

NAIOP

COMMERCIAL REAL ESTATE
DEVELOPMENT ASSOCIATION

NAIOP OF OHIO

NAIOP Weekly Legislative Report
Prepared by: Law Offices of Matthew G. Kallner
Report created on July 11, 2011

Supported Bills

- 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)
All Bill Status: 2/23/2011 - House Ways and Means, (Fourth Hearing)
2/16/2011 - House Ways and Means, (Third Hearing)
2/9/2011 - House Ways and Means, (Third Hearing)
2/2/2011 - House Ways and Means, (Second Hearing)
1/26/2011 - House Ways and Means, (First Hearing)
1/11/2011 - Referred to Committee House Ways and Means
1/11/2011 - Introduced
- 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:* 1/11/2011 - Referred to Committee House Ways and Means
All Bill Status: 1/11/2011 - Introduced
- 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:* 2/23/2011 - House Ways and Means, (Fifth Hearing)
All Bill Status: 2/16/2011 - House Ways and Means, (Fourth Hearing)
2/9/2011 - House Ways and Means, (Third Hearing)
2/2/2011 - House Ways and Means, (Second Hearing)
1/26/2011 - House Ways and Means, (First Hearing)
1/11/2011 - Referred to Committee House Ways and Means
1/11/2011 - Introduced

Oppose

- HB50 TYPE-II ANNEXATION (SNITCHLER T)** To require that a political subdivision owner be included in determining the number of owners needed to sign a petition for an expedited type-II annexation.
- Current Status:* 6/21/2011 - House Local Government, (Fifth Hearing)
All Bill Status: 6/14/2011 - **BILL AMENDED**, House Local Government, (Fifth

Hearing)
5/24/2011 - **SUBSTITUTE BILL ACCEPTED**, House Local Government, (Fourth Hearing)
3/1/2011 - House Local Government, (Second Hearing)
2/22/2011 - House Local Government, (Second Hearing)
2/15/2011 - House Local Government, (First Hearing)
2/1/2011 - Referred to Committee House Local Government
1/26/2011 - Introduced

Monitoring

- 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)
All Bill Status: 5/11/2011 - House Ways and Means, (Third Hearing)
3/30/2011 - House Ways and Means, (Third Hearing)
3/23/2011 - House Ways and Means, (Second Hearing)
3/16/2011 - House Ways and Means, (First Hearing)
3/2/2011 - Referred to Committee House Ways and Means
3/1/2011 - Introduced
- 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)
All Bill Status: 5/4/2011 - House Financial Institutions, Housing and Urban Development, (First Hearing)
4/12/2011 - Referred to Committee House Financial Institutions, Housing and Urban Development
4/12/2011 - Introduced
- 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
All Bill Status: 2/23/2011 - Introduced
- 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)
All Bill Status: 3/15/2011 - Referred to Committee Senate Ways & Means & Economic Development
3/9/2011 - Introduced

Bills Introduced Since 7/4/2011

- HB292 GENETIC COUNSELORS (GONZALES A)** Regarding licensure of genetic counselors.
HB293 PENALTY FOR ROBBERY NEAR PHARMACY (STINZIANO M) To increase the penalties

for robbery, burglary, and breaking and entering when the offenses occur in or in the immediate vicinity of a pharmacy;

- HB294 LSC PREPARATION OF LEGISLATIVE DOCUMENT** (CELESTE T, GOYAL J) To prohibit the Legislative Service Commission staff, when preparing a legislative document, from communicating with outside parties without a member of the General Assembly or General Assembly staff present and to make communications between such parties and Legislative Service Commission staff public records.
- SB194 ORAL CANCER MEDICATIONS** (GILLMOR K, OELSLAGER S) Regarding the delivery of certain non-self-injectable and compounded medications and insurance coverage for orally administered cancer medications.
- SB195 HIGHWAY NAME DESIGNATION** (HUGHES J) To designate part of Interstate 71 in southern Franklin County as the "Deputy Marty Martin Memorial Highway."
- SB196 BUSINESS OPPORTUNITY PLAN LAW** (WAGONER M) To make changes to Ohio's Business Opportunity Plan Law.

