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Legislative Update

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MONDAY, AUGUST 3 2009

STATE MISSES DEADLINE FOR NEW AIR POLLUTION TECHNOLOGY RULES

Faced with legal challenges and questions from the federal government, a deadline came and went Monday for the state to create rules to streamline the permitting process for air pollution control technology. In the meantime, the Ohio Environmental Protection Agency is planning to help companies comply with "best available technology" (BAT) requirements to reduce the risk that the federal government will cite them for violating the State Implementation Plan (SIP), according to Bob Hodanbosi, chief of the Division of Air Pollution Control.

The legislature's 2006 overhaul of air pollution regulation (SB265, 126th General Assembly), gave the OEPA three years to develop rules that specify what technology would be required for categories of sources that emit more than 10 tons per year. Business groups argued the agency's case-by-case approach was costly and unpredictable.

"Practically speaking there is no way we are going to be able to issue rules for the many hundreds of different types of source categories that are out there," Mr. Hodanbosi said in an interview. "Once we started looking at the scope of what was required, it became clear it was a pretty huge task."

OEPA is working to issue guidance within a few weeks that will detail what technology should be installed on the most common air pollution sources until final rules are implemented, he said. "We are looking at having something in place that will provide an avenue so sources will have a review for BAT."

A large caseload of air pollution permit applications - about 600 a year - and having to make other changes required by the air pollution legislation are primarily responsible for the delay in promulgating rules, he said. Complicating the situation is the U.S. EPA's position that the elimination of case-by-case BAT permitting could impair air quality in Ohio and violate the federal Clean Air Act.

"Please note that until EPA receives and approves a SIP revision, with appropriate demonstrations, OEPA must continue to apply provisions regarding BAT requirements consistent with what is contained in your currently approved SIP," Bharat Mathur, acting regional director of EPA's Region 5, said in a May letter to OEPA.

Mr. Hodanbosi said he was confident the new BAT permitting process would eventually be approved.

"I think we can put together enough information and a demonstration that this really isn't going to have a large difference on emissions or air quality impacts," he said.

However, the Sierra Club and other groups have challenged the measure in court, arguing the BAT changes would necessarily result in increased air pollution.

Jennifer Klein, director of energy and environmental policy for the Ohio Chamber of Commerce, which lobbied for the legislation, said the business community understands the challenges the agency faces in trying to implement the new permitting process. "We want that certainty, that's why we supported what we feel are the common-sense provisions that were established in Senate Bill 265," she said. "We also understand that it was a rather large undertaking, and there's some other issues outside of the agency's control."

However, the current situation leaves open the possibility that the U.S. EPA could start sending businesses violation notices, she allowed. "That's always a concern."

EXPERTS: ALTERNATIVE ENERGY OFFERS OHIO MAJOR ECONOMIC POTENTIAL

Ohio is home to a growing alternative energy industry, but the state can do more to promote development of the sector that has a significant potential upside, a number of industry leaders and experts told lawmakers.

Speaking at a House Alternative Energy Committee in Cleveland on Friday, officials said several industries - including aviation, auto and other manufacturers - could thrive if Ohio boosts its commitment to new energy sources.

Mike Heil, president and CEO of the Ohio Aerospace Institute, said state grants should prioritize grants for renewable sustainable energy sources and take advantage of Ohio's aerospace industry strengths. He said Ohio's position as host to the NASA Glenn Research Center and the Wright-Patterson Air Force Base put the state in a position to lead in developing new technologies that could be deployed across the world. More specifically, Mr. Heil said Ohio should support new technologies that look to develop aviation fuel from algae and establish a new state position that oversees alternative energy research, development and coordination.

Mark Fleiner, CEO of Rolls-Royce Fuel Cell Systems, said his company has invested more than \$26 million in Ohio in less than two years, noting that Ohio became the logical place for the business because its leaders recognized the link between state policy and economic growth.

"Ohio developed and implemented a unique recipe to lead the build-out of an industry around fuel cells, most notably through the Ohio Third Frontier Project," he told the panel. "This focus included an integrated approach ranging from people to materials to components to systems, ultimately creating a foundation for an industry to evolve from, and support Ohio job growth in areas like engineering, manufacturing, services, and technicians."

David Karpinski, vice president of NorTech, said his organization is partnering with The Cleveland Foundation to speed commercial activity development in the industry, adding that state investments are crucial to continued success. He said the Third Frontier program needs to be renewed past 2012, and said funding levels should be increased. Beyond providing financial incentives, Mr. Karpinski added that the state can further help by minimizing regulatory hurdles that advanced energy projects face - a step that he said would give Ohio a competitive edge over other states.

Ray Lugo, deputy director of the NASA Glenn Center, said the institution is a national leader in working to convert coal, natural gas and biomass into fuel that burns more cleanly than traditional jet fuel. He said the center is also focusing efforts on developing energy storage, power generation, conversion, management and distribution systems.

"We believe the formal and informal network of energy partnerships that has been established in Ohio, along with NASA Glenn's unique role as a NASA Center and leader in power technologies, offers Ohio an excellent opportunity to establish itself as a leader in energy," he said. "However, to take advantage of this opportunity, the state needs to make more strategic investment in this area."

Peter Reimers, president and CEO of Arisdyn Systems, reviewed challenges and opportunities involving the use of biodiesel and ethanol fuels, noting that the company has either secured, or is hoping to land tax and incentive packages from federal, state and local governments.

Mr. Reimers urged the state to establish a new blue ribbon commission to review strategic initiatives and eliminate barriers for parallel investments in the Ohio Technology Investment Tax Credit.

Sandra Albro, research manager for the Cleveland Botanical Garden, offered testimony on behalf of the garden and Kent State University's Liquid Crystal Institute.

She said the partners are exploring the possibility of using liquid crystal panels, rather than glass, to build more sustainable, efficient greenhouses that boost plant growth. The project, she said, could cut transportation costs, increase food production, make agriculture viable in extreme climates, generate new jobs in food production and help with the mass production of liquid crystal panels.

