

Building BLOCKS

May, 2022

Building Blocks
Supporters

All Construction
Services

Carter Lumber

ID Creative
Group Ltd.

Stouffer Realty,
Inc.

Transfer Title
Agency



www.medinacountyhba.com



On The Economy

The Fed Commits to Aggressive Tightening of Monetary Policy

By Robert Dietz, NAHB, May 4, 2022



(quantitative tightening), which will further tighten financial conditions. Taken together, these monetary policy moves will produce higher mortgage rates in 2022 and 2023 as the Fed attempts to curb elevated inflation. However, today's announcement matched market expectations, with some impacts already incorporated in bond rates and prices. Today's moves were not more hawkish than expected.

Forecasters and the Fed's own projections suggest an ongoing series of aggressive rate hikes as 2022 progresses.

(Cover Story – Continued on page 2)

Following a 25 basis points increase in March, the Federal Reserve's monetary policy committee unanimously approved a further 50 basis points increase for the federal funds target rate, the largest increase for the rate in more than two decades. The Fed also provided details for its plan to reduce its balance sheet

In This Issue ...

Legislative News

**Ohio BWC Reimbursing
Employers in Drug-Free
Workplace Program**

**Mortgage Rates Soar to Highest
Level since 2009**

**Premium Discounts, Safety &
Ohio Workers' Compensation**

OHBA Summer Meeting Info

**Affordable Housing Getting
Attention & More!**



Ken Cleveland	1,081*
John Sumodi	336
Andy Leach	145
Bob Knight	97
Mike Hudak	51
Mark Zollinger	44
Doug Leohr	34
Russ Sturgess	29
Dave LeHotan	9
Ed Belair	7
Mark McClaine	7
Jake Lewis	4
Rex Gasser	4
Charlie Ash	3
Ryan Suppes	2
Sean Smith	1
Paul Spenthoff	1
Jeff Stuart	1

Above list has been updated via the most current NAHB Spike Club Roster Report

*Current Life Spike status

The prior March “dot plot” of Federal Open Market Committee participants’ future policy expectations indicated a median outlook of seven 25 basis point increases in 2022, one at each future meeting, plus an additional three 25 basis points of tightening in 2023. Many forecasters see a more aggressive pace, with some suggesting the Fed could increase by 75 basis points in June. However, Chair Powell appeared to rule that option out during his press remarks, while confirming additional 50 basis points hikes are ahead.

We continue to believe, however, that rate hikes for the end of 2022 and 2023 will be data dependent, as the Fed wants to avoid a recession while tackling inflation. The economy will undoubtedly slow with this expected path of policy. Higher interest rates are also reducing housing affordability and pricing prospective buyers out of an already tight property market.

It is also important to note that there is not a direct connection between federal fund rate hikes and changes in long-term interest rates. Indeed, during the last tightening cycle, the federal funds target rate increased from November 2015 (with a top rate of just 0.25%) to November 2018 (2.5%), a 225 basis point expansion. However, during this time mortgage interest rates increased by a proportionately smaller amount, rising from approximately 3.9% to just under 4.9%.

This week’s Fed announcement also provided details on the its plan for balance sheet reduction. In a phased approach, the Fed will allow a capped level of proceeds from maturing bonds to roll off on a monthly basis. This allows for a partial reduction of assets held by the Fed. Starting in June, the plan will involve a reduction of \$30 billion of Treasury securities and \$17.5 billion of mortgage-backed securities (MBS). After three months, the monthly cap for Treasury bonds will increase to \$60 billion

(Cover Story - Aggressive Tightening of Money Policy - Continued on page 7)

We carry ALL The Products Your Customers Want!

Northeast Ohio's Leading Supplier & Installer of Quality Building Materials for Remodeling & New Construction

**Garage Doors . Basement Waterproofing
Insulation . Gutters . Power Washing
Interior + Exterior Stone
Bars, Entertainment + Wine Cellars
Closet Shelving . Fireplaces . Mantels
Mirrors . Window Blinds . Shower Doors
Interior + Exterior Glass Railing Systems
Footlock Wall Bracing System . Window Wells
Energy Audits . Testing + More
NEW: Port-a-Johns . Silt Fence**

ALL CONSTRUCTION SERVICES

945 Industrial Parkway N. | Brunswick, OH 44212
330.220.6666 | 1.800.220.9383
www.allconstructionohio.com



Building, Buying, Selling, Refinancing?