Week in Review

Friday, July 8, 2011

ATTORNEY GENERAL

Attorney General Mike DeWine said tough talk at the Violent Crime with Guns Advisory Group's inaugural meeting should not be taken as signaling opposition to the newly signed corrections overhaul, though DeWine would draw support Wednesday from one of a handful of Senate Republicans who voted against HB86 (Blessing-Heard). The AG convened a 16-member advisory group comprising state and federal law enforcement, prosecutors' offices, and several assistant attorney generals, and chaired by his Criminal Justice Section Chief Jeff Welbaum. They were supported by a large group of ex officio members of the criminal justice system as well as representatives from Sen. Jim Hughes' (R- Columbus) office.

Ohio will join a \$92 million multi-state settlement with JP Morgan Chase & Co. (JPMC) in an ongoing nationwide investigation of alleged anticompetitive and fraudulent conduct in the municipal bond derivatives industry, the Ohio Attorney General's Office announced Thursday.

BALLOT ISSUES

Secretary of State Jon Husted's office sent the nearly 1.3 million signatures delivered by those seeking a referendum on SB5 to county boards of elections Tuesday for verification.

Tea Party groups and other opponents of the federal Affordable Care Act (ACA) filed 546,000 signatures with the secretary of state's office Wednesday in their bid to place on the fall ballot a constitutional amendment aimed at blocking the ACA's individual insurance mandate and preventing moves toward a single-payer health care system.

BUDGET

Ohio ended FY11 with \$26.37 billion in revenues, \$909.7 million ahead of estimates, according to preliminary financial statements for June from the Office of Budget and Management. That additional revenue put the state 3.6 percent ahead of projections. June revenues were 20 percent ahead of expectations. Revenues from tax collections were \$17.7 billion, which was \$973 million or 5.8 percent over estimates.

FY12-13 BUDGET

Late Thursday, Gov. John Kasich signed HB153, the FY12-13 budget, into law, vetoing seven items in the process addressing: Facilities Establishment Fund transfer, privatized prison repurchase price, earmark for

Hattie Larlham Community Living, lottery notice information, School Facilities Assistance Ranking, Health Care Pooling Program Study, and Body Mass Index for children.

Gov. John Kasich and the Republican legislative leadership celebrated passage of the FY12-13 biennial budget Friday in a talk-show style, sit-down press conference, heralding its "comprehensive" nature while hitting back at Democrats' attacks. They pointed specifically to overhauling laws and policy structures around liquor distribution, multiple-prime construction bidding and prevailing wage requirements that stretched back decades or even a century. Kasich also said workers' compensation, a potential Ohio Turnpike lease, a forthcoming school funding formula and improving job-training efforts for job creation makes his list for next steps.

Gov. John Kasich signed five executive orders following signing of the budget bill to immediately implement budget provisions for the Ohio Department of Job and Family Services related to inpatient hospital rates, child care benefits, community psychiatric supportive treatments, and home care for the Kinship Permanency Incentive Program.

CORRECTIONS

Private corrections operators wasted little time responding to the just-signed state budget's provision for bidding out the sale of five Ohio prisons. The Department of Rehabilitation and Correction (DRC) said three companies submitted bids Friday -- the first effective date of HB153 -- for a contract that will be awarded Sept. 1. Corrections Corporation of American of Tennessee, GEO Group Inc. of Florida and Managing and Training Corporation of Utah submitted bids. The successful bidder would assume operation of the facilities Jan. 1.

DEATH PENALTY

The Ohio Parole Board Friday recommended unanimously that Gov. John Kasich deny clemency for Kenneth W. Smith, who is scheduled to be executed on Tuesday, July 19. Smith was convicted of the May 1995 murder of Lewis and Ruth Ray in their Hamilton home during a robbery. Lewis Ray was severely beaten and had his throat slit, while Ruth Ray had been strangled. Smith and his brother Randy later confessed to the murders, but Smith said he did not intend to kill Lewis Ray.

