

# **The Construction Conversation**

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

September 2025

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### **Legislative: End of Year Session**

The full legislature is scheduled to return for a full week of floor Sessions on October 14<sup>th</sup>. On the Session agenda is to consider override of the Governor's line-item vetoes of Property Tax legislation included in the Budget Bill. (Cont'd p. 2.)

### **Legislative: Form Contract Modification**

Senate Bill 262 would require that all changes be identified when any public authority modifies an "industry standard published construction management contract form" such as an American Institute of Architects' agreement. (Cont'd p. 2.)

### **Legislative: Private Prompt Pay**

House Bill 288 would enact law that a prime contractor is entitled to payment by a private project owner within 30 days after the design professional certifies the work as complete. Failure to pay will incur 18% interest, and attorney fees if the contractor has to sue. (Cont'd p. 2.)

### **Legislative: E-Verify in Construction**

On June 11<sup>th</sup>, House Bill 246 passed the House unanimously, to require that every commercial construction contractor must verify employment eligibility through the E-Verify system operated by Homeland Security and the Social Security Administration. (Cont'd p. 2.)

### **Judicial: Arbitration Clause Unenforceable**

A Court of Appeals reversed a trial

court's stay pending arbitration when the homeowner alleged that the arbitration clause was void due to fraudulent inducement. When the homeowner sued the home builder for breach in construction, the home builder moved to stay the court action pending arbitration. (Cont'd p. 3).

### **Administrative: OPWC Funding**

The Ohio Public Works Commission allocates \$250 million annually to local public authorities for infrastructure improvements, using a bipartisan selection process. (Cont'd p. 3).

### **Legislative: Speaker of the House**

The Speaker of the Ohio House of Representatives is the presiding officer of the chamber, responsible for appointing House staff including the Sergeant at Arms, and for appointing legislative representatives to various executive boards and commissions such as the Ohio Facilities Construction Commission, the Public Works Commission, and the Turnpike and Infrastructure Commission. (Cont'd p. 3).

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## **Legislative: End of Year Session (Cont'd)**

Committees continue to meet for specific legislation testimony.

The Republican majority added three Property Tax amendments in the recently passed Budget. Such legislation is viewed as taking away the local vote for school funding.

In response, Governor DeWine vetoed those three provisions as part of 67 line-item vetoes, after which the House overrode one veto to keep the provision law without the Governor's signature.

The Governor appointed the Ohio Property Tax Working Group, with a September 30<sup>th</sup> deadline for 20 alternative recommendations for the Governor to consider.

The next big Construction initiative will be the Capital Appropriations Bill in the Spring 2026, to be finalized no later than June 30<sup>th</sup> for the next funding biennium. All state agencies, colleges, universities, and local schools submit their requests for construction funding consideration. The prior construction appropriation totaled \$4.2 billion for capital improvements.

## **Legislative: Form Contract Modification (Cont'd)**

Sponsored by Senator Bill Blessing (R, Cincinnati), the penalty for failing to identify the changes makes such changes void ab initio. "If the public authority fails to indicate an alteration to the original language of the standard form, the alteration is void and without effect and the original language prevails."

If enacted into law, the provisions

will appear in four separate construction sections of the Ohio Revised Code generally regulating public works construction across the State.

The provision would only apply to contracts signed after the effective date of the legislation.

Initiated by the Associated General Contractors, the bill has yet to be assigned to a Senate Committee for hearings.

## **Legislative: Private Prompt Pay (Cont'd)**

The legislation passed out of the House Small Business Committee by an 8-4 vote, with the four nays from Republican Representatives. Amendment of some confusing language is likely to address their concerns.

Sponsored by Representatives Bill Roemer (R, Richfield) and Bride Rose Sweeney (D, Westlake), the legislation was introduced in two prior sessions, previously passing the House by a wide margin but delayed in the Senate.

The bill awaits a House floor vote before moving to the Senate.

