create new jobs in the United States, and provide the necessary resources to the United States Patent and Trademark Office (USPTO) to operate efficiently and strengthen the quality of issued patents. Read **more**.

09/23/2011

### House Unveils, Acts on New Congressional Districts

The Ohio House this week unveiled new maps for the state’s congressional districts, and then passed legislation that would create them. The bill, House Bill 319, goes now to the Senate.

The Ohio constitution gives the General Assembly the authority to draw district lines. The redistricting occurs after each decennial U.S. census.

This time around, because of declining population relative to the nation, Ohio is losing two congressional seats (going to 16 seats from the current 18). This situation has made for some nervous U.S. representatives.

The legislation combines the districts of U.S. Rep. Steve Austria (R-Beavercreek) and U.S. Rep. Mike Turner (R-Dayton), as well as those of U.S. Rep. Marci Kaptur (D-Toledo) and U.S. Rep. Dennis Kucinich (D-Cleveland). Thus, there will likely be one contested Republican primary and one contested Democratic primary pitting incumbents.

See a statewide map of the new districts [here](#). Look at each **individual** district map here.

09/16/2011

### **Ohio Voters to Decide Judicial Retirement Age**

This November, Ohio voters will be asked to approve a constitutional amendment that would raise the age at which a state judge could be elected or appointed to 75 from the current age of 70. Ohio judges are not term limited; they are limited by age and may not run if they will be 70 on the day they would have been sworn into the office they are seeking.

Ten percent of Ohio's judges will be impacted if State Issue 1 fails. Ohio Supreme Court Justices Paul Pfeifer and Judith Lanzinger both will turn seventy before their terms expire, and consequently, will be prohibited from serving another term on the high court if voters don't approve Issue 1.

OMA counsel, **Bricker & Eckler**, provides this good [summary](#) to help voters decide.

09/16/2011

### **Women in Manufacturing Symposium Scheduled for October**

More than 150 women executives, managers and supervisors will gather in Cleveland on October 25-26 for the first annual Women in Manufacturing **Symposium** hosted by the Precision Metalforming Association (PMA).

The event will provide an opportunity for participants to share perspectives and network with peers in manufacturing.

Click [here](#) to learn more about the event and to register.

09/16/2011

### **OMA Participates in Issue 2 Press Conference**

OMA President Eric Burkland this week participated in a press conference of business groups supporting passage of Issue 2. Passage of Issue 2 would uphold public sector collective bargaining reforms enacted through Senate Bill 5 earlier this year.

Burkland **said**: "At its June meeting, the OMA's Board of Directors voted to endorse the defense of Senate Bill 5 against the voter referendum to repeal the law. The Board's rationale was this: We are in the midst of very difficult economic times. All of us, as families, companies and governments need to be careful stewards of limited resources. We need to exert greater controls over spending. We need to improve efficiency and productivity in all of what we do. Governments are no different than the rest of us. In the view of our organization, the cost of governments in Ohio is too high. The trajectory of increases in costs is too steep."

09/16/2011

### **U.S. House Passes Bill to Stop NLRB on Boeing Decision**

The House of Representatives this week **passed** a Republican-backed bill that removes the ability of the National Labor Relations Board (NLRB) to order companies to close, relocate or



transfer employment. The Protecting Jobs From Government Interference Act (H.R. 2587) passed the U.S. House of Representatives by a vote of 238-186, largely along party lines.

"Today's vote is just one step in the process of reining in this rogue agency," said NAM President and CEO Jay Timmons.

"Manufacturers thank the members of the House who voted to pass this bill today. To protect jobs the Senate must take up this legislation as soon as possible."

H.R. 2587 addresses the issue of the NLRB trying to tell the Boeing Company that it must build airplanes in Washington State, rather than at its new state-of-the-art facility in South Carolina.

09/16/2011

### The Looming Multiemployer Pension Crash

The Employee Retirement Income Security Act of 1974 (ERISA), a law designed to protect employee pensions, is now bringing about the very harm it was designed to rectify and prevent. ERISA was enacted in response to public demands for pension reform. Americans (and thus Congress) would not tolerate a state of affairs where employees worked for decades believing that they were accruing substantial pension benefits to fund their retirement, only to find out that the promise was illusory. By regulating retirement plans, ERISA sought to ensure that promised pension benefits would be funded and available at retirement.

By failing to amend certain provisions of ERISA in response to changing U.S. economic dynamics that have significantly and adversely impacted the long-term viability of multiemployer pension plans, however, Congress has allowed these plans to become a \$165 billion-plus sinkhole beneath the U.S. economy -- one that grows deeper and wider on a daily basis. Unless Congress acts, ERISA, over the next decade, is likely to recreate, on a hundred-fold or even thousand-fold scale, the harm it was enacted to address and prevent. Read [more](#). From *OMA Connections Partner, Walter & Haverfield LLP*, by *Jeremy J. Sharp*.

09/13/2011

### ODNR Director Leaves to Join JobsOhio

Ohio Department of Natural Resources Director David Mustine will be leaving the department to become general manager for energy at JobsOhio. In this role Mustine will head up Ohio's efforts to develop the state's oil and natural gas deposits in the Marcellus and Utica shales.

These shale plays provide Ohio with a significant economic **opportunity** for Ohio, and will require careful environmental management to assure public support in Eastern Ohio. Mustine brings extensive oil field and energy management experience to his new role.

09/09/2011

### OMA Board of Directors Endorses Defense of SB 5

The OMA board this week **announced** it has voted to endorse the defense of Senate Bill 5 against the November 2011 voter referendum to repeal the law. The board announcement came the day following the last day on which the referendum could have been pulled from the ballot, which would have saved the state a costly (in many ways) ballot battle.

The board said: "Ohio faces an economic imperative to exert greater controls over spending and to improve efficiency and productivity in the delivery of government services. The OMA supports public policies that lower the cost of providing government services while increasing efficiency and productivity without compromising quality or putting our most vulnerable citizens at risk."

Engage in the campaign at <http://betterohio.org>.

09/02/2011

## What Economic Development Resources are Available for Ohio Manufacturers?



That's a question Pam Butcher, President and COO of OMA-member company Pilot Chemical Company, asked the OMA. This week she and members

of her senior management team spent a day in the OMA offices to get some answers.

The Pilot team was briefed by officials from the governor's office, the Ohio Department of Development, and the Ohio Board of Regents, as well as by Mark Engel and Price Finley from OMA counsel Bricker & Eckler.

Governor Kasich is driving significant changes in the state's portfolio of development resources. The OMA will present its members with learning programs about these changes through the remainder of this year. In the meantime, if you have the same question that Pam asked, please contact [Eric Burkland](#) or [Ryan Augsburger](#). *Pictured: Pilot Chemical President Pam Butcher and Senate President Tom Niehaus at the Capitol*

08/26/2011

## Try Your Hand at Drawing District Lines!

Every ten years, following the census, state officials are required to revise Congressional and General Assembly districts to reflect the changes in the state's population. Ohio Secretary of State Jon Husted has created [ReshapeOhio.org](#), a tool for the public to engage in the redrawing of Ohio's political maps.

At the site, you can **learn** more about the redistricting and reapportionment processes, **redraw districts** using mapping technology, formally **submit** your proposed maps, and follow the proceedings of the **Ohio Apportionment Board** and **legislative committees** set up to take testimony.

08/26/2011

## Republican Leaders Invite Senate Bill 5 Compromise to Avoid Referendum Vote

On Wednesday, Governor John Kasich, House Speaker Bill Batchelder and Senate President Tom Niehaus held a **press conference** to discuss their offer to revise the controversial public employee collective bargaining law if opponents agree to scrap their referendum effort.

The Republican leaders in a joint **letter to union leaders**, wrote: "In a matter of days Ohioans will be thrust into a costly political battle that will likely result in lasting scars and bitter divisions at one of the most fragile moments in our state's history." And further: "Outside observers, including Ohio's two largest newspapers, have rightly asked whether that recourse is our only option. It is not."

Opponents to the bill filed sufficient signatures to place a referendum on the November ballot as State Issue 2. The campaign committee for State Issue 2 has until August 29 to ask the Secretary of State to remove the issue from the November ballot. .

If the issue progresses to the ballot, a costly campaign will be waged by both sides.

08/19/2011

## Comments Due to NLRB on Monday Regarding Quickie Elections

The National Association of Manufacturers (NAM) is calling for all manufacturers to communicate directly to the National Labor Relations Board (NLRB) about a potential rule that would disadvantage employers, and thus employees, in union organizing.

The NLRB's proposed "snap election" or "quickie election" regulation would allow unions to begin organizing a workforce secretly and then surprise an employer once enough signatures are collected. This new regulation would give employers as few as 10 days to communicate with their employees between the time they

learn that a union is trying to organize the workforce and the election.

The NAM has created online communication tools to facilitate commenting. Click [here](#) to send a short message directly to the NLRB urging them to oppose the proposed quick-snap election rules. Or, the NAM has prepared detailed, formal comments that you can personalize and send directly to the NLRB. Click [here](#) to send more comprehensive comments.

08/19/2011

### **OMA Members Invited to NAM Congressional Dialogue with Rep. Renacci August 25**

On Thursday, August 25, The Timken Company and the National Association of Manufacturers (NAM) will host a Congressional Dialogue with Representative Jim Renacci (R-OH-16) at Timken's corporate headquarters, located at 1835 Dueber Avenue, SW, Canton, OH, beginning at 9:30 a.m.

The meeting will be chaired by NAM board member, Tim Timken, chairman of The Timken Company. There will be an informal discussion of key issues impacting manufacturing and manufacturers will engage Rep. Renacci on important public policies.

Advanced registration is required. Please contact the NAM's Lisa Gilliana (773) 243-8315 or [lgilliana@nam.org](mailto:lgilliana@nam.org) by close of business on Monday, August 22, to reserve your place. If you have any questions or need additional information, call the NAM's Bill Gill at (847) 549-5867.

08/19/2011

### **Public Forums Announced on State Tax Policy, Workforce Development and Technology**

Ohio House Speaker William Batchelder **announced** this week a series of study committees that will be held in August and September to gain feedback on important issues

facing the state. The public forums will be held in Columbus and at locations around the state.

The **Tax Structure Study Committee** will examine the tax code, including the commercial activity tax (CAT). The Workforce Development Study Committee will examine the state's workforce development programs and policies. A Technology in State Government Study Committee will explore how technology may render greater efficiency and services among the public sector.

Speaker Batchelder is earnest about improvements, thus, we are encouraging manufacturers to attend to inform improvements. Contact OMA's **Ryan Augsburg** to find out how to get involved.

08/19/2011

### **Cabinet Leaders Visit Husky Lima Refinery Complex**

The OMA organized a meeting at the Husky



Lima Refinery this week for the Public Utilities Commission of Ohio (PUCO) Chairman Todd Snitchler and Ohio Department of Natural Resources Director David Mustine.

The event provided a forum for the manufacturers around the Husky complex to provide information on issues related to electricity, natural gas and regulatory policy. Chairman Snitchler and Director Mustine are helping the governor develop the administration's energy policy.

*Pictured RIGHT to LEFT: ODNR Director David Mustine, PUCO Chairman Todd Snitchler, Joe Martino of Husky Lima Refinery, Pat Conrath of Husky Lima Refinery, Kevin Schmidt of the OMA*

08/05/2011

## SB 5: A "Yes" Vote to Uphold

As determined by the state Ballot Board this week, voters will need to vote "yes" on **State Issue 2** to uphold Senate Bill 5, the public sector collective bargaining legislation enacted earlier this year. Secretary of State Jon Husted, who chairs the Ballot Board, stated that, "The Constitution and precedence set forth that the issue should be framed in the „yes" for approval and „no" for rejecting the proposals, and there was nothing that dissuaded me of that issue."

Meanwhile, controversy enveloped the working title of **State Issue 3**, the constitutional amendment intended to block the individual mandate to purchase health care contained in recent federal health care overhaul. Republican board members sought to title the issue, "To preserve the freedom of Ohioans to choose their health care and health care coverage." Democrat board members asked the panel to reconsider the use of the word "freedom." The Secretary of State has until August 30 to finalize the title.

08/05/2011

## Health Care Opt-Out Amendment to Ohio Constitution on Ballot

This November, Ohio voters will be asked to decide if there should be an amendment to Ohio's constitution that nullifies provisions of the federal health care act of 2010.

Aside from whether Ohio citizens should or should not be required to have health care coverage (and other provisions of the proposed amendment), there is the issue of legality: if Issue 3, as this state issue is known, passes, can Ohio law trump federal law?

OMA legal counsel, Bricker & Eckler LLP, has written an excellent **analysis** of the issue to help OMA members understand important legal intricacies as they consider what's best for Ohioans.

08/05/2011

## NAM Urges Manufacturers Take Recess Actions

The National Association of Manufacturers (NAM) has created a **web page** with tools and suggestions for making contact with your members of Congress when they are in their home districts for the August recess, August 8 through September 6. As cliché as it sounds, the truth is: your personal contact does make a difference.

08/05/2011

## Three State Issues on November Ballot

Secretary of State Jon Husted this week **announced** the order for the three certified state ballot issues for the fall's General Election. Issue One will be a constitutional amendment to revise the mandatory retirement age for judges. Issue Two will be the referendum on Senate Bill 5, the public sector collective bargaining reforms. Issue Three will be the Ohio constitutional amendment intended to block enactment of the federal health care reforms.

In the next few weeks the Ohio **Ballot Board** will meet to adopt official language to describe the three issues to voters.

07/29/2011

## NAM Manufacturing Institute to Survey Skills Gaps

Every five years, The Manufacturing Institute (of the National Association of Manufacturers) and Deloitte publish The Skills Gap Report, one of the most quoted studies on the state of the U.S. manufacturing workforce. The report is compiled of data from manufacturers who participate in the Institute's survey.

To ensure the voice of Ohio manufacturers is thoroughly captured in the report, OMA members will receive an email from OMA president Eric Burkland that contains the survey link.

If you're selected to receive the survey, please take 10 minutes to voice how your company is impacted by the shortage of qualified workers with the needed skills, how these shortages are trending, and the business decisions you are making to address the issues.

The results will be published in early October, and we will be sure to report results to OMA members.

07/22/2011

### **SB 5 Unpopular with Ohioans**

Opponents of legislation to limit collective bargaining for public employees, Senate Bill 5, have a 56 - 32 lead in the November referendum, a recent Quinnipiac University **poll** finds. The referendum was certified for the ballot by the Ohio Secretary of State this week.

According to Quinnipiac, "Republicans oppose repeal 56 - 35 percent, while repeal wins 75 - 14 percent support from Democrats and 52 - 33 percent support from independent voters."

The same poll found Governor Kasich's job approval rating dropping among surveyed Ohioans: 50% disapprove – 35 % approve. In a May 18 poll by the same outfit, the spread was 49 – 38.

07/22/2011

### **Partner with State Universities for Research**

The Ohio Board of Regents has created a series of master agreements for use by manufacturers in contracting with public universities to conduct research. The idea is to streamline research and development partnerships between Ohio's manufacturers and the state's institutions of higher learning by providing template agreements. The concept has roots to Strickland's administration, and Chancellor Jim Petro and Attorney General Mike DeWine have elected to build on the foundation.

The Board of Regents wants to know if manufacturers would utilize such agreements.

Your comments are invited. Please contact **Ryan Augsburger**.

1. **Master Agreement**
2. **Sponsored Research Agreement**
3. **Non-Disclosure Agreement**
4. **Testing Agreement**

07/22/2011

### **Economic Development Changes in State Budget**

Ohio's budget bill for the 2012-2013 fiscal biennium contains a number of statutory revisions that impact economic development. The bill creates new tax exemptions, credits and grant programs, as well as extends some existing tax exemptions or credits, and enacts a number of new tax breaks.

**Here** is an excellent summary of the changes prepared by OMA counsel Bricker & Eckler LLP.

07/15/2011

### **Governor Names "JobsOhio" Board**

Governor Kasich this week **appointed** eight individuals to the board of directors of JobsOhio, the newly-created private sector economic development organization. Two directors are leaders of OMA member companies: Bob McDonald, Chairman of the Board, President and CEO, Procter & Gamble, and Steven A. Davis, Chairman of the Board and CEO, Bob Evans Farms.

Six existing economic development organizations have been asked to submit proposals for coordinating development activities around the state. Those entities are Cincinnati USA Partnership, Columbus 2020!, Dayton Development Coalition, Ohio Appalachian Business Council, Regional Growth Partnership and Team NEO.

07/15/2011



## Manufacturers to Discuss Best Practices in Going Global

OMA Connections Partner, PNC Bank, is presenting a **webinar** on Wednesday, August 3 from 10:00 - 11:00 entitled: Going Global: Best Practices from Manufacturers.

The presenters are Mervin Dunn, president and CEO, **Commercial Vehicle Group** and Stan Hasselbusch, president and CEO, **L.B. Foster Company**.

There is no charge to participate.

07/15/2011

## Chris Schmenk New Ohio Development Director

Governor John R. Kasich **announced** that the Ohio Department of Development's General Counsel Christiane (Chris) Schmenk will become the new Director of the Ohio Department of Development, following the abrupt resignation of previous director, James Leftwich.

Legislation creating JobsOhio requires a reorganization of the department. Schmenk now will lead that effort.

Prior to going to the development department, Schmenk served as the Director of External Affairs for the Scott's Miracle-Gro Company. She was an active member of the OMA Government Affairs Committee for many years.

Congratulations Chris!

07/15/2011

## CNBC Ranks Top States for Doing Business

In its fifth annual **study** CNBC scored all states on 43 different metrics in ten key categories of competitiveness developed with input from business groups, including the National Association of Manufacturers and the Council on Competitiveness.

This study ranked Ohio 4th in „infrastructure and transportation“ measured by the value of goods shipped by air, land and water and availability of air travel and quality of roads.

And Ohio ranked 5th, up from 29th last year, in „cost of doing business,“ the highest weighted category, as measured by individual income and property taxes, and business taxes, particularly as they apply to new investments.

The study found Ohio the most improved state, jumping eleven places to 23rd overall due to improvement in the „cost of doing business“ category. The study points to, “A multi-year effort to reform the tax code in the Buckeye State is paying off with a tax structure that welcomes new investment.”

07/15/2011

## Obama Taps Youngstown Mayor as Auto Czar

U.S. Secretary of Labor Hilda Solis announced this week that the Obama administration will continue the Office of Recovery for Auto Communities and Workers. Youngstown Mayor Jay Williams was **named** as its new director. The auto office, created during the 2009 rescue of General Motors and Chrysler, was designed to aid communities who had lost an auto plant. The office had been scheduled to dissolve at the end of June.

Mayor Williams will step down from his Youngstown post August 1, and take on the new position a week later. The mayor is in his second term, and has received national recognition for redevelopment activity in the city.

07/08/2011

## SB 5 Opponents File a Whopping 1.3 Million Signatures

Opponents of collective bargaining reforms contained in Senate Bill 5 **filed** petitions with 1.3 million signatures to place a referendum on the November ballot to prevent the bill from

becoming law. The number of valid signatures needed to get on the ballot is 231,147.

The Columbus Dispatch **notes**: “The last time Ohioans repealed a law through referendum - a 1997 measure reducing workers' compensation benefits - the winning side's vote total was about 1.7 million. More recently, in the last off-year election, a 2009 constitutional amendment to allow casino gambling in Ohio passed with about 1.7 million votes.”

Each side of this issue is expected to spend more than \$20 million to affect the voting outcome.

07/01/2011

### **"Right to Cure" Introduced to Expedite Consumer Litigation**

State Representatives **Lynn Slaby** (R-Copley) and **Ron Young** (R-Painesville) were joined by Ohio Attorney General Mike DeWine to introduce **House Bill 275** to enact a “right to cure” provision in Ohio’s consumer protection law.

Right to cure allows the defendant in a consumer claim to voluntarily offer to remedy the problem before going to trial. If the plaintiff declines the offer and then is awarded a smaller award at trial, the defendant is not liable for paying the plaintiff’s attorney fees incurred after the offer was made (currently required by state law).

“The OMA supports right to cure as a fair and quick method to dispute resolution, without clogging our courts with frivolous litigation,” commented OMA’s Ryan Augsburger, who chairs the Ohio Alliance for Civil Justice. Click for more information on Ohio’s civil justice system.

07/01/2011

### **We Love this Video**

The Society of Manufacturing Engineers has produced a video that celebrates manufacturing. **Check it out.**

07/01/2011

### **Auto Supplier Now Makes Body Parts for Humans, Too**

**Astro Manufacturing**, Eastlake, was recently spotlighted **in the news** for its diversification from automotive supply to manufacturing for various markets, including medical devices used in human bodies. It is one illustration of Northeast Ohio manufacturing innovation.

According to Rich Peterson, Vice President, about 50% of its business is now in medical devices, including artificial sockets and joints, spinal implants and heart pumps. Astro is currently looking to fill 30 new jobs to support its growth.