Jane Harf, director of The University Clean Energy Alliance of Ohio, said higher education institutions are increasing research in new energy technologies. She said university officials are working to share information on their research projects, helping experts compete for grants when they become available. Ms. Harf added the state needs to prioritize spending on energy-related programs when discretionary funds become available and said relationships across the Great Lakes region could also help draw down federal funds.

PATROL RELEASES TRAFFIC ARREST STATS; MOST IDENTITY-RELATED CRIMES SEEN IN BUTLER, FRANKLIN AND LORAIN COUNTIES

The State Highway Patrol's Central Ohio district holds the dubious honor of having the most identity crimes recorded by the agency during the last 18 months.

In terms of specific counties, Franklin, Butler and Lorain saw the most of such crimes - including forgery, falsification and identity fraud - that the agency recorded for the period, according to the latest Patrol Crime Bulletin.

From January 2008 through June 2009, troopers made a total of 267 identity crime arrests statewide, the Patrol reported. That total included 29 in Franklin County and 18 each in Butler and Lorain counties.

The nine-county District 6 in Central Ohio saw the most of such crimes during the period, with 43, the Patrol's statistics show. The "Massillon" District 3 in Northeast Ohio was second with 39 of the identity crime arrests.

"Through effective traffic enforcement, we are able to help stop the bad guy from posing as a law-abiding citizen," Colonel Richard Collins, the Patrol superintendent, said in a news release. "Anyone who has had someone else use their name, social security number or their likeness to commit a crime can understand how important it is that our troopers are trained to detect this type of criminal behavior."

Through June, identity-related crime arrests have increased 8% over the same period the year before, the Patrol reported.

TUESDAY, AUGUST 4 2009

FEDERAL JUDGE'S ORDER BLOCKS ENFORCEMENT OF LEGISLATURE'S 'REVOLVING DOOR' LOBBYING RESTRICTION

A federal judge on Tuesday temporarily blocked enforcement of Ohio's "revolving door" law that prohibits ex-legislators from lobbying on behalf of private interests for one year after leaving office.

The ruling from U.S. District Judge Susan Dlott came in a lawsuit that former Rep. Thomas Brinkman (R-Cincinnati) filed against House Speaker Armond Budish as Chairman of the Joint Legislative Ethics Committee.

Mr. Brinkman said the law prohibited his voluntary representation before the General Assembly on behalf of the Coalition Opposed to Additional Spending and Taxes (COAST).

COAST is a political action committee that advocates for the restraint of government taxing and spending on the local, state, and national level.

The group said that while the revolving door law would make Mr. Brinkman's activities a first-degree misdemeanor, other former representatives who went to work for state agencies were permitted to legally lobby for greater government spending.

In addition to Rep. Budish, defendants included the Joint Legislative Ethics Committee that enforces the law, and Tony Bledsoe, its executive director.

Mr. Brinkman contended enforcement should be enjoined because the law violates First Amendment rights of speech, petitioning, and freedom of association on its face and as applied to him. He also argued it violates equal protection of the law.

State defendants denied the law was unconstitutional.

Judge Dlott said the statute appears intended to promote ethical behavior among public officials and public confidence in government. However, she said state defendants had not proven that the restriction was narrowly tailored to achieve its stated interest.

The judge temporarily enjoined the law on First Amendment grounds as it applies to Mr. Brinkman's uncompensated representation of COAST. She declined to express an opinion as to whether the statute was unconstitutional on its face.

Judge Dlott also said COAST had established a likelihood of success on the merits of its equal protection argument.

"The court understood defendants to suggest at oral argument that former members who represent state agencies on matters before the General Assembly could be treated more favorably because their activities do not raise the same type of corruption concerns as do former members who seek to represent private organizations," she said.

"In the absence of an evidentiary basis for the assertion or legal precedent supporting the assertion, the court holds that defendants have not at this point established a compelling justification for discriminating against former members of the General Assembly who seek to represent private organizations on matters before the General Assembly," Judge Dlott said.

She blocked enforcement of the law against Mr. Brinkman and other former legislators pending a final judgment on merits in the case.

Attorney General Richard Cordray, representing the state, has an option to appeal the decision.

"We will take some time to carefully study and review the court's ruling before making any decisions," said Ted Hart, a spokesman for the attorney general.

Separately, Senate President Bill Harris (R-Ashland) voiced support for the current restriction.

"I think there needs to be a period of time that a person leaving the legislature ought to have to be out of the legislature before they can lobby on the issues they potentially were directly involved with in the legislature," Sen. Harris said.

"I'm not questioning what the court ruled - that's their prerogative. But it would be my opinion that there ought to be restrictions," he told reporters.

COAST Chairman Jason Gloyd said the organization was pleased the judge enjoined the "egregious abuse of power" on the part of the state.

"Now taxpayers are on a fair footing when approaching their legislators to reduce the size and scope of government," Mr. Gloyd said in a news release.

At the time the complaint was initially filed, COAST was advocating on a number of budget related issues. It argued against a proposed state operating subsidy for the Underground Railroad Freedom Center in Cincinnati.

HOUSE DEMOCRATS UNVEIL FAR-REACHING REVISIONS TO ELECTIONS PROCESS

A bill unveiled by House Democrats Tuesday would eliminate special elections, limit provisional balloting, ease ID requirements, and shorten the absentee voting period while increasing polling sites.

Jointly sponsored by Rep. Dan Stewart (D-Columbus) and Rep. Tracy Heard (D-Columbus), the measure (HB 260) would also require that voter registrations be checked against information maintained by the Bureau of Motor Vehicles. However, it would ensure a mismatch could not be grounds for denying a voter the opportunity to cast a ballot.

Rep. Stewart, chairman of the House Elections & Ethics Commission, said the bill would "streamline Ohio's election laws to make it easier on voters and local officials, who are often frustrated by litigation and piecemeal procedural changes shortly before Election Day."