**Transfer Title is your
local Title Company!**

*Complete Real Estate Title &
Escrow Service Serving All of Ohio*

*Title Insurance Policies
Issued with Chicago Title
Insurance Company
& Old Republic Title*

Robert C. Skidmore, Esq., President
Lee T. Skidmore, Esq., General Counsel
Steven J. Swain, Vice President



Insuring Realty. Conveying Dreams.

Formerly Medina County Title Agency, Inc. Locally owned and operated since 1967.

748 N. COURT ST. • MEDINA, OH 44256

Mon. – Fri. 8:30 am – 5 pm
Evening/Sat. closings by appt.

Medina.....(330) 725-4214
Cleveland.....(330) 273-2943
Toll Free.....(800) 635-5512
Fax.....(330) 725-3145

www.transfertitle.com

From the MCHBA Office ...

Members and Friends:

As we are moving into high building season, I hope all of our builder members have as profitable year as possible. There are definitely some roadblocks, but buyers are still buying and building new homes so I hope all of you can take advantage of that.

We are working on providing more member get-togethers this year. Still in the planning stages, but watch your email and Building Blocks for all the details.

Have an event of your own and want to open it up to our members? Email me (susanb@medinacountyhba.com) the information or a flier and I will be happy to pass it on to our members.

Want to be featured in Building Blocks? I encourage all of our members to submit press releases, articles and other information on what you're doing, new product lines you are carrying, and other newsworthy information.

Please take a moment and send the letter you received to prospective members. If you need anything or I can be of any assistance, don't hesitate to contact me.

Susan Bloch

Table of Contents

	<u>Page(s)</u>
Cover: <i>The Fed Commits To Aggressive Tightening of Monetary Policy</i>	Cover, 2, 7
Spike Club Update	2
2022 Save The Dates	3
ED Letter / Board of Directors/Trustees	4
Member News	6
Legislative News	7
Sedgwick – Ohio BWC Reimbursing Employers in Drug-Free Workplace Program.....	8
Mortgage Rates Soar to Highest Level Since 2009 as Fed Pressures the Housing Market	9
Sedgwick – Premium Discounts, Safety & Ohio Workers Comp	10, 11
OHBA Summer BOD Meeting / Reservation Form.....	11, 12
SAVE THE DATE: 2022 MCHBA Annual Golf Outing	13
OHBA: Affordable Housing Getting Some Attention.....	14
Bill Analysis – HB 175 (by Senate Agriculture & Natural Resources)	15-31

2022 Save The Dates

June, 2022 (Date & Event TBD) - In planning stage / watch for details.

August 18, 2022

Annual Golf Outing at Shale Creek - Watch your email for more info.

October 1-16, 2022

Fall Parade of Homes

Bourbon/Whiskey Tasting

December 8, 2022

Topgolf Holiday Event

From the Executive Director

Members and Friends:

I would like to welcome Alison Hall, Legacy Homes of Medina, to our Board of Directors. She was unanimously approved by our Board this past month and will be serving on the Board for at least one year. We are lucky to have Alison as she is extremely knowledgeable both on the Building Department side, as well as working for one of the largest builders in Northeast Ohio.

We have been very lucky to have so many new and varied members join the MCHBA over the past several months and are looking forward to meeting and seeing these new members at upcoming events. With that in mind, be sure to put the August 18 golf outing on your calendar as that is one of our biggest annual events!

The Board of Directors continues to work on planning more member events this year to get everyone involved and help grow all of our businesses. Watch for more information on these and I encourage all of our members to attend these events and get the most out of your membership with MCHBA.

It's going to be an interesting year in the building industry and I encourage all of our members to help support one another during this time. As always, we appreciate and value your membership.