07/01/2011

### **General Assembly Heads Home for Summer**

State lawmakers, having completed business on the state budget Thursday, left Columbus to begin summer recess. The Senate is expected to return for one day in mid-July to elect replacements to vacant seats.

Here's the session **calendar** of the remainder of 2011. Senate Bill 5, the collective bargaining referendum, and workers’ compensation reform considerations are expected to be the leading policy issues of interest to manufacturers for the second half of the year.

07/01/2011

**Miscellaneous Legislation of Interest to Manufacturers**  
**Prepared by: The Ohio Manufacturers' Association**  
**Report created on September 26, 2011**

- HB1**      **JOBSONIO** (DUFFEY M) To authorize the Governor to create JobsOhio, a nonprofit economic development corporation.  
**Current Status:** 2/18/2011 - **SIGNED BY GOVERNOR**; Eff. 2/18/2011  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_1](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_1)
- HB2**      **PERFORMANCE AUDITING** (SNITCHLER T) To require performance auditing of most state agencies.  
**Current Status:** 3/8/2011 - Referred to Committee Senate Finance  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_2](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_2)
- HB9**      **UNIFORM COMMERCIAL CODE** (COLEY II W) To adopt revisions to the general provisions and documents of title portions of the Uniform Commercial Code that were recommended by the National Conference of Commissioners on Uniform State Laws.  
**Current Status:** 3/30/2011 - **SIGNED BY GOVERNOR**; Eff. 6/29/2011  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_9](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_9)
- HB48**     **CORPORATIONS** (MECKLENBORG R, CARNEY J) To make changes to the law governing corporations dissenting shareholders, the dissolution of a corporation, rights to indemnification or advancement of expenses, directors' fiduciary duties, and recording of corporate mortgages.  
**Current Status:** 6/22/2011 - Senate Judiciary - Civil Justice, (Second Hearing)  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_48](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_48)
- HB55**     **CAMPAIGN CONTRIBUTIONS** (GOYAL J, MURRAY D) To regulate independent expenditures by corporations, labor organizations, and entities the primary purpose of which are to accept corporate or labor organization funds for use in making independent expenditures and to prohibit contributions made for the purpose of influencing a ballot issue from being made to or accepting by an entity that is not subject to campaign finance reporting requirements.  
**Current Status:** 2/1/2011 - Referred to Committee House State Government and Elections  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_55](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_55)
- HB82**     **PUCO-MOTOR VEHICLE REGULATIONS** (GROSSMAN C, BOOSE T) To prescribe the applicability of federal regulations adopted by the Public Utilities Commission of Ohio to certain motor vehicles.  
**Current Status:** 3/16/2011 - House Public Utilities, (Second Hearing)  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_82](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_82)
- HB94**     **SMALL BUSINESS RULE REVIEW PROCESS** (ROEGNER K, THOMPSON A) To adopt a new small business rule review process.  
**Current Status:** 2/24/2011 - House Economic and Small Business Development, (Second Hearing)  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_94](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_94)
- HB102**    **LABOR REQUIREMENTS** (YOUNG R) To prohibit state agencies from requiring or prohibiting certain labor requirements as a condition of performing public works and to prohibit the appropriation of state funds for public works when political subdivisions require



or prohibit certain labor requirements.

**Current Status:** 5/11/2011 - **REPORTED OUT AS AMENDED**, House Commerce & Labor, (Fourth Hearing)

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_102](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_102)

**HB112 ENGINE COOLANT/ANTIFREEZE (GROSSMAN C, LETSON T)** To require the inclusion of a bittering agent in engine coolant and antifreeze.

**Current Status:** 5/18/2011 - **REPORTED OUT**, House Transportation, Public Safety and Homeland Security, (Fourth Hearing)

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_112](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_112)

**HB114 TRANSPORTATION BUDGET (MCGREGOR R)** To make appropriations for programs related to transportation and public safety for the biennium beginning July 1, 2011, and ending June 30, 2013, and to provide authorization and conditions for the operation of those programs.

**Current Status:** 7/13/2011 - HB114 had a provision amended by SB187

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_114](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_114)

**HB123 WORKERS' COMPENSATION BUDGET (HOTTINGER J)** To allow the administrator of Workers' Compensation to waive criteria certain public employers must satisfy to become self-insuring employers; to require bills for medical and vocational rehabilitation services in claims that are ultimately denied to be paid from the Surplus Fund Account under specified circumstances; to make appropriations for the Bureau of Workers' Compensation and for the Workers' Compensation Council for the biennium beginning July 1, 2011, and ending June 30, 2013; and to provide authorization and conditions for the operation of the Bureau's and the Council's programs.

**Current Status:** 4/25/2011 - **SIGNED BY GOVERNOR**; Some provisions eff. 4/25/11; others 7/29/11

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_123](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_123)

**HB124 INDUSTRIAL COMMISSION BUDGET (HOTTINGER J)** To set appropriations for the Industrial Commission for the biennium beginning July 1, 2011, and ending June 30, 2013, and to provide authorization and conditions for the operation of Commission programs.

**Current Status:** 4/25/2011 - **SIGNED BY GOVERNOR**; Eff. 4/25/11

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_124](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_124)

**HB153 BIENNIAL BUDGET (AMSTUTZ R)** To make operating appropriations for the biennium beginning July 1, 2011, and ending June 30, 2013, and to provide authorization and conditions for the operation of state programs.

**Current Status:** 6/30/2011 - **SIGNED BY GOVERNOR**; Effective 6/30/2011; some sections different dates, 7 line item vetos

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_153](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_153)

**HB168 CAREER TRAINING WORKFORCE DEVELOPMENT GRANT (CAREY, JR. J)** To establish the Career Training Workforce Development Grant Program and to allocate a portion of casino license fees to finance the program.

**Current Status:** 4/7/2011 - House Economic and Small Business Development, (Second Hearing)

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_168](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_168)

**HB170 ACTIONS ON CONTRACTS (MECKLENBORG R)** To shorten the period of limitations for actions upon a contract in writing.

**Current Status:** 6/28/2011 - Referred to Committee Senate Judiciary - Civil Justice

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_170](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_170)

**HB188**      **OHIO CONSTITUTIONAL MODERNIZATION COMMISSION** (BATCHELDER W) To establish the Ohio Constitutional Modernization Commission and to make an appropriation.

**Current Status:** 7/15/2011 - **SIGNED BY GOVERNOR**; Eff, 10/17/2011

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_188](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_188)

**HB199**      **STATE BUDGET-AGGREGATE REVENUE** (BECK P) To prohibit the Governor from proposing and the General Assembly from enacting a state budget with aggregate general revenue fund appropriations that exceed ninety-five per cent of the total money received in aggregate revenue.

**Current Status:** 4/12/2011 - Referred to Committee House Financial Institutions, Housing and Urban Development

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_199](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_199)

**HB200**      **INCOME TAX DEDUCTION FOR NET CAPITAL GAINS** (BECK P) To allow an income tax deduction of up to ten thousand dollars for net capital gains.

**Current Status:** 4/12/2011 - Referred to Committee House Ways and Means

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_200](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_200)

**HB238**      **REFINERS/WHOLESALEERS OF PETROLEUM** (GERBERRY R, HAGAN R) To require refiners and wholesalers of petroleum products to submit monthly reports to the Director of Commerce regarding petroleum products shipped into, used in, and exported from this state and to create the Gasoline Practices Oversight Commission for the period ending December 31, 2013.

**Current Status:** 5/25/2011 - Referred to Committee House State Government and Elections

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_238](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_238)

**HB240**      **OHIO SUSTAINABLE FOOD ADVISORY COUNCIL** (WEDDINGTON C, AMSTUTZ R) To create the Ohio Sustainable Food Advisory Council to address program and policy considerations regarding the development of a sustainable food economy in Ohio.

**Current Status:** 5/25/2011 - Referred to Committee House Agriculture and Natural Resources

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_240](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_240)

**HB250**      **PORTABLE ELECTRONICS INSURANCE** (HACKETT R) To establish requirements and procedures for issuing portable electronics insurance.

**Current Status:** 9/27/2011 - House Insurance, (Fourth Hearing)

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_250](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_250)

**HB264**      **SUNSET REVIEW COMMITTEE** (BURKE D, GROSSMAN C) To implement the recommendations of the Sunset Review Committee by abolishing, terminating, transferring, or renewing various agencies and by reestablishing the Sunset Review Committee but postponing its operation until the 131st General Assembly, to terminate the operation of certain provisions of this act on December 31, 2016; to declare an emergency.

**Current Status:** 6/22/2011 - House State Government and Elections, (Second Hearing)

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_264](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_264)

- HB318 ELIMINATE MARCH PRIMARY ELECTIONS** (BLESSING L, O'BRIEN S) To eliminate March primary elections in presidential election years by requiring all primary elections to be conducted on the first Tuesday after the first Monday in May, and to declare an emergency.  
**Current Status:** 9/21/2011 - Senate Government Oversight & Reform, (Third Hearing)  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_318](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_318)
- HB319 CONGRESSIONAL DISTRICT BOUNDARIES** (HUFFMAN M) To establish Congressional district boundaries for the state based on the 2010 decennial census of Ohio.  
**Current Status:** 9/21/2011 - Consideration of Senate Amendments; Concurred 60-35  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_319](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_319)
- HCR10 F-35 JOINT STRIKE FIGHTER** (BUBP D, MARTIN J) To urge the Congress of the United States to continue the full funding and production of the F-35 Joint Strike Fighter.  
**Current Status:** 5/18/2011 - **REPORTED OUT**, House Veteran's Affairs, (Second Hearing)  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HCR\\_10](http://www.legislature.state.oh.us/bills.cfm?ID=129_HCR_10)
- HCR21 PENSION BENEFITS-RETIRED STEELWORKERS** (SLESNICK S, RAMOS D) To declare the state of Ohio's support of its steelworkers in urging the President and the Congress of the United States to ensure that the Pension Benefit Guarantee Corporation is fully funded and properly administered to pay pension benefits to retired steelworkers and their spouses.  
**Current Status:** 6/8/2011 - Referred to Committee House Health and Aging  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HCR\\_21](http://www.legislature.state.oh.us/bills.cfm?ID=129_HCR_21)
- SB2 REGULATORY REFORM** (HUGHES J) To evaluate the economic impact of agency rules and regulations on small business in Ohio.  
**Current Status:** 3/4/2011 - **SIGNED BY GOVERNOR**; Eff. 6/7/2011; some sections 1/1/2012  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_SB\\_2](http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_2)
- SB11 GOVERNMENT REGULATION PROCESS** (CAFARO C) To enact the Common Sense Regulation Act to improve state agency regulatory processes, especially as they relate to small businesses, to require state departments to develop customer service training programs, and to require the Director of Environmental Protection to provide environmental regulatory compliance assistance to small businesses.  
**Current Status:** 2/2/2011 - Referred to Committee Senate Government Oversight & Reform  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_SB\\_11](http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_11)
- SB12 SMALL BUSINESS SET ASIDE** (KEARNEY E) To generally require that state agencies set aside a certain amount of purchases for which only small business enterprises may compete.  
**Current Status:** 2/2/2011 - Referred to Committee Senate State & Local Government & Veterans Affairs  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_SB\\_12](http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_12)
- SB73 NONBEVERAGE FOOD MANUFACTURERS** (MANNING G) To allow manufacturers of nonbeverage food products to purchase at wholesale beer and intoxicating liquor from A

and B liquor permit holders.

**Current Status:** 4/21/2011 - **SIGNED BY GOVERNOR**; Eff. 7/22/2011

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_SB\\_73](http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_73)

**SB89 LABOR REQUIREMENTS (JORDAN K)** To prohibit state agencies from requiring or prohibiting certain labor requirements as a condition of performing public works and prohibit the appropriations of state funds for public works when political subdivisions require or prohibit certain labor.

**Current Status:** 3/8/2011 - Referred to Committee Senate Joint Committee on Agency Rule Review

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_SB\\_89](http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_89)

**SB98 FEDERAL IMMIGRATION LAWS (STEWART J)** To direct the Attorney General to pursue a memorandum of agreement that permits the enforcement of federal immigration laws in this state by law enforcement officers.

**Current Status:** 4/13/2011 - Senate State & Local Government & Veterans Affairs, (First Hearing)

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_SB\\_98](http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_98)

**SB140 BITTERING AGENT IN ENGINE COOLANT (BACON K, SKINDELL M)** To require the inclusion of a bittering agent in engine coolant and antifreeze.

**Current Status:** 4/12/2011 - Senate Judiciary - Criminal Justice, (First Hearing)

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_SB\\_140](http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_140)

**SB143 RECOVERY-FRAUD AGAINST THE STATE (HUGHES J, OELSLAGER S)** To provide for the recovery of damages and civil penalties for defrauding the state of money or property and to authorize private persons to bring qui tam civil actions in the name of the state to remedy the frauds.

**Current Status:** 9/21/2011 - Senate Judiciary - Civil Justice, (Third Hearing)

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_SB\\_143](http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_143)

**SB171 SUNSET REVIEW COMMITTEE RECOMMENDATIONS (GILLMOR K)** To implement the recommendations of the Sunset Review Committee by abolishing, terminating, transferring, or renewing various agencies and reestablishing the Sunset Review Committee but postponing operation until the 131st General Assembly, and to declare an emergency.

**Current Status:** 6/30/2011 - **SIGNED BY GOVERNOR**; Eff. 6/30/2011

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_SB\\_171](http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_171)

**SB193 SCRAP METAL DEALERS (SEITZ B)** To require scrap metal dealers to take and keep as part of the sales record a photograph of each person selling or giving an article to the dealer.

**Current Status:** 9/27/2011 - Senate Insurance, Commerce & Labor, (First Hearing)

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_SB\\_193](http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_193)

**SB200 EDISON JOBS DEVELOPMENT PROGRAM (HUGHES J)** To create the Edison Jobs Development Program within the Department of Development and to make an appropriation.

**Current Status:** 9/20/2011 - Referred to Committee Senate Finance

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_SB\\_200](http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_200)

**SB217 MARCH PRIMARY ELECTIONS (FABER K)** To eliminate March primary elections in

presidential election years by requiring all primary elections to be conducted on the first Tuesday after the first Monday in May, and to declare an emergency.

**Current Status:** 9/20/2011 - Referred to Committee Senate Government Oversight & Reform

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_SB\\_217](http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_217)

**SB224**      **WRITTEN CONTRACTS (OBHOF L)** To shorten the period of limitations for actions upon a contract in writing.

**Current Status:** 9/20/2011 - Referred to Committee Senate Judiciary - Civil Justice

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_SB\\_224](http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_224)

**SCR10**      **CONSUMER PROTECTION ACT (TURNER N)** To request the Commissioners of the United States Commodity Futures Trading Commission act with all possible, yet prudent, haste to develop and implement the uniform transparency rules and speculative trading limits authorized under the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010.

**Current Status:** 6/15/2011 - Senate Financial Institutions, (First Hearing)

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_SCR\\_10](http://www.legislature.state.oh.us/bills.cfm?ID=129_SCR_10)

**JON HUSTED**  
Ohio Secretary of State

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# Reshaping Ohio's Legislative Boundaries

*A public service of the Legislative Task Force on Redistricting, the Ohio Apportionment Board and Ohio Secretary of State Jon Husted*

RESHAPE OHIO








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## General Assembly Committees

The leaders in the Ohio House of Representatives and the Ohio Senate have established special redistricting committees in order to gather testimony from constituents around the state regarding the drawing of new Congressional Districts for Ohio – the [House Subcommittee on Redistricting](#) and the [Senate Select Committee on Redistricting](#).


### Members of the House Subcommittee on Redistricting

Name	Party	Position	Name	Party	Position
 <a href="#">Matt Huffman</a>	R	Chair	 <a href="#">Tom Letson</a>	D	Ranking Minority Member
 <a href="#">Courtney Combs</a>	R	Member	 <a href="#">Kathleen Clyde</a>	D	Member
 <a href="#">Mike Dovilla</a>	R	Member	 <a href="#">Vernon Sykes</a>		Member
 <a href="#">Cheryl Grossman</a>	R	Member			

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### Members of the Senate Select Committee on Redistricting


Name	Party	Name	Party
 <a href="#">Keith Faber</a>	R	 <a href="#">Tom Sawyer</a>	D
 <a href="#">Larry Obhof</a>	R	 <a href="#">Shirley Smith</a>	D



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	<a href="#">Scott Oelslager</a>	R			
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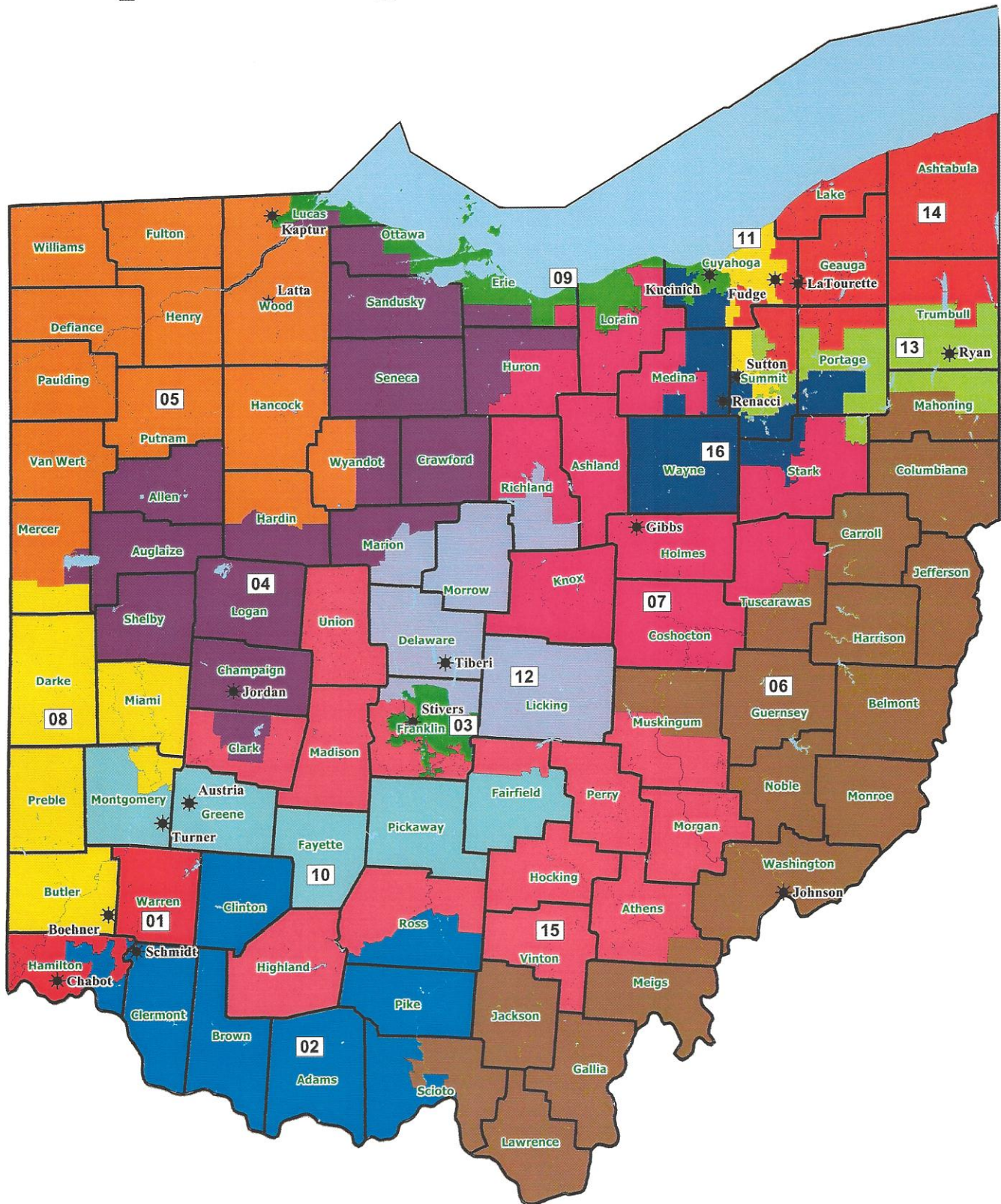
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# Proposed Congressional Districts





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# Reshaping Ohio's Legislative Boundaries

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## Apportionment Board

The Ohio Constitution designates five officials who are responsible for adopting General Assembly districts, known as the Ohio Apportionment Board.