## **Legislative: E-Verify in Construction (Cont'd)**

Now assigned to the Senate Workforce Development Committee, a companion bill Senate Bill 183 held sponsor testimony earlier. "There have been many instances where brokers have operated sort of outside of the intent of the law", Senator Jerry Cirino (R, Kirtland) testified.

The law applies only to a "Nonresidential construction contractor" responsible for the means, method, and

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manner of construction, thus excluding design professionals or construction managers not subcontracting the work.

## **Judicial: Arbitration Clause Unenforceable**

Revised Code 2711.03(B) requires that the trial court shall order the parties to arbitration only if the court first finds that the agreement for arbitration is not at issue.

The trial court need not try just the issue of arbitrability, but must deny a stay pending arbitration when the arbitration clause itself must be adjudicated.

Supreme Court precedent holds that “an arbitration clause is, in effect, a contract within a contract subject to revocation on its own merits...”.

Fraudulent inducement occurs when one party misrepresents facts to induce the other party to enter into a contract, and that the other party relied upon those false facts.

In this case, the home builder alleged that it never had been involved in litigation or arbitration, such that arbitration would not be a concern. In fact, the company had been involved in numerous legal actions.

Accordingly, the Court of Appeals held that the trial court could not stay the action pending arbitration.

*Snyder v. Old World Classics, LLC*, 9<sup>th</sup> Dist. Medina, 2025-Ohio-3188

## **Administrative: OPWC Funding (Cont’d)**

Created in 1987 by Constitutional amendment, the 12-member Commission is joined by appointees representing the Ohio Departments of Transportation, Natural

Resources, Development, Environmental Protection Agency, and Ohio Water Development Agency.

Initially administering the State Capital Improvement Program, the Commission also funds the Local Transportation Improvement Program (1989), and the Clean Ohio Conservation Program (2002).

Funding allocation is determined through government submissions in 19 local districts. Each District develops and executes their own scoring methodologies for project submissions, based on parameters set forth in Ohio Revised Code 164.06.

In addition to low-interest loans, the Director manages a “discretionary fund” for emergency failed infrastructure. The Small Government Program focuses on communities of 5,000 or less.

OPWC awards grants for up to 90% of the total project cost for repair and replacement, and up to 50% for new and expansion projects. Loans are awarded for up to 100% of the project costs.

A list of all funded projects can be found under “Programs” by clicking on the interactive Ohio map:

<https://publicworks.ohio.gov/home>

## **Legislative: Speaker of the House (Cont’d)**

Matthew C. Huffman is the current Speaker of the 136<sup>th</sup> General Assembly, beginning his term in January, 2025 after serving as President of the Ohio Senate.

Huffman is a lawyer by profession, with an undergraduate degree in government

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from Notre Dame, and his law degree in 1985 from the University of Cincinnati College of Law. He is a member of the Huffman, Kelley, and Brock law firm in Lima, Ohio where he was born and raised. He is married with four children.

Huffman began public service by election to the Lima City Council from 1992 until 2006. In 2007, Huffman began his service in the Ohio House for four terms, including as Speaker Pro Tempore.

In 2016, Huffman won a seat in the Ohio Senate, where he was elected Senate President through 2024.

A conservative Republican, he is term-limited in 2032.

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Join us in

## The Construction Conversation Call-In

on

**Thursday, October 16, 2025  
3:30 pm**

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

Topic: September Construction  
Conversation

Time: Oct 16, 2025 03:30 PM Eastern Time  
(US and Canada)

Join Zoom Meeting

<https://us02web.zoom.us/j/81104980772?pwd=SZ29bxfqdx07QezuyJdbZX3dQSQsda.1>

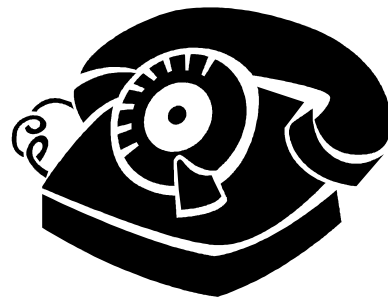
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