Secretary of State Jennifer Brunner, who joined the lawmakers at a Statehouse news conference to unveil the proposal, said her office helped draft the measure, which was based on recommendations from two statewide summits that focused on problems in the 2008 General Election.

"Despite the fact that our office actually produced the documents that were sent over to the House of Representatives to have the legislation drafted, those documents are the product of a bipartisan consensus on what needs to happen to move Ohio elections forward," she said.

The bill joins separate legislation (SB 8) sponsored by Sen. Bill Seitz (R-Cincinnati) that is under consideration by the Senate. Secretary Brunner has expressed concerns about that measure, which largely mirrors legislation that Gov. Ted Strickland vetoed late last year.

Rep. Stewart said the Senate Republicans' measure doesn't address many of the elections issues included in his proposal.

"I think there are issues in here that are similar, I think there are issues that I think we've done a much better job in detailing and taking information from a bipartisan group of folks and experts in this area, as well as the average folks who have to go and cast their vote on election day," he said.

Secretary Brunner said she was hopeful the two sides could come to agreement on an issue that has become increasingly contentious.

"People have learned, I think since the 2000 presidential election, that if you manipulate the rules, that somehow you might be able to help one side or another," she said. "We want the best of both sides of the aisle, the center of the aisle to come together and determine what rules are the fairest to allow the fairest results to occur."

Senate President Bill Harris (R-Ashland) said he was hopeful that the two chambers could work together to enact a bill in time for the 2010 election.

"I do think we need to pass something," he told reporters.

He declined to discuss any potential differences with the House, saying, "There's a number of things, from what I've read, that would appear to be similar to what we had in the bill that was vetoed, so it will be interesting to see."

The Proposal: Prior to casting a ballot, voters would have the choice of presenting either a valid photo ID or two documents from a business, non-profit, or government agency that contain the individual's name, according to the Secretary of State's Office. Proof of address would not be required in most cases. (Secretary of State Summary)

The bill would also require the secretary of state enter an agreement to match voter registrations with the BMV's database and would define which fields must match. The secretary would have to develop rules to guide boards how to process non-matches.

The five to seven-day window during which voters can register to vote and cast a ballot at the same time would be eliminated because the proposal would reduce the in-person early voting period from 35 to 20 days. At the same time, boards could increase the number of early polling locations to four.

The measure would limit the circumstances that require a voter to cast a provisional ballot to individuals who: don't appear in the poll book; don't show ID; requested an absentee ballot; or were not eligible to cast a regular ballot.

Eliminating special elections would save an estimated \$2.7-\$5.4 million per year, according to the Secretary of State's Office.

Additional provisions included in the bill would:

- Permit board to conduct mail-only special elections.
- Create an annual vote-by-mail ballot request form.
- Limit the length of state issue ballot language to 300 words.
- Authorize county boards of election to join buying pools to reduce the cost of election materials.
- Require boards to notify voters of deficiencies in their registration applications.
- Allocate voting machines based in part on a precinct's historic turnout, previous wait times, and the length of the ballot.
- Bar poll observers from interacting with voters beyond "incidental communications."

Reaction: The Brennan Center for Justice's Larry Norden, who chaired the election summits, lauded the measure.

"I am thrilled to see that Secretary Brunner, (Rep.) Stewart and Rep. Heard have used the cooperative work of the summit, and drawn on the expertise of the election officials, academics and advocates of all political backgrounds, to draft a comprehensive election reform bill," he said in a statement.

The Advancement Project commended the lawmakers for including several of their recommendations designed to limit voter challenges.

"Based on our recommendations, the Elections Enhancement Bill, HB260 minimizes the overuse and undercounting of provisional ballots by amending the change of address and provisional ballot rules to permit voters who have moved to update their voter registration on Election Day and vote a regular ballot at the correct polling location," the organization said.

HARRIS WANTS LIMITS ON DRIVER 'TEXTING'; DEBOSE INTRODUCES BILLS IN HOUSE

On the same day a House Democrat introduced bills targeting cell phone use while driving, the Senate's top Republican said he also wants to crack down on text messaging while driving.

Senate President Bill Harris (R-Ashland) said Wednesday it should be obvious that "texting" while behind the wheel is a bad idea.

"I think it's a shame that we have to pass a law to influence people to use common sense, but that's a case where I would be very much in support," he told reporters.

"It's not a good idea to be sending text messages while driving," he said. "When they look down at that keyboard to see what the text is, I think it just creates a terrible opportunity for disastrous accidents."

Meanwhile, Rep. Michael DeBose (D-Cleveland) introduced a proposal that would make texting while driving a secondary offense (HB 261). A separate measure would also prohibit talking on a cell phone while driving (HB 262).

Sen. Harris said he expected similar text messaging legislation to be introduced in the Senate and the chamber would take up the issue when members return in September.

The issue is also getting attention from policymakers in Washington, where U.S. Transportation Secretary Ray LaHood announced a "distracted driving summit" in September.

"If it were up to me, I would ban drivers from texting, but unfortunately, laws aren't always enough," Sec. LaHood said in a news release.

"We've learned from past safety awareness campaigns that it takes a coordinated strategy combining education and enforcement to get results. That's why this meeting with experienced officials, experts and law enforcement will be such a crucial first step in our efforts to put an end to distracted driving," he said.

The agency cited several recent high profile accidents, including a commuter train crash that killed 25 people in California, where the operator was texting on a cell phone. A few weeks ago, an Illinois high school student was killed when she drove off the road while text messaging friends.

Conservancy Districts: Sen. Harris said the chamber might revisit legislation that limits the operations of watershed conservancy districts.

The Senate president sent a letter this week to John Hoopingarner, executive director of the Muskingum Watershed Conservancy District, expressing concern about recent employee pay raises that followed approval of new assessments for property owners to pay for flood mitigation improvements.

Sen. Harris said Sen. Bob Gibbs (R-Lakeville), who previously sponsored legislation to reorganize the district's governance and prevent it from increasing an assessment, might introduce another bill to address the issue.