### Members of the Apportionment Board

Name	Party	Position	Name	Party	Position
 <a href="#">Governor John Kasich</a>	R	Chair	 <a href="#">Auditor of State David Yost</a>	R	Vice Chair
 <a href="#">Secretary of State Jon Husted</a>	R	Member	 <a href="#">Representative Armond Budish</a>	D	Member
 <a href="#">Senator Thomas E. Niehaus</a>	R	Member			



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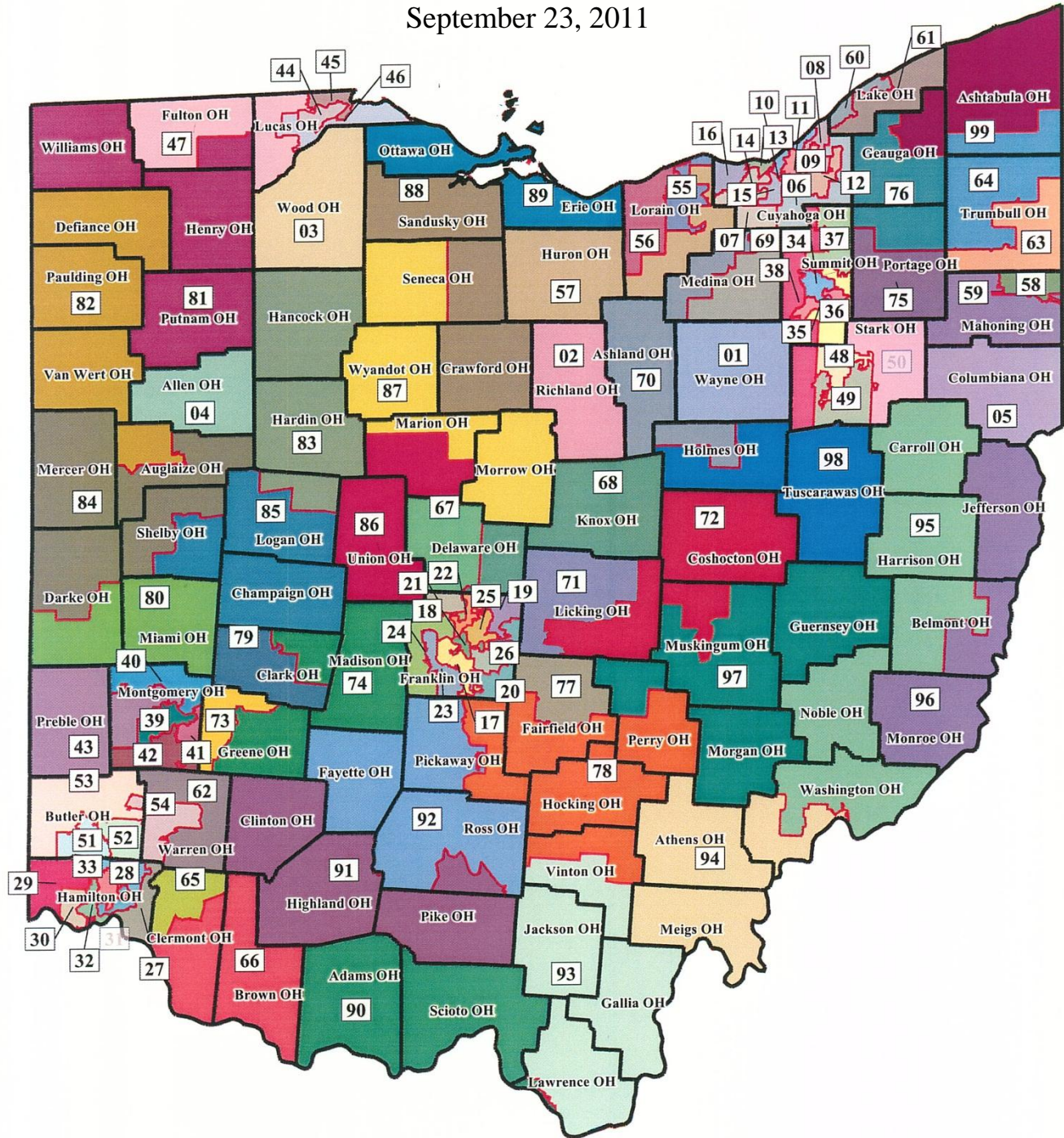
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# Map of Proposed Ohio House Districts

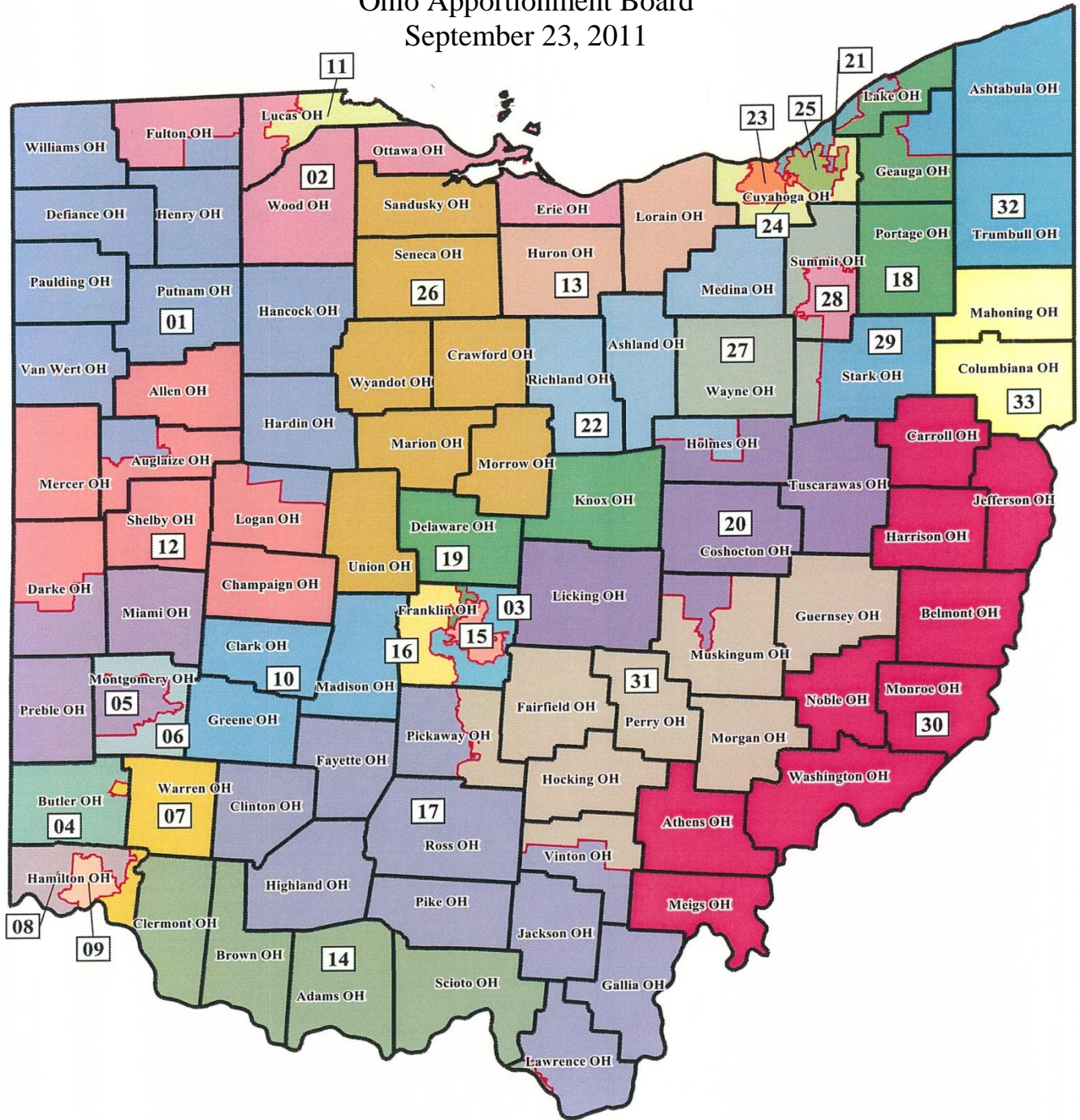
Submitted by  
Ray DiRossi & Heather Mann  
Joint Secretaries to the  
Ohio Apportionment Board  
September 23, 2011





# Map of Proposed Ohio Senate Districts

Submitted by  
Ray DiRossi & Heather Mann  
Joint Secretaries to the  
Ohio Apportionment Board  
September 23, 2011





To: OMA Energy Committee  
From: Kevin Schmidt, OMA Staff  
Re: OMA Energy Committee PPS Report  
Date: 9/28/2011

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## **1. Energy Summit**

Please see the LB article regarding Governor Kasich's energy summit for a summary of the event and outcomes.

## **2. Economic Development Rate Tariff**

Earlier this year the PUCO put forth a proposal to provide discounted rates for businesses putting new investments in Ohio. The OMA commented on this proposal and noted that the thresholds for discounts are not in line with a typical capital investment, that the proposal could result in existing Ohio businesses subsidizing their competitors if they choose to locate in Ohio, and that often capital investments come with no jobs, among other issues.

The OMA also provided oral arguments before the full Commission to this effect and discussed its plans to perform an economic study to inform the debate on how discounted rates should be set. The study, through the Cleveland State University, will identify which industries are particularly electricity sensitive and have a large positive effect on Ohio's economy. Additionally the study will provide benchmarking data on what a competitive rate is so it is set appropriately.

This study will be completed in early 2012.

## **3. AEP-Ohio Goes to the Market**

Through a settlement, AEP-Ohio is seeking to transition its business from a vertically integrated regulated model to a deregulated model like FirstEnergy. The significance of this event cannot be understated. It will affect electricity prices in AEP's service territories for years to come.

The OMA signed onto the settlement after a number of provisions were inserted to improve the outcomes for manufacturers. Some of those include:

- Shopping credits for small manufacturers;
- Rate design mechanisms to improve prices for manufacturers;
- Specific commitment by AEP to explore on-site generation at manufacturing facilities;
- Economic development fund of \$5 million per year to assist manufacturers and businesses during the transition.

OMA members who have elected to actively participate in the OMA Energy Group have all received specific bill analyses for 2012.

## **4. OMA Energy Group**

To have an active manufacturing voice in proceedings at the PUCO, the OMA board of directors supported the creation of the OMA Energy Group.

The OMA Energy Group is a vehicle for manufacturers to combine resources and provide a voice in litigation and policy development at the PUCO.

The current framework does not promote long-term business planning at the PUCO and parties, generally adversarial, negotiate short term outcomes to individual rate cases. This short term focus has resulted in 10 years worth of deferred utility costs and unnecessarily high earnings thresholds for utilities. The effect: Ohio customers will be facing proposals for steep price increases in the foreseeable future. For example, AEP-Ohio seeks 10% + increases for many industrial customers.

More about the OMA Energy Group:

<http://www.ohiomfg.com/products/oma-energy-group/>

# The Ohio Governor's 21st Century Energy & Economic Summit

September 21–22, 2011 ■ Columbus, Ohio

## AGENDA

### Wednesday, September 21, 2011

6:30-8:30 A.M.	Registration and Continental Breakfast
8:30-8:45	<b>Welcome Remarks</b> Dr. E. Gordon Gee (President, The Ohio State University) Dr. Jeff Wadsworth (President & CEO, Battelle) John R. Kasich (Governor, The State of Ohio)
8:45-9:15	<b>Keynote Address</b> <b>Ohio and the 21st Century Global Energy Economy</b> Dr. Joseph A. Stanislaw (The JAStanislaw Group LLC, Independent Senior Advisor, Energy and Sustainability, Deloitte LLP)
<b>Powering the Future of Ohio's Economy</b>	
9:15-10:45	<b>Power Generation, Transmission, Demand, and Efficiency</b>
10:45-11:45	<b>Coal</b>
11:45-12:30	Lunch
12:30-1:30	<b>Wind, Solar, and Efficiency: The Role of Renewables in Ohio's 21st Century Economy</b>
<b>Impact of the Marcellus and Utica Shales on the Ohio Economy</b>	
1:30-3:00	<b>Upstream</b>
3:00-3:30	Break
3:30-4:30	<b>Midstream, Downstream, and Feedstock Opportunities</b>
4:30-5:30	<b>Environment, Technology, and Community Impacts</b>
5:30-5:50	<b>Keynote Address</b> <b>Reforming Ohio's Regulations for a 21st Century Economy</b> Mary Taylor (Lt. Governor, The State of Ohio)
6:00-8:00 P.M.	<b>Cocktails &amp; Networking Reception</b>

### Thursday, September 22, 2011

6:30-8:15 A.M.	Registration and Continental Breakfast
8:15-8:45	<b>Keynote Address</b> <b>Human Capital, Education, and Energy: The Keys to Sustained Economic Growth</b> Dr. Jeff Wadsworth (President & CEO, Battelle)
<b>The Future of Ohio's Transportation Industry</b>	
8:45-9:45	<b>Alternative Transportation Fuels</b>
9:45-10:45	<b>Ohio Transportation Manufacturing Industry</b>
<b>Planning Ohio's 21st Century Energy Policy (Concurrent Panels)</b>	
11:00-12:30	<b>Track 1. Regulation and Incentives</b> <b>Track 2. Human Capital, Education, and Energy</b> <b>Track 3. Ohio Manufacturing</b> <b>Track 4. Energy, Natural Resources, and the Environment</b>
12:30-1:15	Lunch
<b>Ohio's 21st Century Energy Policy</b>	
1:15-2:15	<b>Energy Security and the Environment</b>
2:15-2:45	<b>Closing Remarks</b> John R. Kasich (Governor, The State of Ohio)
3:00 P.M.	<b>Summit Concludes</b>



## Energy Management

### Governor's Energy Summit Sets Stage for Ohio Energy Policy

Governor Kasich this week hosted a groundbreaking two-day summit on energy and the economy. The event, managed by Battelle and held at The Ohio State University, brought together a remarkable array of subject matter experts on a broad base of energy topics. The governor's aim (cheered by the OMA) with the event and its follow-up is to develop a comprehensive state energy policy.

#### Shale Gas:

Multiple panels discussed the opportunity that Ohio has to develop the Marcellus and Utica shale formations' potentially enormous economic impact on Ohio. Karen Wright of OMA member company Ariel Corporation, a manufacturer of natural gas compressors, discussed the opportunities for manufacturers in the supply chain. Aubrey McClendon, CEO of Chesapeake Energy, noted that the potential for the Utica shale to hold oil makes Ohio's resources particularly valuable. (Video Links: **Upstream; Midstream, Downstream, and Feedstock Opportunities; Environment, Technology, and Community Impacts**)

#### Automotive:

The summit conducted two panels focused on transportation. The **Alternative Transportation Fuels** panel heard from an ethanol producer and automotive and truck manufacturers. The panel discussed how shale gas opportunities in Ohio could help fuel the development of compressed natural gas as a transportation fuel, as well as the continuing advancements in vehicle electrification.

The **Transportation Manufacturing Industry** panel focused on what the industry needs in Ohio to be more competitive. Representatives from Chrysler, Ford, and Honda all focused on the need for reliable, affordable power, as well as an increased focus on energy efficiency in operations. Rick Schostek, Vice President of Honda of America Manufacturing, noted that Ohio's state level business tax code is already

favorable to manufacturing and should be protected.

#### Electric Utilities:

Electric utility issues came up throughout the conference. There was a clear consensus that SB 221 is generally working. Panelists and the governor indicated that co-generation at manufacturing facilities should perhaps qualify as renewable energy under the bill's Renewable Portfolio Standards.

The electric utility panelists disagreed about whether new power plants are needed in Ohio and how they would be funded. (Video Links: **Power Generation, Transmission, Demand, and Efficiency; Coal; Wind Solar, and Efficiency: The Role of Renewables in Ohio's 21st Century Economy**)

#### Energy Security:

To see the conference's most impassioned promoter of manufacturing, watch James L. Wainscott, Chairman, President and CEO, AK Steel Corporation, on the **Energy Security and the Environment panel**. The panel discussion contains an articulate framing of the issues and opportunities for the state to strengthen its energy security.

A link to all conference videos can be found [here](#).

09/23/2011

### OMA Members Support Portman Energy Efficiency Bill

This week OMA member companies joined together to **urge** Senate passage of S. 1000, the Energy Savings and Industrial Competitiveness Act (ESIC). The bill is sponsored by Senator Rob Portman (R-Ohio) and Jeanne Shaheen (D-NH). ESIC cleared the Senate Energy and Natural Resources Committee by a vote of 18-3 earlier this year.

The bill would provide incentives for building-efficiency upgrades by expanding the U.S. Department of Energy's loan guarantee program for businesses. This provision would help manufacturers reduce energy use by



establishing a revolving loan program for efficiency upgrades.

The bill also would strengthen national energy-efficient building codes and require the federal government, the largest energy user in the country, to adopt energy-saving techniques.

In a letter to Senate leadership the companies wrote: "The private sector, from small contractors to large manufacturers, is looking for investment opportunities suited to today's fast changing global economy. Making buildings more energy efficient cuts costs, offers market beating investment returns, and protects companies from volatile energy prices. Removing barriers to building efficiency can unlock job-creating business investment."

09/16/2011

### **OMA Testifies on Economic Development Electric Rates**

The OMA's Kevin Schmidt provided oral arguments before the Public Utilities Commission of Ohio (PUCO) this week on its proposal to implement an economic development tariff for electricity. The proposal would provide discounts for businesses that invest in Ohio with a certain level of new jobs or capital investments.

Schmidt expressed concern that the proposal could result in existing Ohio businesses subsidizing competitors new to the state. You can find the OMA's full comments to the proposal [here](#) and [here](#).

Related to this issue, the OMA has commissioned a study by the Cleveland State University to develop an economic analysis for economic development rates. The study will look at which industries in Ohio are most sensitive to energy prices and which industries provide the most robust economic effect.

Additionally, the study will review electricity rates of states against which Ohio competes to provide accurate benchmarking data. The analyses will help identify how Ohio can

structure more competitive, job-creating electric rates.

09/16/2011

### **AEP Moves to Settle Rate Case**

AEP-Ohio filed a joint **stipulation** this week that if approved would resolve its pending rate case. The result of the stipulation will see AEP-Ohio move its business model away from regulated rates and toward market-based rates. This move will have long-lasting effects on Ohio.

The OMA Energy Group was a signatory party on this stipulation. The stipulation avoids years of litigation and uncertainty and benefits manufacturing overall. The OMA Energy Group worked to ensure that the broadest group of manufacturers benefited from the stipulation and that its provisions did not discriminate based on a manufacturer's size.

Most manufacturers will see smaller increases than those initially proposed by AEP-Ohio. In addition to improved rates for most manufacturers, the OMA Energy Group supported a provision that provides \$5 million a year of AEP-Ohio shareholder dollars to mitigate rate increases for those hardest hit by rate increases.

Here is a **memo** describing the stipulation in more detail.

09/09/2011

### **Legislation Introduced to Repeal Advanced/Renewable Energy Requirements**

Senator Kris Jordan (R-Delaware) introduced **Senate Bill 216** to repeal the mandate on Ohio's electric utilities to generate 25% of their electricity from advanced and renewable resources by 2025. These provisions were inserted into state law in 2008 as part of an overall restructuring of Ohio's energy policy (Senate Bill 221).

At the urging of the OMA and some other consumer groups, **Senate Bill 221** included a safety-valve provision that lets utilities avoid the

mandate if it would raise electricity rates by a specific triggering amount. The OMA supported the overall framework of Senate Bill 221 as a prudent investment in advanced and renewable energy technologies in Ohio, while protecting against unaffordable cost increases.

09/09/2011

### Ohio Supreme Court Sides With Manufacturers

The Ohio Supreme Court recently **ruled** that FirstEnergy unlawfully and unreasonably terminated contracts with a number of manufacturers. The dispute stretches back to 2008 when Toledo Edison prematurely terminated electricity contracts with the manufacturers in February of that year, instead of the contractually specified December.

09/02/2011

### OMA Cost-Saving Electricity Purchasing Pool Still Open

If you have operations in AEP-Ohio, DP&L, Duke Energy, or FirstEnergy, and your electricity is either not under contract or your contract expires in 2011, ask OMA for a no-obligation pricing offer in its **electricity purchasing pool**.

OMA is putting together a significant shopping block that is anticipated to get a competitive fixed price for a multi-year term; early reactions to our block by retail electricity suppliers are very favorable.

Ask for a no-obligation pricing offer by submitting this **letter of authorization**. OMA members who submit letters of authorization will receive a no-obligation offer to consider around the end of September. Act now so we can count your load in the shopping block.

If your current contract expires after 2011 and you are interested in getting an OMA pool quote later, let us know and we'll get you in the pool database.

Questions? Contact OMA's **John Laughman**.

08/26/2011

### OMA Electricity Buying Pool Going Out for Bids – Still Time to Get In

The OMA is forming an electricity **purchasing pool** for its members who purchase power from the four Ohio electric distribution utilities of AEP-Ohio, DP & L, Duke Energy, or FirstEnergy.

Member survey responses indicate plenty of interest and sufficient load to secure a potentially competitive fixed, long-term price.

To receive a no-obligation opportunity to evaluate a pricing offer, complete **this form** and return it to **John Laughman** via email or fax to John at (614) 224-1012.