The Ohio Supreme Court set two new execution dates in 2012 Tuesday even as Lundbeck A/S, the Danish pharmaceutical company that makes the lethal injection drug pentobarbital, announced it is now requiring all its distributors not to sell the drug to prison systems. The Court set July 26, 2012 as the execution date for Jeffrey Eley, convicted of a 1987 killing; and Sept. 20, 2012 as the execution date of Donald Palmer, convicted in 1989 shootings.

ECONOMIC DEVELOPMENT

"The Kasich administration awarded more than \$95 million in taxpayer-supported grants, loans and tax credits in June, ranging from the Home Energy Assistance Program to roadwork development grants to Third Frontier funding and more. Of that amount, the Ohio Department of Development (ODOD) issued more than \$56 million in grants and nearly \$11 million in development financing to 272 companies, local governments and community development organizations."

EDUCATION

With the signing of the state budget on Thursday, the Ohio Department of Education (ODE) announced Friday that enrollment for the Ohio Educational Choice Scholarship program has reopened, increasing the number of scholarships to 30,000. The budget requires the ODE to hold a second application period for students who might be eligible for an award for the 2011-12 school year. The enrollment period closes Aug. 15. The budget bill eliminates the need for a lottery to select among some new applicants. The scholarships may be used to attend private schools that meet requirements for program participation. Under law, EdChoice eligibility is limited to students attending (or, in the cases of new kindergarteners and community school students, assigned to attend) low-performing public school buildings.

The Ohio School Facilities Commission (OSFC) awarded \$247 million for classroom construction in 13 school districts around the state Thursday, with local matching funds of nearly \$300 million.

ELECTIONS

Secretary of State Jon Husted's office said Tuesday that he has referred an investigation into absentee ballot application irregularities in Lawrence County to the Ohio attorney general and the Lawrence County prosecutor for further review and possible prosecution. The investigation was initiated under former Secretary of State Jennifer Brunner and continued under Husted's office. It found alleged violations of elections law surrounding absentee ballot requests from the 2010 election that could constitute a fourth-degree felony.

ELECTIONS 2012

Associated Builders and Contractors of Ohio issued a statement urging Treasurer Josh Mandel to run for the U.S. Senate against U.S. Sen. Sherrod Brown (D-OH).

The Republican National Committee is working to give Ohio its battleground status early in the 2012 election cycle, launching a television advertisement attacking President Barack Obama on the economy, spending and debt. An RNC spokesman said that it is only taking out a "light buy" for the ad, titled "Change Direction." It is scheduled to run for the next four weeks, beginning on national cable television followed by three weeks on local stations in Ohio and other battleground states. The RNC would not disclose how much it is spending on the ad buy, nor where it will run.

ENERGY

AEP Ohio said it struck a deal with Turning Point Solar to spend \$20 million on the development of a 49.9-megawatt solar generating facility in Noble County.

The Ohio Air Quality Development Authority (OAQDA) authorized a grant of \$538,887 from its Ohio Coal Development Office program to Babcock & Wilcox Power Generation Group, Inc. (B&W PGG), for a project to further develop oxy-coal combustion technology for high-sulfur Ohio coal in new and existing boilers at its June meeting. The project is part of the \$150 million Ohio Advanced Energy Stimulus Program.

Solar technology company Isofoton announced its planned manufacturing plant will be built in Napoleon.

ENVIRONMENT

The U.S. Environmental Protection Agency (U.S. EPA) finalized its "Cross-State Air Pollution Rule," an update to clean air standards that will set stronger limits on sulfur dioxide (SO₂) and nitrogen oxide (NO_x) pollution from sources such as power plants.

FEDERAL

The U.S. Department of Labor announced the appointment of Youngstown Mayor Jay Williams as the new director of recovery for auto communities and workers, effective Aug. 8. Williams is resigning as mayor to take the position.