"This may indicate that he had lots of justification for that language," he said about the recent pay raises.

INTRODUCED IN THE HOUSE

HB 260 ELECTION LAWS (Stewart) To revise the Election Law. Am. 3501.01, 3501.02, 3501.03, 3501.05, 3501.07, 3501.10, 3501.11, 3501.17, 3501.18, 3501.21, 3501.30, 3501.38, 3503.01, 3503.04, 3503.06, 3503.10, 3503.11, 3503.14, 3503.15, 3503.16, 3503.19, 3503.21, 3503.24, 3503.28, 3505.03, 3505.04, 3505.06, 3505.062, 3505.08, 3505.10, 3505.12, 3505.13, 3505.18, 3505.181, 3505.182, 3505.183, 3505.20, 3505.21, 3505.23, 3505.28, 3505.30, 3506.11, 3506.12, 3506.21, 3509.01, 3509.02, 3509.03, 3509.031, 3509.04, 3509.05, 3509.06, 3509.08, 3509.09, 3511.02, 3511.04, 3511.05, 3511.06, 3511.08, 3511.10, 3511.11, 3511.13, 3513.05, 3513.19, 3513.30, 3513.31, 3517.01, 3517.012, 3517.02, 3517.03, 3521.03, 4507.13, and 4507.52, to enact new sections 3509.07 and 3511.09 and sections 125.042, 3503.141, 3503.142, 3507.01, 3507.02, 3507.03, 3511.041, 3599.121, and 3599.191, and to repeal sections 3503.18, 3505.19, 3505.22, 3506.13, 3509.07, 3511.07, 3511.09, 3511.12, and 3513.20

HB 263 VIDEO LOTTERY TERMINALS (Koziura) To authorize the playing of video lottery terminals at D liquor permit premises, to require the use of video lottery terminals, to require the licensure of video lottery terminal manufacturers, distributors and operators and to exempt video lottery terminals from certain state taxes. Am. & En. 2915.02, 3770.06, 3770.99, 5709.01, 5739.02 and 3770.51 through 3770.61

WEDNESDAY, AUGUST 5 2009

ADMINISTRATION SAYS RECENT SENIOR STAFF TURNOVER 'NATURAL'

Michael Dolan's recent resignation as state lottery director means Gov. Ted Strickland now has to find replacements for five vacant senior staffing positions, two of them cabinet-level posts and one lieutenant governor. Mr. Dolan's announcement is the third high level official to part ways with the governor in recent days. On Tuesday last week State Medicaid Director John Corlett delivered his resignation letter and two days later the administration confirmed Ohio School Facilities Commission Executive Director Michael Shoemaker had been asked to leave.

Meanwhile, the Department of Development has been without a permanent director since Lt. Gov. Lee Fisher stepped down in February to pursue a run for the U.S. Senate. Then, in May, Lisa Patt-McDaniel replaced Interim Director Mark Barbash after he resigned when questions over his personal tax filings came to light. Strickland spokeswoman Amanda Wurst said there was nothing unusual about the rate of turnover at this point in the governor's tenure.

"This is a very natural transition time. We're halfway through the first term and the second budget has been passed," she said.

The recent departures come several months after two key cabinet members resigned. Former Ohio Department of Job & Family Services Director Helen Jones-Kelley stepped down in December after coming under criticism for authorizing background checks on a supporter of U.S. Sen. John McCain's presidential bid. Department of Transportation Director James Beasley retired a month later.

After the first two years of former Gov. Bob Taft's first term, the directors of both departments of Job & Family Services and Development had also resigned. Potentially complicating the appointment of a permanent development director is the fact that the job has been filled by the lieutenant governor since Gov. Taft named Bruce Johnson to fill the post halfway through his first term. Gov. Strickland, who followed suit in naming Mr. Fisher to the post, has repeatedly said he would not rush to select a running mate for the 2010 election.

Ms. Wurst said the governor was reviewing candidates for the various openings and would name replacements when he was ready.

"It is important to keep implementation of VLTs on time, so we will be moving forward as quickly as possible with a new lottery director," she said, referring to the plan to install video lottery terminals at the state's seven racetracks.

"We've talked to individuals that we know and respect to get recommendations for people who may be interested in public service, and talked to those individuals to see if they may be the right person for the job," Ms. Wurst said.

"Characteristics we do look for in members of the governor's cabinet and people who are serving at senior level positions within the administration are the highest degrees of integrity and character, effective leadership and management styles, and a dedication to public service," she said.

STATE WANTS FINANCE, MEMBER RECORDS OF GROUP SEEKING REFERENDUM ON SLOT MACHINE PLAN

A court filing showed Wednesday that Gov. Ted Strickland's administration wants to find out more about who is bankrolling the drive for a statewide vote on a law to install slot machines at Ohio's horse race tracks. The Office of Budget and Management and the Ohio Lottery Commission said they want LetOhioVote.org, a three-member ballot issue committee, to produce a series of documents.

LetOhioVote has asked the Ohio Supreme Court to declare that a section of the new state budget authorizing installation of up to 17,500 video lottery terminals at tracks is subject to a referendum. The committee previously told justices it has entered into an agreement with a national petition management firm to collect signatures for its proposed referendum, at a cost of about \$1.75 million, contingent on the outcome of its lawsuit.

LetOhioVote also said it has budgeted an additional \$750,000 in costs related to the referendum effort, bringing its total potential investment to \$2.5 million. State Solicitor General Benjamin Mizer, representing OBM and the Lottery, told the Supreme Court he wants to conduct limited discovery on issues raised in an amended complaint the committee filed last week.

"On information and belief, funding for LetOhioVote.org derives in part from individuals and entities whose goal is to install casinos in the state of Ohio," Mr. Mizer said.

Penn National Gaming is backing a proposed constitutional amendment on the Nov. 3 ballot that would authorize construction of four full-service casinos: one each in Cleveland, Columbus, Cincinnati, and Toledo. Mr. Mizer asked LetOhioVote to provide the name, address, and telephone number of each person or entity that is now, or has ever been, a member; and to identify any and all organizations with which it is affiliated.