08/19/2011

### PUCO Tells AEP-Ohio that Market Pricing is Better than Proposed Plan

The staff of the Public Utilities Commission (PUCO) filed testimony **recently** in AEP-Ohio's base rate case indicating that AEP's plan will result in higher prices than the market is currently generating.

The PUCO staff testified that a market-based pricing plan would provide a superior option for customers than AEP's filed plan. The formal hearing on the plan has been delayed while parties to the case, including the OMA Energy Group, consider options to resolve the substantially different approaches in electricity pricing for AEP-Ohio consumers.

08/19/2011

### Workgroup Focussed on Electricity Co-generation

The Ohio Coalition for Combined Heat and Power recently held a **webinar** to discuss policy options that may help speed implementation of combined heat and power (CHP) projects in Ohio.

CHP projects enable manufacturers to produce on-site electricity using waste heat or

gas. These projects are generally less expensive to build than dedicated electricity generating assets, generate cheaper power because they use waste energy to make electricity, and frequently offer no- or low-carbon electricity generation.

The OMA is dedicated to finding policy options that increase the viability of Ohio manufacturers to “self-help” when it comes to generating electricity. If you are interested in CHP and self-help, click [here](#).

08/19/2011

### Ohio Shale Gas Discussed

The Columbus Metropolitan Club hosted a **luncheon** panel discussion regarding shale gas in Ohio. The panel included a diverse mix of oil and gas representatives, academics, regulators and environmentalists. The discussion focused on the safety and environmental concerns related to hydraulic fracturing, or hydrofracturing, or commonly, “fracking,” the process of extracting natural gas and other valuable elements from shale deposits.

The Ohio Department of Natural Resources (ODNR) noted that Ohio is well ahead of other states in its regulatory program to manage hydrofracturing. The OMA has been working with ODNR and the administration to educate policymakers on the importance of domestic production of natural gas both as a fuel source and a feedstock for manufacturing processes. Information about the hydrofracturing process and Ohio’s regulatory system for it can be found on ODNR’s [website](#).

08/19/2011

### Electric Grid Operators Weigh In Against Environmental Proposals

Electric grid operators across the United States **weighed in** recently on U.S. EPA’s proposed environmental rules on electric utilities noting that the proposals and the proposals’ timelines “could undermine the reliability of the electric grid for an unacceptable prolonged period.”

The OMA has **commented** many times urging U.S. EPA to grant states implementation flexibility and realistic timelines for new environmental rules. The grid operators’ comments add to the growing opposition to the proposed rules on the basis of economic hardship, with **some studies** pegging the annual cost at \$18 billion.

08/19/2011

### Ohio Energy Policy High on Leadership Agenda

Ohio House Speaker Bill Batchelder sent a **letter** to Governor Kasich this week arguing for the further deregulation of Ohio’s electric utility sector. The Speaker stated “It is my belief that further pursuing the deregulatory reforms set forth in Senate Bills 3 and 221, particularly in the area of generation, will encourage additional competition and continue to result in savings for businesses and families.”

Governor Kasich noted the next day “You just have to take your time on this ... and figure out what is the right thing for Ohio, and I’m not sure what it is right now, but at some point it all has to be addressed. What we really want to make sure is that utilities have an environment where they want to reinvest in the state, but, look, there’s so many issues.”

08/05/2011

### OMA Opposes Overly Restrictive Utility Regulations

The OMA sent a letter to U.S. EPA this week **asking** for modifications to the implementation timeline of the utility MACT rule (Maximum Achievable Control Technology) because the proposed requirements are not economically achievable in the specified timeline.

Together with the recently finalized Cross State Air Pollution Rule, the proposed utility MACT rule could cost Ohio 54,000 jobs and **\$18 billion** a year. Environmental compliance costs like these are pass-through costs for utilities and will ultimately increase the price of electricity for Ohioans.

08/05/2011

### "Texas Tea" in Ohio Utica Shale?

From the Youngstown Trib: "An energy exploration company active in Ohio has declared the Utica Shale formation "liquid rich" in eastern Ohio, meaning the geological formation contains oil.

Utica Shale is a geological formation found several thousand feet below sea level, much deeper than the commonly discussed Marcellus Shale, a natural gas-rich formation that is now being explored in eastern Ohio and Pennsylvania.

On Thursday, Chesapeake Energy, based in Oklahoma City, released its quarterly earnings report, including in it references to this latest mineral find. Chesapeake, which holds 18 of the 24 permits to drill into Utica Shale in the state, said results of recent drilling indicate oil in eastern Ohio.

Chesapeake's report indicated that the discovery could be worth a \$15 billion or \$20 billion increase in company value."

The Department of Natural Resources has posted information on its [shale gas website](#).

07/29/2011

### OMA Structuring Statewide Electricity Buying Pool

In response to member concern about upward pressure on the cost of electricity, OMA deployed an interest survey this week to discern how many members - and how much electricity load they represent - would be interested in a **collective buying option** through the association.

The OMA intends to shop the aggregated load to entities offering competitive pricing on generation. The initiative is open to OMA members served by any of the four Ohio electric distribution utilities: AEP-Ohio, DP&L, Duke Energy, and FirstEnergy (but not those served by a municipal or co-op system).

If you did not submit a response to the interest survey but want to be advised of program developments, contact OMA's **Kevin Schmidt** and include you annual kWh usage, the average price you're paying, and the expiration date of any competitive contract or minimum stay utility provision your load is currently under.

07/29/2011

### July's Natural Gas Report

As a service to OMA members, OMA Connections Partner Columbia Gas prepares a quarterly natural gas **report** that includes data on national storage, prices in the NYMEX Prompt Month History and NYMEX Gas Futures, and drilling rig count.

07/29/2011

### OMA Energy Committee Hears from Governor's Office

The OMA Energy Committee met this week and



heard from Craig Butler (3rd from right), the Governor's Assistant Policy

Director for Environment, Energy, and Agriculture.

Butler discussed Governor Kasich's energy agenda and learned from leading Ohio manufacturers what energy matters are top of mind.

Ned Leonard, vice-president of program services, American Coalition for Clean Coal Electricity (ACCCE), also addressed the committee, briefing the group on the onslaught of federal regulations aimed at coal fired utilities noting they are projected to result in double-digit **increases in electricity rates**.

It is these federal regulations that are driving **AEP-Ohio** and **Duke Energy, Ohio** to plan power plant closures in Ohio. Without an adequate supply of in-state generation, some

utilities would be forced to purchase their electricity from out-of-state producers thereby limiting Ohio's ability to control electricity costs. Full committee materials can be found [here](#).

07/22/2011

### Ohio Ranked 2nd in Solar Manufacturing

Ohio was second in the nation for solar-panel manufacturing during the first quarter of this year, according to a solar-industry trade group.

The Solar Energy Industries Association says Ohio produced 66 megawatts of photovoltaic modules in the first quarter of 2011, up 50 percent from 44 megawatts of solar modules produced in the state during the first quarter of 2010.

Oregon topped the nation in solar manufacturing in the quarter, making 120 megawatts of solar modules during that time.

07/22/2011

### Duke Energy Announces Plans to Shutter Ohio Power Plant

In response to the relentless promulgation of environmental regulations, Duke Energy announced the planned **closure** of its Beckjord power plant in New Richmond, Ohio. Duke Energy's plans indicate the closure will occur in 2015, **decimating** the local tax base, with the New Richmond school district projected to lose 25% of its operating budget.

This announcement comes as a result of U.S. EPA's Utility MACT (Maximum Achievable Control Technology) rule. According to U.S. EPA's own data, this rule will be one of the most expensive regulations ever implemented under the Clean Air Act. The potential result – double digit increases in electricity rates.

**The American Coalition for Clean Coal Electricity** recently performed an economic study on the Utility MACT rule using government data. The **results** indicate that Ohio stands to lose more than 53,000 jobs because of this and

other regulations that threaten the ability of the United States to use its most abundant energy source: coal. This is in the face of **massive declines** in emissions for Ohio utilities since 1999.

07/22/2011

### PUCO Proposes Economic Development Electricity Rates

The PUCO released last week a **proposed tariff** to spur economic development in the state. The proposed tariff applies to AEP-Ohio, Duke Energy, FirstEnergy, and DP&L customers, and includes two options for customers.

One option would be available to existing and new companies that are adding jobs and increasing payroll or making capital investments in Ohio. It would provide discounts off of existing tariff rates in the range of 2% to 20%.

The second option would set flat rates for customers and would be available to customers with specific energy usage profiles, generally only those energy-intensive customers with 5MW of demand and specified load factors. Of particular note, existing customers who are retaining jobs and not expanding will not qualify.

The OMA will be reviewing the proposal, through the **OMA Energy Group**, and providing feedback to the PUCO.

07/22/2011

### OMA Energy Committee Materials - 07/20/2011

These are the **materials** that support the July, 20, 2011 OMA Energy Committee meeting, and they have utility to the energy community - and broader - community of practice among Ohio manufacturers as well.

#### Content of note includes:

- An extensive summary of PUCO actions and cases by OMA Legal Counsel, Bricker & Eckler LLP, including a PUCO



Staff Economic Development Tariff proposal

- New Global Energy Efficiency Standard (ISO 50001) from the U.S. Department of Energy
- Notes from an Ohio cogeneration work group (including OMA, GE, the Ohio Environmental Council, et al)
- A body of findings from the American Coalition for Clean Coal Electricity

07/19/2011

### Fuel Economy Standards: Need Balance with Economic Impact and Consumer Choice

The OMA this week **wrote** U.S. Transportation Secretary Ray LaHood and U.S. EPA Director Lisa Jackson to “improve fuel economy by laying out a long-term program” that is balanced with consumer choice, affordability and economic impacts.

As the Obama administration is considering fuel economy requirements for the years 2017-25, there is concern that the administration is going down a path that is too ambitious and will result in job losses and other harmful costs to the economy and customers.

The Center for Automotive Research **forecasts** that producing cars to meet a fuel economy range between 47 and 62 mpg by 2025, which is under consideration, will increase the cost of a vehicle between \$3,744 and \$9,790. Under the most extreme scenario, with gas prices in 2025 at \$3.50 in today's dollars, the maximum fuel efficiency increase could cut more than 260,000 jobs and reduce annual auto sales by 5.5 million vehicles.

“Our region’s businesses all share the need for affordable transportation. The next phase of the fuel economy standards should not pick winners and losers, but should support a variety of technologies and fuel diversity to preserve affordability,” wrote OMA President Eric Burkland.

07/15/2011

### AEP Backs Away from Carbon Capture

AEP **announced** this week that it is backing away from plans to install carbon-capture technology at one of its West Virginia plants. AEP noted in its announcement that the decision is based largely on other states' reluctance to allow for cost recovery from customers for the plant.

Roughly five years ago, the Public Utilities Commission of Ohio (PUCO) had approved \$24 million in engineering costs to be recovered from Ohio ratepayers for a similar plant in Ohio that was never constructed. The amount collected from Ohioans is currently under dispute at the PUCO.

07/15/2011

### More FirstEnergy Rebate Programs Available

In addition to its cash rebate programs for upgraded energy efficient **lighting, motors and drives**, FirstEnergy has announced **plans** for more incentive programs.

Most suitable of the new programs for manufacturers might be the custom incentives program, which will cover a wide array of energy efficient technologies and projects that do not fit under the other specific programs: those mentioned above plus refrigeration and commercial food service, specialty equipment (commercial water heaters, laundry equipment, vending machines and commercial energy load measures), and traffic signal programs.

If you have purchased energy efficient equipment on or after April 11, 2011 (July 1 in some cases), and have not applied for a cash rebate for the watts you are saving FirstEnergy, please contact OMA’s **John Laughman** to see how much you might qualify to receive.

OMA is a FirstEnergy approved **administrator**, meaning OMA is authorized to help you - at no charge - apply for your incentives. OMA’s partner to help you qualify your projects and complete the documentation and applications is **Patrick Engineering**, one of the nation’s leading

engineering, design and project management firms.

07/15/2011

### Ohio Solar Projects In the News

This week was busy for the solar industry in Ohio. Calisolar Inc. **backed out** of its plans to open a manufacturing facility in Mansfield, taking the projected 1100 jobs with it. Calisolar had negotiated a deal at the Public Utilities Commission of Ohio to receive more than \$100 million dollars in electricity price breaks along with hundreds of millions in loan guarantees from the U.S. Department of Energy.

While Mansfield lost, Napoleon gained as the Spanish solar panel manufacturer Isofoton **announced** its plans to open a new manufacturing facility to supply **AEP's 50 megawatt solar field** in Noble County. The project is expected to create 330 manufacturing jobs within three years.

07/08/2011

**Energy Legislation**  
**Prepared by: The Ohio Manufacturers' Association**  
**Report created on September 23, 2011**

- HB51**      **MUNICIPAL UTILITIES** (SNITCHLER T) To require a municipal utility supplying surplus electricity to nonresidents to provide written notice of termination one year before terminating the service.  
**Current Status:** 2/1/2011 - Referred to Committee House Public Utilities  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_51](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_51)
- HB73**      **TRANSPORTATION OF NUCLEAR MATERIALS** (YOUNG R) To require payment of only the cost of police escort services for the highway transportation of limited amounts of certain nuclear materials.  
**Current Status:** 3/2/2011 - **REPORTED OUT**, House Transportation, Public Safety and Homeland Security, (Third Hearing)  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_73](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_73)
- HB95**      **NATURAL GAS RATES** (STAUTBERG P) To permit certain rate-calculation adjustments for natural gas companies, eliminate public notice requirements for rate cases, and for natural gas companies, to make other regulatory changes concerning audits, alternative rate plans, and forecast reports, and allowing applications for natural gas company capital expenditure programs.  
**Current Status:** 6/2/2011 - **SIGNED BY GOVERNOR**  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_95](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_95)
- HB133**     **OIL AND GAS LEASING/DRILLING ON STATE LAND** (ADAMS J) To create the Oil and Gas Leasing Board and to establish a procedure by which the Board may enter into leases for oil and gas production on land owned or under the control of a state agency for the purpose of providing funding for capital and operating costs for the agency.  
**Current Status:** 6/30/2011 - **SIGNED BY GOVERNOR**; Eff. 9/30/2011  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_133](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_133)
- HB204**     **ADVANCED ENERGY FUND** (FOLEY M) To reimburse the Advanced Energy Fund revenue rider on retail electric distribution service rates and to clarify how Advanced Energy Fund grant amounts are to be determined.  
**Current Status:** 5/25/2011 - House Public Utilities, (Second Hearing)  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_204](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_204)
- HB297**     **MOTOR FUEL QUALITY TESTING** (WEDDINGTON C, FENDE L) To require the Department of Agriculture to establish a motor fuel quality testing program under which county auditors may conduct such testing.  
**Current Status:** 9/13/2011 - Referred to Committee House Agriculture and Natural Resources  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_297](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_297)
- HB304**     **LAKE ERIE OIL/NATURAL GAS** (ANTONIO N) To ban the taking or removal of oil or natural gas from and under the bed of Lake Erie.  
**Current Status:** 9/13/2011 - Referred to Committee House Agriculture and Natural Resources  
**More Information:** [http://www.legislature.state.oh.us/res.cfm?ID=129\\_HB\\_304](http://www.legislature.state.oh.us/res.cfm?ID=129_HB_304)
- HB306**     **BUILDING STANDARDS** (PILLICH C) To require a building or structure constructed using



state capital budget moneys to adhere to certain energy efficiency and building standards and to encourage the use of Ohio-produced products.

**Current Status:** 9/13/2011 - Referred to Committee House State Government and Elections

**More Information:** [http://www.legislature.state.oh.us/res.cfm?ID=129\\_HB\\_306](http://www.legislature.state.oh.us/res.cfm?ID=129_HB_306)

**HB310**      **ELECTRIC VEHICLE SALES TAX REDUCTION (GOODWIN B)** To reduce the amount of sales tax due on the purchase or lease of a qualifying electric vehicle by up to \$2,000.

**Current Status:** 9/21/2011 - House Ways and Means, (First Hearing)

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_310](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_310)

**HCR3**      **HEALTH COVERAGE TAX CREDIT (O'BRIEN S)** To request the members of the United States Congress to reauthorize and continue the Health Coverage Tax Credit (HCTC) enhancements including provisions related to the monthly reimbursement program, the qualified family members program, and Voluntary Employee Beneficiary Associations (VEBAs).

**Current Status:** 2/10/2011 - Referred to Committee House Finance and Appropriations

**More Information:** [http://www.legislature.state.oh.us/res.cfm?ID=129\\_HCR\\_3](http://www.legislature.state.oh.us/res.cfm?ID=129_HCR_3)

**HCR4**      **URANIUM ENRICHMENT (ROSENBERGER C)** To urge the President of the United States to direct the United States Department of Energy to ensure the continuation of the uranium enrichment work being developed by USEC, Inc. at its Piketon, Ohio plant by granting USEC's application for a federal loan guarantee and to direct the Secretary of Energy to strongly consider providing federal funding assistance for the Clean Energy Park Demonstration Project.

**Current Status:** 4/12/2011 - Referred to Committee Senate State & Local Government & Veterans Affairs

**More Information:** [http://www.legislature.state.oh.us/res.cfm?ID=129\\_HCR\\_4](http://www.legislature.state.oh.us/res.cfm?ID=129_HCR_4)

**HCR12**      **ENCOURAGE DOMESTIC PRODUCTION OF COAL (THOMPSON A)** To urge the Administration of President Barack Obama to reconsider proposals to increase taxes on producers of coal, natural gas, and petroleum and instead commit to adopting policies that encourage domestic production of these important resources.

**Current Status:** 6/15/2011 - Referred to Committee Senate Agriculture, Environment & Natural Resources

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HCR\\_12](http://www.legislature.state.oh.us/bills.cfm?ID=129_HCR_12)

**HR97**      **TRANSCANADA KEYSTONE XL PIPELINE PROJECT (SEARS B)** To urge Congress to support the continued and increased importation of oil derived from Canadian oil sands and urge Congress to ask the U.S. Secretary of State to approve the TransCanada Keystone XL pipeline project from Alberta to Oklahoma.

**Current Status:** 6/15/2011 - **ADOPTED BY HOUSE**; Vote 92-0

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_97](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_97)

**SB75**      **ELECTRICITY CUSTOMER DISCOUNTS (PATTON T)** To restore discounts for customers using electricity to heat their homes and for electric, load-management programs, to specify that those discounts run with the land and may be transferred, to provide for refunds to customers whose rate discounts were modified or discounted, and to declare an emergency.

**Current Status:** 9/27/2011 - Senate Energy & Public Utilities, (First Hearing)

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_SB\\_75](http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_75)

**SB78**      **NATURAL GAS LAKE ERIE** (SKINDELL M) To ban the taking or removal of oil or natural gas from and under the bed of Lake Erie.

**Current Status:** 2/23/2011 - Referred to Committee Senate Agriculture, Environment & Natural Resources

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_SB\\_78](http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_78)

**SB108**      **OIL & GAS LEASING** (JORDAN K) To create the Oil and Gas Leasing Board and to establish a procedure by which the Board may enter into leases for oil and gas production on land owned or under the control of a state agency for the purpose of providing funding for capital and operating costs for the agency.

**Current Status:** 3/29/2011 - Senate Agriculture, Environment & Natural Resources, (Third Hearing)

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_SB\\_108](http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_108)

**SB188**      **ALTERNATIVE FUEL FACILITY** (PATTON T) To allow a credit against the personal income tax or commercial activity tax for the installation of an alternative fuel facility.

**Current Status:** 9/22/2011 - Senate Ways & Means & Economic Development, (First Hearing)

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_SB\\_188](http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_188)

**SB198**      **MOTOR FUEL QUALITY TESTING PROGRAM** (TAVARES C) To require the Department of Agriculture to establish a motor fuel quality testing program under which county auditors may conduct such testing.

**Current Status:** 9/20/2011 - Referred to Committee Senate Agriculture, Environment & Natural Resources

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_SB\\_198](http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_198)

**SB209**      **ELECTRIC VEHICLE SALES TAX REDUCTION** (HITE C, TURNER N) To reduce the amount of sales tax due on the purchase or lease of a qualifying electric vehicle by up to \$2,000.

**Current Status:** 9/22/2011 - Senate Ways & Means & Economic Development, (First Hearing)

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_SB\\_209](http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_209)

**SCR4**      **URANIUM ENRICHMENT** (DANIELS D) To urge the President of the United States to direct the United States Department of Energy to ensure the continuation of the uranium enrichment work being developed by USEC, Inc. at its Piketon, Ohio plant by granting USEC's application for a federal loan guarantee and to direct the Secretary of Energy to strongly consider providing federal funding assistance for the Clean Energy Park Demonstration Project.