Respectfully:

Dave LeHotan
Volunteer Executive Director



**MEDINA
COUNTY**
Home Builders
Association



**MEDINA
COUNTY**
Home Builders
Association

Board of Directors

Jason Cassidy, President

Charlie Ash

Jake Berger

Alison Hall

Mike Hudak

Douglas Krause

David LeHotan

Michael Martin

Jim Owen

Rob Root

Trustees

Mike Hudak

Douglas Krause

John Sumodi

Committees

Safety & Training

Sales & Marketing

Government Affairs

Building Codes

Subdivision Regulations

Membership

Parade of Homes

NEW ADDRESS: P.O. Box #233

Valley City, OH 44280

Phone: 330/725-2371 or

330/483-0076

www.medinacountyhba.com

moreinfo@medinacountyhba.com

susanb@medinacountyhba.com

Your MCHBA member dues also cover these memberships:

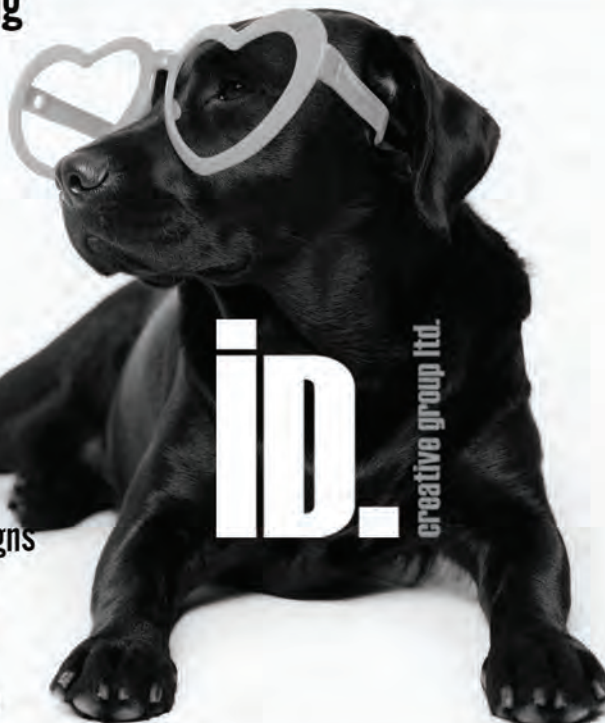


Success is all about attitude!

**And, of course, having
the right presence!**

**Website Development,
Design & Hosting
Online Marketing
Print/Virtual Collaterals
Print/Virtual Advertising
Direct Mail Programs**

**Promotional Media Campaigns
Strategic Market Planning
Employee/Customer
Communications + More**



PO BOX #233 | VALLEY CITY OH 44280 | 330.483.0075 | www.idcreativeltd.com

**LOTS & ACREAGE
FRANKLIN TWP.**

VL Summit Rd. - Approx 40 acres, made up of 5 parcels, zoned Residential R-1 & R-3. Partially wooded & partially farmland. Fairly flat along Summit Rd and slightly rolling topography along Cline Rd. Call agent for approx. frontage info. Approx 8.5 acres of additional land available. One parcel in Brimfield Township, 3 parcels in Franklin Township. Public water & sewer in area, buyer to confirm availability & capacity. **\$2,254,000. Gary Stouffer 330-805-6900 & Tara Kleckner 330-289-1315.**

NORTH CANTON

8215 Arlington Ave NW: Approx 61.61 acres in Jackson Twp w/approx. 1,975' of frontage (on Arlington Ave) and 1,377' deep on the North Side. Large house on property built in 1861 offering more than 5,500 sq.ft. of living space, 5 bedrooms. Connected to the house is an office building with six separate office spaces and half bathroom. 4 car detached garage and storage outbuilding on property. **\$1,740,000. Gary Stouffer 330-805-6900, Sarah Halsey 330-268-0102.**

RICHFIELD
Revere Schools

4243 Brecksville Rd: Almost 1 acre lot in highly sought-after Village of Richfield, situated within the top-ranked Revere School District! Lot has public water & sewer. Prime location off Brecksville Rd. w/excellent interstate & turnpike access, minutes from Ski Resorts, Metroparks & more. Buyer must use Petros Homes to build their home on this lot. Buyer can customize or modify one of builder's many home designs, utilize builder's architect to design their own, or bring their own floor plan. New home contract & lot contract to be executed simultaneously. Restrictions

and architectural requirements may apply. **\$152,500. Gary Stouffer 330-805-6900 & Gina Luisi 330-814-4747.**

