

Retooling OHIO

A bulletin for leaders on policy issues critical to Ohio manufacturers

THE POLICY POINT: *Electricity and Energy Efficiency*

Sound public policy for electricity generation, delivery and efficiency is critical to Ohio's residents, commercial and industrial enterprises as well as to our state's economic development and future prosperity. For Ohio to continue to effectively compete in global markets, state energy policies must strike a practical balance between access to reliable, affordable sources of energy and the growing need to conserve energy and protect and preserve our resources.

This issue of Retooling Ohio provides an overview of (1) the circumstances that led to passage of Senate Bill 221, Ohio's electricity blueprint, in 2008; (2) key provisions in SB 221 addressing rate protection, energy efficiency and alternative and renewable energy; and (3) priorities for further strengthening Ohio's state energy policy.

What Brought Ohio to Today's Energy Marketplace?

Because manufacturing intrinsically is an energy-intensive business, energy costs, reliability and efficiency have a huge impact on its competitiveness in regional, national and global markets.

Recognizing that Ohio's traditional, monopolistic electric industry structure was a threat to its economic competitiveness, state policymakers passed Senate Bill 3 in 1999. Based on the premise that competition would drive down rates and stimulate innovation that would better serve Ohio's electricity consumers, SB 3 sought to transition the state to an open, competitive retail market for the generation component of electric service.

Unfortunately, the path to deregulation took some unexpected turns. As Ohio

progressed through the initial five-year implementation of SB 3, it soon became apparent that the flawed federally regulated wholesale electricity marketplace was not going to deliver the expected benefits of robust local competition, lower rates for consumers and innovative new products, technologies and services.

Beginning in 2003, as the expiration of SB 3's initial five-year "market development period" approached, the Public Utilities Commission of Ohio (PUCO) entered into agreements (so-called Rate Stabilization Plans) with Ohio's investor-owned utilities that essentially extended then current rates (with modest upward adjustment) for several additional years to allow more time for a competitive market to emerge. Under these agreements, retail electricity prices were to be established by the marketplace beginning January 1, 2009.

By this time, however, it was clear that major risks were on the horizon. Several other states that had ceded control to the federal wholesale market system had experienced huge rate increases. Maryland consumers, for example, saw retail rates rise 72 percent in 2006. In Ohio, concerns escalated about the price volatility that might result from the transition to a fully competitive market.

Some parties believed while progress toward a competitive electric marketplace had been slow, Ohio would be best served by staying the course and continue its journey toward a federally regulated wholesale market system. Their position simply was that more time was needed to allow the retail marketplace to fully mature and competition to develop. But many other parties – including The Ohio Manufacturers' Association – believed urgent action was needed

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SB 221: The Right Solution

- **Rate protection.** SB 221 requires Ohio's electric utilities to file Electric Security Plans that provide for a stable, clearly-priced generation service. Under the bill, utilities also are permitted to file for market-based pricing for generation through a transparent, PUCO-approved competitive bidding process.
- **Energy efficiency.** SB 221 promotes energy conservation by requiring utilities to implement energy efficiency programs that meet mandated reductions in their average annual kilowatt-hour sales, with a target of 22 percent savings by the end of 2025. The law also requires utilities to achieve peak-demand reductions of one percent in 2009, escalating to 7.75 percent by the end of 2018.

- **Alternative and renewable energy.** SB 221 establishes Ohio's first renewable and advanced energy resource targets. By 2025, at least 25 percent of the electricity utilities sell in Ohio must come from alternative and advanced energy sources. Specifically, at least half of the utilities' alternative energy must be generated by renewable energy resources (half of which must be generated by facilities located in Ohio), and the remainder must come from advanced energy resources. Utilities are required to meet interim benchmarks for renewable resources beginning in 2009. However, SB 221 says that utilities need not comply with those benchmarks if they reasonably expect that compliance will raise the cost of energy by three percent or more.

to head off an unpredictable transition to deregulation and replace it with more transparent, cost-based rate-making. The OMA worked closely with state policymakers and other industry and consumer groups to develop and advance a legislative proposal that achieved several purposes:

- Protect consumers from huge rate hikes
- Keep electricity rates stable and predictable
- Increase electricity conservation efforts
- Modernize Ohio's electricity infrastructure
- Expand Ohio's green energy industry through development and use of advanced and renewable energy technologies

The mechanism for delivering these benefits was Senate Bill 221, which was

almost unanimously approved by the Ohio General Assembly and signed into law in May 2008. SB 221 brought to a halt Ohio's entry into the flawed, partially de-regulated wholesale electricity marketplace without adequate consumer protections. Instead, SB 221 offered a more rational, reasonable regulatory framework that protects consumers, promotes conservation and alternative energy, and supports economic growth.