**Current Status:** 6/15/2011 - **ADOPTED BY HOUSE**; Vote 87-6

**More Information:** [http://www.legislature.state.oh.us/res.cfm?ID=129\\_SCR\\_4](http://www.legislature.state.oh.us/res.cfm?ID=129_SCR_4)

**SR69**      **TRANSCANADA KEYSTONE COAST EXPANSION PROJECT** (WAGONER M) To urge Congress to support the continued and increased importation of oil derived from Canadian oil sands and urge Congress to take the U.S. Secretary of State to approve the TransCanada Keystone Coast Expansion pipeline project.

**Current Status:** 9/27/2011 - Senate Energy & Public Utilities, (First Hearing)

**More Information:** [http://www.legislature.state.oh.us/res.cfm?ID=129\\_SR\\_69](http://www.legislature.state.oh.us/res.cfm?ID=129_SR_69)



## **Settlement Reached in AEP Ohio Electric Security Plan (ESP) Case: What It Means for Manufacturers**

In January 2011, AEP Ohio (AEP) filed an Electric Security Plan (ESP) with the Public Utilities Commission of Ohio (PUCO) that, if approved by the Commission, would have produced potential electricity rate increases of ten percent or more for industrial energy users in AEP's service territory across Ohio. It was expected that the outcome of the case would impact not only manufacturers in AEP's service territory, but – because of the precedents the case would establish – manufacturers served by other electric utilities as well.

The OMA and other concerned parties filed testimony in the case, expressing numerous concerns about AEP's ESP proposal. **After many weeks of intensive negotiations, in which the OMA worked closely with AEP and PUCO staff on crafting a settlement that positively impacts manufacturing while also addressing AEP's concerns, an agreement has been reached.** AEP, the OMA and a majority of the other parties to the case have agreed on a "joint stipulation and recommendation" that resolves many of the complex issues raised during testimony and, importantly, incorporates rate protections for manufacturers. While the stipulation is not binding on the PUCO and likely will be the subject of litigation by some of the parties who chose not to sign the stipulation, it is certain to receive careful consideration by the Commission.

The settlement significantly changes AEP's rate-setting model from a cost-based structure to a **market-based pricing structure**, and will do so over a phased-in period of 41 months. During this period, AEP will divest its generation assets (much as Akron-based FirstEnergy did when Ohio passed historic electric restructuring legislation in 1999). With AEP "going to market," it will be incumbent on manufacturers served by AEP to take a more active role in managing their electricity rates and costs – selecting suppliers, reviewing energy-efficiency options, evaluating on-site generation opportunities, etc. In return, manufacturers have the opportunity for potential savings.

### **Key Elements of the Stipulation**

The stipulation achieves the OMA's three main objectives in the case:

- Provides for **better regulated rates** for manufacturers
- Protects manufactures' **ability to shop for electricity generation**
- Supports a **more active role for manufacturers'** in managing their energy rates and costs

Major features and benefits of the stipulation include the following:

- **A significant block (about 21 percent) of AEP's load in 2012 will be available to customers at current market rates on a first-come, first-served basis.** This represents a significant opportunity for manufacturers to reduce and stabilize their electric costs.
- An **overall net benefit for manufacturers** compared to the terms AEP initially had proposed, owing largely to the elimination of certain non-bypassable riders and cost-shifting provisions in the original ESP that was filed with the PUCO.
- A **reduction in the total number of dollars AEP will be allowed to increase its generation rate.** AEP initially had proposed raising its base generation rate collectively by about \$20 million per year. Through negotiations, that number was lowered substantially.
- A "market transition rider" that will **provide most manufacturers with a non-bypassable credit** intended to smooth their transition to market pricing.
- A non-bypassable load-factor provision that **preserves some of the benefits associated with load shaping and high load factors**, improving prices for users who use energy more evenly.
- An **annual \$5 million dollar economic development fund that will assist manufacturing projects** and other job creation and retention projects. The OMA will help AEP identify appropriate investment projects.
- A provision whereby **AEP agrees to pursue up to 350 MW of customer-sited generation projects.** This will allow AEP to provide funding for waste-heat recovery, waste-energy recovery and other on-site generation that will allow manufacturers to become less reliant on the grid.

### **Our Mission: Protect Manufacturing**

The settlement agreement crafted in the AEP ESP case is an excellent example of the value of manufacturers working together through the OMA to assure that the collective voice of Ohio manufacturers is heard in the rate-making process and to shape outcomes that protect manufacturing.

**For more information about the provisions and likely impact on manufacturers of the AEP Ohio ESP case stipulation, contact Kevin Schmidt, OMA director of public policy services, at 614-629-6816 or [kschmidt@ohiomfg.com](mailto:kschmidt@ohiomfg.com).**

To: OMA Environment Committee  
From: Kevin Schmidt, OMA Staff  
Re: Environment Update  
Date: 9/28/2011

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### **1. Storm Water Permit Changes**

Ohio EPA is moving towards a massive expansion of the Industrial Storm Water Permit. This is being done under the assumption that business should be happy more industries will have a general permit. The new requirements include an expansion of monitoring and “benchmarks.”

After extensive meetings with the Agency it is insisting that we work off of their expansive proposal. The OMA and the business coalition have enlisted the help of Mark Hamlin who heads up the Lt. Governor’s Common Sense Initiative. We are making progress and hope to resolve this issue in a way that is not burdensome to manufacturers.

### **2. The Regulatory Train Wreck – Environmental Justice**

We saw some improvement since the last meeting on the regulatory train wreck with the pull-back of the ozone proposal. However, this is being overshadowed by Plan EJ 2014 whereby U.S. EPA is proposing to advance its environmental justice agenda.

Environmental justice is the philosophy that if minority or low-income populations live by a facility regulated by U.S. EPA then extra regulatory requirements may be necessary in the name of justice. The OMA supports scientifically based standards that are protective of human health. Inserting demographic considerations into a scientific evaluation should be avoided.

Plan EJ 2014 - <http://www.epa.gov/compliance/environmentaljustice/plan-ej/index.html>

U.S. EPA Environmental Justice Webpage - <http://epa.gov/environmentaljustice/>

### **3. Beneficial Use Rules - Spent Foundry Sands**

Ohio EPA had released a new version of the beneficial use rules back in 2006 which were heavily criticized. A new rule package is rumored to be out this year. The OMA learned that Ohio EPA is moving towards a 10 to the minus 6 risk standard for spent foundry sands in this rule package. The OMA has met with OEPA to discuss this issue along with the OCMA. The real issue here is that if this new, nearly impossible, standard takes hold here it might creep to other areas.

## Environment Management

### U.S. EPA Advances “Environmental Justice” Agenda

In a press release this week the U.S. EPA announced a comprehensive plan (entitled **Plan EJ 2014**) to advance "environmental justice" in nine areas including rulemaking, permitting, enforcement, and science. The plan is U.S. EPA's new strategy to meet a 15 year old Executive Order (**EO 12898**) put in place by President Clinton.

In the name of "environmental justice," if minority or low-income populations are located near a facility regulated by U.S. EPA that facility must meet extra regulatory scrutiny. To learn more about U.S. EPA's environmental justice agenda click [here](#).

09/16/2011

### White House to U.S. EPA: Reconsider Ozone Regulations

President Obama directed U.S. EPA to reconsider its proposal for tighter ozone standards. In a **letter** to the agency, the president told U.S. EPA that "he does not support finalizing the rule at this time."

Since the proposal was first announced the OMA has repeatedly **communicated** the rule's punitive effect on Ohio to policymakers. The president's letter is a welcome, if overdue, development.

09/02/2011

### Ohio EPA Drafts General Permit for Shale Gas Production Sites

With natural gas production from Ohio's shale deposits projected to increase, Ohio EPA has **drafted** a new general permit "to make sure the air around production sites is safe, while providing business with the most efficient option to get operations up and running."

"A general permit for shale gas production will streamline the process, giving producers the tools they need to comply with Ohio's air pollution regulations," said Ohio EPA Director Scott Nally.

Director Nally has brought a welcome focus on efficiency of permitting, together with significant experience in environmental protection. These new general permits will simplify the permitting process for business, while providing citizens with clear standards for environmental protection.

08/26/2011

### Deep Online Resources on Shale Play at ODNR

The Division of Geologic Survey at the Ohio Department of Natural Resources has developed **deep resources** for those interested in the Marcellus and Utica shale plays in Ohio.

Here's how the division set up the website:

"Resource estimates indicate the Devonian-age Marcellus Shale is the largest exploration play in the eastern United States. Recently, the application of horizontal drilling combined with multistaged hydraulic fracturing to create permeable flow paths from wellbores into shale units has resulted in a drilling boom for the Marcellus in the Appalachian Basin states of Pennsylvania, West Virginia, southern New York, and eastern Ohio.

This proven technology also may have application in other shale units, such as the Ordovician-age Utica Shale, which extends across much of the Appalachian Basin region. While limited production has occurred in the Utica up to this point, thickness and widespread geographical extent indicate it may also have great oil-and-gas potential."

08/26/2011

### Ohio House and Senate Send Letter to Governor on Great Lakes Compact



Ohio House Speaker Bill Batchelder and Ohio Senate President Tom Niehaus co-authored a **letter** to Governor Kasich regarding the Great Lakes Compact implementation legislation that the Governor vetoed earlier this year.

The Governor's veto came as a surprise to the legislature and the respective leaders. In the letter President Niehaus and Speaker Batchelder note the legislation (**House Bill 231**) "meets all necessary provisions in the Compact and does so in a way that works well for Ohio's citizens and businesses." The leaders went on to note they look forward to reviewing the Governor's specific concerns and working collaboratively to finalize implementation of the Compact.

08/19/2011

### Ohio EPA to hold Compliance Assistance Conference

On November 7-8, Ohio EPA is hosting its sixth annual Compliance Assistance Conference in Columbus. While a large part of the conference is targeted to businesses that need to learn the basics about environmental compliance, based on attendee feedback, the agenda will also include advanced topics, such as New Source Review (NSR) and Title V permitting and reporting. Agency staff will be available at an "Ask the Experts" session during the conference.

View the complete conference **agenda**.

08/19/2011

### Business Coalition Runs Anti- EPA Regs TV Ads

While President Obama toured the Midwest this week, a coalition of industry groups including the U.S. Chamber of Commerce, the National Association of Manufacturers and the American Petroleum Institute, launched an **advertising campaign** blasting the U.S. EPA's upcoming ozone regulations as a major burden on the economy. See story published in **The Hill**.

08/19/2011

### U.S. EPA Delays Ozone Rule in Face of Opposition

On Monday, U.S. Senator Rob Portman joined 33 other senators in a **letter** asking U.S. EPA to reconsider its review and potential tightening of ozone standards. On Tuesday, Governor Kasich **joined** a growing chorus of governors making the same request. Late in the day on Tuesday, U.S. EPA **delayed the rule**.

07/29/2011

### Great Lakes Compact Takes a Dive

House Bill 231 (**HB 231**), the legislation that would have implemented the **Great Lakes Compact**, took a dive last week when Governor Kasich vetoed it. The Governor's stated in his veto **message**, "While most of HB 231 fulfills Ohio's obligations without concern and helps meet the needs of Ohio's industrial, energy and agricultural water users, portions of it must be improved."

The Governor specifically pointed to the water withdrawal limits and conservation standards as points of issue. It is expected that new legislation will be introduced to address the Governor's concerns.

07/22/2011

### OMA Environment Committee Hears Pressing Federal and State Issues

The OMA Environment Committee this week heard presentations from Ohio EPA Air Division Chief Bob Hodanbosi and the National Association of Manufacturers (NAM).

Hodanbosi noted U.S. EPA's **proposed ozone standard** will result in more regulations for manufacturers across Ohio. Chip Yost, Vice President of Energy and Resources Policy for NAM, noted that U.S. EPA is moving toward promulgating regulations through "guidance," rather than official rule as a way to speed implementation.

Full committee materials can be found **here**.

07/15/2011

### **OMA Asks U.S. EPA for Flexibility on Cooling Water Regs**

The OMA sent a **letter** to U.S. EPA asking for state-level flexibility in the implementation of proposed cooling water regulations for electric utilities. This proposal could require billions of dollars of capital improvements at Ohio's power plants, costs that would be passed on dollar-for-dollar to manufacturers and other customers.

Regarding the potential costs of the proposal, the OMA noted, "This negative effect can be alleviated without a decrease in environmental protection simply by granting states authority to tailor solutions to their specific needs."

Ohio EPA delivered similar **comments** to the feds this week as well.

07/15/2011

### **OMA Environment Committee Materials - 07/14/2011**

These are the **materials** that support the July 14, 2011 OMA Environment Committee meeting, and they have utility to the environment management community of practice among Ohio manufacturers as well.

07/13/2011

### **U.S. EPA Adds Another Car to the Train Wreck**

U.S. EPA released the Cross-State Air Pollution Rule (**CSAPR**) this week, aimed at cutting sulfur dioxide and nitrogen oxide emissions. The rule, together with other regulations proposed, such as the Utility Maximum Achievable Control Technology (**Utility MACT**), would result in dramatic increases on electricity costs in Ohio.

A recent study by **ACCE** shows **job losses** in Ohio attributed to these rules could reach 50,000. In response to these regulatory proposals, AEP announced the planned closure of nearly 6,000 megawatts of affordable, coal-fired electricity. At the time of the

**announcement**, AEP predicted the costs associated with U.S. EPA's actions could increase rates by 10-35% in Ohio, on top of already scheduled rate increases for fuel and other costs.

Next Thursday, July 14, the OMA will be hosting regulatory experts from the National Association of Manufacturers to discuss the regulatory morass. Register for the meeting **here**.

07/08/2011

### **Senate Successfully Navigates Water Legislation**

In the face of intense pressure by environmental activists, the Ohio Senate passed **House Bill 231**, which will provide a reasonable regulatory scheme to protect the utilization of Great Lake waters. The legislation passed mostly on party lines with Senators **Eric Kearny** (D-Cincinnati) and **Jason Wilson** (D-Columbiana) breaking rank to vote with Republicans. The bill now goes to the Governor for his signature.

The OMA sent a **letter** to the Senate this week urging support for the measure that protects Ohio's natural resources without being overly burdensome to business. **Here** is a memo from bill sponsor, Representative **Lynn Wachtmann** (R-Napoleon).

07/01/2011



**Environment Legislation**  
**Prepared by: The Ohio Manufacturers' Association**  
**Report created on September 23, 2011**

- HB10**      **REMEDIATION OF CONTAMINATED SITE (SEARS B)** To authorize refundable tax credits for the completion of a voluntary action to remediate a contaminated site and for the return of such sites to productive use, and to exempt persons through 2017 who have issued covenants not to sue under the Voluntary Action Program from certain fees and penalties for one year after the issuance of such a covenant.  
**Current Status:** 3/2/2011 - House Ways and Means, (Fifth Hearing)  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_10](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_10)
- HB133**      **OIL AND GAS LEASING/DRILLING ON STATE LAND (ADAMS J)** To create the Oil and Gas Leasing Board and to establish a procedure by which the Board may enter into leases for oil and gas production on land owned or under the control of a state agency for the purpose of providing funding for capital and operating costs for the agency.  
**Current Status:** 6/30/2011 - **SIGNED BY GOVERNOR**; Eff. 9/30/2011  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_133](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_133)
- HB231**      **LAKE ERIE WATERS (WACHTMANN L)** To establish a program for the issuance of permits for the withdrawal and consumptive use of waters from the Lake Erie basin.  
**Current Status:** 7/15/2011 - **VETOED BY GOVERNOR**  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_231](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_231)
- HB257**      **LAKE ERIE WATERS (MURRAY D)** To establish a program for the regulation of withdrawals and consumptive uses of waters from the Lake Erie basin.  
**Current Status:** 6/15/2011 - Referred to Committee House Agriculture and Natural Resources Subcommittee  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_257](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_257)
- HB304**      **LAKE ERIE OIL/NATURAL GAS (ANTONIO N)** To ban the taking or removal of oil or natural gas from and under the bed of Lake Erie.  
**Current Status:** 9/13/2011 - Referred to Committee House Agriculture and Natural Resources  
**More Information:** [http://www.legislature.state.oh.us/res.cfm?ID=129\\_HB\\_304](http://www.legislature.state.oh.us/res.cfm?ID=129_HB_304)
- HCR9**      **PROPOSED AIR POLLUTION TRANSPORT RULE (THOMPSON A)** To urge the Congress, the President of the United States, and the United Environmental Protection Agency to immediately suspend the Proposed Air Pollution Transport Rule.  
**Current Status:** 5/17/2011 - **REPORTED OUT**, House Agriculture and Natural Resources, (Third Hearing)  
**More Information:** [http://www.legislature.state.oh.us/res.cfm?ID=129\\_HCR\\_9](http://www.legislature.state.oh.us/res.cfm?ID=129_HCR_9)
- HR48**      **STREAM PROTECTION RULE (LANDIS A)** To express opposition to the implementation of the stream protection rule and environmental impact statement of the Office of Surface Mining, Reclamation, and Enforcement in the U.S. Department of the Interior.  
**Current Status:** 6/23/2011 - Re-Referred to Committee  
**More Information:** [http://www.legislature.state.oh.us/res.cfm?ID=129\\_HR\\_48](http://www.legislature.state.oh.us/res.cfm?ID=129_HR_48)
- SB22**      **NPDES PERMITS SEWAGE SYSTEMS (SCHAFFER T)** To require the Director of Environmental Protection to consider, to the extent allowable under the Federal Water Pollution Control Act, specified factors before issuing NPDES permits for sewerage

systems, requiring and approving long-term control plans for wet weather discharges from sewerage systems, and enforcing provisions of that Act as applied to sewerage systems.

**Current Status:** 6/30/2011 - **SIGNED BY GOVERNOR**; Eff. 9/30/2011

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_SB\\_22](http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_22)

**SB140 BITTERING AGENT IN ENGINE COOLANT** (BACON K, SKINDELL M) To require the inclusion of a bittering agent in engine coolant and antifreeze.

**Current Status:** 4/12/2011 - Senate Judiciary - Criminal Justice, (First Hearing)

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_SB\\_140](http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_140)

**SB186 WITHDRAWALS OF LAKE ERIE WATERS** (SKINDELL M) To establish a program for the regulation of withdrawals and consumptive uses of waters from the Lake Erie basin.

**Current Status:** 6/15/2011 - Referred to Committee Senate Agriculture, Environment & Natural Resources

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_SB\\_186](http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_186)

## EXECUTIVE SUMMARY

In January 2010, Administrator Lisa P. Jackson made Expanding the Conversation on Environmentalism and Working for Environmental Justice an Agency priority. This priority was incorporated into the U.S. Environmental Protection Agency's (EPA) Strategic Plan for 2011-2015. To implement this priority, EPA developed Plan EJ 2014 as the Agency's roadmap for integrating environmental justice into its programs, policies, and activities. This priority recognizes that Title VI of the Civil Rights Act and EPA's civil rights program is a critical component in advancing environmental justice.

Plan EJ 2014, which is meant to mark the 20th anniversary of the signing of Executive Order 12898 on environmental justice, is EPA's overarching strategy for advancing environmental justice. It seeks to:

- Protect the environment and health in overburdened communities.
- Empower communities to take action to improve their health and environment.
- Establish partnerships with local, state, tribal, and federal governments and organizations to achieve healthy and sustainable communities.



In July 2010, EPA introduced Plan EJ 2014 as a concept for public comment and initiated the development of implementation plans. This product is the culmination of nearly a year's effort by EPA programs and regions, as well as engagement with stakeholders, to develop nine implementation plans with the goals, strategies, deliverables, and milestones outlined herein. Plan EJ 2014 has three major sections: Cross-Agency Focus Areas, Tools Development Areas, and Program Initiatives. The following summaries outline the implementation plans for Plan EJ 2014's five cross-Agency Focus Areas and four Tools Development Areas.

### Cross-Agency Focus Areas

#### **Incorporating Environmental Justice into Rulemaking** **Goal**

To more effectively protect human health and the environment for overburdened populations by developing and implementing guidance on incorporating environmental justice into EPA's rulemaking process.

#### **Strategies**

1. Finalize the *Interim Guidance on Considering Environmental Justice During the Development of an Action*.
2. Facilitate and monitor implementation of guidance on incorporating environmental justice into rulemaking.
3. Develop technical guidance on how to conduct environmental justice assessments of rulemaking activities.

## Considering Environmental Justice in Permitting

### Goal

To enable overburdened communities to have full and meaningful access to the permitting process and to develop permits that address environmental justice issues to the greatest extent practicable under existing environmental laws.

### Strategies

1. Develop tools that will enhance the ability of overburdened communities to participate fully and meaningfully in the permitting process.
2. Concurrent with Strategy 1, develop tools to assist permitting authorities to meaningfully address environmental justice in permitting decisions.
3. Implement these tools at EPA and work with others to do the same.