4253 Brecksville Rd: Almost 1 acre lot in highly sought-after Village of Richfield, situated within the top-ranked Revere School District! Lot has public water & sewer. Prime location off of Brecksville Rd. w/ excellent interstate & turnpike access, minutes from Ski Resorts, Metroparks & more. Buyer must use Petros Homes to build their home on this lot. Buyer can customize or modify one of builder's many home designs, utilize builder's architect to design their own, or bring their own floor plan. New home contract & lot contract to be executed simultaneously. Restrictions and architectural requirements may apply. **\$165,000. Gary Stouffer 330-805-6900 & Gina Luisi 330-814-4747.**

3526 Brecksville Rd: This commercial property is approx. 7.84 acres with the frontage measuring approx. 238ft and is close to I77 and 271. Public Water, Public Sewer and Gas available at the street. The property rises slightly upward from the street then levels out. The front 4 acres (approx.) is mostly cleared w/ the remaining acreage beautifully wooded, & a peaceful stream/ravine running North/South through the property. This parcel is zoned Office/Laboratory which comes w/ a variety of permitted and conditional uses. These uses include but are not limited to the following: Office Space, Research Laboratories, Licensed Child/Adult Day Care, Nursing Home, Assisted Living Facility, Churches, Library, Museum, Art Gallery, School/College etc. **\$380,000. Gary Stouffer 330-805-6900 & Sharon Holderbaum 330-349-2599.**

2706 Boston Mills Rd. - 4.190 acres. Richfield Township. Revere Schools. 2 parcels available for purchase separate or together: possibility of over 8 acres together. All builders welcome! **\$481,850. Robin Pickett 330-322-3181.**

2708 Boston Mills Rd. - 4.480 acres. Richfield Township. Revere Schools. Wooded, Private, Pond. Bring your builder to this fantastic setting. 2 parcels available to total over 8 acres. **\$515,200. Robin Pickett 330-322-3181.**

2884 Boston Mills Rd. - 5.12 acres. Wooded private setting with no deed restriction or HOA. Richfield Township. Revere Schools. Wooded, Private, Walkout basement homesite. **\$481,280. Robin Pickett 330-322-3181.**

SHARON TWP.
Highland Schools

7022 State Rd: Approx. 2.10 acres on State Rd. in Sharon Township for **\$105,000.** Zoned R-1. Beautiful, wooded and rural views! **Gary Stouffer 330-805-6900 & Gina Luisi 330-814-4747.**

S/L 5 Jumpers Knoll Dr: Beautiful (approx.) 2-acre lot in The Signature of Sharon. Corner lot for different house positioning. Homes in the area are exquisite with a variety of styles and builders. Magnificent entrance to the development. **\$127,500. Gary Stouffer 330-805-6900 & Gina Luisi 330-814-4747.**

UNIONTOWN

V/L 2512 Jomar St. - Approximately 1 acre of land at the end of a quiet street holds the potential for your dream home. This secluded lot is filled with beautiful, tall trees & slopes to the back, ideal for a walk-out basement. It has been soil tested and septic approved for a 4-bedroom home. **\$69,000. Gary Stouffer 330-805-6900 & Sharon Holderbaum 330-349-2599.**

Member News

New Associate Member

U.S. Bank Home Mortgage

7951 State Road

North Royalton, OH 44133

Attn: Phil Humbel

Phone: (440) 346-5511

Web: usbank.com

Sponsor: Jason Cassidy

Business: Construction financing

Renewed Builders

Clifford Construction Co. –

Spencer

Knight Development Corp. –

Hinckley

Modern Home Concepts –

Wooster

Zollinger Builders – Smithville

Renewed Associates

All Construction Services –

Brunswick

Carter Lumber – Akron

Mack Industries, Inc. / Concrete /

Vault – Valley City

Osborne-Medina, Inc. – Medina

Paramount Plumbing, Inc. –

Wadsworth

Progressive Poured Walls –

Hinckley

Sundance, LTD – Copley

Renewed Financial

First Commonwealth Bank –

Hudson

Dropped Members

M & M Drywall, Inc. – Wadsworth

(Retired - Congratulations!)



**MEDINA
COUNTY**
Home Builders
Association

A warm welcome to new member U.S. Bank Home Mortgage and a sincere thank you to all members who reinvested!

Support Your Association

Remember, whenever possible, always try to do business with and patronize our Parade Sponsors, your Fellow Members and support your Medina County HBA & local community!