SB 221 was a major victory for Ohio's electricity consumers. The bill provides the pricing certainty businesses need to plan and invest in Ohio, while protecting consumers from unfair and unreasonable electricity rates. It also promotes energy efficiency and accelerates the development of Ohio's renewable and advanced energy portfolio, while spreading the costs and benefits of those resources among all classes of energy consumers.

Rate Protection: Ensuring the Availability of Reliable, Low-Cost Electricity

Manufacturers consume roughly one-third of America's power supplies, including half of the natural gas and 30 percent of the electricity. Consequently, energy shortages, price spikes and blackouts impact most heavily those who make things. They disrupt the economy, drive up production costs, depress investments in energy-dependent industries and detour manufacturers' planning for the future and hiring of new workers.

It should be no surprise, then, that the improved availability of secure, reliable and affordable energy is one of manufacturers' top state-level priorities – and that manufacturers, in 2008, supported efforts to direct the state toward a new electricity regulatory structure that features essential consumer protections.

For this purpose, SB 221 was the vehicle. It sets up two mechanisms for setting rates. **First, the law allows utilities to file for market-based pricing through a transparent, Public Utilities Commission of Ohio (PUCO)-approved competitive bidding process.** Using this Standard Service Offer Rate, utilities can purchase electricity through PUCO-monitored auctions, and then can sell that electricity to their customers with approved retail price adjustments.

The second mechanism is the Electric Security Plan (ESP). Here, utility companies submit plans to the PUCO that provide stable supply and pricing of electric generation service over a period of three years or more. These plans may provide for the recovery of costs for fuel used to generate electricity, which are determined through competitive bidding sessions, along with emission allowances,

necessary investments made in the delivery system and other costs. They also tell state regulators how the companies are going to provide rate stability, ensure an adequate supply of electricity, promote economic development and job retention, make energy efficiency enhancements and address the needs of low-income customers.

Under the ESP process, rates are ultimately set through negotiations with the PUCO, which must approve all ESPs. State regulators have made it clear they prefer this approach because it adds flexibility to the process and leads, in the commission's view, to lower cost, negotiated rates.

What impact has SB 221's new rate-setting approach had on manufacturers and other electricity users?

The impact of the new rate setting approach remains unclear. It is too early to judge the effectiveness of the rate protections provided by SB 221. The PUCO and utilities companies are still only in the first round of negotiated settlements. To be sure, extreme caution is advised when linking today's electricity prices to the passage of SB 221. The recession, excess generating capacity and a downturn in the electric marketplace have had a more pronounced impact on rates than has SB 221's process for setting rates.

Yet, Ohio's early experiences with these new mechanisms suggest that rate volatility – which is never healthy from a consumer's perspective – is down. Electricity rates are still going up but at a more modest pace. The predictability of energy costs, for consumers, has been enhanced. In this sense, SB 221 has been a success.

Policy Priorities: SB 221's implementation is still in its early stages, but already there are some warning signs

of issues that lawmakers and regulatory officials need to monitor – and of actions they should take:

- The excessive earnings test contained in SB 221 is the lynchpin of the bill's consumer rate protections. Utilities may not charge rates that generate "excessive earnings." The common sense application of this standard, with its focus on excessive earnings, is being challenged. Utilities are claiming that the test allows a utility with rates that are already excessive to obtain further increases! They claim the statute test is only "tripped" if the utilities' earnings are not currently excessive and the rate increases result in excessive earnings. If the utilities' earnings are already excessive, then (according to the utility argument) the new increases do not violate the test. This interpretation strains common sense and would gut the statute's intent. How the PUCO rules on this issue may drive the need for legislative changes.
- Manufacturers compete globally for customers and capital. Those who have high energy costs as a percentage of their product cost are particularly sensitive to rate increases. To protect energy-intensive, trade-exposed (EITE) industries in Ohio, the state's energy policies should specifically consider such consumers. Ohio's utilities should work with EITE customers, the PUCO and policy makers to develop rates that protect jobs in Ohio and attract new employers and investments to the state.
- The state should improve energy cost competitiveness by (a) enabling multi-site industrial consumers to pool electricity consumption levels in order to qualify for self assessment of kWh tax, and (b) lowering the self-assessment threshold to allow a broader group of industrial and commercial consumers to qualify.