U.S. Sen. Rob Portman (R-OH), during his weekly conference call with Ohio reporters Thursday, said he supports canceling the congressional recess this week so that Senate members can focus on issues regarding the economy and federal budget. Portman said he was very disappointed that congressional members have not taken a serious approach to the debt ceiling. Portman voted against proposed debt curbing legislation Thursday morning, he said. "It did nothing to address the issue and was simply a political action."

GAMING

Spectrum Gaming Group, one of the firms the Kasich administration hired for expert advice on gambling, outlined Wednesday for the Casino Control Commission the steps the commissions needs to take to ensure it's ready for the spring 2012 opening of casinos in Cleveland and Toledo. Those include hiring an executive director by the end of August and completing investigatory reports on casino applicants by Jan. 9.

GENERAL ASSEMBLY/STATEHOUSE

Interest is high for Sen. Karen Gillmor's seat, as 11 applicants are vying for an appointment from Senate Republicans. Meanwhile, five are looking to replace Sen. Jimmy Stewart. Gillmor (R-Tiffin) is resigning to take an appointment with the Ohio Industrial Commission, while Stewart (R-Albany) is leaving to lead the Ohio Gas Association. Senate leadership had set Friday as a deadline for applicants to submit resumes for the Republican Caucus to consider for an appointment to the vacancies. The Senate is expected to take up the appointments during a session on July 13.

Senate Republicans said a screening committee will interview six of 11 applicants who've applied to replace outgoing Sen. Karen Gillmor (R-Tiffin) on July 12. They are Rep. Dave Burke (R-Marysville); Alan Endicott, president of DeNovo Policy LLC; David Little, president of Ohio American Water Company; Rep. Jeff McClain (R-Upper Sandusky); William Reineke Jr., president of Tiffin Ford-Lincoln Inc.; and former Rep. Steve Reinhard (R-Bucyrus).

GOVERNOR

Appearing on the CBS Sunday show "Face the Nation," Gov. John Kasich said he believes the 2012 presidential election will be close because of the economy, and he decried the level of partisan politics in Congress.

HEALTH & HUMAN SERVICES

A \$130 million budget contingency fund for any higher-than-expected Medicaid spending is an attempt to accommodate the administration's view on cost projection, and is akin to a "rainy day fund" to help cope with the health care program's counter-cyclical nature, said Greg Moody, director of the Governor's Office of Health Transformation. The director stressed that the fund is only for overages driven by current policy and is not intended for program changes.

The National Governors Association's Health and Human Services Committee, led by Wisconsin Gov. Scott Walker and Oregon Gov. John Kitzhaber, wrote a letter to U.S. Health and Human Services Secretary Kathleen Sebelius urging the federal government to pay its share of costs states incurred through Medicaid because of Social Security Administration errors that led to the denial of Medicare benefits for some people.

Ohio retained its ranking as the 13th most obese state in the annual report from the Trust for America's Health and the Robert Wood Johnson Foundation. According to the report, 29.6 percent of the state's adults are obese, 28.2 percent have hypertension, 10 percent have diabetes, 26.2 percent are physically inactive, and only 21.5 percent eat fruit and vegetables regularly.

Ohio is one of four states being recognized for participating in a multi-state effort to reduce re-hospitalizations, the State Action on Avoidable Rehospitalizations (STAAR) Initiative, launched by the Institute for Healthcare Improvement, according to the Ohio Hospital Association.

HIGHER EDUCATION

The former president and CEO of St. Vincent Mercy Medical Center and Mercy Health Partners has been appointed interim director of business development at the University of Toledo Medical Center (UTMC).

Darryl Lippman, who also has served as director of the Health Care Administration academic program at UT for the last 10 years, began his new responsibilities on Tuesday, July 5.

HOUSING

The U.S. Department of Housing and Urban Development said Thursday it will require mortgage services to grant foreclosure forbearances of at least a year to unemployed borrowers on all Federal Housing Administration loans and in the Home Affordable Modification Program (HAMP). HUD Secretary Shaun Donovan said the changes are intended to address the fact that many jobless people are unemployed for longer periods of time, and also are aimed to prodding the broader mortgage industry into adopting similar standards.