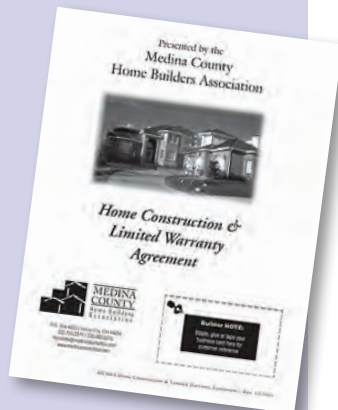
OFFICIAL MCHBA WARRANTY

Professional Tools for our Builders

The HBA has the professional business tools you need for home sales. The MCHBA Home Construction & Limited Warranty Agreement packages are available

for only \$35 each. Or, if you have your own contract and

you just need the Limited Warranty Agreement, the warranty with presentation folder are available for just \$25 each. We encourage you to use these tools for your protection, peace of mind, credibility in your home buyer's mind, plus they're a great resource tool for your customer to keep all their pertinent construction paperwork all in one handy location. Call the HBA today and order your professional home buyer warranty tools. Just one of your advantages of being a member.



"When does the improvement phase of this home improvement project begin?"



HB 175 Water Pollution (Hillyer, B.)
To deregulate certain ephemeral water features under various water pollution control laws.

In an effort which began with the changes to the WOTUS rule under the Biden Administration, OHBA has played a crucial role in the passage of HB 175. Once in effect, the law will exempt any ephemeral stream – those present only in times of precipitation – that is not subject to U.S. Army Corps of Engineers oversight from the state's Water Pollution Control Laws.

The changes would also establish requirements for impacts to those features that are subject to Army Corps regulation, including mitigation requirements and best management practices. The director of the Environmental Protection Agency is prohibited from imposing any requirements on those features beyond those specified.

HB 175 brings badly needed relief from the over regulation of ephemeral streams. Clearly, the enactment of HB 175 is a major cost saver for all land developments.

The analysis of HB 175, as enacted, can be reviewed in its entirety at the end of this newsletter starting on page 16.

SUMMER BOARD OF TRUSTEES MEETING

Mark your calendar for OHBA's Summer Board of Trustees Meeting – June 21st. The meeting will take place in Dublin at the Brick House Blue. We have a nationally known economist Dr. Ted Jones as a guest speaker. Detailed information will be emailed out in the near future. ■

(Cover Story – Aggressive Tightening of Money Policy – Continued from page 2)

and \$35 billion for MBS. Balance sheet reduction has a larger proportional effect on long-term rates, like mortgages. However, this plan matches prior market expectations, so some of the expected market impact is already priced in rates.

The Fed noted that inflation is elevated due to “supply and demand imbalances related to the pandemic, higher energy prices, and broader price pressures.” While this verbiage may incorporate policy failures that have affected aggregate supply and demand, I do think the Fed should acknowledge the role fiscal, trade and regulatory policy is having on the economy and inflation as well.



Given this expected path of monetary policy, we reiterate our policy recommendation with respect to a soft landing. Clearly, elevated inflation readings call for a normalization of monetary policy, particularly as the economy moves beyond covid-related impacts. However, fiscal and regulatory must complement monetary policy as part of this adjustment.

Higher inflation in housing is due to a lack of rental and for-sale inventory and cost growth for building materials, lots and labor. Higher interest rates will not produce more lumber. A smaller balance sheet will not increase the production of appliances and materials. In short, while the Fed can cool the demand-side of the economy, additional output on the supply-side is required in order to tame the growth in costs that we see in housing and other sectors of the economy. And efficient regulatory policy in particular can help achieve this goal and fight inflation. ■

Did You Know ...

