

# **The Construction Conversation**

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

May 2026

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### **Legislative: Incumbent Legislators**

As a result of the May 5<sup>th</sup> Primary Election, two-thirds of the seats for the Ohio House and Senate include the incumbent running for re-election, with the inherent advantages of the office. (Cont'd p. 2).

### **Legislative: Data Centers**

On May 27 and 28, 2026, the new Joint Data Center Committee made up of both House and Senate members held hearings. Pending is House Bill 646 to create the Data Center Study Commission in the Department of Development, which the House passed unanimously. (Cont'd p. 3).

### **Administrative: Efficiency Standards**

The Ohio Facilities Construction Commission has updated its Building Project Efficiency Standards for schools and public buildings, to reflect Ohio Basic Building Code changes and new costs of construction. (Cont'd p. 3).

### **Judicial: Reciprocal Preference**

A federal district court issued an injunction against a Kentucky government project owner which misapplied the state's reciprocal preference law to exclude an Ohio low bidder. (Cont'd p. 3).

### **Judicial: Arbitration Terms Severed**

A federal court upheld a homebuyers' Construction Purchase Agreement with an Arbitration Clause, but severed two terms: "loser pays" and out-of-state venue based on the "adhesion" nature

of the contract. (Cont'd p. 4).

### **Administrative: State Grants and Loans**

The Environmental Protection Agency and Department of Development announced millions in construction grants and loans for replacing lead service lines and remediating Brownfield projects. (Cont'd p. 4).

### **Legislative: Roofing Contractors**

House Bill 769 would regulate Roofing Contractors by creating minimum standards to protect homeowners from consumer fraud. (Cont'd p. 5).

### **Legislative: New Legislation**

New legislation introduced in May typically is too late for passage through three House and three Senate Committee hearings, along with floor votes. But the bills are used for campaign speeches for re-election. (Cont'd p. 5).

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## **Legislative: Incumbent Legislators** (Cont'd)

The significance of incumbents running is that moneyed interests such as Political Action Committees and political party caucuses, typically offer financial assistance to persons already serving in the General Assembly.

In the House, 25 Democrats and 53 Republicans hope to return, or 79% of the 99 seats.

In the Senate, only 17 of 33 seats are up, so 16 Senators are not running and will return next January. If all incumbents return, then 75% of the Senate will be those Senators already in office, similar to the House.

Thus, it is likely that Republican party dominance will remain, with a veto-proof majority. Only a quarter of legislative seats will result in first-term, new legislators.

## **Legislative: Data Centers** (Cont'd)

The Joint Committee is co-chaired by the respective chairs of the House and Senate Energy Committees.

The Joint Committee will hear testimony from the Data Center Coalition, whose membership are data center owners and operators including Google, Meta, Microsoft, Oracle, and VISA.

Additional testimony will come from the Public Utilities Commission of Ohio, and PJM Interconnection, a regional energy transmission organization which coordinates wholesale electricity across 13 states and serves over 65 million people.

Legislative leaders are focused on providing reliable energy and information resources, as a response to initiatives to limit Ohio data center development, such as the effort to place a Constitutional amendment on the ballot to prohibit data center construction.

Specific Committee tasks will include:

- identifying state and local economic effects of data center development;
- determining data center energy cost and availability effects for Ohio ratepayers;
- determining data center environmental impacts;
- understanding data center roles in public safety and national security; and
- increasing public awareness and overall sector knowledge about data centers.

## **Administrative: Efficiency Standards** (Cont'd)

The OFCC's Ohio School Design Manual includes energy efficiency standards developed by the Leadership in Energy and Environmental Design (LEED) organization, which are preconditions of LEED certification.

Higher standards will be optional, such as for grey water re-use, EV charging ports, or solar panels for energy generation, in the discretion of project designers.

This year, cost values are adjusted to increase by 3.34 percent for inflation.

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## **Judicial: Reciprocal Preference (Cont'd)**

Boone County, Kentucky adopted the state's Reciprocal Preference for Kentucky Resident Bidders, giving an identical preference against a nonresident bidder residing in any state that gives a preference against Kentucky bidders.

An Ohio contractor submitted the lowest bid by \$1,400.00 for the Boone County Watermain Expansion. But Boone County applied a 5% preference to a Kentucky contractor's next-low bid as reciprocal to an Ohio fixed preference, and awarded it the contract. The Ohio bidder sued.

Ohio Revised Code 153.012 applies a preference only favoring Ohio contractors if the nonresident bidder's state provides a fixed preference, not a reciprocal, conditional preference. Thus, both Kentucky's and Ohio's preferences are conditional, neither asserting a preference in the first instance.