The state agencies want the names of any persons or entities that have made payment directly to third parties for purposes of the activities of LetOhioVote, such as circulators and legal counsel.

Mr. Mizer also asked the committee to produce:

- Any and all documents related to the agreement between LetOhioVote and the national petition management firm hired to collect signatures for the proposed referendum.
- Documents indicating the sources from which LetOhioVote received commitments to acquire the \$2.5 million allotted to invest in the referendum petition effort.
- Documents that refer to the \$750,000 budget the group mentioned in its amended complaint filed with the court.

Carlo LoParo, spokesman for LetOhioVote, said the committee's lawyers have received the state's discovery request and would respond accordingly.

"We are a grassroots organization. We accept contributions from anyone who supports our cause whether it's to put video slot machines to a public vote, which is our principle objective, or if it's from citizens who are interested in protecting the constitutional right of referendum," he said.

Mr. LoParo said he has no knowledge of any involvement on the part of Penn National Gaming - or any other casino - in the slots referendum.

"I don't why (Penn National) would have been involved in the effort. They have a racetrack in Toledo. They stand to benefit either way," he said.

Gov. Strickland proposed installation of video slot machines through the Ohio Lottery at the state's seven horse tracks. The goal was to raise \$933 million over the biennium to help erase a projected revenue shortfall. Legislators included in the budget an enabling section that specified the slots provision was to take effect immediately, and was not subject to a referendum.

GOVERNOR FORMS PANEL TO BOOST AUTO INDUSTRY

A new public-private partnership aimed at improving the state's auto industry was created by Gov. Ted Strickland Wednesday in the form of the Ohio Auto Industry Support Council. Mr. Strickland issued an executive order (2009-14S) to initiate the council, which already named Dennis Wojtanowski, a former lawmaker and lobbyist, as president.

"I'm honored to take on this responsibility and will begin our critical work immediately to support Ohio's communities, workers and this great industry in these uncertain economic times," Mr. Wojtanowski said.

The panel, comprised of state officials and private sector representatives, is charged with "assisting Ohio businesses, workers and communities to develop and implement coordinated strategies aimed at stabilizing and growing the auto industry," according to the governor's office.

"The automotive industry will continue to drive Ohio's economy," said Gov. Strickland, who is in Detroit this week meeting with leaders of the "Big Three" U.S. automakers.

"Now more than ever, we need a unified, coordinated approach to support and strengthen Ohio's auto sector. The Ohio Auto Industry Support Council will work to assist our auto businesses up and down the supply chain, to support workers who deserve a more certain future, and to partner with our automotive communities as they respond to the impacts of the automotive crisis at the local level."

Gov. Strickland appointed Eric Burkland, president of the Ohio Manufacturers' Association, and Ken Lortz, director of Ohio's United Auto Workers Region 2B, to serve as co-chairs on the volunteer panel. The president will be paid under contract and for expenses, according to the governor's office. The pay will be determined between the president and the group's fiscal agent, the Center for Community Solutions.

"Ohio's auto workers and the communities in which they reside are bearing the brunt of the nation's economic instability," Mr. Lortz said in a news release. "Ohio's workforce is second to none. To keep it that way we have to work together to provide the training and support that will bring relief to our struggling workers and recovery to our communities."

Mr. Burkland said, "Ohio has the nation's broadest and deepest automotive supply chain. Auto manufacturing is not only Ohio's past, it is Ohio's future. Ohio needs to position itself as the premier hub of automotive manufacturing and lead the industry transition."

The Cleveland-based Center for Community Solutions will "receive and manage monetary donations to the council and make expenditures from any such donations as it deems appropriate," the governor's office said. Some financing has already been promised by the center, the OMA and UAW. CCS Senior Fellow John Habat and Fellow George Coulter will assist in the initiative.

State members of the group will include a legislator named by each of the four caucus leaders, directors of the departments of Development and Job & Family Services and the Board of Regents chancellor. Private-sector members will include: individuals with expertise in worker retraining, industry transition and community stability; and a representative of auto dealers. The council plans to coordinate its activities with the legislature's Joint Select Committee on the Auto Industry.

OHIO COMPANIES GET \$34 MILLION IN FEDERAL FUNDS FOR ELECTRIC CAR BATTERY MANUFACTURING

Two companies with Ohio facilities will receive nearly \$34 million out of a total \$2.4 billion in available federal stimulus funding to jumpstart development of battery and electric vehicle manufacturing, officials announced Wednesday. German chemical company BASF Catalysts, Inc. will get the majority of Ohio's share, with more \$24 million to help build a facility in Elyria to manufacture advanced lithium-ion batteries used in electric vehicles, U.S. Sen. Sherrod Brown (D-Cleveland) told

reporters during a conference call. Gov. Ted Strickland said TOXCO Incorporated would receive about \$9.5 million for its battery recycling plant in Lancaster.

"These are examples of what we must do if we are going to bring this economy back and save manufacturing and make Ohio and America a continuing leader in clean technologies and the auto industry," he said.

Gov. Ted Strickland said the award demonstrates that the federal stimulus measure is having its desired effect in Ohio.

"There are some who talk about the stimulus not working. I can tell you, in Ohio it is working, we are receiving significant resources through the stimulus package and this is just two wonderful examples," he said.

Sen. Brown said the award would help make Ohio a leader in clean energy manufacturing. "We really are beginning to lead the nation in making us the Silicon Valley of alternative energy," he said. "United States manufacturing - we're frankly behind much of the rest of the world in battery development and research and manufacture. This is going to allow us to catch up."

The awards are only two of 48 grants throughout the country for new advanced battery and electric drive projects funded through the American Recovery and Reinvestment Act, according to the Whitehouse.

"If we want to reduce our dependence on oil, put Americans back to work and reassert our manufacturing sector as one of the greatest in the world, we must produce the advanced, efficient vehicles of the future," President Barack Obama said in a news release.