Energy Efficiency: Enabling Manufacturers to Become More Competitive

Never before has energy efficiency commanded so much attention. As manufacturers streamline their processes to stay competitive, they are increasingly looking at energy efficiency as a way to cut costs. It's a promising strategy for those who are concerned about the costs of energy feedstocks, the direction prices are headed and the potential impact of federal carbon policies on the affordability of power.

Energy efficiency is an important component of Ohio's SB 221. With an eye on keeping a lid on electricity prices, the new law requires utility companies to implement energy efficiency and peak demand reduction programs to achieve gradual reductions in energy usage and electricity demand during peak times (i.e., late afternoon and early evening hours). For that purpose, SB 221 established yearly benchmarks that utilities must satisfy, although the PUCO may amend them if it determines that utility companies cannot comply due to regulatory, economic or technological factors beyond their control (see details on page 4).

To implement these mandates, the PUCO developed rules and benchmarks for reducing electricity usage and peak demand. Yet, within the parameters of these rules, each of Ohio's utility companies must develop its own comprehensive "demand response" programs, which must achieve the mandated efficiency and peak demand reduction benchmarks and provide for transparency and meaningful participation by numerous stakeholders. These programs may include financial incentives for customers who reduce their total energy usage and/or their use of energy during peak demand periods.

The PUCO's rules identify a number of factors that utilities must consider when developing their programs. These factors include (1) cost-effectiveness; (2) potential for broad participation across customer classes; (3) amount of total energy savings; (4) non-energy benefits from low-income participation; (5) reductions in greenhouse gas emissions and enhanced system reliability; (6) ability to integrate the program with those offered by other Ohio utilities; and (7) the degree the program promotes market transformation.

What impact has SB 221 had on utility companies' energy efficiency efforts – and on manufacturers' energy efficiency practices?

SB 221 establishes the goal – to restrain increases in the cost of electricity by finding ways to use it more efficiently, thereby reducing the need for utility companies to build costly new generating capacity. Everyone seems to think it's a good idea.

However, progress in this area has been limited, in part because the PUCO is still developing clarity about what actions and what energy savings are going to count toward compliance with the law. This is due to a number of technical issues – understanding what is meant by efficiency, figuring out how to measure and document savings, putting a cost on specific actions and comparing that cost to other possibilities, and setting benchmarks that utilities and their customers are expected to meet.

Making these decisions is not easy and the risks of bad decisions are high – mistakes will be very costly. The PUCO has been seemingly overwhelmed in addressing these technical issues. Rules have **not** been written or are incomplete. What customer projects qualify specifically as energy efficiency or peak-demand reduction projects – and not just “business decisions” – is still up for debate. Stakeholders are waiting for regulatory guidelines that are practical and workable, while the PUCO appears to be searching for a “perfect” solution before allowing the utilities and their customers to get credit for reductions and move forward in any meaningful sense.

To be fair, the PUCO is not the only hurdle. Many manufacturers are struggling with implementing efficiency measures even as they acknowledge that efficiency offers many benefits, including reduced consumption that results in lower generation costs and a smaller carbon footprint. They understand that dollars saved on energy go straight to the bottom line.

However, they understand something else: Most manufacturers live in a world where production is king and capital is closely guarded. They expect 12-month paybacks on their investments – often they need them to continue operations. So energy efficiency projects that fail to improve production – and often offer a three- to five-year payback – tend to lose in the battle for capital dollars.

SB 221's Efficiency Standard

SB 221 requires utilities to implement **energy efficiency programs** to achieve reductions in energy usage from 2009 to 2025 on the following schedule:

Years	Efficiency-Based Energy Reduction
2009	.3%
2010	.5%
2011	.7%
2012	.8%
2013	.9%
2014-2018	1% per year
2019-2024	2% per year
2025	Cumulatively 22+%

Similarly, beginning in 2009, electric distribution utilities must implement **peak demand reduction** programs designed to achieve reductions in peak demand on the following schedule:

Years	Efficiency-Based Energy Reduction
2009	1%
2010 - 2018	Additional .75% each year

In 2018, committees in the House and Senate must make recommendations to the General Assembly regarding future peak demand reduction targets for 2019 and beyond.