## Advancing Environmental Justice through Compliance and Enforcement

### Goal

To fully integrate consideration of environmental justice concerns into the planning and implementation of the Office of Enforcement and Compliance Assurance's (OECA) program strategies, case targeting strategies, and development of remedies in enforcement actions to benefit overburdened communities.

### Strategies

1. Advance environmental justice goals through selection and implementation of National Enforcement Initiatives.
2. Advance environmental justice goals through targeting and development of compliance and enforcement actions.
3. Enhance use of enforcement and compliance tools to advance environmental justice goals in regional geographic initiatives to address the needs of overburdened communities.
4. Seek appropriate remedies in enforcement actions to benefit overburdened communities and address environmental justice concerns.
5. Enhance communication with affected communities and the public regarding environmental justice concerns and the distribution and benefits of enforcement actions, as appropriate.

## Supporting Community-Based Action Programs

### Goal

To strengthen community-based programs to engage overburdened communities and build partnerships that promote healthy, sustainable, and green communities.

### Strategies

1. Advance environmental justice principles by building strong state and tribal partnerships through the National Environmental Performance



Partnership System (NEPPS) and the National Program Manager (NPM) guidance.

2. Identify scalable and replicable elements of successful Agency community-based programs and align multiple EPA programs to more fully address the needs of overburdened communities.
3. Promote an integrated One EPA presence to better engage communities in the Agency's work to protect human health and the environment.
4. Foster community-based programs modeled on the Community Action for a Renewed Environment (CARE) principles.
5. Explore how EPA funding, policies, and programs can inform or help decision makers to maximize benefits and minimize adverse impacts when considering current land uses in decision making, planning, siting, and permitting.
6. Promote equitable development opportunities for all communities.

### **Fostering Administration-Wide Action on Environmental Justice Goal**

To facilitate the active involvement of all federal agencies in implementing Executive Order 12898 by minimizing and mitigating disproportionate, negative impacts while fostering environmental, public health, and economic benefits for overburdened communities.

#### **Strategies**

1. Assist other federal agencies in integrating environmental justice in their programs, policies, and activities.
2. Work with other federal agencies to strengthen use of interagency legal tools, i.e., National Environmental Policy Act and Title VI of the Civil Rights Act of 1964.
3. Foster healthy and sustainable communities, with an emphasis on equitable development and place-based initiatives.
4. Strengthen community access to federal agencies.





## Tools Development Areas

### Science

#### Goal

To substantially support and conduct research that employs participatory principles and integrates social and physical sciences aimed at understanding and illuminating solutions to environmental and health inequalities among overburdened populations and communities in the United States. All Agency decisions will make use of the information, data, and analytic tools produced.

#### Strategies

1. Apply integrated transdisciplinary and community-based participatory research approaches with a focus on addressing multi-media, cumulative impacts and equity in environmental health and environmental conditions.
2. Incorporate perspectives from community-based organizations and community leaders into EPA research agendas and engage in collaborative partnerships with them on science and research to address environmental justice.
3. Leverage partnerships with other federal agencies on issues of research, policy, and action to address health disparities.
4. Build and strengthen the technical capacity of Agency scientists on conducting research and related science activities in partnership with impacted communities and translating research results to inform change.
5. Build and strengthen technical capacity of community-based organizations and community environmental justice and health leaders to address environmental health disparities and environmental sustainability issues.

### Law

#### Goal

To provide legal assistance to EPA policy makers and other Agency decision makers to advance their environmental justice objectives.

#### Strategy

Provide legal support to each Plan EJ 2014 cross-Agency Focus Area workgroup.

## Information

### Goal

To develop a more integrated, comprehensive, efficient, and nationally consistent approach for collecting, maintaining, and using geospatial information relevant to potentially overburdened communities.

### Strategies

1. Develop EPA's GeoPlatform.
2. Develop a nationally consistent environmental justice screening tool.
3. Incorporate appropriate elements of the environmental justice screening tool into the GeoPlatform.

## Resources

### Grants and Technical Assistance Goal

To develop an efficient and effective system for delivering financial and technical assistance to communities to empower them to improve their health and environment.

### Strategies

1. Increase transparency and efficiency in providing community-based grant opportunities.
2. Improve delivery of technical assistance to communities.
3. Strengthen grants training for communities.
4. Improve community awareness of grant competition process.
5. Revise grant policies that are unduly restrictive.
6. Encourage legal and program offices to dialog on community-based grant opportunities.
7. Improve timeliness of Brownfields Grant Awards.

### Workforce Diversity Goal

To achieve an inclusive work environment by developing an efficient system for the outreach and recruitment of potential employees.

### Strategies

1. Increase the diverse pool of qualified applicants.
2. Operate under an integrated One EPA approach for recruitment and outreach.





## Program Initiatives

Program Initiatives will focus on specific EPA programs. Many existing EPA programs actively pursue environmental justice goals or produce benefits for overburdened communities. Examples of such initiatives include: Community Engagement Initiative (Office of Solid Waste and Emergency Response), Urban Waters (Office of Water), National Enforcement Initiatives (Office of Enforcement and Compliance Assurance), Air Toxics Rules (Office of Air and Radiation), and the U.S. Mexico Border Program (Office of International and Tribal Affairs). Over the next year, EPA will designate at least one initiative per appropriate program for inclusion in Plan EJ 2014. In this way, many existing EPA initiatives can be tailored to better integrate environmental justice and produce greater benefits for overburdened communities.

## Civil Rights

One effort already under way is implementing Administrator Jackson's priority to improve EPA's civil rights program. Complying with EPA's statutory civil rights obligations is a critical part of our efforts to advance environmental justice. Administrator Jackson has made improving EPA's civil rights program a priority. As part of this effort, EPA is pursuing long overdue, vigorous, robust, and effective implementation of Title VI of the Civil Rights Act of 1964 and other nondiscrimination statutes. EPA is committed to protecting people from discrimination based on race, color, or national origin in programs or activities that receive EPA's financial assistance.

## Conclusion

Through Plan EJ 2014, EPA intends to develop a suite of tools to integrate environmental justice and civil rights into its programs, policies, and activities. It seeks to build stronger relationships with communities overburdened by environmental and health hazards and build partnerships that improve conditions in such communities. In 2014, EPA will make an assessment of its progress in achieving the goals of Plan EJ 2014. Based on this assessment, EPA will produce a report on the accomplishments, lessons learned, challenges, and next steps for continuing the Agency's efforts to make environmental justice an integral part of every decision.





## Human Resources Management

### NAM Launches NLRB Campaign

*From the National Association of Manufacturers:*

“The National Labor Relations Board's (NLRB) aggressive agenda threatens jobs in this country...The House of Representatives will soon vote on legislation, the Protecting Jobs from Government Interference Act (H.R. 2587), that would prevent the NLRB from telling an employer where it can do business. The measure is a response to the agency's complaint against the Boeing Company arising from its decision to build a new manufacturing facility in South Carolina. If the NLRB's complaint against Boeing succeeds, the company could be forced to abandon its \$1 billion plant in the state...

To build broad, bipartisan support for this measure, the NAM has joined with the National Federation of Independent Business to launch an advertisement campaign in 11 key states. The radio spots will air in Colorado, Florida, Iowa, Michigan, Missouri, Nevada, New Jersey, New Mexico, North Carolina, Ohio, and Virginia, calling on Congress to pass legislation to rein in the NLRB and prevent the board from dictating where businesses can and cannot create jobs in our country.”

You can listen to the ads [here](#).

09/09/2011

### NAM Sues NLRB Over Posting Requirement

Late yesterday, the National Association of Manufacturers (NAM) filed suit against the National Labor Relations Board (NLRB) regarding the recently finalized posting requirement rule. The board issued a rule requiring all employers subject to the National Labor Relations Act to put up a poster notifying employees of their rights under the act on or before November 14, 2011.

In comments filed with the board, the NAM contended the posting requirement is beyond the NLRB's authority under the act. These comments are the basis for the lawsuit filed in

federal court yesterday. The NAM is asking the court to preliminarily and permanently enjoin the board from implementing, enforcing and applying the rule.

09/09/2011

### Senate Bill 5 Backers Air First Campaign Ad

The campaign organization defending Senate Bill 5 on the November ballot (Issue 2) released its **first TV ad** this week. The ad features Toledo mayor Mike Bell, a former firefighter. In its release, Building a Better Ohio notes that Mayor Bell supports Issue 2 because it “gives our cities the tools they need to get spending under control and balance budgets without raising taxes or laying off good employees.”

Meanwhile reports the Columbus Dispatch, to “galvanize support behind Senate Bill 5, Gov. John Kasich is prodding private-business leaders with two of their least-favorite words. Card check.”

The governor reportedly told the press: “You get people emboldened, you don't know what it will lead to. It's a legitimate concern. There's a lot of things that could come. I'm not saying they will, but people who get emboldened, they do more-aggressive things.”

Campaign resources are available at the Building a Better Ohio [website](#).

09/09/2011

### National Labor Relations Board to Require All Covered Employers to Post Unionization Rights Notices

On August 25, 2011, the National Labor Relations Board (NLRB) **issued a rule** requiring all private sector employers to post workplace notices informing employees of their unionization rights under the National Labor Relations Act.

09/06/2011

## **NLRB Announces New “Overwhelming Community of Interest” Burden on Employers**

All of your employees are subject to the same work rules and personnel policies, but the employees in one of your smaller departments are disgruntled. Can a union cherry-pick this small group of employees for union representation? The answer may surprise you. **Read more** in this Bricker & Eckler Human Resources Bulletin. *From OMA Connections Partner, Bricker & Eckler LLP*

09/02/2011

## **NLRB Goes on Pre-Labor Day Rampage**

With Labor Day approaching, the Obama-appointed National Labor Relations Board (NLRB) gave labor several gifts and continued its aggressive pro-union agenda during the past two weeks. The Board issued one rule and three decisions that significantly impact private sector labor relations. These actions underscore the current Board's penchant to overturn Bush-era Board rulings, as well as long term NLRB precedent, and create easier opportunities for unions to organize employees.

These recent Board actions further shine the spotlight on the current NLRB's unstated commitment to achieve through rule making and board decisions what the proponents of the Employee Free Choice Act could not accomplish through Congress—a much easier, if not tilted, playing field for unions to sell the advantages of union membership and organize employees, who by all statistics have had little to no interest in buying what the union is trying to sell.

Read **more** in a memo prepared by OMA counsel Bricker & Eckler LLP.

09/02/2011

## **NLRB Requires Employers to Post Notice of Employees' NLRA Rights**

As of November 14, the National Labor Relations Board (NLRB) will require most private

employers to notify employees of their rights under the National Labor Relations Act (NLRA). Employers are being required to "increase employees' awareness" of their rights under the NLRA by posting prominent notices in the workplace. Read more in this **Bricker & Eckler Human Resources E-Alert**. *From OMA Connections Partner, Bricker & Eckler, LLP - 09/02/2011*

09/02/2011

## **NLRB Imposes New Posting Requirement – Compliance Required November 14**

The National Labor Relations Board (NLRB) has **issued a final rule** requiring most private-sector employers, both those with and without unions, to notify employees of their rights under the National Labor Relations Act by posting a new 11-by-17 inch notice. The rule is scheduled to take effect on November 14, 2011.

The Board justified its action thus: “The Board believes that many employees protected by the NLRA are unaware of their rights under the statute and that the rule will increase knowledge of the NLRA among employees, in order to better enable the exercise of rights under the statute.”

The posting states that employees have the right to act together to improve wages and working conditions, to form, join and assist a union, to bargain collectively with their employer, and to refrain from any of these activities. It provides examples of unlawful employer and union conduct and instructs employees how to contact the NLRB with questions or complaints.

NLRB prepared this **fact sheet** to give employers guidance.

OMA is holding a webinar, **Manufacturers' Briefing on NLRB Activities**, on September 13 to prepare employers for activist agency activities.

08/26/2011

## Rein in NLRB

This week the OMA joined with more than 200 organizations in a **letter** to members of the U.S. House of Representatives urging passage of the “Protecting Jobs from Government Interference Act” (H.R. 2587). The bill, a response to the Boeing case before the National Labor Relations Board (NLRB), would prohibit the NLRB from ordering companies to close, relocate, or transfer facilities.

Meanwhile, the White House issued a “**Statement of Administration Policy**” that said: “H.R. 2587 would leave employees no meaningful recourse in certain situations where an employer has violated the NLRA.”

07/29/2011

## NAM Tells Congress How to Improve WIA

In a **memo** to the U. S. Senate committee that released a discussion draft of Workforce Investment Act of 2011 (WIA), the National Association of Manufacturers (NAM) made recommendations for strengthening the proposal on behalf of manufacturers.

NAM says: “Since 1998, manufacturers have looked to the WIA as a partner in training and resources to access the skilled workforce necessary for advanced manufacturing. However, implementation of the program has failed the needs of employers in many cases, and the NAM hopes reauthorization will be an opportunity to strengthen the partnership between employers and the WIA.”

Included in the NAM’s recommendations:

- WIA training funding should be prioritized toward industry-recognized, nationally-portable credentials.
- **Sector strategies**, not emphasized in the draft WIA legislation, should be considered as a proven way to coordinate, integrate and focus resources on an essential industry and address larger, more complex challenges to a regional

economy. NAM called for adoption of the SECTORS Act sponsored by Senator Sherrod Brown.

- NAM members are continually frustrated by the bureaucracy associated with the WIA; the NAM provides specific proposals to streamline the workforce system.

07/22/2011

## Testimony to NLRB: Quash “Quickie Elections” Rule

Before the National Labor Relations Board (NLRB), Peter Kirsanow, a partner of Ohio-based law firm Benesch Friedlander and former NLRB member, **testified** that proposed rules to allow “quickie” unionization elections will “completely and utterly deprive employers of the ability to communicate vital information to their employees regarding their rights and the effect of unionization.”

Kirsanow said: “The proposed rules will...eviscerate the right of employees to make an informed exercise of their Section 7 rights, as well as eviscerate employers 8(c) rights to communicate their positions to employees. The rules will chill the free, uninhibited, robust debate—the freewheeling use of the written and spoken word regarding the issue of unionization contemplated by Congress in enacting the National Labor Relations Act and as enunciated by the Supreme Court in Letter Carriers v. Austin.”

The proposed rule could give employers as few as 10 days to communicate with their employees between the time a union files for an election and the election itself.

07/22/2011

## Avoid Employer Liability with Safe Harbor Provisions under GINA

Employers should take note of the recently-enacted federal Genetic Information Non-Discrimination Act of 2008, otherwise known as “GINA”. Effective January 10, 2011, Congress added yet another acronym to the long list of

federal laws impacting today's employers (OSHA, ADA, FMLA, ADEA, etc). This new law prohibits an employer from requesting an employee's genetic information and that of his/her family. The Act applies to requests for medical records, independent medical examinations, and pre-employment health screenings.

regarded conservative jurist, concurred with the decision. Court watchers are looking carefully at his concurring opinion for clues as to how the U.S. Supreme Court might rule when it inevitably decides this matter.

07/08/2011

**Read More . . .** *From OMA Connections Partner, Dinsmore Shohl LLP*

07/15/2011

### **FUTA Surtax Expires; Lower FUTA Rate for Employers**

On June 30, 2011, the 0.2% federal unemployment tax (FUTA) surtax expired, resulting in a lower FUTA tax rate of 6.0% effective July 1, 2011. In this Bricker & Eckler Employment E-Alert, we look at what this tax-rate change will mean to employers and what they could expect from Congress in the future. Read this **Bricker & Eckler Human Resources e-Alert** to learn the details. *From OMA Connections Partner, Bricker & Eckler LLP*

07/13/2011

### **Foes of Federal Health Insurance Mandate File Ballot Petition**

Foes of the federal health insurance mandate **filed more than 500,000 signatures** with the Ohio Secretary of State this week to try to exempt Ohio from a provision in federal law mandating individual purchase of health insurance.

If successful, the petition would modify Ohio's constitution to forbid the federal, state and local governments from mandating that Ohio residents buy health insurance. There is some question about whether this would stand U.S. constitutional muster.

On the federal constitutionality of the purchase mandate itself, federal courts have split. Ohio's United States Court of Appeals for the Sixth Circuit recently **ruled** that the mandate is constitutional. Judge Jeffrey Sutton, a highly-

**Human Resources, Health Care & Employment Law Legislation**  
**Prepared by: The Ohio Manufacturers' Association**  
**Report created on September 23, 2011**

- HB7**      **POST-VIABILITY ABORTIONS (FENDE L)** To revise the criminal laws governing post-viability abortions.  
*Current Status:* 2/2/2011 - House Health and Aging, (First Hearing)  
*More Information:* [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_7](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_7)
- HB11**      **PATIENT PROTECTION AND AFFORDABLE CARE ACT (SEARS B)** To prohibit state departments and agencies from implementing or enforcing a provision of the federal Patient Protection and Affordable Care Act without meeting certain conditions.  
*Current Status:* 2/23/2011 - House Health and Aging, (Second Hearing)  
*More Information:* [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_11](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_11)
- HB61**      **COMPENSATORY TIME OFF (THOMPSON A, MARTIN J)** To give private employers the option to offer and employees the option to accrue and use compensatory time off in lieu of monetary overtime compensation.  
*Current Status:* 2/24/2011 - **SUBSTITUTE BILL ACCEPTED & REPORTED OUT**, House Economic and Small Business Development, (Fourth Hearing)  
*More Information:* [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_61](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_61)
- HB63**      **ABORTION - PREGNANT MINOR (YOUNG R, SLABY L)** To revise the procedures governing a hearing by which a court may permit a pregnant minor to have an abortion and to require a court to make its findings with respect to such a hearing by clear and convincing evidence.  
*Current Status:* 6/22/2011 - **REPORTED OUT**, Senate Judiciary - Civil Justice, (Fifth Hearing)  
*More Information:* [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_63](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_63)
- HB78**      **POST VIABILITY ABORTIONS (UECKER J, ROEGNER K)** To review the criminal laws governing post-viability abortions.  
*Current Status:* 7/20/2011 - **SIGNED BY GOVERNOR**; Eff. 10/20/2011  
*More Information:* [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_78](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_78)
- HB79**      **INSURANCE COVERAGE - ABORTIONS (BUBP D, UECKER J)** To prohibit qualified health plans for providing coverage for certain abortions.  
*Current Status:* 9/27/2011 - Senate Insurance, Commerce & Labor, (First Hearing)  
*More Information:* [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_79](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_79)
- HB85**      **HEALTH INSURANCE (HACKETT R, SEARS B)** To prohibit requiring an individual to obtain or maintain health insurance.  
*Current Status:* 2/23/2011 - House Health and Aging, (Second Hearing)  
*More Information:* [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_85](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_85)
- HB125**      **ABORTION (WACHTMANN L)** To generally prohibit an abortion of an unborn human individual with a detectable fetal heartbeat.  
*Current Status:* 6/28/2011 - **PASSED BY HOUSE**; Vote 54-43  
*More Information:* [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_125](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_125)

- HB131**      **EMPLOYMENT RELATED MATTERS** (REECE A) To prohibit employers from using a consumer report or investigative consumer report for employment purposes.  
**Current Status:** 5/11/2011 - House Commerce & Labor, (First Hearing)  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_131](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_131)
- HB137**      **UNIFORM DEFINITION OF EMPLOYEE** (PHILLIPS D, DRIEHAUS D) To create a generally uniform definition of employee for specified labor laws and to create a uniform standard to determine whether an individual performing services for an employer is an employee of that employer.  
**Current Status:** 5/25/2011 - House Commerce & Labor, (First Hearing)  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_137](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_137)
- HB230**      **EMPLOYMENT APPLICATION QUESTIONS** (WILLIAMS S) To prohibit employers from including on an employment application any question concerning whether an applicant has pleaded guilty to or been convicted of a felony.  
**Current Status:** 6/1/2011 - House Commerce & Labor, (First Hearing)  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_230](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_230)
- HB257**      **LAKE ERIE WATERS** (MURRAY D) To establish a program for the regulation of withdrawals and consumptive uses of waters from the Lake Erie basin.  
**Current Status:** 6/15/2011 - Referred to Committee House Agriculture and Natural Resources Subcommittee  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_257](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_257)
- HCR3**        **HEALTH COVERAGE TAX CREDIT** (O'BRIEN S) To request the members of the United States Congress to reauthorize and continue the Health Coverage Tax Credit (HCTC) enhancements including provisions related to the monthly reimbursement program, the qualified family members program, and Voluntary Employee Beneficiary Associations (VEBAs).  
**Current Status:** 2/10/2011 - Referred to Committee House Finance and Appropriations  
**More Information:** [http://www.legislature.state.oh.us/res.cfm?ID=129\\_HCR\\_3](http://www.legislature.state.oh.us/res.cfm?ID=129_HCR_3)
- HJR2**        **HEALTH CARE COVERAGE** (MAAG R, SEARS B) To preserve the freedom of Ohioans to choose their health care and health care coverage.  
**Current Status:** 3/23/2011 - **REPORTED OUT**, House Health and Aging, (Third Hearing)  
**More Information:** [http://www.legislature.state.oh.us/res.cfm?ID=129\\_HJR\\_2](http://www.legislature.state.oh.us/res.cfm?ID=129_HJR_2)
- SB30**        **EMPLOYMENT DISCRIMINATION CREDIT HISTORY** (TAVARES C) To specify that discrimination by an employer against any person because of the person's credit history is an unlawful discriminatory practice under the Ohio Civil Rights Law.  
**Current Status:** 3/9/2011 - Senate Judiciary - Civil Justice, (First Hearing)  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_SB\\_30](http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_30)
- SB35**        **MOBILE DEVICE OPERATION MOTOR VEHICLE** (TAVARES C) To prohibit driving a vehicle while using a handheld or manually operated mobile communication device and to establish the violation as a secondary traffic offense.  
**Current Status:** 2/2/2011 - Referred to Committee Senate Highways & Transportation  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_SB\\_35](http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_35)



