



Quality People. Quality Projects.

**OHIO**

JUNE 2018

**BUILDING**

THE OFFICIAL PUBLICATION OF THE ASSOCIATED GENERAL CONTRACTORS OF OHIO

# Attention OFCC CMr Document Users!

Recently, the Ohio Construction Facility Commission released an updated version of the front-end documents for the Construction Manager at Risk delivery system. This updated version has numerous problems – far too many to list in this newsletter.

However, the AGC Committee continues to meet with OFCC officials to discuss and amend some of these provisions. The most glaring change was the language used for Owner Indemnification (Section 10.6.5). In this section many Surety Companies have recommended that contractors not sign any document with the new (January 2018) provision in the document.

I'm happy to report that OFCC has reconsidered their new language and will revert to the previous language found in the previous CMr document. Additional and new language will be discussed and provided in the future.

We would like to thank the following AGC Members who willingly give their time to review and work with AGC of Ohio and the OFCC in the continual give and take process of improving State Construction documents.

- ◆ Bob Sewell, Gilbane Building Co.
- ◆ Tom Muraski, Kokosing Industrial, Inc.
- ◆ Jim Smith, Elford, Inc.
- ◆ Rob Verst, Messer Construction
- ◆ Rob & Mark Setterlin, Setterlin Building Co.
- ◆ Grant Hesser, PDSC Corp.
- ◆ Mike Deiwert, the Ruhlin Co.
- ◆ Paul Crow, Tuttle Construction
- ◆ Charles Izzo, Infinity Construction
- ◆ Chuck Moyer, Mosser Construction
- ◆ Jeff Appelbaum, Thompson-Hine

*(When you see any of these individuals, be sure to thank them for their efforts.)*



# AGC OF OHIO SAFETY LUNCHEON

## REGISTER TODAY FOR AGC OF OHIO'S SAFETY LUNCHEON!

**When:** June 22, 2018

**Where:** J. Liu Worthington (6880 High St., 43085)

**Agenda:**

10:00-11:30 a.m. – Safety Meeting

11:30 a.m.-1:00 p.m. – Luncheon & Awards Program (Recognition of National AGC Safety Award Certificate of Commendation Recipients and AGC of Ohio Construction Safety Excellence Award winners)

**Register by June 13:** <https://www.tfaforms.com/4676716>

## BWC to Issue \$1.5 Billion in Workers' Comp Rebates

*Board's vote saves employers \$8 billion since 2011*

COLUMBUS – The Ohio Bureau of Workers' Compensation (BWC) will mail \$1.5 billion in rebate checks to roughly 180,000 Ohio employers this summer, thanks to healthy investment income, falling claims and prudent fiscal management.

BWC's Board of Directors approved the rebate at its monthly meeting, expanding workers' comp savings for employers to [\\$8 billion since 2011](#).

"We want all eligible employers to receive their share of the rebate, so it's critical they take some basic steps to ensure their eligibility and that they watch their mailboxes closely over the summer," BWC Chief Financial Officer Barbara Ingram said after the vote.

Ingram said employers must pay any overdue premium amounts and submit outstanding payroll reports before June 8. It's also a good idea to verify contact information so checks are mailed to the correct address, she said.

Employers can pay outstanding premium, submit payroll reports and verify demographic information by logging into their e-account at [bwc.ohio.gov](http://bwc.ohio.gov).

The checks, to be delivered over several weeks beginning in early July, will equal 85 percent of the premiums paid for the policy year that ended June 30, 2017 (calendar year 2016 for public employers). Of the \$1.5 billion, an estimated \$48 million will go to schools and \$111 million to local government entities. That's on top of \$402 million in rebates those public taxing districts have received since 2013 (\$125 million for schools, \$277 million for others).

BWC earned an average 6.7 percent net return on its investments of the State Insurance Fund over the last five fiscal years, pushing the fund's net position to \$10.9 billion as of March 31 and driving the agency's latest rebate initiative, the largest in 20 years.

The rebate follows \$1 billion rebates issued in 2013, 2014 and 2017, as well as a \$15 million rebate in 2016 for counties participating in the Public Work Relief Employees' Fund.

More details on the rebate can be found [here](#).

## WELCOME NEW MEMBERS OF AGC OF OHIO

### **ADT Security** - [www.adt.com](http://www.adt.com)

For over 140 years, ADT has made the security of our customers our top priority. Today, more than 18,000 professionals in over 200 locations throughout the U.S. and Canada ensure that our 8 million customers stay as safe and secure as possible.

