

# NAIOP

COMMERCIAL REAL ESTATE  
DEVELOPMENT ASSOCIATION

NAIOP OF OHIO

**NAIOP Weekly Legislative Report**  
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## 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 7/25/2011

**MIAMI COUNTY MUNICIPAL COURT (ADAMS R)** To make the clerk of courts of Miami County the clerk of the Miami County Municipal Court and to declare an emergency.

**NURSES** (SCHURING K) To revise the law governing nurses, medication aides, dialysis technicians, and certified community health workers.

**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.

## **Week in Review**

Friday, July 29, 2011

### **ATTORNEY GENERAL**

Ohio Attorney General Mike DeWine praised his office's Health Care Fraud Section for a record-setting recovery of \$103,768,000 for the state fiscal year that ended June 30.

Attorney General Mike DeWine asked the Ohio Supreme Court this week to revisit its recent ruling in *State v. Williams* that upended Ohio's sex offender reclassification law, not in pursuit of a different decision but to have justices clear up the confusing legal landscape he says the decision created. He said the July 13 decision is "irreconcilable" with the Supreme Court's precedent on how past felonious conduct is treated under the Ohio Constitution's Retroactivity Clause, per its ruling in *State ex rel. Matz v. Brown*. In addition, he said the ruling "entangles" the Retroactivity Clause with the U.S. Constitution's Ex Post Facto Clause "and severely muddles this Court's constitutional jurisprudence."

### **BALLOT ISSUES**

Secretary of State Jon Husted certified that the proposed constitutional amendment, the Health Care Freedom Act, barring local, state and federal authorities from requiring Ohio residents to buy health insurance had 426,998 valid signatures, easily meeting the 385,245 signatures required to appear on the November 2011 ballot. The secretary of state said the requirement was met in 82 counties.

However, opponents of this challenge to a provision of President Barack Obama's Affordable Health Care Act (ACA) including ProgressOhio and SEIU District 1199 said they are looking to challenge the signature petitions, saying that hundreds of volunteers who are looking at the forms are "finding out about 20 percent of them have errors, many of them being fatal errors." They have until Aug. 5 to file challenges.

Secretary of State (SOS) Jon Husted announced the order of the three statewide issues on the November ballot. They are:

- State Issue 1 - Judicial Retirement Age Constitutional Amendment.
- State Issue 2 - SB5 Referendum.
- State Issue 3 - Health Care Freedom Act Constitutional Amendment.

Husted noted in a release that the order of the issues was determined based on the order in which each issue was filed with the secretary of state's office. Yet to be settled, however, is the wording of the issues. That will be done next week by the Ohio Ballot Board when it meets on Wednesday, Aug. 3.

### **CORRECTIONS**

The FY12-13 budget for the Ohio Department of Rehabilitation and Correction (DRC) is estimated to result in the loss of 1,135 positions -- exempt and bargaining unit -- by Dec. 31 both through the department's consolidation efforts as well as the privatization of five state prisons -- a move State Reps. Nancy Garland (D-New Albany) and W. Carlton Weddington (D-Columbus), both members of the Correctional Institution Inspection Committee (CIIC), raised concerns about in regards to both inmate and worker safety. DRC expects to save \$53.8 million over the biennium through these cuts.

### **DEATH PENALTY**

Rep. Carlton Weddington (D-Columbus) asked Gov. John Kasich to review the state's execution protocol in the wake of a federal court decision questioning Ohio's death penalty procedures.

The Ohio Supreme Court unanimously upheld the death sentence of Duane Short, a Middletown man who hunted down and shot his estranged wife and her friend in 2004, turning back Short's allegations that a lower court improperly blocked his attempts to present mitigating evidence during the penalty phase of his trial. Short alleged a total of 14 errors, all of them rejected by the Supreme Court.

## **ECONOMIC DEVELOPMENT**

Rep. Dennis Murray (D-Sandusky), Sen. Mike Skindell (D-Cleveland) and ProgressOhio asked the Ohio Supreme Court to order a halt to the implementation of JobsOhio until the Court rules on the merits of their lawsuit against the new private, nonprofit development agency.