- SB55**      **HEALTH INSURANCE PAYMENTS** (TAVARES C) To prohibit health insurers from denying payment for a service during or after the performance of the service if the insurer provided prior written authorization for the service.  
**Current Status:** 9/20/2011 - Senate Insurance, Commerce & Labor, (First Hearing)  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_SB\\_55](http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_55)
- SB62**      **COMPENSATORY TIME OFF** (BEAGLE B) To give private sector employers the option to offer and employees the option to accrue and use compensatory time off in lieu of monetary overtime compensation.  
**Current Status:** 2/16/2011 - Referred to Committee Senate Insurance, Commerce & Labor  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_SB\\_62](http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_62)
- SB107**     **UNIFORM DEFINITION OF EMPLOYEE** (SKINDELL M) To create a generally uniform definition of employee for specified labor laws and to create a uniform standard to determine whether an individual performing services for an employer is an employee of that employer.  
**Current Status:** 3/8/2011 - Referred to Committee Senate Insurance, Commerce & Labor  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_SB\\_107](http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_107)
- SB112**     **OHIO HEALTH CARE PLAN** (SKINDELL M) To establish and operate the Ohio Health Care Plan to provide universal health care coverage to all Ohio residents.  
**Current Status:** 3/15/2011 - Referred to Committee Senate Insurance, Commerce & Labor  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_SB\\_112](http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_112)
- SB189**     **HEALTH CARE COMPACT** (GRENDLELL T) To join the Health Care Compact.  
**Current Status:** 6/21/2011 - Referred to Committee Senate Insurance, Commerce & Labor  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_SB\\_189](http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_189)
- SCR13**     **CONTRACEPTIVE DRUGS INCLUDE HEALTH INSURANCE** (TAVARES C) To urge the Secretary of the United States Department of Health and Human Services to include all federally approved prescription contraceptive drugs and devices in the list of women's preventive health services that must be covered by new health insurance plans.  
**Current Status:** 6/28/2011 - Referred to Committee Senate State & Local Government & Veterans Affairs  
**More Information:** [http://www.legislature.state.oh.us/res.cfm?ID=129\\_SCR\\_13](http://www.legislature.state.oh.us/res.cfm?ID=129_SCR_13)
- SJR1**      **HEALTH CARE COVERAGE** (GRENDLELL T) To preserve the freedom of Ohioans to choose their health care and health care coverage.  
**Current Status:** 6/22/2011 - BILL FAILED; Vote 59-39 (60 votes needed to pass)  
**More Information:** [http://www.legislature.state.oh.us/res.cfm?ID=129\\_SJR\\_1](http://www.legislature.state.oh.us/res.cfm?ID=129_SJR_1)

## **PUBLIC POLICY REPORT – SAFETY & WORKERS’ COMP**

**TO: OMA Government Affairs Committee**  
**FROM: Ryan Augsburger**  
**DATE: September 28, 2011**  
**SUBJ: Safety & Workers’ Compensation Update**

### **Overview**

Following completion of the BWC budget early in the year, policy activity has been quiet. Statutory changes to reduce workers comp costs on employers had been expected in the autumn, but now seems to be on hold pending successful defense of SB 5.

At the Industrial Commission (IC), Governor Kasich appointed former state senator Karen Gillmor. Over the summer, the Governor elevated Commissioner Gillmor to IC Chair, taking the place of Jodie Taylor, who remains a commissioner (employer representative).

### **Bureau of Workers’ Compensation**

BWC Administrator Steven Buehrer has been meeting with stakeholders, the OMA included, and is interested in reforms to drive down costs. A package of legislative proposals aimed at costs has been rumored.

So far all action has been administrative with the Board of the BWC considering a new discount program for new employers to the state. The OMA has questioned the actuarial soundness of the proposal and pointed out that funds could be used to subsidize an existing employer’s competitor.

### **Legislative Developments / Outlook** (See bill tracker)

**Workers Comp Council Repeal:** Legislation to repeal the Workers’ Comp Council, an entity of the Ohio General Assembly is contained in the main operating budget, HB 153. In case that is insufficient, the General Assembly also includes the repeal in the pending sunset review legislation, HB 264 / SB 171.

The entity was to be a tool for members to exercise legislative oversight of the BWC and to use actuarial analysis to help determine the effect of legislation on the system. Though well-intended, the council became a shadow board, and actually interfered in positive system operations. Recognizing the General Assembly always has oversight of state agencies; the OMA will welcome the repeal of the council.

**S.B. 139 Professional Employer Organizations:** Generally increases flexibility for PEOs to offer self-insurance coverage to PEO members. We are monitoring for possible actuarial soundness issues impacting SI security.

**Privatization / Competition:** Very little legislative activity to report. A house proposal originally drafted by former Representative Todd Snitchler has not moved beyond discussion. Representatives Peterson and Sears remains the likely sponsors. Large out-of-state insurers are driving the bill. The powerful “domestic” (meaning intra-Ohio) insurance community is vigilantly watching. While some Ohio insurers could easily compete in the WC market, they are more likely



concerned about losing market share of other insurance lines to large insurers from out of state. Insurance agents are also believed to be supportive.

A Senate created taskforce completed work on June 30. They concluded that more study was needed. Governor Kasich in comments was asked about privatizing the workers compensation system, the Governor said, "I'm not afraid to privatize anything that would make sense, but I'm not convinced at this point that's the way we ought to go."

The business community has been slow to embrace the change, potentially because there is *no good data* available to model the effects.

## Safety and Workers' Compensation Management

### October 31 is Next BWC Drug Free Safety Program Enrollment

Learn the benefits that becoming a drug free workplace, and enrolling in the Bureau of Workers' Compensation Drug Free Safety Program (DFSP) program, can bring to your workplace. OMA Connections Partner, **Working Partners®** is offering no-charge **webinars** in time for you to make a decision prior to the BWC's next enrollment deadline, October 31.

09/16/2011

### Supreme Court Decides a Six-Year Period to Assert Certain Subrogation Claims

On September 7, 2011, the Ohio Supreme Court issued its decision written by Justice Cupp in Ohio Bur. of Workers' Comp. v. McKinley. In its syllabus, the Court stated:

"A claim brought by a statutory subrogee pursuant to recover its subrogation interest is a claim "upon a liability created by statute" and is therefore subject to the six-year statute of limitations of R.C. 2305.7."

This decision extends the period of time that statutory subrogees, which includes self-insuring manufacturers, have to assert claims for benefits paid to injured workers, whose injuries were caused by third-party tortfeasors.

OMA Counsel, Tom Sant, of Bricker & Eckler LLP summarized, "That is a good thing particularly in situations ... where the injured worker and third party tortfeasor settled the case without paying the statutory subrogee. Because the self-insured manufacturer receives dollar for dollar reimbursement to the extent that payment is available, the advantage it has is more beneficial than to the state fund employer, which receives only partial benefits when the BWC collects from the injured worker and/or the third party tortfeasor."

Read Sant's **summary** of the case.

09/16/2011

### OMA Supports BWC Proposed Regulation of Self-Insured PEOs

The Bureau of Workers' Compensation (BWC) is developing **policy** regarding financial assessments and security requirements for the state's self-insured professional employer organizations (PEOs). While there are fewer than ten self-insured PEOs in the Ohio workers' comp system, it is important that the security requirements imposed on them are commensurate with those imposed on the entire community of self-insured employers.

OMA has gone on **record** with the BWC that it supports this development of fair policy for the protection and prudent administration of the Self-Insuring Employers Guaranty Fund.

09/09/2011

### BWC Administrator Asks TPAs to Hold Offers, Wants Time to Study Programs and Discounts

In a **letter** this week to workers' compensation third party administrators (TPAs) and associations that sponsor Bureau of Workers' Compensation (BWC) programs, BWC administrator Steve Buehrer asked for a moratorium on marketing specific discounts to potential group rating clients for the 2012/13 policy year. He indicated "that we (BWC) will not be bringing forward a recommendation on credibility levels and break-even factors for 60-90 days."

Buehrer explained that the BWC will use this 60 to 90 day timeframe to "work to develop a comprehensive pricing package that looks at all programs and considers modifications to incentives, requirements, and compatibility."

In addition to potentially modifying the specific factors that are used to calculate program discounts, such as credibility levels and break-even factors, the administrator also hinted that there may be additional program or product offerings: "...we should restructure both existing employer programs and evaluate potential new options to encourage the right behaviors,

promote participation in multiple programs, and measure our collective efforts...”

As there is no ban on TPAs to solicit AC3 applications for group rating proposals to be issued later, employers will likely see continued solicitations. We will keep members informed of BWC program impacts and opportunities in ongoing OMA communications.

Offers received before the moratorium is lifted, and final BWC rules are issued, should be ignored.

09/09/2011

### **When Workers' Compensation and Disabilities Laws Collide**

The legal worlds of workers' compensation law and the laws against disability discrimination sometimes collide and leave employers with difficult decisions about how to comply with each. A recent decision by the U.S. Court of Appeals for the Sixth Circuit serves as a cautionary tale to employers that impose work restrictions upon an employee based on what they perceive their responsibilities to be under a workers' compensation order. **Read more** in this Bricker & Eckler Human Resources Bulletin. *From OMA Connections Partner, Bricker & Eckler LLP.*

09/06/2011

### **OMA Expresses Concerns with Proposed BWC Discount Program**

The OMA **communicated** concerns with a proposed new premium discount program of the Ohio Bureau of Workers' Compensation (BWC). The "Grow Ohio Incentive Program" would provide a two-year 25% premium discount to employers new to Ohio. While the aim of the program is laudable, encouraging economic growth, the proposal is unfair to Ohio's existing employers.

In a letter to the BWC, OMA Managing Director for Workers' Compensation Services Denny Davis wrote: "This new program would require subsidization of new employers' premiums by employers already operating in the state. We

oppose any program that forces one group of Ohio businesses to pay inflated premiums to offset the cost of unearned discounts given to another class of Ohio businesses. This circumstance is most concerning, of course, when a company is forced by the government to subsidize a competitor."

Davis also expressed concerns about potential unintended consequences and operational complexity within the rule's provisions.

09/02/2011

### **BWC Plans Discount Program to Benefit New Ohio Employers**

Following the Ohio Bureau of Workers' Compensation (BWC) actuarial committee meeting this week where the idea was presented, BWC issued a **release** indicating about its proposed "economic development initiative" that would discount a new Ohio employer's premium by as much as 51 percent.

If approved by the BWC Board of Directors on September 29, "Grow Ohio" would offer eligible employers a 25 percent discount on their workers' compensation premiums for two years, or give them immediate access to participation in the group experience rating program. If approved, the incentives will apply to new business entities or out-of-state businesses that are new to Ohio and report payroll in Ohio on or after July 1, 2011.

Actuarially, this new program will require existing Ohio companies to subsidize the premium of new-to-Ohio companies. The OMA will express concerns to the BWC about the equity of such a circumstance.

08/26/2011

### **Hot Enough for You?**

OSHA urges employers to have a heat illness plan and communicate it to workers who may be exposed to the heat. Heat illness and death are preventable and **resources** are available.

07/22/2011

## **BWC Administrator Sets Priorities, Assigns Workgroups**

In a **press release** issued by the Bureau of Workers' Compensation (BWC), we learned that Administrator Steve Buehrer has "identified three primary areas improvement: reducing medical and indemnity costs that are outpacing national averages, reducing recent increases in the time it takes workers to return to work, and reducing the total length of time spent paying claims, in which Ohio ranks worst in the nation. To address the root cause of these issues, Buehrer has established five workgroups on Triaging Claims, Medical Management, Drug Utilization, Vocational Rehabilitation, and Settlements."

And, "In the coming months, Buehrer expects to prioritize a list of changes requiring legislative action and is compiling data to help answer questions surrounding issues such as benefits structure, marketplace competition and the appellate process."

The BWC and the OMA are engaged in discussions about legislative priorities. To follow this issue, log on to **MY OMA** and subscribe to OMA's Safety & Workers' Compensation committee.

07/22/2011

## **BWC Administrator Names Two Top Managers**

This week, Ohio Bureau of Workers' Compensation (BWC) Administrator/CEO Steven Buehrer **announced** the appointment of two professionals to leadership roles. Dale Hamilton will serve as Chief Operating Officer and Kevin Abrams will head BWC's Employer Services Division. Both managers have previous experience in the Ohio BWC system.

07/15/2011

## **Insurers Not Liable to Defend Employers Against Workplace Injury Tort Claims?**

This week the Ohio Supreme Court upheld a lower court ruling involving insurance coverage

for employer intentional torts. In a 7-0 decision authored by Justice Lundberg Stratton (with Justice Pfeifer concurring in judgment only), the Court held that insurers are not responsible for defending claims against insured employers for substantially-certain intentional torts unless such torts are expressly covered by the policy.

In **Ward v. United Foundries**, an injured employee and family filed an intentional tort claim against the employer for injuries sustained in the workplace. Such claims are made in addition to workers' compensation claims.

The dispute underscores the need for employers to understand and be abundantly clear about the terms of their insurance coverage. Additionally, the unanimous decision may indicate that employers in similar situations may find themselves out of luck in getting insurance to defend against tort actions stemming from workplace injury.

07/08/2011

## **Supreme Court Protects Confidentiality of Workers' Comp Files**

Unanimously and without comment, the Ohio Supreme Court ruled that state law exempts from public disclosure data contained in claim files of the Ohio Bureau of Workers' Compensation. Various interests continually attempt to gain access to claim files for commercial purposes; this decision is a welcome protection to confidentiality for injured workers.

Assistant Attorney General Elise Porter argued that the information sought was excluded from release under the Public Records Act: "The only reasonable interpretation of the statute as a whole is that the public cannot obtain data, information, or documents contained in the bureau's claim files or any other bureau files that pertain to the claim files without authorization," Ms. Porter said. "The only exception is for journalists, who can only obtain the addresses and telephone numbers and nothing else."

Plaintiffs lawyers have attempted to gain access to the claim information by dressing up as journalists, too, but so far have been stopped.

07/08/2011

### **Workers' Compensation Privatization Study Fizzles**

Senator Tim Grendell (R-Geauga) convened a **final meeting of a task force** created by the Ohio Senate in 2010. The task force was to determine if opening Ohio's monopoly workers' compensation system to private insurance would lower overall premiums for employers. The task force was comprised of senators, Bureau of Workers' Compensation leadership, employer representatives, injured worker representatives and insurance company executives.

After seven meetings that included testimony from interested parties and experts, the task force members this week adopted a **summary**. "The findings were largely inconclusive," said the OMA's Ryan Augsburger, who noted that the task force chairman conceded there was insufficient data to model costs.

The privatization task force has wrapped up its work and disbanded. Its time now to address the system's cost drivers. The OMA Safety and Workers' Compensation Committee is engaged in that work. **Join it** by logging in to your OMA profile and clicking on My OMA Management Communities.

07/01/2011

### **OSHA Launches Interactive Web Site to Help Employers with Recordkeeping Rule**

The Occupational Safety and Health Administration (OSHA) has **created** an interactive web tool to help employers determine whether injuries and illnesses are work-related and recordable under the OSHA Recordkeeping rules.

The **OSHA Recordkeeping Advisor** is an interactive tool that simulates an employer's interaction with a Recordkeeping rules expert. The Advisor relies on users' responses to questions and automatically adapts to the situation presented. Responses put into the program are strictly confidential and the system does not record or store any of the information.

The Advisor helps employers determine whether an injury or illness (or related event) is work-related, whether a work-related injury or illness needs to be recorded, and more.

07/01/2011

**Workers' Compensation Legislation**  
**Prepared by: The Ohio Manufacturers' Association**  
**Report created on September 26, 2011**

- HB123**      **WORKERS' COMPENSATION BUDGET** (HOTTINGER J) To allow the administrator of Workers' Compensation to waive criteria certain public employers must satisfy to become self-insuring employers; to require bills for medical and vocational rehabilitation services in claims that are ultimately denied to be paid from the Surplus Fund Account under specified circumstances; to make appropriations for the Bureau of Workers' Compensation and for the Workers' Compensation Council for the biennium beginning July 1, 2011, and ending June 30, 2013; and to provide authorization and conditions for the operation of the Bureau's and the Council's programs.  
**Current Status:** 4/25/2011 - **SIGNED BY GOVERNOR**; Some provisions eff. 4/25/11; others 7/29/11  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_123](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_123)
- HB124**      **INDUSTRIAL COMMISSION BUDGET** (HOTTINGER J) To set appropriations for the Industrial Commission for the biennium beginning July 1, 2011, and ending June 30, 2013, and to provide authorization and conditions for the operation of Commission programs.  
**Current Status:** 4/25/2011 - **SIGNED BY GOVERNOR**; Eff. 4/25/11  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_124](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_124)
- HB186**      **PROFESSIONAL EMPLOYER ORGANIZATION LAW** (ADAMS R) To establish certain financial capacity requirements for professional employer organizations, clarify rights and liabilities of professional employer organizations and client employers, and to make other changes to the professional employer organization law.  
**Current Status:** 6/1/2011 - **BILL AMENDED**, House Commerce & Labor, (Third Hearing)  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_186](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_186)
- HB252**      **IMMIGRATION STATUS-CONVICTED FELON** (YOUNG R) To require a prosecuting attorney to ask the Immigration and Naturalization Service of the United States to verify or ascertain the immigration status of an offender who has been convicted of or pleaded guilty to a felony, to require a prosecuting attorney if the INS informs the prosecutor that the offender is an illegal alien to notify the alleged felon's employer, the Department of Job and Family Services, the Registrar of Motor Vehicles, and the Secretary of State, to make illegal aliens ineligible for certain state public benefits, and to prohibit the Registrar of Motor Vehicles from issuing a driver's license to an alleged felon with respect to whom a prosecuting attorney has given the Registrar the above notice and require the Registrar to cancel any driver's licenses issued to such an alleged felon.  
**Current Status:** 6/8/2011 - Referred to Committee House Transportation, Public Safety and Homeland Security  
**More Information:** [tp://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_252](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_252)
- SB139**      **PROFESSIONAL EMPLOYER ORGANIZATION LAW** (HUGHES J) To establish certain financial capacity requirements for professional employer organizations, clarify rights and liabilities of professional employer organizations and client employers, and make other changes to the professional employer organization law.  
**Current Status:** 9/20/2011 - **BILL AMENDED**, Senate Insurance, Commerce & Labor, (Third Hearing)  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_SB\\_139](http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_139)

**PUBLIC POLICY REPORT – Tax Policy**

**TO:** OMA Government Affairs Committee  
**FROM:** Ryan Augsburger, OMA Staff  
**DATE:** September, 2011  
**SUBJECT:** TAX POLICY HIGHLIGHTS

**Overview**

Following completion of the main operating budget in June, only a House legislative study committee has been active. A few bills are being considered, mostly in the House.

**State Budget and Financial Condition**

Tax and other revenue collection continues to track above estimates. Administration officials have hinted that Governor Kasich may want to revise the budget (mid-term) to institute another rounds of cuts.

**Estate Tax Repeal**

The Estate Tax was repealed as a rider to the state budget with a 2013 effective date so it will not shortchange revenue collection in the FY12, FY13 biennium. The OMA advocated in support of repeal.

**House Study Committee**

Since late August a legislative study committee has been meeting to hear public testimony. OMA Tax Counsel Mark Engel of Bricker & Eckler educated lawmakers about the important package of reform, enacted in 2005. Most state representatives were not in Columbus during the reforms. Mark cautioned lawmakers about the importance of maintaining a broad base, in order to maintain the low rate. The committee is charged with looking at the CAT, considering the sales and use tax, and considering tax expenditures.

Over a dozen industries or companies have appeared before the committee asking for special treatment (exemption) from the CAT. A number of local government leaders are also appearing to express opposition to a rumored legislative proposal to consolidate municipal tax collection at the state level.