Sen. Sue Morano (D-Lorain) issued a statement lauding the funding for the Elyria plant.

"This facility will bring well-paying jobs to a community that has been battered by the recent economic downturn," she said. "It will improve battery technologies for hybrid and electric cars and will move Ohio closer to environmentally sustainable transportation and will help decrease dependence on foreign oil. This is a great day for Lorain County."

FEDERAL AGENCY DELAYS FINAL REVIEW OF USEC PIKETON PROJECT

A week after federal officials announced plans to reject a loan guarantee tied to an 800-job southern Ohio energy project, the government announced it was delaying its final review of the application. The decision impacts a USEC Inc. proposal involving the American Centrifuge Plant at the former Portsmouth Gaseous Diffusion Plant in Piketon.

"This agreement gives USEC the time it needs to more fully test its technology and develop additional financial support for the project," U.S. Energy Secretary Steven Chu said.

The delay gives the company more time to work on its uranium enrichment technology, in which the U.S. Department of Energy has found promise. The agency said last week the plan was being rejected because it didn't meet statutory and regulatory funding standards. The company and the government both said it will likely take at least six months to meet all the criteria needed to secure the loan guarantee.

"USEC's operating experience on its lead cascade must demonstrate high confidence that machine reliability is commensurate with its facility operating plan," said Steven Koonin, undersecretary for science. "We have discussed with USEC specific test results that would give such confidence, and we look forward to working with them to that end."

The company's top officer, John K. Welch, said the firm is committed to the technology and the project. "We are committed to continuing our development efforts in Oak Ridge and Piketon to prepare the technology for full commercialization," he said. The agreement provides a path forward for consideration of our loan guarantee application."

THURSDAY, AUGUST 6 2009

STATE'S TAX REVENUE INTAKE EXCEEDS ESTIMATES FOR FIRST TIME IN NINE MONTHS

State tax revenues beat Office of Budget and Management expectations in July, the first month of fiscal year 2010.

It was the first time since September, when the virtual wheels started to fall off the national economy, that state analysts hit the mark with their revenue predictions.

While tax revenue cleared projections for July by only \$17.4 million, or 1.6%, the performance undoubtedly brought a sigh of relief to Gov. Ted Strickland's administration, which has taken a beating in the last several months regarding the accuracy of its financial data.

"There are some positive indicators in these numbers that we will continue to monitor closely," Strickland spokeswoman Amanda Wurst said Thursday. "The month's performance indicates that using conservative revenue estimates was a prudent course of action for the state's budget."

"Given the uncertainty of the national economy, we will continue to closely monitor the performance of tax collections and the other national economic indicators over the coming months."

The overage came mostly courtesy of the personal income tax. Those collections totaled more than \$487 million and were 11.5 million, or 2.4%, higher than expected, according to preliminary July revenue data.

Tobacco tax intake, at \$26.5 million for the month, was also ahead of projections, OBM reported. The category came in \$10.5 million, or 65%, higher than expected.

Remaining in negative territory compared to estimates were sales tax collections, which were down for non-auto sales and slightly above for auto sales. The total sales tax intake of \$617 million in July was about \$5 million, or 0.8%, below OBM projections.

While meeting officials' expectations for the start of FY 2009, the tax revenues continued to under-perform the prior year's collections. Compared to July 2008, total tax receipts were lower last month by \$153 million, or nearly 12%.

OEPA OFFERS INSURANCE PROGRAM TO EASE LIABILITY FOR BROWNFIELD DEVELOPMENT

Frequently dogged by litigation and cost overruns, brownfield developers can now get discounted liability insurance through a new state program, the Ohio Environmental Protection Agency announced recently.

OEPA touted the partnership with insurers, which offers a 10% discount on premiums to cover litigation costs, as a way to encourage more companies to redevelop polluted industrial sites.

ACE Environmental Risk, Great American Insurance Company, and Navigator's Specialty Insurance Company have signed an agreement with OEPA to offer potential brownfield developers discounted insurance through the new program.

Although OEPA's Voluntary Action Program (VAP) offers participants assurance that the state won't sue if they attain certain cleanup standards, companies are still subject to lawsuits from neighbors, who frequently sue for groundwater contamination, spokeswoman Linda Fee Oros said.

The insurance program is designed to further reduce risk, she said. "Now that the (VAP) standards are in place, there's a measure that people can say it's contaminated or its not. Now this just goes one step further."

OEPA staff will evaluate brownfield assessment information from potential developers based on VAP contamination standards, she said. "Ohio EPA's role is to be like a facilitator, to let people know what kind of liability they might need and how to protect themselves."

That will make insurers' job easier, she added. "Then the insurer saves time because they've already got part of the information researched and whether or not it measures up to the standards that are required."

FIRSTENERGY, DUKE ENERGY SEEK FEDERAL STIMULUS GRANTS FOR SMART GRID SYSTEMS

Two electric utilities operating in Ohio filed separate applications with the U.S. Department of Energy on Thursday for shares of \$4.5 billion in smart grid infrastructure grants through the economic stimulus law.

An application of FirstEnergy Corp., Akron, seeks \$57 million in federal funds.

The amount represents half of its proposed \$114 million investment in smart grid technologies to improve the reliability and interactivity of its electric distribution system in Ohio, Pennsylvania, and New Jersey.

Federal funds, along with regulatory recovery of the remaining costs, would support programs to help customers save energy and money.

In Ohio, the proposal requests funding for test projects in several suburban communities east of Cleveland that are served by the Cleveland Electric Illuminating Co.

In addition to CEI, FirstEnergy subsidiaries in the state include Ohio Edison and Toledo Edison.

Separately, Duke Energy applied for \$200 million from the American Recovery and Reinvestment Act to accelerate its \$1 billion electric grid modernization project in Ohio, Indiana, and Kentucky. Duke is based in North Carolina.

Duke said the federal money would allow it to complete much of its smart grid work in Ohio and Indiana by late 2012, two years earlier than originally planned.