The Controlling Board deferred a request from the Ohio Department of Development (ODOD) that would fund a website and magazine highlighting efforts of the Ohio Third Frontier programs after a fill-in member of the panel questioned whether it was the best use of the state's money. The request would have approved a \$242,000 contract with Issue Media Group of Cincinnati to help publish "hiVelocity," a website and bi-weekly e-magazine that highlights growth in specific technology focus areas.

## **EDUCATION**

The Ohio School Facilities Commission has hired former State Architect Craig Weise to help it adapt to construction-reform provisions in the new biennial state budget, commission Executive Director Richard Hickman said Thursday.

## **ELECTIONS 2012**

Former Massachusetts Gov. Mitt Romney won the straw poll at the Ohio GOP State dinner with 25 percent of votes. Following him were former Minnesota Gov. Tim Pawlenty with 16 percent, Minnesota U.S. Rep. Michele Bachmann, 15 percent; Texas Gov. Rick Perry as a write-in candidate with 14 percent; Texas U.S. Rep. Ron Paul, 9 percent; Pizza-chain mogul Herman Cain and former Pennsylvania U.S. Sen. Rick Santorum, tied at 5 percent; former U.S. House Speaker Newt Gingrich, 3 percent; and former Utah Gov. Jon Huntsman, 2 percent. Other write-in candidates accounted for 6 percent.

## **EMPLOYMENT/UNEMPLOYMENT**

Interrupting a steady decline over more than a year, Ohio's unemployment rate increased in June to 8.8 percent.

## **ENERGY**

Chesapeake Energy announced Thursday the discovery of a major new liquids-rich play in the Utica Shale. Based on its proprietary geoscientific, petrophysical and engineering research during the past two years and the results of six horizontal and nine vertical wells it has drilled, Chesapeake believes that its industry-leading 1.25 million net leasehold acres in the Utica Shale play could be worth \$15 - \$20 billion in increased value to the company. Gov. John Kasich, who has frequently talked about the potential economic benefits of a shale-formation natural gas boom in Appalachian Ohio, quickly issued a statement applauding the discovery.

## **FEDERAL**

The topic of the week in Washington has been the congressional impasse on handling extending the country's debt ceiling and the impending Tuesday, Aug. 2 deadline before the country can no longer borrow money. The fallout from such a move will affect both state and local governments in two ways. State and local governments that rely a great deal on federal funds may see their own credit ratings lowered with Moody's having already told five states this could happen. In addition, all states would be

affected if the federal government could no longer pay its share of programs such as food stamps, highway construction or Medicaid.

Sounding the alarm about what Congress' failure to increase the debt ceiling by next week's deadline could mean, Ohio's U.S. Sen. Sherrod Brown (D) Wednesday released a county-by-county report detailing federal expenditures in 2009 -- expenditures he said are at risk of being disrupted. These include government payments to bondholders and recipients and providers of Medicare, Social Security, veteran benefits, military payments and student loan payments, among others.

On the other side of the aisle, Ohio Congressman Steve Chabot (R-Cincinnati) posted on his blog Wednesday that the nation doesn't face default if the administration pays the debt payments of about \$20 billion per month first from the \$200 billion per month that comes in. "I also favor and have supported passing legislation that would prioritize where the rest of the revenues go. It would require that we pay Social Security, Medicare, and our men and women in uniform as priorities. And then we start cutting from there. However, no such legislation has yet been passed, and therefore there is no telling how competently (or I fear incompetently) the Obama administration would handle divvying up the available funds."

In a conference call with reporters on Thursday, U.S. Sen. Rob Portman (R-OH) said he is currently supporting the plan introduced by House Speaker John Boehner (R-West Chester), over the plan introduced by Senate Majority Leader Harry Reid (D-NV), although he said both plans have similarities.

Gov. John Kasich said Wednesday he believes there will be an agreement in coming days in Washington on the federal debt ceiling among Congressional leaders. Speaking to reporters Wednesday at the opening of the Ohio State Fair, Kasich told reporters he believes a debt deal will be made and the federal government will not default; however, if there is a default he believes it will be short term.