### **Borror Construction Company** - [www.borror.com](http://www.borror.com)

Borror combines brilliant design with beautiful craftsmanship to create custom condos, multi-family communities, offices and commercial buildings. Through planning and purchasing, our quality and attention to detail, site cleanliness, and respect for the community make us great neighbors.

### **Eclipse Co., LLC** - [www.eclipsecollc.com](http://www.eclipsecollc.com)

The Eclipse Companies, LLC is a certified FBE, EDGE, ODOT DBE & Ohio Turnpike DBE, RSB, NEORS (WBE & MBE), LPE and SBE union contractor performing work in the states of Ohio, Pennsylvania, and North Carolina. Surrounded by 100(+) employees, all of our services are performed at the highest level of safety, quality, timeliness, and most of all satisfaction.

### **Triax Technologies** - [www.triaxtec.com](http://www.triaxtec.com)

Triax Technologies is committed to developing and delivering the first truly connected jobsite. Guided by the belief that innovative, intelligent technology and real-time data holds the power to transform industries, Triax connects people, places, machines, and other resources to keep stakeholders informed, workers safe, and projects moving forward.

### **Vandalia Rental** - [www.VandaliaRental.com](http://www.VandaliaRental.com)

Vandalia Rental is the premier business solutions provider for construction rental equipment. Family owned and operated since 1961.

## **Rudolph Libbe Inc. to Lead Construction on First Solar's New U.S. Manufacturing Plant**

Walbridge, Ohio – Rudolph Libbe Inc., of the Rudolph Libbe Group, will serve as design/build contractor for First Solar Inc.'s new \$400 million solar module manufacturing facility in Lake Township, Ohio. Construction is expected to begin in mid-2018 on the 1 million-square-foot facility, which will manufacture Series 6 thin-film PV modules and triple First Solar's U.S. capacity. Approximately 500 construction jobs will be created by the project.

First Solar will add 500 new jobs to staff the new facility, which is scheduled to enter full production mode in late 2019. The facility will be located within a mile of First Solar's flagship manufacturing center in Perrysburg Township. Through Rudolph Libbe Group's SiteLine services, Rudolph Libbe Properties supported First Solar with selection of the approximately 110-acre site. "For 16 years, First Solar has been a great employer and a key member of our local business community," Rudolph Libbe President Tim Alter said. "GEM Inc. and Rudolph Libbe Inc. have been honored to have a long relationship with them, starting with the construction of their first manufacturing facility. We're very pleased and proud to build for First Solar again as they continue to grow and bring jobs to our community."

## ARE YOU USING THE CEA SILICA PROGRAM? IF NOT, YOU SHOULD BE!

AGC chapters across the country – including most of the local Ohio AGC divisions – are participating in the [CEA Silica Sampling & Objective Program](#).

The program saves contractors thousands on silica sampling while simultaneously building a searchable sampling database for the construction industry. The accompanying website provides numerous resources about silica and compliance with the new standard.

Participating contractors can rely on the database in the future when managing employee safety and multiple-contractor activities where job tasks produce respirable silica emissions. *(Note - Contractors must first submit sampling data in order to access the searchable sampling database.)*

If you are a member of one of the Contributing Associations, like the AGC divisions in Ohio, you have immediate access to purchase testing supplies and submit silica sampling results. Take advantage of this important resource! Click [here](#) to learn more or contact your local AGC division.



### SILICA PPI SAMPLE KIT 3 FORMS W/ RD

Simple,  
Affordable  
Solutions  
for  
Silica  
Testing



✓ Free pump loans    ✓ Discounted monitoring

✓ Test report includes all 3 forms of Silica (quartz, cristobalite & tridymite) as well as respirable dust.

✓  
Save hundreds  
of dollars in air  
sampling

✓  
Access  
industry-wide  
silica sampling  
results

For more information,  
visit

# Promote the industry with I Build America - Ohio!

The recent launch of I Build America – Ohio (IBA Ohio) workforce initiative has brought many positive comments from contractors, industry associations and departments within the state. IBA - Ohio's website ([www.IBuildAmerica-Ohio.com](http://www.IBuildAmerica-Ohio.com)) is now online and generating traffic while promotion of the site to career candidates, those who influence the decisions of the candidates, and employers is just the beginning. Contractors are co-branding with the workforce initiative that aims to generate pride and respect for the construction industry, and to recruit young people into the industry as a rewarding and valuable career.