**Unemployment Compensation**

Like many states, Ohio's fund to pay unemployment compensation claims was depleted in early 2010. The state has borrowed federal funds (\$2.3 billion) that will need to be paid back. States are required to begin paying interest by September 2011 (nearly \$300 in interest alone in the 2012/13 biennial budget). The OMA has signed on with other business groups in urging greater state flexibility in repayment. Eventually Ohio employers could see a premium increase to repay the federal loans and restore the state fund, probably coupled with benefit cuts. In the short term, the state budget appropriated funds to meet the interest payments that come due on Sept 30. This is a positive development for employers.

**JobsOhio and Third Frontier**

House Bill 1 / Senate Bill 1 created a non-profit corporation called JobsOhio to coordinate state economic development activity. The corporation is headed by a board of directors and chaired by the Governor. A series of informational presentations was held around the state last month. See additional information included.



## Tax Management

### OMA To Lawmakers: Preserve Tax Reform

OMA Tax Counsel **Mark Engel** of Bricker & Eckler LLC this week told a panel in the Ohio House of Representatives to hold the line on the broad-base, low-rate commercial activity tax (CAT). Dozens of other business interests have told the lawmakers that their business or industry is harmed by the CAT and are seeking exemption. Pharmaceutical distributors, retailers, grain elevator operators, and gas stations are among the parties protesting the “unfair” burden imposed on them by the CAT.

In his **testimony** on behalf of the OMA, Engel said, “The solution isn’t a tax system made of Swiss cheese; we tried that already, and it didn’t work. Hold fast to a broad-based, low-rate tax that is simple to enforce and simple to follow, and that treats all taxpayers the same.”

Last week, Cleveland State University Dean Edward “Ned” Hill made a presentation to the committee on the economic benefits of the tax reforms enacted in 2005.

09/23/2011

### More Small Business Loans Available

The federal government recently approved the next wave of funds, \$767 million, to community banks for making commercial and industrial loans. The development is part of the Small Business Jobs Act enacted last year which set aside \$30 billion for this purpose. Manufacturers worked in support of the creation of this program.

Read more in the **PMA / NTMA One Voice**.

09/16/2011

### OMA Recognized for Estate Tax Repeal

Earlier this year, state leaders repealed Ohio’s estate tax as an amendment to state budget legislation. Abolishing the tax had been an OMA priority for many years because the tax served

as a deterrent to necessary re-investment by family-owned businesses. **The Wall Street**



**Journal** chronicled the historic development. The OMA worked together with other supporter organizations including Citizens

United to End Ohio’s Estate Tax.

Pictured is the OMA’s Ryan Augsburger, Ron Alban and Jack Boyle of Citizens Untied to End Ohio’s Estate Tax, and OMA President Eric Burkland.

09/09/2011

### House Panel Considers State Tax Policy

The Ohio House of Representatives this week began a series of “study committees” with a panel to examine the state’s tax structure.

Deputy Ohio Tax Commissioner Fred Church said the goal of the tax reform of 2005 was to create a broad-based, low-rate business tax to replace the corporate franchise and tangible personal property taxes and to lower the personal income tax rate. Church testified that the new “tax was designed to benefit manufacturing, creating a favorable ‘platform for production’ in Ohio.”

“Fred’s **presentation** described accurately how the significant tax reforms have dramatically improved Ohio’s tax climate,” commented the OMA’s Ryan Augsburger.

A threat to Ohio’s manufacturing-friendly state tax policy is special interest lobbying to obtain tax exemptions, which erode the tax base. A witness representing gas station/convenience store operators testified that the industry should be exempted from the tax. There’ll be more of this coming from other groups as the study committee continues its hearings.

08/26/2011

## State Outlines New Economic Development Apparatus

The Kasich administration this week **unveiled details** about the state's new way of working with businesses to promote their growth and attract new investment in Ohio. To date, the functions of economic development have been shepherded by the Ohio Department of Development; however, with the passage of the JobsOhio bill (House Bill 1), Governor Kasich was authorized to form a nonprofit corporation which is responsible for economic development, job creation, job retention and the recruitment of businesses to Ohio.

The **full report** details which functions should remain within the state agency structure and which functions should transfer to JobsOhio.

Officials responsible for the new structure are holding **six regional meetings** to discuss Ohio's new economic development strategy. The meetings are intended to describe the role of the Ohio Department of Development and its relationship with JobsOhio and the JobsOhio Network partners.

"This new approach, which has a regional focus, represents perhaps the most sweeping reform ever of Ohio's economic development strategy," commented the OMA's Ryan Augsburger, who will be monitoring the developments and reporting them to members via this publication and to the OMA Tax Policy Committee. Manufacturers are invited to attend the regional events and to view a **presentation** the state is using to describe JobsOhio.

08/19/2011

## Ohio GrowNOW Program Reduces Interest Rates on New or Existing Small Business Loans

State Treasurer Josh Mandel has created the **GrowNOW** program to make financing more affordable for small business owners.

Qualifying businesses can receive a three percentage point interest rate reduction on new or existing small business loans for two years

with the opportunity for renewal.

The program is a partnership between eligible banks and the Ohio Treasury. Small business owners must commit to the creation or retention of at least one full-time job or two part-time jobs in the state of Ohio for every \$50,000 borrowed, up to \$400,000. GrowNOW broadly serves as a catalyst for Ohio's economic development by supporting the small businesses that drive it.

07/29/2011

## State Budget: Lots of Tax Changes

The budget bill signed into law by Governor Kasich last week contains numerous changes to tax law. The bill extends some existing tax exemptions or credits, enacts a number of new tax breaks, and contains no tax rate increases.

The bill completes the five-year, phased reduction of the personal income tax, and eliminates the state estate tax as of January 1, 2013. Both of these changes have been championed by the OMA and member companies.

Among the bill's tax exemptions or credits: nonrefundable jobs retention tax credit for certain qualified large projects, another exemption from the commercial activity tax (this time for uranium enrichment operations), a nonrefundable personal income tax credit for certain investments in qualified small businesses, an extension of an exemption for qualified energy projects, a new sales tax exemption for equipment used in the operation of a computer data center business, and others.

The bill creates the "Joint Tax Expenditure Review Committee" to review each tax expenditure, such as those contained in the bill, at least once every 8 years, and make recommendations whether the expenditure should be terminated, continued, or modified.

Read more in a **memo** from OMA tax counsel Mark Engel of Bricker & Eckler LLC.

07/08/2011

## Unemployment Compensation: Funds Directed to Pay Federal Interest

Previously, *Leadership Briefing* reported that the state may be required to begin paying interest in September on \$2 billion borrowed against federal unemployment funds. Employers are ultimately responsible to help rebuild the state's unemployment insurance fund balance. The **OMA supported federal legislation** to provide flexibility to states on repayment.

This week, the Ohio General Assembly included an **eleventh hour amendment** to the state budget to transfer \$104 million earmarked for anti-tobacco programs to a newly-created Unemployment Compensation Contingency Fund to defray interest costs potentially owed to the federal government. This is intended to ease the burden on Ohio employers.

07/01/2011

## New Income Tax Credit for Small Business Investors

In a last-minute move, Governor Kasich's "InvestOhio" plan was dropped into House Bill 153, the biennial budget bill, shortly before an agreement was reached by the conference committee to reconcile the different versions of the bill passed by the two chambers. The provision permits a nonrefundable credit of up to \$1,000,000 for qualifying investments in certain small business enterprises.

A "small business enterprise" is defined as an entity in which total assets do not exceed \$50,000,000, or annual sales do not exceed \$10,000,000. The enterprise must have at least 50 full-time equivalent employees, or more than one-half of its total full-time equivalent employees employed anywhere in the United States, in Ohio and subject to withholding of Ohio income tax.

Credits will be capped at \$1 million per individual. Credits claimed in the biennium cannot exceed \$100 million. It'll be first come first served under rules to be designed by the Ohio Department of Development.

Read more in a memo from OMA tax counsel Mark Engle of Bricker & Eckler, LLP.

07/01/2011

## Kasich Gets His Budget and its Reforms

The conference committee on the state budget made **final changes**, sending **HB 153** to the House and Senate floors this week. The 4000 page budget bill then was adopted along partisan lines. Governor Kasich had one day to decide on line-item vetoes, and sign the bill. There were no vetoes of particular significance to manufacturers.

Top issues for manufacturers contained in the budget: repeal of the estate tax effective January 2013, final phase-in of personal income tax reduction, provisions to encourage innovation and shared services among local governments, construction reform for public works, lifting of prevailing wage threshold for public works, satisfactory compromise on emissions regulations, and the creation of InvestOhio.

Dubbed the "Jobs Budget" by Governor Kasich who first proposed it in mid-March, this budget closed an \$8 billion structural deficit. The Governor and the Republican majority in the General Assembly balanced the budget without increasing taxes.

The OMA thanks its members that testified in support of the bill and engaged with lawmakers to get it passed.

07/01/2011

**Taxation Legislation**  
**Prepared by: The Ohio Manufacturers' Association**  
**Report created on September 26, 2011**

- HB1**      **JOBSONIO** (DUFFEY M) To authorize the Governor to create JobsOhio, a nonprofit economic development corporation.  
**Current Status:** 2/18/2011 - **SIGNED BY GOVERNOR**; Eff. 2/18/2011  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_1](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_1)
- HB3**      **REPEAL ESTATE TAX** (GROSSMAN C, HOTTINGER J) To repeal the estate tax for the estates of individuals dying on or after January 1, 2011.  
**Current Status:** 2/16/2011 - **REPORTED OUT**, House Ways and Means, (Fourth Hearing)  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_3](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_3)
- HB8**      **TAX PROMPT REMITTANCE DISCOUNT** (BLAIR T) To increase the sales and use tax prompt remittance discount and to authorize a discount for prompt remittance of income tax withholding.  
**Current Status:** 1/11/2011 - Referred to Committee House Ways and Means  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_8](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_8)
- HB10**     **REMEDICATION OF CONTAMINATED SITE** (SEARS B) To authorize refundable tax credits for the completion of a voluntary action to remediate a contaminated site and for the return of such sites to productive use, and to exempt persons through 2017 who have issued covenants not to sue under the Voluntary Action Program from certain fees and penalties for one year after the issuance of such a covenant.  
**Current Status:** 3/2/2011 - House Ways and Means, (Fifth Hearing)  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_10](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_10)
- HB17**     **TAX CREDIT FOR HIRING UNEMPLOYED** (BAKER N) To authorize a \$2,400 income tax withholding credit for an employer that hires and employs a previously unemployed individual.  
**Current Status:** 9/27/2011 - House Ways and Means, (First Hearing)  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_17](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_17)
- HB18**     **TAX CREDIT - EXPANDING BUSINESSES** (BAKER N) To authorize a nonrefundable tax credit for a business that increases payroll and expands into a vacant facility.  
**Current Status:** 9/27/2011 - House Ways and Means, (Sixth Hearing)  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_18](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_18)
- HB43**     **OHIO VENTURE CAPITAL AUTHORITY** (GOYAL J, WILLIAMS S) To increase the annual and aggregate limit on the amount of tax credits the Ohio Venture Capital Authority may authorize.  
**Current Status:** 1/26/2011 - Referred to Committee House Economic and Small Business Development  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_43](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_43)
- HB44**     **SMALL BUSINESS WORKING CAPITAL LOAN PROGRAM** (GOYAL J, GARLAND N) To create the Small Business Working Capitol Loan Program.  
**Current Status:** 1/26/2011 - Referred to Committee House Economic and Small Business Development  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_44](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_44)

- HB58**      **INTERNAL REVENUE CODE** (BECK P) To expressly incorporate changes in the Internal Revenue Code since December 15, 2010, into Ohio law.  
**Current Status:** 3/7/2011 - **SIGNED BY GOVERNOR**; eff. 3/7/2011  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_58](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_58)
- HB81**      **PERFORMANCE BUDGETING** (SNITCHLER T) To require performance budgeting by most state agencies.  
**Current Status:** 2/22/2011 - House State Government and Elections, (Second Hearing)  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_81](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_81)
- HB98**      **INCOME TAX RATE FOR 70 1/2 YEARS OR OLDER** (HOLLINGTON R) To reduce the maximum effective income tax rate applicable to unearned income of persons age 70 1/2 years or older to 1% beginning in 2013.  
**Current Status:** 3/30/2011 - House Ways and Means, (Fourth Hearing)  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_98](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_98)
- HB101**     **JOB CREATION/RETENTION CREDITS** (WILLIAMS S) To provide for a six-year trial period in which taxpayers may include a limited number of the taxpayer's employees who work from home and whose rate of pay is at least three times the federal minimum wage as employees employed in the project for purposes of the job creation and retention credits if the recipient of the credit provides a specified level of capital investment, and to require the Director of Development to issue a report at the end of the six-year period.  
**Current Status:** 6/1/2011 - House Ways and Means, (First Hearing)  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_101](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_101)
- HB111**     **TAX DEDUCTION-SMALL BUSINESS** (WILLIAMS S) To authorize an income tax deduction for small business owners' reinvestment of undistributed profits in business property, employee training, or research and development.  
**Current Status:** 5/11/2011 - House Ways and Means, (First Hearing)  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_111](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_111)
- HB114**     **TRANSPORTATION BUDGET** (MCGREGOR R) To make appropriations for programs related to transportation and public safety for the biennium beginning July 1, 2011, and ending June 30, 2013, and to provide authorization and conditions for the operation of those programs.  
**Current Status:** 7/13/2011 - HB114 had a provision amended by SB187  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_114](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_114)
- HB134**     **CAPITAL GAINS INVESTMENTS** (SCHURING K) To reduce the income tax rate on capital gains reinvested in Ohio-based investments.  
**Current Status:** 6/1/2011 - House Ways and Means, (Fourth Hearing)  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_134](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_134)
- HB153**     **BIENNIAL BUDGET** (AMSTUTZ R) To make operating appropriations for the biennium beginning July 1, 2011, and ending June 30, 2013, and to provide authorization and conditions for the operation of state programs.  
**Current Status:** 6/30/2011 - **SIGNED BY GOVERNOR**; Effective 6/30/2011; some sections different dates, 7 line item vetos  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_153](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_153)



- HB198**      **PROPERTY TAX COMPLAINTS** (COLEY II W) To permit property tax complaints to be initiated only by the property owner.  
**Current Status:** 5/12/2011 - House Financial Institutions, Housing and Urban Development, (Second Hearing)  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_198](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_198)
- HB220**      **CAT TAX CREDIT INVESTMENT LOSSES** (BECK P, BAKER N) To allow a refundable commercial activity tax credit for investment losses recognized by foreign entrepreneur investors who invest in certain projects in Ohio.  
**Current Status:** 6/23/2011 - House Economic and Small Business Development, (Sixth Hearing)  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_200](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_200)
- HB258**      **APPRENTICESHIP PROGRAMS** (GROSSMAN C, DOVILLA M) To exempt from taxation for five years the earned income of an individual who obtains journeyman status or a baccalaureate degree and works in Ohio; and to prohibit the Apprenticeship Council from adopting standards for apprenticeship ratios that are stricter than those requirements specified in the federal regulations governing apprenticeship programs and from discriminating against open or merit shops.  
**Current Status:** 9/27/2011 - House Ways and Means, (Second Hearing)  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_258](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_258)
- HB261**      **ALTERNATIVE FUEL FACILITY** (MCGREGOR R) To allow a credit against the personal income tax or commercial activity tax for the installation of an alternative fuel facility.  
**Current Status:** 9/21/2011 - House Ways and Means, (Second Hearing)  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_261](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_261)
- HB310**      **ELECTRIC VEHICLE SALES TAX REDUCTION** (GOODWIN B) To reduce the amount of sales tax due on the purchase or lease of a qualifying electric vehicle by up to \$2,000.  
**Current Status:** 9/21/2011 - House Ways and Means, (First Hearing)  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_310](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_310)
- HB327**      **JOB CREATION-RETENTION TAX CREDIT** (GONZALES A) To provide for a six-year trial period in which taxpayers may receive a job creation or job retention tax credit for the employment of home-based employees and to require the Director of Development to issue a report at the end of the six-year period.  
**Current Status:** 9/22/2011 - House Economic and Small Business Development, (First Hearing)  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_327](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_327)
- SB1**        **JOBSOHIO** (WAGONER M) To authorize the creation of JobsOhio, the non-profit economic development corporation.  
**Current Status:** 2/2/2011 - Referred to Committee Senate Finance  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_SB\\_1](http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_1)
- SB4**        **PERFORMANCE AUDITS OF STATE AGENCIES** (SCHAFFER T) To require the Auditor of State to conduct performance audits of certain state agencies.  
**Current Status:** 4/5/2011 - **SIGNED BY GOVERNOR**; Eff. 4/5/2011  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_SB\\_4](http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_4)
- SB5**        **COLLECTIVE BARGAINING REFORM** (JONES S) To make changes to Ohio's Collective

Bargaining Law, which was first enacted in 1983.

**Current Status:** 3/31/2011 - **SIGNED BY GOVERNOR**; Eff. 7/01/11

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_SB\\_5](http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_5)

- SB6**      **JOB RETENTION TAX CREDIT (PATTON T)** To authorize a refundable job retention tax credit.  
**Current Status:** 2/22/2011 - SB6 became part of HB58  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_SB\\_6](http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_6)
- SB7**      **IRS TAX CHANGES (OBHOF L)** To expressly incorporate changes in the Internal Revenue Code since December 15, 2010, into Ohio law, and to declare an emergency.  
**Current Status:** 2/17/2011 - Senate Ways & Means & Economic Development, (Second Hearing)  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_SB\\_7](http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_7)
- SB12**     **SMALL BUSINESS SET ASIDE (KEARNEY E)** To generally require that state agencies set aside a certain amount of purchases for which only small business enterprises may compete.  
**Current Status:** 2/2/2011 - Referred to Committee Senate State & Local Government & Veterans Affairs  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_SB\\_12](http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_12)
- SB13**     **UNEMPLOYMENT MODERNIZATION TASK FORCE (SCHIAVONI J)** To allow an individual to receive unemployment compensation benefits for unemployment related to domestic abuse or compelling family circumstances, to allow an individual to receive unemployment training extension benefits under specified conditions, and to create the Unemployment Modernization Review Task Force.  
**Current Status:** 3/22/2011 - Senate Insurance, Commerce & Labor, (First Hearing)  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_SB\\_13](http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_13)
- SB47**     **CAT TAX CREDIT GROCERY STORES (KEARNEY E)** To authorize a commercial activity tax credit for underserved community grocery stores.  
**Current Status:** 2/17/2011 - Senate Ways & Means & Economic Development, (First Hearing)  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_SB\\_47](http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_47)
- SB58**     **TAX CREDIT EMPLOYMENT CONVICTED FELONS (TAVARES C)** To create a tax credit for the employment of individuals who have been convicted of felonies.  
**Current Status:** 2/10/2011 - Senate Ways & Means & Economic Development, (First Hearing)  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_SB\\_58](http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_58)
- SB90**     **ESTATE TAX (JORDAN K)** To repeal the estate tax for the estates of individuals dying on or after January 1, 2011.  
**Current Status:** 4/14/2011 - **REPORTED OUT AS AMENDED**, Senate Ways & Means & Economic Development, (Fifth Hearing)  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_SB\\_90](http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_90)
- SB115**    **PROPERTY SALE GAINS (KEARNEY E)** To exempt from income taxation any gains from the sale of Ohio property used in a trade or business and held for at least two years.



**Current Status:** 3/24/2011 - Senate Ways & Means & Economic Development,  
(First Hearing)

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_SB\\_115](http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_115)

**SB188**      **ALTERNATIVE FUEL FACILITY (PATTON T)** To allow a credit against the personal income tax or commercial activity tax for the installation of an alternative fuel facility.

**Current Status:** 9/22/2011 - Senate Ways & Means & Economic Development,  
(First Hearing)

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_SB\\_188](http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_188)

**SB200**      **EDISON JOBS DEVELOPMENT PROGRAM (HUGHES J)** To create the Edison Jobs Development Program within the Department of Development and to make an appropriation.

**Current Status:** 9/20/2011 - Referred to Committee Senate Finance

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_SB\\_200](http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_200)

**SB206**      **TAX CREDIT-TEMP EMPLOYMENT AGENCY HIRES (SCHAFFER T)** To allow taxpayers to count employees employed through a temporary or professional employment agency toward the payroll and income tax withholding requirements of the job creation and job retention tax credits.

**Current Status:** 9/20/2011 - Referred to Committee Senate Ways & Means &  
Economic Development

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_SB\\_206](http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_206)

**SB209**      **ELECTRIC VEHICLE SALES TAX REDUCTION (HITE C, TURNER N)** To reduce the amount of sales tax due on the purchase or lease of a qualifying electric vehicle by up to \$2,000.

**Current Status:** 9/22/2011 - Senate Ways & Means & Economic Development,  
(First Hearing)

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_SB\\_209](http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_209)