A new survey by the Pew Research Center for the People and the Press found this week that 68 percent of respondents want lawmakers who share their views on this issue to seek compromise, even if the outcome is disagreeable to them. That's an increase even from the 55 percent majority who expressed the same sentiment in an April survey. As to what compromise should take place, 60 percent of respondents favored a combination of program cuts and tax increases; 19 percent said the compromise should be mostly cuts; 8 percent said mostly taxes.

AARP Ohio and the Southwest Ohio Tea Party groups staked out positions in the debt-ceiling negotiations going on in Washington, with the former saying Medicare and Social Security should not be included in any deal and the latter urging U.S. House Speaker John Boehner (R-West Chester) not to compromise on the need for significant spending cuts.

The U.S. Postal Service (USPS) announced Tuesday that it will be looking to close approximately 3,700 retail offices of its approximately 32,000 offices nationwide, starting with conducting studies to determine customer needs. As part of this effort, the USPS said it will introduce a retail-replacement option for affected communities. Of those, 120 are in Ohio.

## **GENERAL ASSEMBLY/STATEHOUSE**

House Speaker William Batchelder (R-Medina) told reporters that House GOP had a lengthy caucus meeting where they discussed the legal problems of some of their members, following recent arrests by Rep. Jarrod Martin (R-Beavercreek) and Rep. Bob Mecklenborg (R-Cincinnati) for driving under the influence of alcohol.

He said that the legal problems are causing concern for the rest of the General Assembly and said members were admonished to be careful to avoid situations where they may need legal counsel. They were told that they not only represent their districts, but "embody the institution" as well.

Rep. Jarrod Martin (R-Beavercreek) had issued a statement late Monday saying he looks forward to vindicating himself in court after reports he was charged with drunken driving in Jackson County on July 22.

In an abbreviated House session, House Republicans unanimously voted to seat two new members: Dorothy Liggett Pelanda (R-Marysville), an attorney with more than 30 years of experience who currently works as a family law attorney in private practice, replacing Rep. Dave Burke (R-Marysville); and Muskingum County Commissioner Brian Hill (R-Zanesville) who has an extensive background in agriculture, currently working as the co-owner and manager of a family farm business that he operates with his father, replacing Rep. Troy Balderson (R-Zanesville). Both Burke and Balderson were appointed to the Senate.

Pelanda beat out four others for the 83rd District seta: former Rep. Anthony Core; Marysville doctor David Applegate; Kyle Lentz, a children's services caseworker from Bellefontaine; and Bellefontaine City Auditor Jack Reser. Hill beat out five others: Larry Good, a Zanesville sales and special events manager; Fred Hammon, an Ohio Department of Natural Resources administrator from Dresden; House GOP Policy Director Chad Hawley of Zanesville; Jerry Miller, a Zanesville landscaping company owner; and Jeannette Moll, a Zanesville attorney.

## **GOVERNOR**

The governor signed two bills this week: HB224 (Dovilla-Stinziano) which included absentee voter provisions as well as changes to the previously passed HB194 which included removing the use of full nine-digit Social Security numbers for voter verification as well as those dealing with online voter registration; and SB187 (Grendell) which was originally a highway name designation but was amended to correct a provision to the transportation budget establishing maximum loads for vehicles subject to vehicle weight allowances.

## **HIGHER EDUCATION**

Ohio University announced a \$1 million gift from alumnus Charles Beck to support its nursing program and Kids On Campus after-school and summer programs.

Ohio State University named Dr. Charles Lockwood, a Yale University medical professor, as its new College of Medicine dean.

The University of Toledo hired Barbara Tartaglia as associate vice president for development on its main campus and principal gift officer for its College of Law.

Ohio State University (OSU) has hired Kristine Devine as vice president of operations for its Office of Business and Finance. She previously worked at Deloitte & Touche LLP.

Ohio University's (OU) Board of Trustees voted to officially change the name of its College of Osteopathic Medicine to the Ohio University Heritage College of Osteopathic Medicine, following a \$105 million gift to the college from the Osteopathic Heritage Foundations.

