



## **The Construction Conversation**

### Ohio's Legislative, Administrative, and Judicial Two-Way Newsletter

February 2024

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#### **Administrative: OFCC Staffing**

The Ohio Facilities Construction Commission named Joy DeMarco as the new Executive Director. She joins Bill Damschroder as the new Chief Legal Counsel, along with Bill Delaney as Senior Legal Counsel. (Cont'd p. 2.)

#### **Administrative: OHFA Single Family Tax Credits**

The Ohio Housing Finance Agency is taking applications for single family housing development, funded by the new program of \$50 million enacted in the Biennial Budget. (Cont'd p. 2.)

#### **Administrative: BWC Rate Cut**

At their February 23<sup>rd</sup> meeting, the Board of Directors of the Ohio Bureau of Workers' Compensation approved an average 7 percent premium rate reduction for private employers, saving an estimated \$67 million for 257,000 employers. (Cont'd p. 2.)

#### **Judicial: Implied Contract Enforced**

A roofing contractor successfully enforced an implied contract after a homeowner paid in part for a roof replacement, even though the owners had

not signed the contractor's quote or contract, based on the contractors' completion of the work. (Cont'd p. 2.)

#### **Legislative: Occupational Bill Passes House**

The Ohio House of Representatives passed House Bill 238 along a party-line split, to approve changes to occupational licensing regulations after completing the 6-year review process, to consider one-third of all licensing boards each biennium. (Cont'd p. 3.)

#### **Legislative: New Local Project Funding**

The Ohio House passed House Bill 2, appropriating \$2 billion in local infrastructure funding, with \$700 million designated for Strategic Community Investments. This bill is in addition to the biennial Capital Appropriation yet to be introduced. (Cont'd p. 3.)

#### **Administrative: New Highway Funding**

The Ohio Turnpike Commission passed 20 resolutions to fund design and new construction, bridge repair, while the Ohio Department of Transportation's Transportation Review Advisory Council (TRAC) approved the annual list for highway funding. (Cont'd p. 3.)

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## **Administrative: OFCC Staffing (Cont'd)**

Before the appointment, DeMarco served as Assistant Executive Director appointed in October, 2023. An attorney by training, she served for the prior decade at the Office of Budget and Management, including as the Ohio Controlling Board President.

A Cleveland native, she is recently married to John Bledsoe.

## **Administrative: OHFA Single Family Tax Credits (Cont'd)**

Eligible projects require a minimum of five new builds or renovations, with at least 2 bedrooms and bathrooms each.

The tax credit is calculated as the difference between the total project cost and the total appraised market value, up to a maximum of \$50,000.00 per home, claimed by tenths over a ten-year term.

Additionally, OHFA is offering a “Tool Kit” for real estate agents and mortgage lenders to help navigate the Agency’s various programs.

For further information, see:

[www.ohiohome.org](http://www.ohiohome.org)

## **Administrative: BWC Rate Cut (Cont'd)**

The actual premium discount will differ for individual employers depending on payroll levels, recent claims history, and participation in BWC programs.

This brings the current premium rates to their lowest in 60 years. Ohio’s Workers’ Compensation System began in 1912 with enactment in the Ohio

Constitution, Article II, Section 35.

The Board also approved an 8.6 percent rate reduction for state agencies.

Separately, BWC addressed a recent cyberattack on its vendor that BWC uses to process and pay pharmaceutical bills for claimants.

## **Judicial: Implied Contract Enforced (Cont'd)**

The roofing contractor quoted a new roof and gutter work, with 30% down payment and balance after completion. The owners advanced the upfront funds, exactly equating 30%. Therefore, the court found a “meeting of the minds”.

The Court of Appeals determined that there exist three types of contract:

1. Express contracts;
2. Implied in fact contracts; and
3. Implied in law contracts.

With an implied-in-fact contract, the parties’ behavior demonstrates a “meeting of the minds”. In contrast, with an implied-in-law contract, there is no meeting of the minds, but unjust enrichment in equity.

Even though the owners failed to sign the quotes, their 30% payment acted to affirm the contractor’s quote. Once the contractor performed, it would be unfair for the owner to keep the benefit of the work without payment.

*Baise v. Puckett*, 12<sup>th</sup> Dist. Clinton, 2024-Ohio-508.

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## **Legislative: Occupational Bill Passes House (Cont'd)**

While Democrats offered certain amendments, the Republican majority voted all down.

Architects and Landscape Architects successfully opposed an initiative to cut the license application fee, contending that it would harm the Architects' Board's enforcement efforts.

Nevertheless, the Committee eliminated the Board's application fee, and barred charging a fee for an initial certificate of qualification.

In final testimony, the House State and Local Government Committee heard objections from a real estate agent, complaining that lowering the bar to enter the profession only saturates the market. The witness projected that the low availability of real estate inventory encourages unethical or incompetent behavior by agents.

The bill now heads to the Senate, which may make additional changes to the occupational regulations.

## **Legislative: New Local Project Funding (Cont'd)**

The concept of the bill was for each chamber to designate specific local projects for immediate funding.

As soon as passed, Senate President Matt Huffman (R, Lima) announced that there is no Senate agreement or negotiations between House and Senate leadership. Huffman is seeking to replace current House Speaker Jason Stephens (R, Kitts Hill).

The bill in its current form appropriates \$600 million for school buildings; \$400 million for the Public Works Commission for local infrastructure; \$400 million for college and university projects; and \$250 million for local jails construction.

In addition, \$350 million is a designated half for 318 projects selected by the House. For instance, \$22 million would go to the Hamilton County Convention Center District Development.

While bipartisan in approach, some members voted against the bill for perceived inequalities of distribution.

The bill now proceeds to the Senate, where leadership proposes an agreed-to rewrite for passage by both chambers in late May or early June.

## **Administrative: New Highway Funding (Cont'd)**

The Turnpike resolutions include more than a dozen contracts for engineering and maintenance, six for engineering service modifications, five for new engineering services, three for new construction, and two for maintenance.

The TRAC list includes more than \$390 million in new funding for ODOT's Major New Capacity Program over the next four years.

The TRAC format breaks projects down into three Tiers:

Tier 1 – Construction in the upcoming 4-year period;

Tier 2 – Projects in the design or development phase; and

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Tier 3 – Projects with partial phases funded in Tier 1, part of a long-range plan with multiple phases.

Join us in

## **The Construction Conversation Call-In**

on

**Thursday, March 14, 2024**

3:30 p.m.

Luther L Liggett is inviting you to a  
scheduled Zoom meeting.

Topic: Construction Conversation  
Time: Mar 14, 2024 03:30 PM Eastern Time  
(US and Canada)

Join Zoom Meeting  
<https://us02web.zoom.us/j/83247846628?pwd=cldkb2J5YUpkT2NycWJXdEZKMWFVUT09>

Meeting ID: 832 4784 6628  
Passcode: 370882

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