JUDICIAL

The Supreme Court of Ohio completed its annual review of court practices with the publication of new amendments for rules of evidence, appellate procedure, civil procedure, criminal procedure and juvenile procedure. Originally published for comment Oct. 4, 2010, proposed amendments were revised by the Commission on the Rules of Practice and Procedure and filed by the Court with the Ohio General Assembly in January. The commission and the Court considered all comments received during a second round of public comment that ended Feb. 23, revised the proposed amendments, and filed the revisions with the Legislature on April 21. The amendments took effect on Friday.

The Ohio Supreme Court is backing off of a proposal to yank 24 certified grievance committees in less-populated regions of the state and to centralize the disciplinary system for judges and lawyers in urban centers. A task force report had cited a lack of "thoroughness," "quality" and "expertise" among bar association committees in smaller counties, but the Court is now scrapping the recommendation after public feedback and further deliberation.

The Supreme Court of Ohio has rebuffed Cuyahoga County Common Pleas Judge Nancy Margaret Russo in a foreclosure dispute pitting the jurist against Fifth Third Mortgage Company. Russo, who has handled high-profile foreclosure matters including the GMAC "robo-signing" case, could still hold Fifth Third in contempt, however.

The Supreme Court of Ohio put a stop Thursday to public record damage claims by individuals with no apparent interest in the requested documents other than a massive civil forfeiture for missing records. Justices ruled unanimously that the \$5 million claim in *Rhodes v. New Philadelphia* and similar actions are void unless the requesters prove they "actually want the records" and are genuinely "aggrieved." Unlike the public records overhaul passed last week by the Ohio General Assembly, however, the Court provided no evidentiary standard for divining a record requester's motives.

PENSION FUNDS

The National Institute for Retirement Security released a report detailing the practices of six state pension systems that weathered the 2008-2009 financial crisis, including stable employer contributions, employee sharing in pension costs, fully funded and actuarially vetted benefit changes, responsible cost-of-living increases, anti-spiking protections and reasonable economic assumptions.

PEOPLE

The Ohio Association of Independent Schools hired former Rep. Dan Dodd as executive director to replace Karin O'Neil, who retired.

Elise Spriggs, director of government affairs for the Governor's Office of Health Transformation and a former legislative director for Gov. Bob Taft, joined State Auto Insurance Companies as director of government relations.

The Ohio Department of Natural Resources announced the retirement of John F. Husted, who was chief of the Division of Mineral Resources Management. ODNR Deputy Director J. Michael Biddison will serve as acting chief.

The Ohio Department of Natural Resources (ODNR) Division of Wildlife (DOW) and the Council for Environmental Education (CEE) awarded Bill Grimes, education specialist for the Defiance Soil and Water Conservation District (SWCD), their "Ohio Project WILD Facilitator of the Year Award."

Belinda S. Barnes of Columbus has been chosen to serve as District 7 representative on the Board of Governors of the Ohio State Bar Association (OSBA). District 7 includes 4,526 attorneys who reside or practice in Franklin County.

UTILITIES

With the ink from Gov. John Kasich's pen barely dry on the Ohio state biennial budget for FY12-13 -- HB153 -- the Office of the Ohio Consumers' Counsel is now determining the impact of the 51.3 percent budget cut to its budget and its mission. The bulk of the workload will now fall on the Public Utilities Commission of Ohio (PUCO) to handle not only balancing utility rates, but also addressing most if not all consumer complaints, outreach and education programs.

WORKERS COMPENSATION

The Ohio Bureau of Workers' Compensation (BWC) has reduced its rates for marine industry employers by 20 percent, effective July 1. The change, approved by the BWC Board of Directors in June, lowers the rates for employers conducting business on Ohio waterways that subscribe to the Marine Industry Fund. Ohio ranks 7th among the 50 states in longshore and harbor worker activity based on total tons of waterborne domestic cargo handled through a state's ports, according to the bureau.