The **baseline for energy savings** is the average of total kilowatt hours utilities sold during the preceding three years. The **baseline for peak demand reduction** is the average peak demand on the utility in the preceding three years. The PUCO may reduce either baseline to adjust for new economic growth.

There are remedies here. One is financial incentives for consumers that implement projects that result in the use of less energy for the same level of production, such as lighting, motor and heating/cooling retrofit projects. All of Ohio's investor-owned utility companies have indicated their willingness to offer such incentives to their customers. However, there are growing concerns about how the PUCO will credit utility companies' energy efficiency portfolios. So, much of this activity is slow – at least for now.

Policy Priorities: When it comes to energy efficiency, there are three areas where government action is warranted:

- The state, and specifically the PUCO, needs to get the regulatory system in place. Fundamentally, the policy supporting energy efficiency standards is designed to delay the need for building expensive, new generating capacity for Ohio. Yet, that purpose is not served by protracted debates about the reasons for implementing particular energy efficiency projects; rather, policy success is achieved through the aggressive and efficient implementation of energy-saving initiatives. Unnecessary delay in carrying out this policy only intensifies the demand for new, expensive generating assets.
- In executing this policy, the state should be focused on identifying the sources of the cheapest forms of energy efficiency. For Ohioans, the measures that are most cost effective are those that provide energy efficiency and other benefits, such as improved competitiveness for Ohio's employers and direct and indirect carbon reductions. Once the best measures are identified, they should be applied to the utilities' benchmarks quickly to ensure compliance with the provisions of SB 221.
- The state should create incentives that result in greater investments

by manufacturers in energy-saving equipment and processes. For this purpose, the initiatives of multiple state agencies need to be aligned. By connecting the Ohio Department of Development's programs with utility programs, increased energy efficiency can be achieved at manufacturing facilities. Similarly, energy efficiency can be enhanced by aligning new building codes, environmental policies and other regulatory measures affecting public utilities. Yet, some parties' insistence that only utility-related programs should count towards meeting the state's energy efficiency standards is counter-productive and will lead to increased costs for manufacturers, their customers and the people of Ohio.

Alternative and Renewable Energy: Promoting Energy Independence, Economic Growth and Job Creation

For manufacturers, ensured access to reliable, affordable energy – whatever its source – must be the key to Ohio's comprehensive energy plan. Without it, the state's short- and long-term ability to grow its economy and create jobs will be threatened. In this context, the OMA and its members studied and eventually endorsed SB 221's renewable and advanced energy resource targets.

The heart of SB 221's alternative energy provisions is the **Alternative Energy Portfolio Standard**, which requires by 2025 that 25 percent of all kilowatt hours of electricity sold by electric distribution utilities and electric services companies to retail electric consumers under their standard service offers to be obtained from "alternative energy resources." This is an umbrella term for both advanced and renewable energy resources that were placed in service after January 1, 1998. In addition, "alternative energy"

includes new and existing customer-sited advanced and renewable energy resources that the customer commits

Recognizing that prudent portfolio management generally favors diversification, manufacturers are beginning to look at alternative fuel and renewable energy sources, including biofuels, co-generation, and wind and solar power. They acknowledge that more traditional energy sources are and will continue to be essential contributors to Ohio's energy security. Yet, they are increasingly interested in a wider range of options that appear to be more environmentally friendly while reducing our dependency on politically turbulent nations.

to integrate into the utility's demand-response, energy efficiency or peak demand reduction programs.

Key provisions of the Ohio law stipulate:

- Of the "25 percent by 2025" alternative energy requirement, at least half (12.5 percent or more) must be generated from "renewable energy resources," including one-half of one percent from solar energy.
- Of the renewable energy resources generated, one-half must be derived from facilities located in the state of Ohio, while the remainder can be met with resources that can be shown to have been delivered into the state. The other half of the "25 percent by 2025" requirement may be generated from "advanced energy resources."

