

The Construction Conversation

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

March 2026

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Judicial: Columbus Sues Lead Pipe Industry

On March 12, 2026, the City of Columbus sued seven national lead mining and manufacturing companies to “abate the nuisance” caused by lead plumbing installed in Columbus drinking water systems. (Cont'd p. 2).

Legislative: Form Contract Variations

Senate Bill 262 passed the Ohio Senate by a unanimous vote, to require that all changes be identified when any public authority modifies an “industry standard published construction management contract form”. (Cont'd p. 3).

Legislative: Roofing Contractor Regulation

House Bill 769 if passed would require a Home Roofing Contractor to provide a written contract, with a 3-day right of rescission, and prohibit certain practices considered unethical. (Cont'd p. 3).

Administrative: Training Grants

The Department of Development and Governor's Office of Workforce Transformation launched “Round 5” of Individual Micro-Credential Assistance, awarding \$5 million. (Cont'd p. 3).

Judicial: Implied in Fact Contract

A Court of Appeals reversed a trial court's dismissal of a contractor's lawsuit by finding that the project owner had created an “implied in fact contract” with its notice to

proceed. (Cont'd p. 4).

Judicial: Affidavit Requires Oath

A Court of Appeals reversed itself in a reconsideration of a prior opinion, allowing other evidence that an affiant was “sworn” to create a valid Mechanics' Lien. (Cont'd p. 4).

Administrative: Brent Spence Bridge Funding

On Monday, March 16, 2026, the Ohio Controlling Board approved release of \$2.89 billion for the design phase of the estimated total construction cost to Ohio of \$4.05 billion of the Brent Spence Bridge Project in Cincinnati. (Cont'd p. 5).

Administrative: State Funding

On March 2, 2026, the Ohio Tax Credit Authority awarded payroll income tax rebates for eight private projects whose owners claim 1,320 new jobs will be created, with an estimate of \$80.6 million in new payroll. (Cont'd p. 5).

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Judicial: Columbus Sues Lead Pipe Industry (Cont'd)

The City cites the genesis beginning in 1928 of promoting lead plumbing products with the formation of the Lead Industries Association, of which the seven named Defendants allegedly played primary roles.

The City alleges that “The Association mounted ‘an intensive effort to correct the trend away from lead and the use of substitutes in the plumbing field.’ ”

Alleging that the Association misled the public about the dangers of using lead plumbing products, the Complaint states that “The Association targeted plumbers as a key constituency in preserving and expanding the use of lead pipe for drinking water.”

Quantifying the issue, Columbus “delivers more than one hundred million gallons of drinking water every day to more than a million residents.”

Water management practices, to reduce potential exposure to lead, costs the City “over a million dollars a year on corrosion control treatment.”

The City seeks a jury trial to find joint and several liability for compensatory damages and “an abatement fund” to pay for continued remediation costs.

The case is assigned to Judge Jaiza Page, who worked for the Columbus City Attorney before her election. Trial initially is set for March 11, 2027.

Legislative: Form Contract Variations (Cont'd)

The most commonly used form contract includes the American Institute of Architects’ (AIA) construction documents.

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 five separate construction sections of the Ohio Revised Code generally regulating public works construction across the State.

Initiated by the Associated General Contractors, the bill is assigned to the House Judiciary Committee for further hearings.

Legislative: Roofing Contractor Regulation (Cont'd)

Co-sponsored by Representatives Matthew Kishman (R, Minerva) and Meredith Craig (R, Smithville), the bill is supported by insurance industry interests, for which similar legislation has been introduced several sessions before, without passage.

The bill is assigned to the House Commerce and Labor Committee, and is unlikely to have enough time for three Committee hearings and floor votes in each chamber before Summer recess on July 1, 2026.

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Administrative: Training Grants **(Cont'd)**

The Program reimburses training providers of “micro-credentials” for Apprenticeship, colleges, and universities. The budget for the Program also provides up to \$1 million to “Institutional Platinum Providers”.

The Individual Microcredential Assistance Program (IMAP) is a competitive initiative designed to help Ohioans gain industry-recognized microcredentials and advance their skills for today’s workforce.

Through partnerships with approved training providers, participants can complete targeted training programs that improve employability.