AGC of Ohio, along with its partner Ohio Contractors Association (OCA), will be constantly promoting this website and its movement to ensure all facets of the construction industry in Ohio are aided in recruiting future employees through the information provided on the site.

We encourage you to visit the [website](#). It's packed with information about careers in construction that most employers do not address in their corporate promotional marketing material. We hope that all AGC of Ohio and OCA members use the wealth of information the site provides for their recruitment plan.

IBA Ohio's website provides information such as salary, future demand, industry career options and the education required. There are resources on where education and training can be acquired, including registered apprenticeship programs, career technical and Ohio technical centers, certificate and 2-year and 4-year college programs. The site also provides videos with employees describing the skills they have been trained in and their duties.

To promote the I Build America – Ohio initiative simply download the employer toolbox from the ["For Employers"](#) page on the site and consider:

- Co-branding the IBA Ohio logo on job signs, banners, and company gear
- Creating hardhat stickers with the IBA Ohio logo
- Include messaging in corporate advertising material
- Adding it to items circulated at job fairs, school presentation, parents' day, etc.
- Running the IBA Ohio videos in your lobbies or at events
- Encouraging other organizations, you are involved in to adopt the use of the logo
- Including it on your email signature or letterhead

There are many ways that you can become part of the effort to enhance the perceptions others have about a construction career. The construction career path has much to offer if candidates understand both the challenges and benefits. While you are working hard to create a positive corporate picture for all to see, we ask you take that added step forward enhancing the perceptions of a career in construction. It will make your corporate presentation look that much more inviting.



# GOVERNMENT AFFAIRS ACTIVITIES

## January - April 2018

### Legislative Efforts

*With the May primaries, resignation of the Ohio House Speaker and what was expected to be a challenging election cycle for Republicans—the legislative calendar at the statehouse has been light so far this year. Below is a synopsis of some of AGC of Ohio’s legislative advocacy over the past several months.*

**Support Capital Spending:** The \$2.63 billion capital appropriations measure, [H.B. 529](#), has been signed by the Governor and goes into effect July 1. The biennial “bricks and mortar” spending measure includes: \$600 million for school facilities, \$514 million for local infrastructure projects, \$483 million for public colleges and universities, \$222 million for health and human services facilities, and \$150 in community projects. In addition to new spending, the bill contains \$1.26 billion in reappropriations.

**Protect Industry’s Ability to Provide Career Information to Students:** AGC worked with the bill’s sponsors and actively supported [H.B. 98](#), legislation designed to ensure organizations have the opportunity to present information about career information to students – a right that currently does not exist in Ohio law. AGC provided [testimony](#) that describes AGC and OCA’s [iBuildOhio](#) initiative that incorporates outreach to schools, and how the bill would help the effort “by creating minimum access standards for employers and organizations like ours to present career information to Ohio high school students.” [H.B. 98](#) has been signed into law and goes into effect June 29.

**Thwart Legislation Designed to Undermine Public Construction Procurement Laws:** After stopping a similar effort during last year’s state operating budget deliberations, AGC led an effort of construction industry associations in opposition to [H.B. 471](#), a bill designed to allow a third-party administrator to manage public improvement work under its DAS minority business set aside maintenance contract. After an interested party meeting involving most construction and labor groups with a statehouse presence and several conversations with AGC staff, the bill’s sponsor recognized the [industry’s concerns](#) and decided not to move forward with the measure. AGC then met with appropriate staff of the state agencies involved and educated them about public procurement laws, as well as legal concerns with potential contract steering and the procurement of public improvement projects under set-asides.

**Force Redraft of Erroneous Structural Steel Welding Legislation:** AGC testified on [H.B. 127](#), legislation that would establish structural steel welding and bridge welding requirements in the Ohio Building Code. The intent of the bill is to prevent the use of falsified certifications for structural steel welds as required by the architect/engineer in project specifications. However, the bill’s “as introduced” version did not reflect that purpose and was drafted in a manner that would make it unworkable in the industry. As a result, an interested party meeting was held to discuss changes that would better reflect the bill’s intent and provide a more practical solution. A new draft of the legislation is expected.

