

# **The Construction Conversation**

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

September 2024

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### **Legislative: Next General Assembly**

Ending 2024 with a super majority, Republicans likely will enter 2025 with a similar predominance, with Democrats running in districts drawn by the Republicans. (Cont'd p. 2.)

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

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: Residential Contractor Certification**

Senate Bill 238 would create an optional residential only certification for contractors in Heating, Ventilation, and Air Conditioning (HVAC), refrigeration, electrical, plumbing, and hydronics by the Ohio Construction Industry Licensing Board. (Cont'd p. 2.)

### **Judicial: Contractor Entitled to Finish**

A home construction contractor sued for the balance of his contract after the homeowner refused to allow the contractor to return and to finish, claiming discrepancies in the invoices. (Cont'd p. 3.)

### **Administrative: Brownfield Funding**

In the fifth round of awards, the Ohio Department of Development awarded \$16.2 million to clean up 52 brownfield sites, and \$33.1 million to demolish 341 buildings in five counties. (Cont'd p. 3.)

### **Administrative: National Construction Appreciation Week**

September 16<sup>th</sup> through the 20<sup>th</sup> was National Construction Appreciation Week, founded in 2018 by the "I Build America" movement as a week-long celebration of construction professionals. (Cont'd p. 3.)

### **Administrative: OFCC Contract Revisions**

The Ohio Facilities Construction Commission seeks comments on proposed revisions to its standard front-end construction documents, including possible legislative changes. (Cont'd p. 3.)

### **Administrative: Local Infrastructure Funding**

The Ohio Department of Development awarded \$18.2 million to 34 communities under the federal Community Development Block Grant Program. (Cont'd p. 4.)

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## **Legislative: Next General Assembly** **(Cont'd)**

As is typical, at least one-third of the House and Senate seats are open elections with no incumbent running, and will go to a new legislator, although some legislators are returning from the other chamber due to term limits.

Nine Representatives and five Senators are term-limited. All House seats are up for election, but only half of the Senate seats are on the ballot.

Twenty Democrat incumbents hope to return to the House, but none to the Senate.

In contrast, forty-five Republican incumbents seek to return to the House, and ten to the Senate.

Republican incumbents in the majority tend to have seniority positions such as Committee Chairs, and therefore find fundraising easier.

Unless and until legislative districts are re-drawn, Republican control is likely to continue.

## **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.

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

Since summer recess began, the

House has added only 23 substantive bills, bringing the House total to 666 bills introduced. The Senate has added only 13 new substantive bills, bringing its total to 316 bills.

In the two-year session, the House passed only 31 bills signed into law, five of which were mandatory budgets or appropriations. The Senate only enacted 23 bills signed into law.

That totals 54 bills enacted of 982 introduced, or only 5%.

## **Legislative: Residential Contractor Certification** **(Cont'd)**

Introduced by Senator Tim Schaeffer (R, Lancaster), certified residential contractors would be required to complete four hours a year of continuing education, and maintain proof of liability insurance with at least a \$250,000 minimum coverage, and required coverage of direct labor subcontractors.

Specialty trades contractors with commercial OCILB licenses would not need the residential certification, as it is optional: “This section does not require a residential contractor or any other person to obtain a residential-only certification to work on residential construction projects in this state.”

The Ohio Home Builders Association is supportive even of a mandatory requirement, as long as not duplicated by local registration. Also of concern is whether subcontractors would need registration.

Senator Schaeffer is expected to return to a new 4-year term in January.

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## **Judicial: Contractor Entitled to Finish** **(Cont'd)**

A magistrate heard the case, and determined that the homeowner prevented the contractor from finishing the job, even though the parties agreed on the price and payments to date. The court awarded the benefit of the bargain against the homeowner, who should have allowed the work to conclude before disputing the amount owed.

Separately, when the homeowner appealed, he failed to file a court reporter's transcript of the hearing. Raising only issues of fact, the court of appeals could not examine the facts without the transcript.

*Reyes v. Kiwewa*, 12<sup>th</sup> Dist. Butler, 2024-Ohio-4524

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

This brings the total awarded to over \$700 million in the two programs.

The Brownfield Remediation Program provides grants for cleanup and remediation, including acquisition, demolition, and installation of the minimum infrastructure necessary to make a brownfield site operational for economic development activity.

The Building Demolition and Site Revitalization Program is designed to provide grants for the demolition of commercial and residential buildings and revitalization of surrounding properties on sites that are not Brownfields

## **Administrative: National Construction** **Appreciation Week (Cont'd)**

The I Build America program was started by Mike Rydin, the founder and CEO of HCSS, a construction software company. The Associated General Contractors is an official partner.

Only Ohio and Wyoming sponsor state-affiliated programs.

The Ohio Department of Job and Family Services houses ApprenticeOhio, the registration program to meet national criteria for construction apprenticeship programs.

ODJFS announced that starting in 2024, all Ohio school counselors for grades 7 through 12 are required to complete a 4-hour training course about the building and construction trades as a career, including apprenticeships.

The Department determined that more than 245,000 Ohioans work in the construction industry, or 4% of Ohio's workforce. Apprentices typically earn an average of \$72,000.00 upon completion of their training.

## **Administrative: OFCC Contract** **Revisions (Cont'd)**

In addition to proposed document changes, OFCC is considering Integrated Project Delivery models; a state version of federal Indefinite Delivery, Indefinite Quantity procurement; expanded use of Building Information Modeling; streamline the design professional Qualifications-Based Selection process, including raising the minimum threshold to \$100,000.00; and expanding "emergency" procurement authority.

Various construction trade associations are involved in the review, with a timeline for OFCC to recommend any

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legislative changes by Spring 2025.

Proposed document changes include amendments to the Architect/Engineer Scope of Service, the Construction Manager at Risk Agreement, and General Conditions.

For instance, in a Guaranteed Maximum Price project model, the GMP would be confirmed at each phase:

6.1.1 There will be one or more GMP Proposal and Amendment processes and GMP Amendments for each Phase.

6.1.2 The parties shall promptly memorialize in writing any agreement regarding (1) the number and timing of the GMP Amendments and GMP Proposal and Amendment processes; and (2) the anticipated scope of Work subject to each GMP Amendment.

## Administrative: Local Infrastructure Funding (Cont'd)

Ten communities will receive a combined \$7.5 million, an average of \$750,000.00 per locality, and 24 communities will receive the balance of \$10.7 million.

Projects include flood and drainage facilities, water and sanitary sewers, parks, streets, and sidewalks.

Of concern is the future of the Ohio Public Works Commission which brought additional state funding to these needs.

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Join us in

## The Construction Conversation Call-In

on

**Wednesday, October 16, 2024**  
**3:30 pm**

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

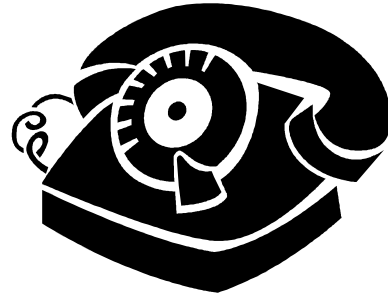
Join Zoom Meeting

<https://us02web.zoom.us/j/81990732897?pwd=aGaFwzQOmNQvaw6hXpMvcrr9fqQWaX.1>

Meeting ID: 819 9073 2897

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