IMAP training providers cover all tuition, fees, and related costs—so the trainee can focus on learning new skills and earning a credential that can lead to a job.

For more information, see:

<https://workforce.ohio.gov/initiatives/initiatives/imap>

Judicial: Implied in Fact Contract

Unlike an express written contract, an implied in fact contract is inferred when the party soliciting bids accepts a bid and gives the bidder notice. The essential terms must be identifiable, including scope, consideration, and price.

Later execution of a formal written contract is a mere formality to evidence the

terms to which the parties already agreed.

In this case, the owner requested bids for a concrete pour, the contractor sent in its bid for \$471,277.00, and the owner informed the bidder of acceptance.

The owner further issued a notice to proceed, and the contractor completed the onboarding process.

The Court of Appeals further held that because the contractor relied upon the award and notice to proceed, the contractor began obtaining materials and hiring workers. Thus, a written contract was not necessary for the contractor to proceed with litigation.

Because the owner hired a new contractor in the interim, and apparently the contractor did not obtain an injunction to prevent mootness, contractor damages remain at issue.

Concrete Recovery LLC v. Nestle Purina Petcare Co., 12th Dist. Clermont, 2026-Ohio-692.

Judicial: Affidavit Requires Oath **(Cont'd)**

Originally, the Court of Appeals held that a Mechanics’ Lien Affidavit was not “sworn to” when using an acknowledgement, and not a sworn “notarial certificate” of administering an oath.

Upon reconsideration, the Court of Appeals found that an Affidavit is separate from the Notary’s Jurat at the end. Evidence that the signer was under oath is sufficient under Supreme Court precedent in 2022.

Typically, the first sentence in the body of a proper Affidavit is, “Now comes

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[signer], and being first duly sworn, hereby states as follows:”

Under recent statute, the proper Jurat states, “Sworn to before me and subscribed in my presence this [date]”, but allows alternatives. See R.C. 147.542(C)(3)(a) and (b), effective April 3, 2025; compare R.C. 1311.06(C).

Because of the case precedent and new statute, the Court of Appeals reversed itself.

Grinder v. Schaaf, 11th Dist. Portage, 2026-Ohio-312

Administrative: Brent Spence Bridge Funding (Cont’d)

The Ohio Department of Transportation and the Kentucky Transportation Cabinet share the cost of the total contract amount of \$4.39 billion, which includes previously completed design, engineering, and demolition work.

Construction of the project, going forward, will be \$4.05 billion.

Along with a federal grant, funding for the project is expected to be covered through ODOT and KYTC state revenues and/or through financing. Each state will cover the cost of their own highway work, and share the cost of the companion bridge.

The new companion bridge is expected to be complete and open in 2031, with the approach work substantially complete by 2033.

Walsh Kokosing is the private-sector design build team. The project is expected to generate approximately six million hours of work and employ more than 700 skilled

tradespeople, with the workforce potentially reaching 1,000 at peak construction. Construction wages are expected to start at approximately \$30 per hour.

For further information on other agency and college requests for construction funding, see the Ohio Controlling Board Agendas:

<https://obm.ohio.gov/controlling-board/agendas-and-minutes>

Administrative: State Funding (Cont’d)

Projects include:

PPG Industries Ohio, Inc. in Delaware, Ohio, to expand a state-of-the-art paint manufacturing facility.

V-Rod USA, in Florence Township, Williams County, to site its first U.S. location to manufacture composite rebars for sale in the U.S.

Dainty USA LLC in Batavia Township, Clermont County, to acquire and renovate a production facility.

For further information, see:

<https://development.ohio.gov/about-us/boards-and-commissions/ohio-tax-credit-authority>

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The Construction Conversation Call-In

on

Wednesday, March 18, 2026

3:30 pm

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

Topic: February Construction Conversation

Time: **Wednesday, April 15, 2026**

3:30 PM Eastern Time (US and Canada)

Join Zoom Meeting

<https://us02web.zoom.us/j/82186409537?pwd=SbN01katWBelURzBhsY7mYh7BC7S2w.1>

Meeting ID: 821 8640 9537

Passcode: 083340

Telephone 646-931-3860, 82642975838#

US