Miami University (MU) ranks first among public universities in Ohio for best salary potential after graduation, according to a recent survey of employees by PayScale.com, a global compensation data website. Among public universities nationwide, Miami had the 34th highest earning potential. The survey showed the starting median salary for Miami graduates was \$46,000. The mid-career salary for Miami alumni was \$85,500.

Rhodes State College is offering an evening Basic Police Academy this fall. After successful completion of the Police Training Academy, students are qualified to take the required Ohio Peace Officer Training Commission (OPOTC) certification test to be a peace officer in Ohio.

Frank W. Hale Jr., former vice provost and professor at Ohio State University, died Wednesday following an extended illness. He was 84.

## **JUDICIAL**

The Ohio Supreme Court announced that Mark H. Reed, court administrator for the Hamilton County Juvenile Court, will be the new clerk of the Court of Claims.

Gov. John Kasich appointed Judge John T. Wallace, a Hocking County Municipal Court judge, to serve on the Hocking County Court of Common Pleas and Laura B. Smith of Bremen (Fairfield Co.) to serve as judge of the Fairfield County Court of Common Pleas, Domestic Relations Division. Smith will assume office on Aug. 8 and will serve out the remainder of the unexpired term ending Jan. 1, 2013. She must run in November 2012 in order to retain the seat.

The Ohio Supreme Court scheduled oral arguments for Sept. 20 in *State ex. re. Wayne T. Doner et al v. Ohio Department of Natural Resources*, a case in which farmers near Grand Lake St. Marys claim the state should buy out their land because state flood-management practices frequently leave their properties under water.

## **LOCAL GOVERNMENT**

Gov. John Kasich, speaking to reporters Wednesday at the opening of the Ohio State Fair, urged local governments to focus on reforming operations rather than on their diminishing revenue stream from the state. "I think local government has got to get into the 21<sup>st</sup> century. Too many cases they don't want to make choices. They want to continue to walk through the county administration building and have people slap them on the back."

## **NATURAL RESOURCES**

Great Lake restoration and preservation advocates spoke out on Tuesday regarding a provision in a U.S. House Interior and U.S. Environmental Protection Agency (U.S. EPA) spending bill that they say would threaten to strip all U.S. EPA funding from states like Illinois, Indiana, Michigan, Minnesota, New York, Ohio and Wisconsin for making state laws to prevent the introduction of invasive species dumped in U.S. waters via ballast discharge, according to Jordan Lubetkin, a spokesman for the National Wildlife Federation Great Lakes Regional Center (NWF).

Rep. Nickie Antonio (D-Lakewood) introduced HB304, legislation that would prohibit the director of the Ohio Department of Natural Resources (ODNR) from issuing any permit or making any lease to take or remove oil or natural gas from under the bed of Lake Erie.

## **PENSION FUNDS**

The State Teachers Retirement System (STRS) reported final investment return numbers for FY11 showed a 22.6 percent return, the highest since 1983. Assets increased \$9.3 billion to \$66.2 billion over the past year.

Those numbers follow a 13.5 percent return from FY10. According to STRS, average annual return for the past 25 years is at 8.5 percent, compared to its actuarially assumed rate of 8 percent.

The Ohio Public Employees Retirement System (OPERS) and the Ohio Police and Fire (OP&F) Pension Fund both expressed opposition to proposed new reporting standards from the Government Accounting Standards Board that would change the way pension systems and the governments that fund them have to report liabilities and other financial information.

## **PEOPLE**

The Ohio Grocers Association (OGA) said it has hired Nate Filler as its new president and CEO to succeed Tom Jackson, who will retire in November. Filler was manager of state government relations for Cardinal

Health and also previously worked as an aide to then-House Speaker Jon Husted, now secretary of state, and former Rep. Tom Raga, who was the Republican nominee for lieutenant governor in 2006.

