



## **The Construction Conversation**

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

October 2024

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#### **Legislative: Citizens Not Politicians Campaign Finance**

On the November 5<sup>th</sup> ballot is Issue One, to take the task of drawing legislative districts away from politicians. The Committee supporting the initiative raised and spent \$11.2 million in support of amending the Constitution. (Cont'd p. 2.)

#### **Legislative: New Legislation Introduced**

In addition to honorary legislation, legislators introduced eleven substantive bills in October, mostly dealing with health care. With the General Assembly in recess until after the election, bills newly introduced typically are for campaign press, or to set up an issue for next session beginning January 2025. (Cont'd p. 2).

#### **Legislative: Public Works Commission Renewal**

Speaker Pro Tem Scott Oelslager (R, North Canton) and Representative Dan Troy (D, Willowick) will introduce a House Resolution to put renewal of the State Capital Improvement Program on the ballot, to Constitutionally renew the Public Works Commission. (Cont'd p. 2).

#### **Judicial: AG to Determine Construction Exception to Open Meetings**

The Butler County Prosecuting Attorney has asked the Ohio Attorney General to interpret Ohio's Open Meeting requirement of R.C. 121.22 to allow closed door review of Competitive Sealed Proposal selections. (Cont'd p. 3).

#### **Judicial: Action on Account Stated**

A construction contractor sent an excavator to a repair company for repairs, which repairs exceeded the estimate both of cost and time. The parties entered into no written agreement. (Cont'd p. 3).

#### **Administrative: ODAS Rescinds Affirmative Action Plan Rules**

The Ohio Department of Administrative Services rescinded administrative rules which require state agencies to establish affirmative action plans. (Cont'd p. 3).

#### **Administrative: Construction Funding**

Several State agencies announced state funding for construction projects across Ohio. (Cont'd p. 3).

# The Construction Conversation

October 2024

Page 2

## **Legislative: Citizens Not Politicians Campaign Finance (Cont'd)**

The Ohio Education Association, the National Education Association, the Ohio Federation of Teachers, and the American Federation of Teachers were among the Political Action Committee's top contributors. Steven Spielberg and his actress spouse Kate Capshaw also contributed.

One of the largest contributions in favor of Issue One was \$7 million from "Article IV" of Arlington, Virginia.

In opposition, the Political Action Committee Ohio Works raised \$5.6 million. The PAC is backed by energy and manufacturing companies.

If passed, the amendment would create a 15-member Citizens Redistricting Commission, a bipartisan group representing various geographic and demographic regions of Ohio. Membership would be through a bi-partisan Screening Panel. Party affiliation would be determined not only by primary voting history, but also campaign activity including contributions.

The Commission would be charged with drawing "fair and impartial" legislative districts, which would not discriminate against or favor any political party or politician.

Banned from participating would be current or former politicians, political party officials, and lobbyists.

## **Legislative: New Legislation Introduced (Cont'd)**

The House and Senate each are scheduled only for 5 to 7 floor sessions, so

new legislation is too late for three hearings in each chamber.

Representative Don Jones (R, Freeport) introduced House Bill 683, to appropriate \$10 million to soil and water districts through the Department of Agriculture. Jones is a freshman legislator, a teacher, and works with his family's farm equipment dealership.

Representatives Josh Williams (R, Toledo) and Melanie Miller (R, Ashland) introduced House Bill 682, to create a state income tax credit to Ohio employers who provide paid parental leave to their employees.

Representatives Jeff LaRe (R, Canal Winchester) and Sean Brennan (D, Parma) introduced House Bill 681, to recover Medicaid benefits from recipients' estates paid for long-term care prescription drugs, an apparent omission in current law.

Much of the "new" bills merely are honorary bills highlighting events or people. Such resolutions pass without Committee consideration.

## **Legislative: Public Works Commission Renewal (Cont'd)**

These two legislators first initiated the program in 1987, to provide state borrowing for local infrastructure improvements. Voters renewed the historic program in 1995, 2005, and 2014 by large voting margins.

But the borrowing authority expired this year.

The Resolution will be introduced in November, to provide ten years' borrowing of \$200-\$250 million per year. The

# The Construction Conversation

October 2024

Page 3

Constitutional amendment would authorize a total of \$2.5 billion in construction financing of local projects. Typically, local governments provide supplemental funding.

The Resolution should be on the May 2025 ballot for voter approval.

## **Judicial: AG to Determine Construction Exception to Open Meetings (Cont'd)**

R.C. 307.86 requires Counties to select construction contractors by competitive bidding. However, R.C. 307.86(M) allows Competitive Sealed Proposals pursuant to the selection process in R.C. 307.862.

The question is whether the County selection committee may meet in executive session pursuant to R.C. 121.22(G), to select the contractor out of public view.

To comment, the AG's Opinions Section may be reached at 614-752-6417, [OpinionsRequest@OhioAttorneyGeneral.gov](mailto:OpinionsRequest@OhioAttorneyGeneral.gov)

## **Judicial: Action on Account Stated (Cont'd)**

The repair company admitted the delay but argued that the construction contractor had worked on the equipment in part on its own, and had to wait for hard-to-get parts. The repair company discounted the invoice substantially.

When the contractor refused to pay, the repair company sued on the account stated. The contractor demanded a set-off for the cost of renting substitute equipment.

The appellate court affirmed the trial court's finding that the facts supported payment of the repair company's work on an

account stated legal theory. The court further determined that the contractor offered no viable legal theory for setoff, as the delay was in part the contractor's own responsibility.

*Hwy. Equip Co. v. Richard Boccia Constr., Inc.*, 11<sup>th</sup> Dist. Trumbull, 2024-Ohio-4753

## **Administrative: ODAS Rescinds Affirmative Action Plan Rules (Cont'd)**

Arguing that the Revised Code does not require affirmative action plans as set forth in the rules, ODAS rescinded OAC 123: 1-02 through 08.

The rule rescission was considered by the Joint Committee on Agency Rule Review ("JCARR") on September 30, 2024, and took no action to prevent rescission. Accordingly, the rescission took effect on October 18<sup>th</sup>.

## **Administrative: Construction Funding (Cont'd)**

The Ohio Department of Development announced over \$52 million in its sixth round of grants.

\$29 million will go to clean up 36 hazardous brownfield sites in 23 counties.

The funding included \$10 million for the remediation and redevelopment of the former Terrace Plaza Hotel in Cincinnati.

In addition, \$23 million will go to demolish 292 vacant buildings in 9 counties.

The Ohio Tax Credit Authority announced state tax credits on \$24 million of new Ohio payroll. The credits are expected to create 415 new jobs and retain 1,118 current positions.

# **The Construction Conversation**

October 2024

Page 4

Included in the recipients are Microsoft Corporation, which is creating 20 full-time jobs in new Ohio projects.

The Ohio Department of Transportation announced \$63 million for its Highway Safety Improvement Program, including construction of 12 roundabouts. The funding will support 19 projects in 14 counties.

- 30 -

Join us in

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

on

**Wednesday, November 13,  
2024  
3:30 pm**

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

Join Zoom Meeting

<https://us02web.zoom.us/j/81040394113?pwd=pPSY4zvsouQ9OBTwJXrjTkADbtW16.1>

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Meeting ID: 810 4039 4113

Passcode: 253345

929 205 6099 US