The grid will use two-way digital communication to improve energy efficiency, strengthen system reliability, and detect power outages.

In Ohio, Duke said it soon will begin to deploy more than 700,000 electric smart meters, and 450,000 natural gas smart meters at customer homes and businesses.

The digital meters will replace the traditional devices that have been the industry standard for decades.

Todd Arnold, senior vice president for smart grid and customer systems, said Duke intends to transform the way electricity is delivered to, and managed by, its customers.

"Our goal is to replace today's non-interactive electric grid with a highly interactive two-way communication grid that uses advanced digital technology," Mr. Arnold said in a news release.

FRIDAY, AUGUST 7 2009

SUPREME COURT DENIES STATE'S BID FOR DONOR LIST OF TRACK SLOTS OPPONENTS

The Ohio Supreme Court on Friday rejected Attorney General Richard Cordray's attempt to force opponents of Gov. Ted Strickland's racetrack slot machines to reveal who is financing their drive for a public vote on the measure.

A 6-1 majority denied an emergency request filed on behalf of the Ohio Lottery Commission for an order to compel LetOhioVote.org to provide certain membership and financial information.

Justice Paul Pfeifer dissented.

"If this state is to become a gambling center, we should look with caution at Nevada's long history of lack of transparency in the identity of the true parties behind the development of the gambling industry," Justice Pfeifer said.

"We should determine that, from the outset, the truth will be told in Ohio," he said.

The decision came about four hours after the conservative ballot issue group accused the lottery and the Office of Budget and Management in a court filing of harassment.

The motion ruling was part of a pending lawsuit in which LetOhioVote is trying to block Mr. Strickland's plan to install up to 17,500 video lottery terminals at the state's seven horse racetracks.

LetOhioVote is asking the court to declare that provisions in the new state budget enabling the expanded gambling are subject to a referendum.

The legislation states that the slots measure took effect immediately as part of an appropriation and was not subject to the constitutional right of referendum.

Mr. Cordray's office said in seeking the financial data that it wants to determine if backers of full-service casinos are funding the challenge to track slots.

LetOhioVote told the court earlier Friday that the state's bid to identify donors has no bearing on the constitutional issue before the court.

"(One) can only conclude that the last-minute discovery served in this case is little more than a mechanism for harassing (LetOhioVote), with the hope that they will be dissuaded from further pursuing their constitutional right," Chad Readler, one of the group's lawyers, told the court.

"These tactics do not deserve the court's backing. Nor should (the agencies) be aided in their apparent effort to stall the court's briefing schedule and ultimate decision," he said.

Justices denied the state's motion to compel release of the documents in a brief entry.

Justice Pfeifer noted in his dissent that LetOhioVote had made various representations about its interests, finances, and steps taken in its attempt to place the slots question on the ballot.

The group previously said it had a \$1.75 million contingent contract with a national petition management firm to collect signatures for a referendum, and had budgeted an additional \$750,000 for related costs.

Justice Pfeifer said LetOhioVote brought up the issue of finances, and the intervening state agencies deserve to know the basis of its claims.

"This is not a fishing expedition: (the state agencies) seek information directly related to the pleadings. It is unusual to deny a party the chance to gather evidence," he said.

LOCAL GOVERNMENTS AND SCHOOLS SEEK PERMANENT TAX REPLACEMENT AFTER STRICKLAND VETO

Local governments dodged an \$11.2 million loss this biennium due to state tax restructuring, but the governor's recent veto of budget language that would have staved off a projected \$480 million hit over the next 10 years leaves some hefty lobbying work unfinished for the groups.

That's because the nearly half-billion dollars is how much school districts and local governments are expected to lose when the state fully phases-out reimbursements to replace revenue from the tangible personal property (TPP) tax, which was eliminated in the 2005 tax code overhaul (HB66, 126th General Assembly).

During deliberations on the biennial budget (HB 1), the Coalition of Local Governments & Services, which includes major statewide organizations representing schools, counties, cities, townships, libraries and other local entities, lobbied for permanent state payments to replace TPP tax revenue. The 30% of the new commercial activity tax (CAT) revenues for non-school entities are slated to return to the general revenue fund in 2019.

At the same time the Coalition for Fiscal Fairness in Ohio pushed to preserve the reimbursement formula that drives the highest payments to school districts that use to generate the most TPP revenue. Although the previous biennial budget (HB119, 127th General Assembly) permanently earmarked 70% of CAT revenues for education, it didn't address how that money would be distributed.

In his veto message, Gov. Ted Strickland said language the Senate added to the biennial budget (HB 1) to permanently dedicate revenues from the CAT to local governments "undermines the original intent of the comprehensive tax reform structure of HB66."

He further said a provision to allocate \$5.2 billion in CAT revenues and general revenue to school districts was based on an "out-dated distribution formula."

"This provision contradicts the overall direction of the comprehensive education system reform established in this bill," he said.

Taken together the two provisions would drain about \$3 billion from the general revenue fund over the next four biennia, he said.

"The pervasive and sweeping changes of this provision deserve broad discussion among a wide range of stakeholders, especially in view of the fact that Ohio is phasing in a new constitutional school funding system," Gov. Strickland said.

"In order to prepare for future years, I remain committed to continuing a robust dialogue to address the fiscal challenges confronting the state and our partners in local government and school districts," he said.

Sen. John Carey (R-Wellston), chairman of the Senate Finance & Financial Institutions Committee, said the governor's veto took him by surprise.

However, deliberations on a separate bill (SB 111) containing language similar to the Senate amendment would likely continue, he added.

"Our goal never was to leave the school districts and the local governments in a bad situation, so I think the debate's going to need to continue," Sen. Carey said about the tax-restructuring plan. "Even though the replacement was temporary, I didn't think we would leave local governments in a worse position than what they were in when we passed it."

Despite the veto of a permanent reimbursement, the Coalition of Local Governments & Services is happy to have at least won an \$11.2 million appropriation for fiscal year 2011, said Brad Cole, senior policy analyst for the County Commissioners Association of Ohio.