Former Gov. Ted Strickland announced that he will head up a new strategic consulting firm, Midwest Gateway Partners, and will be joined by a number of his policy and political advisers including John Haseley, his former chief of staff; Aaron Pickrell, his former campaign manager; Sandy Theis: a former Columbus bureau chief for the *Cleveland Plain Dealer* and Strickland advisor; and Mark Shanahan, his former "energy czar."

Crystal Ward Allen, executive director of Public Children Services Association of Ohio will attend the first ever Russian-American Child Welfare Forum that will be held on Lake Baikal in the Republic of Buryatia of the Russian Federation from Monday, Aug. 1 through Saturday, Aug. 6.

## **POLLS/STUDIES**

A new report from the Federal Interagency Forum on Child and Family Statistics, "America's Children: Key National Indicators of Well-Being 2011," found dropping rates of teen births and pre-term births and binge drinking, but more illicit drug use and poverty among children.

## **PUBLIC SAFETY**

State Fire Marshal Larry Flowers announced the creation of a Smoke Alarm Advisory Task Force to advise his office on how people can best protect themselves and their families with smoke alarm technology.

## **REDISTRICTING/REAPPORTIONMENT**

Gov. John Kasich announced the first meeting of the five-member Apportionment Board, which draws new boundaries for General Assembly districts, will be at 2:30 p.m. Thursday, Aug. 4 in the Senate Finance Hearing Room. The agenda will include election of a chairman, vice chairman and secretary, adoption of rules for submitting and commenting on new district maps, and setting a schedule for regional hearings.

## **STATE GOVERNMENT**

Gov. John Kasich, Department of Agriculture Director Jim Zehringer and Ohio Expositions Commission General Manager Virgil Strickler opened the 158<sup>th</sup> Ohio State Fair on Wednesday, July 27. The fair runs through Sunday, Aug. 7 on the state fairgrounds in north Columbus. Hours are 9 a.m. to 10 p.m. daily, except for the last day, when the fair closes at 8 p.m. The fair features livestock competitions and exhibits, live entertainment, rides, and wildlife exhibits, among many other activities. This year, for the first time, beer and wine can be purchased on the fairgrounds.

## **TRANSPORTATION**

Amtrak projected it will exceed 30 million passengers this fiscal year, setting a new record, and reported revenue and ridership increases on the three Amtrak lines that run through Ohio.

The Ohio Department of Transportation (ODOT) may begin putting out requests for proposals on a lease of the Ohio Turnpike in 2012, ODOT Director Jerry Wray told reporters Wednesday. He said the department is working on selecting financial and legal advisors that have experience in leasing to help put the RFP together. The General Assembly would still need to approve of any lease proposal before it goes forward.

## **TREASURER OF STATE**

Treasurer Josh Mandel's office said Tuesday that a review of depository agreements with banks found errors that could have cost the state \$377 million. The review found that the agreements had failed to comply with federal law when amending agreements, Mandel's office said, adding that the error meant

that there might not have been enough collateral to recoup taxpayer dollars if a bank holding state money had failed. The review also found an administrative error in a contract that mistakenly referenced millions rather than billions and could have cost taxpayers hundreds of millions had it not been fixed.

## **UTILITIES**

American Electric Power-Ohio (AEP-Ohio) residential customers will experience a significant rate increase in relation to commercial and industrial customers if the pending electric security plan (ESP) is approved for Columbus Southern Power and Ohio Power, the Office of the Ohio Consumers' Counsel (OCC) said in testimony filed with the Public Utilities Commission of Ohio (PUCO).

In addition, a group of Ohio consumer and business organizations including the COMPETE Coalition, Constellation Energy, EnerNoc, Exelon Generation, FirstEnergy Solutions, Industrial Energy Users-Ohio, Kroger, Ohio Energy Group, Ohio Manufacturers Association, PJM Power Providers Group (P3), Retail Energy Supply Association (RESA) and Wal-Mart also lodged formal opposition to American Electric Power-Ohio's (AEP-Ohio) proposed ESP, saying the plan would significantly increase customer costs up to 23 percent and deny the benefits of electricity competition in AEP-Ohio's service territory effective Jan. 1, 2012 through May 31, 2014.