- As new technologies come online, the PUCO may classify each as an advanced or a renewable resource.
- To assess compliance with the alternative energy standard, the PUCO will derive a baseline from the average of the total kilowatt hours sold during the past three years. However, the PUCO may choose to adjust downward a utility or company's baseline due to new economic growth in the service area.
- In response to concerns about the potential high cost of renewable energy, state lawmakers included cost cap language that says a utility need not comply with a benchmark with respect to the advanced or renewable tier of the portfolio standard "to the extent that its reasonably expected cost of compliance exceeds its reasonably expected cost of otherwise producing or acquiring the requisite electricity by three percent or more."

The essential message sent by SB 221 to utility companies and their customers is that Ohio is going to start generating and using alternative forms of energy through a one-for-one pass through in utility

companies' standard service offers. No more debates – the direction of the state's energy policy has been set.

Less than two years later, there is growing evidence of activity in this area. Wind power is getting built as north coast communities are focusing on wind farms offshore. Solar panels are going into the ground. Utilities sitting on coal-fire plants have launched significant retrofitting initiatives, preparing those facilities to accept wood waste instead of coal and giving them the capacity of biomass firing. In fact, biomass has become "sexy" and one utility, FirstEnergy Corp., has begun to use it as a strategy for meeting SB 221's alternative energy requirements. In spite of the activity, it is clear that several obstacles still need to be overcome. Critical questions need to be answered.

First, how is the energy transformation mandated by SB 221 going to be paid for? Billions of dollars will be needed to retrofit existing facilities and generate new capacity. Yet, the law's cost-cap language creates convenient escape valves if the shift to advanced or renewable energy resources threatens to raise the cost of

electricity by three percent or more. Utilities may find capital difficult to access for financing uncertain activities as they try to limit their risk amid uncertain economic conditions.

Second, lost in the story of alternative, renewable energy resource is a simple fact: When the wind stops blowing and the sun isn't shining, substantial backup generation capacity will be needed – and it will have to be both reliable and affordable. Some experts argue that combined-cycle natural gas is the only source of this backup capacity. The issue of intermittent generation sources has not yet been addressed but must be before Ohio can successfully implement an aggressive alternative energy strategy.

Policy Priorities: In spite of these difficulties, the issue is not **whether** Ohio should go forward with its commitment to advanced and renewable energy. That debate appropriately has ended and failure to implement sound public policy for energy production, delivery and efficiency is not an option. So what actions are needed by the state – and the PUCO – to ensure Ohio's manufacturing competitiveness and the state's future prosperity?

The state needs to move quickly to ensure that all administrative rules needed to implement the law have been promulgated and that required reporting mechanisms are in place. Specifically, it should:

- Provide coherent, transparent means of granting appropriate incentives to technologies that can adapt successfully to potential environmental mandates.
- Commit itself to reviewing and responding in a timely and predictable manner to all compliance reports filed by utility companies, and ensure that utilities don't use compliance payments in lieu of developing renewable resources.

Alternative Energy Portfolio Standard's Qualifying "Renewable" Technologies

- Solar photovoltaic or solar thermal energy
- Wind energy
- Hydroelectric power
- Geothermal energy
- Fuel derived from solid wastes through fractionation, biological decomposition, or other processes not principally involving combustion
- Biomass energy
- Biologically derived methane gas
- Energy derived from non-treated by-products of the pulping process or wood manufacturing process

- Any fuel cell used in the generation of electricity including, but not limited to, a proton exchange membrane fuel cell, phosphoric acid fuel cell, molten carbonate fuel cell, or solid oxide fuel cell
- Wind turbines located in territorial waters of Lake Erie
- Storage facility that will promote the better utilization of renewable energy resources that primarily operates off peak
- Distributed system used to generate electricity from any listed energy resource

- Provide the guidance that is needed to impose some sense of orderliness to the entire process, remembering that unnecessary delays in implementing any of the advanced and renewable energy provisions of the law jeopardize the intent of state lawmakers and threaten the state's future economic prosperity.
- Develop an intermittent generation plan for ensuring that manufacturers – and other customers – will have reliable, affordable electricity when the wind stops blowing and the sun isn't shining.

Ohio Manufacturing: At the Crossroads

As Ohio manufacturers recover from their deepest recession in more than 70 years, they understand that public policy choices

made today will shape their future, just as they will affect the creation of tomorrow's jobs and the state's future prosperity.