That's how much local governments would have lost that year, when the TPP replacement payments to entities other than school districts were going to start phasing-out.

"That gives the Coalition of Local Governments & Services two years to continue to work with the General Assembly and the governor on what we hope would be a permanent solution for spelling out how the reimbursement would be provided off into the future," he said.

"Given the current economic conditions and the struggle that the General Assembly and the governor had in trying to balance the state budget, our goal frankly was to get the \$11.2 million and, in effect, buy us time," he said.

Coalition members have agreed on a revised formula to update how state funds are distributed to local governments, he said. Generally it would allocate 75% of the total according to what the entities historically received and 25% would be based on changes that would occur by accounting for Class II business property.

Mr. Cole said the state had an obligation to ensure that local entities that were heavily dependent on the TPP can continue operating. "We expect a resolution that will provide a continuing flow of dollars to local governments."

Princeton City School District Treasurer Tracy Jarvis, who helped form the Coalition for Fiscal Fairness in Ohio, said the governor's veto preserved language that will delay the planned phase-out of TPP replacement payments by two years until 2013.

"We're disappointed there was a veto, but it did give us two more years," she said. "Just the fact that they understand the severity of the issue - that was a great success and we're going to continue working with everyone involved."

The coalition, which includes five school systems, is planning to invite additional districts to join, she said. "We're looking at the top 20 to 40 (districts) that are losing the highest percentage of their revenue based on that TPP tax law change."

"Until we have a plan that truly makes Princeton whole, or other school districts like Princeton, then this is taking money from the education of our students," Ms. Jarvis said.

ADVISORY PANEL, ADMINISTRATION SEEK TO NURTURE LOCAL FOOD CONSUMPTION

The state is trying to cultivate consumers' growing interest in locally produced food as a way to revitalize Ohio rural economy while increasing the availability of high quality food in urban areas, the state's agriculture chief said recently.

The Ohio Food Policy Advisory Council issued a report this week containing recommendations designed to expand the state's local food processing capacity by 15% by 2015. Gov. Ted Strickland created the panel two years ago to find ways to better link local producers and consumers.

Department of Agriculture Director Robert Boggs said Ohio consumers spend \$37 billion on food every year, but only about two or three percent is locally produced.

"There's more demand than ever for local foods," he said. "The obstacles are how do you get these products to the shelves in the grocery stores? The grocery stores have really made a real advance in wanting to welcome locally produced foods. It's now getting the logistical system set up to help the transport."

Director Boggs said the advisory council made significant progress in gathering detailed data about the intricacies of the state's \$93 billion food production industry.

"The other thing we found out is that so much that is being produced is going into low-end processing - that is when you take it to canaries and things like that, you can make a profit, but not nearly as much as when you sell it fresh," he said.

One way the administration is encouraging the so-called "locavore" movement is by supporting new farmers' markets, he said. ODA offers grants to help with marketing and purchasing equipment necessary to accept credit and electronic benefits cards.

Ohio Grocers Association President Tom Jackson, a member of the food policy panel, said grocery stores were increasingly stocking local products.

"We're all coming to the revelation - all of us, that local is a no-brainer," he said. "We've got to have good communication of what's available, when it's available, and how we're going to get it."

ODA is also trying to bolster a fledgling aquaculture industry in Ohio, Director Boggs said, noting seafood is the nation's largest "food deficit" with imports outstripping production by about \$10 billion.

"As a result, we're getting a lot of food in from Asia and China, which I really doubt is all that good or nutritious for human consumption, but until we start producing our own in better quantities, that's going to happen," he said.

There are currently about 300 "aquafarmers" in Ohio that produce large quantities of fresh water shrimp, he said. "We're trying to expand and double the size of the aquaculture in Ohio within the next five years."

Food Report: The food council's report recommends adding \$2 million to ODA's Marketing Division to support education and a marketing campaign for Ohio food products.

"This investment has strong potential to increase the local food multipliers in the state, create jobs, keep Ohio farmland in production, increase the viability of Ohio farm businesses, decrease the use of energy in long distance transportation, increase quality of life, and protect local food sources," the report said.

The panel also recommended expanding the Ohio Food and Agricultural Clearance Program to \$17 million a year to boost access to local foods for low-income Ohioans.

"Charity alone cannot ensure that food is on the tables of our state's working poor, senior citizens, children and families. The allocated funds went a long way toward addressing this issue but were not enough," the report said.

Additional recommendations include:

- Expand funding for the Clean Ohio Agricultural Easement Purchase program.
- Increase Department of Development staffing for an agricultural economic development professional to work on issues other than energy.
- Appropriate \$95,000 to assemble the disparate databases on food production, processing and consumption in the state, analyze the data to assist the council in establishing benchmarks for local food systems.
- Educate producers on school districts' procurement process to encourage the use of Ohio grown agricultural products in schools.

CUYAHOGA TREASURER MARKS 10TH ANNIVERSARY OF HOME LOAN PROGRAM

Cuyahoga County Treasurer Jim Rokakis on Friday marked the 10th year of a loan program credited with leveraging at least \$100 million in property improvements in the Cleveland area.

The Housing Enhancement Loan Program (HELP) offers home improvement loans at interest rates three percentage points below normal lending rates.

Residents can borrow from \$3,000 to \$200,000, and pay it back over five or ten years, depending on the amount borrowed.

Bank fees are capped at \$175. Funds can be used for single and multiple unit homes as well as investment properties.

"At a time of unprecedented challenges for our housing market, HELP has provided a stabilizing force and a vital tool to protect and restore area neighborhoods impacted by the economic crisis," Mr. Rokakis said in a news release.

At least 7,500 property owners have participated in the program over the last decade, investing at least \$103 million in their property. Similar initiatives have since been started in Hamilton, Medina, Summit, and Montgomery counties.

Participating banks are Fifth Third, Huntington, Key Bank, National City, and U.S. Bank.

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