The only automatic preference is the "Buy Ohio Program" of 5%, which exempts states bordering Ohio including Kentucky, and does not apply to construction.

Boone County argued that the Ohio contractor had no standing to sue, as the County enjoyed discretion to accept "the most desirable and advantageous" bid.

But since Boone County also established a bid protest mechanism prohibiting bid award contrary to the objective criteria stated in the bid invitation, the Ohio contractor enjoyed standing to sue.

Since Boone County misapplied the conditional preference, the Court enjoined any award other-than to the Ohio contractor.

*Queen City Mechanicals v. Boone County*,  
USDC ED Ky., 2026 U.S. Dist. LEXIS  
49806

## **Judicial: Arbitration Terms Severed (Cont'd)**

A newlywed couple contracted with a Kentucky homebuilder to build a new home in Centerville, Montgomery County, Ohio. The contractor provided an "adhesion contract", typically a standard form prepared by one party to be signed by a weaker party such as a consumer, with little choice about the terms.

The Arbitration provision required that the losing party to any litigation would pay the winner's attorney fees. The Court found that such a provisions "induce a chilling effect, leaving consumers exposed to the commercially unreasonable possibility" of paying the contractor's "exorbitant costs" of attorney fees.

The Arbitration provision also required that the site of litigation would be at the homebuilder's locale in Kenton County, Kentucky. Ohio Revised Code 4113.62(D)(2) requires venue where the construction is located, and otherwise any provision is void.

The Court upheld the requirement that the parties arbitrate outside of court, but held the "loser pays" and venue language severed and void.

*Hamilton v. Fischer Single Fam. Homes*,  
USDC SD Ohio, 743 F.Supp.3d 958 (2024)

## **Administrative: State Grants and Loans (Cont'd)**

The Ohio EPA provided an additional \$201.8 million from its Water

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Supply Revolving Loan Account to replace lead service lines across Ohio. Since 2021, Ohio EPA awarded \$305 million to 147 communities, for removal of 16,000 lead service lines across the state.

The Ohio Department of Development announced \$61 million in grants for 160 cleanup, remediation, and assessment projects.

\$1 million went to each of the following projects:

- Cedarville, Greene County, 24-acre Reddy Electric Company manufacturing site, creating up to 250 new jobs;
- Guernsey County, 9-acre underground coal workings, creating 90 new jobs;
- Columbus, Franklin County YMCA Building to develop apartments, creating up to 604 jobs;
- Akron, Summit County Quaker Square complex for new housing, hotel, and retail office space, for up to 1,000 new jobs.

Forty-six Ohio Counties still are eligible for up to \$1 million per county.

## **Legislative: Roofing Contractors (Cont'd)**

Sponsored by Representatives Matthew Kishman (R, Minerva) and Meredith Craig (R, Smithville), the legislation is aimed at “storm-chasers” seeking insurance money without standing behind their workmanship.

The bill requires a written contract, implements a 3-day right of rescission, and limits up-front deposits.

The bill enjoyed Sponsor Testimony before the House Commerce and Labor Committee, and awaits further hearings.

## **Legislative: New Legislation (Cont'd)**

House Bill 921, sponsored by Josh Williams (R, Toledo) and Douglas Swearingen (R, Huron) would expand the E-Verify Requirement beyond just the construction industry. The bill is assigned to the House Commerce and Labor Committee.

Senate Bill 396 proposes to establish the Family and Medical Leave Insurance Program, for up to 14 weeks of annual paid leave, paid for by employer-employee premiums. Sponsored by Senators Bill Blessing (R, Cincinnati) and Beth Liston (D, Dublin) the bill is assigned to the Financial Institutions Committee.

Senate Bill 428, sponsored by Michelle Reynolds (R, Canal Winchester), would require amendment of the Ohio Basic Building Codes to allow a single stairway for up to 6-stories, 4-family residences per floor. The bill is assigned to the Senate Housing Committee.

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## **The Construction Conversation Call-In**

on

**Wednesday, June 10, 2026  
3:30 pm**

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

May Construction Conversation  
**Wednesday June 10, 2026 03:30 PM**  
Eastern Time (US and Canada)

Join Zoom Meeting

<https://us02web.zoom.us/j/86715116082?pwd=nmUDmm2rMAxIVNdaVlGbgeGKBZvKne.1>

Meeting ID: 867 1511 6082  
Passcode: 623496

305-224-1968