To be sure, many critical decisions will come from Washington, D.C. Yet, making our manufacturing economy more competitive must be a top priority for Ohio lawmakers. They have an opportunity, if not an obligation, to address the underlying pressures that make it difficult to manufacture in Ohio – and energy must be at the top of their list of priorities.

Ohio manufacturers are making substantial progress in improving energy efficiency. They are reducing carbon emissions, and are committed to making additional improvements as they focus on the creation and deployment of 21st century advanced and renewable

energy resources. To be sure, they urge policymakers to understand that any energy efficiency initiatives or advanced and renewable energy programs that impose significant costs and regulatory burdens will cause harm to Ohio's core manufacturing sector.

In the competitive global marketplace for manufactured goods, such costs and burdens will have a job-killing impact on Ohio's economy. Ohio manufacturers stand ready to work with Ohio's leaders to ensure reliable, affordable energy while scaling up efficiency activities and reducing hazardous emissions through incentives for clean energy investments.

OMA joins with the state's electric utilities to reduce electricity use and save customers money

SB 221 requires the state's electric utilities to use energy-conservation technologies and other measures to reduce future demand for electricity by a cumulative 22 percent by 2025. It won't be easy, but Ohio's investor-owned electric utilities – American Electric Power (AEP), DP&L, Duke Energy and FirstEnergy Corp. have accepted the challenge to reduce energy usage and electricity demand during peak times.

All four companies understand that they cannot satisfy this new requirement alone. So they are developing ways to help their customers – and particularly Ohio manufacturers – use energy more efficiently. And a critical element of their strategies is new partnerships with **The Ohio Manufacturers' Association (OMA)** – alliances designed to save customers money and make them more competitive in regional, national and global markets.

- **AEP** and the OMA are working together to promote the utility company's energy efficiency programs through webinars, in-person meetings and a soon-to-be finished page on the OMA's web site. AEP's uniquely designed self-direct program has

been a hit with manufacturers by allowing them to take a lump-sum payment in exchange for committing their energy efficiency outcomes to the utility. In turn, manufacturers have used this payment to fund additional energy efficiency projects at their facilities. **For more information, see <http://www.gridsmartohio.com/savingWork>.**

- With the OMA's help, **DP&L** is offering its customers a variety of ways to reduce their energy costs – and in the case of many businesses, an opportunity to opt out of paying its new Energy Efficiency Rider if they can demonstrate that their conservation measures and energy reduction projects cut electricity use and peak demand. Two key business programs – Rapid Rebates and Custom Rebates – give businesses incentives for energy efficiency upgrades and equipment. **For more information, see <http://www.dpandl.com/bizprograms.php>.**

- **Duke Energy** has established a number of programs that benefit industrial electricity users, including its Smart Saver™ program, which rewards businesses with cash-back incentives for installing energy efficient equipment. The company also has developed a Demand Response Power Share initiative that rewards businesses for adjusting energy consumption levels during

peak time periods. Duke Energy will give manufacturers who cut their energy usage or reduce their peak demand an exemption from its new energy efficiency cost recovery mechanism. **For more information, see <http://www.duke-energy.com/ohio-business.asp>.**

- **FirstEnergy** and the OMA are working together to ensure that manufacturers reap the benefits of energy efficiency. The OMA is educating manufacturers about SB 221 and FirstEnergy's new rider designed to recover its compliance costs associated with the law's energy efficiency benchmarks. The OMA is informing customers about the kinds of energy efficiency projects that qualify for a rider exemption and helping them prepare and submit their exemption applications.

Reflecting on these initiatives, Eric Burkland, OMA president, said, "Changing and volatile energy markets demand that manufacturers protect their finances and profitability by developing new energy management strategies. The State's new electricity legislation creates new risks, but also offers financial opportunities that businesses must address. The OMA's partnership with the state's electric utilities capitalizes on these opportunities by helping manufacturers use energy more efficiently and reduce peak demand."



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The mission of The Ohio Manufacturers' Association is to protect and grow Ohio manufacturing. Through the OMA, manufacturers and manufacturing stakeholders work directly with the members of the Ohio General Assembly, state regulatory agencies, the judiciary community and statewide media with the sole focus of improving business conditions for manufacturers in Ohio.