# Regulatory Efforts

**Ohio EPA Construction Storm Water General Permit:** In April, the [Ohio EPA issued](#) its revised National Pollutant Discharge Elimination System (NPDES) General Permit for Discharges of Storm Water Associated with Construction Activity. The [new permit](#) is effective for five years, expiring on April 22, 2023. AGC of Ohio was part of a coalition that submitted [comments on the proposed rule changes](#). The Ohio EPA made [many revisions](#) to the final permit based on the feedback of AGC and other parties.

**Ohio EPA Wetland Antidegradation and Wetland Water Quality Standards:** After a three-year process, the Ohio EPA on May 1 adopted three revised rules to its Wetland Antidegradation and Wetland Water Quality Standards: [wetland definitions](#), [wetland narrative criteria](#) and [wetland antidegradation](#). After the first round of public comments, the agency made some changes at the request of AGC and other stakeholders that lessened some of the liability and compliance burden. AGC submitted additional [comments](#) on the last revision, but no further changes were made. The new rules are effective July 30.

**Ohio Facilities Construction Commission (OFCC):** Changes were made to the OFCC [contract documents](#) that significantly shift risk to contractors. AGC has a workgroup of members that are meeting with OFCC to educate them about reasonable contract language and advocate for changes that would create more balanced and equitable documents.

## **COURT CASES**

**General Liability Insurance:** In January, Ohio's Third District Court of Appeals ruled that an insurer, in this case Cincinnati Insurance, has the duty to defend and indemnify a contractor against claims made by a project owner for property damage resulting from a subcontractor's defective work. The court rejected the Cincinnati Insurance's argument that claims of defective work, regardless of who performed the work, are not covered under CGL policies since defective work does not constitute an occurrence. Prior to the District Court's ruling, the trial court found in favor of the insurer. The Ohio Supreme Court will now hear the case. AGC filed an amicus brief in support of the contractor and the ability to use CGL policies for subcontractor's defective work. [Ohio Northern University v. Charles Construction Services, Inc.](#)

**Municipal Tax Reform, Optional Centralized Net Profits Collection:** More than 100 cities and villages filed a civil lawsuit in the Franklin County Court of Common Pleas challenging the constitutionality of key municipal income tax reforms signed into law through H.B. 49 in June 2017 and H.B. 5 in December 2014. AGC was an active proponent of the municipal tax changes. The suit seeks an immediate preliminary and permanent injunction to halt all work by the State of Ohio to implement centralized net profits filings through the Ohio Business Gateway along with other state-administered municipal tax operations. Common pleas Judge Cain dismissed the suit, and the cities have appealed to the Franklin County Court of Appeals. AGC will file an amicus in conjunction with other employer associations in support of the municipal tax reform laws. [City of Athens, et. al. v. Testa, et. al.](#)

**Prohibition of Employee Residency Requirements (aka Local Hire):** The Eighth Appellate District Court of Appeals' in Cuyahoga County upheld a Cleveland trial court's injunction on the statute prohibiting the use of residency requirements on public improvement contracts in Ohio. AGC of Ohio strongly supported the legislation (H.B. 180) that was enacted in 2016. The case has been appealed to the Ohio Supreme Court, and AGC intends to engage in support of the prohibition. [Cleveland v State](#), 2017.

## Upcoming Events

### Safety Luncheon

June 22, 2018

J. Liu - Worthington

10:00 a.m. - 1:00 p.m.

<https://www.tfaforms.com/4676716>

### 2018 Build Ohio

November 9th

Hilton at Easton

Learn More: [Parker@agcoho.com](mailto:Parker@agcoho.com)

## ConstrucTalk

Do you have new employees or has someone received a promotion?

Has your company received an award or recently done anything newsworthy that you would like to share?

Send your information  
to Taylor Hobbs at  
[editor@agcoho.com](mailto:editor@agcoho.com).

### SAVE MONEY!

[Businesses and Employees](#)

Support the  
AGC of Ohio  
Education Foundation

Get started

[amazon smile](#)



is a movement to generate pride and respect for the construction industry, and to recruit young people into the industry as a rewarding and valuable career.

[www.ibuildohio.com](http://www.ibuildohio.com)

## BuildingOHIO

*The official publication of the*  
**ASSOCIATED GENERAL CONTRACTORS OF**  
**OHIO**

1755 Northwest Boulevard  
Columbus, Ohio 43212

Ph: 614-486-6446 • Fax: 614-486-6498