**The Medina County
HBA experienced
a 12%+ increase
in membership
over the past
12 months!**

**Great job everyone!
Let's keep it going!**

Ohio BWC reimbursing employers in Drug-Free Workplace program

The Ohio Bureau of Workers' Compensation (BWC) is reimbursing employers for workplace substance use-related activities. The BWC is partnering with the Alcohol Drug Addiction and Mental Health (ADAMH) boards to help employers more effectively manage substance use issues in their workplace. Through the Substance Use Recovery and Workplace Safety Program (SURWSP), eligible employers can be reimbursed for qualifying expenses related to implementing and administering a drug-free workplace program which includes:

- Development and legal review of employer policies and procedures about substance use issues.
- Training for employees to understand substance use and their employer's related policies.
- Training to equip supervisors and managers to better manage employee's recovery.
- Recovery-supportive drug testing for prospective and current employees.
- Access to a free employee wellness incentive program, [Better You! Better Ohio!](#)

Who is eligible for the program:

Employers may apply for the program online and receive immediate determinations and an email confirmation with additional information. To be eligible the employer must pay into the State Insurance Fund, be current on all payments due to BWC, and be an active policy. Those not eligible for this program include Self-insuring (SI) employers, employers participating in a SI PEO, and state agencies. Employers can currently claim eligible expenses back to July 1, 2019. This retroactive reimbursement period will end July 1, 2022.

What counties are covered:

As of December 27, 2021, employers in all 88 counties in Ohio are eligible to participate in this program. The Ohio BWC directly manages the SURWSP in 65 of the 88 counties. Alcohol, Drug Addiction and Mental Health (ADAMH) boards manage the program on behalf of the BWC in the remaining 23 counties. A map and complete listing of counties with a link to ADAMH or the BWC reimbursement process can be found [here](#).

Changes to the program:

Recently, the BWC restructured reimbursement for drug testing. Reimbursement for testing is now only available to employers with written "second chance" testing policies. The maximum reimbursement for testing will be capped at \$1,500 annually. Employers are not required to choose from the Drug Free Safety Program (DFSP) vendor to receive reimbursement.

For more information, please contact Sedgwick's Andy Sawan at 330.819.4728 or andrew.sawan@sedgwick.com

‘The pandemic boom in home sales is over’: Mortgage rates soar to highest level since 2009 as the Fed pressures the housing market

By Jacob Passy

The Federal Reserve is pushing mortgage rates higher, which is upending the competitive housing market

Mortgage rates are skyrocketing thanks to the Fed, but buyers who can tough out this difficult, changing market will be rewarded.

The 30-year fixed-rate mortgage averaged 5.27% for the week ending May 5, according to data released by Freddie Mac FMCC, 0.40% on Thursday. That’s up 17 basis points from the previous week — one basis point is equal to one hundredth of a percentage point, or 1% of 1%.

This represents the highest point for the benchmark 30-year mortgage product since August 2009. To put that in context: The last time mortgage rates were this high Barack Obama was just months into his first term as president, the nation was in the depths of the Great Recession and Instagram had yet to be launched.

The last time mortgage rates were this high Barack Obama was just months into his first term as president, the nation was in the depths of the Great Recession and Instagram had yet to be launched.

The average rate on the 15-year fixed-rate mortgage rose 12 basis points over the past week to 4.52%. The 5-year Treasury-indexed hybrid adjustable-rate mortgage averaged 3.96%, up 18 basis points from the prior week.

Mortgage rates are roughly benchmarked to the yield on the 10-year Treasury note **TMUBMUSD10Y, 3.099%**. But the difference between the average rate on the 30-year mortgage and the 10-year Treasury has widened recently.

Since the end of the Great Recession, the spread between the two has averaged 1.7 percentage points, but currently it hovers above 2%. If the spread were closer to historical levels, the 30-year fixed-rate mortgage would still be below 5%.

The Federal Reserve is largely to blame for the fact that mortgage rates increased at a faster pace than might otherwise be expected, according to analysis from Odeta Kushi, deputy chief economist at title insurer First American FAF, -0.20%. Investors who buy mortgage-backed securities have already factored in expectations that the Federal Reserve will continue to raise rates throughout this year into their view on the mortgage market.

Lenders, consequently, must hike the rates they offer consumers so that they can continue to sell their loans to investors — those

sales are what generates the funds used to produce more mortgages.

“While some additional Fed tightening is already baked into today’s average mortgage rates, ongoing inflationary pressure remains likely to push mortgage rates even higher in the months to come,” Kushi said.

Hiking short-term interest rates isn’t the only way the Fed influences the mortgage market. The central bank itself has been a buyer of mortgage-backed securities since the start of the pandemic. So now that the Fed will be shrinking its balance sheet of bonds, including these securities, there could be an impact on liquidity in the mortgage market. Lenders would need to make up the difference by raising rates.

Already recent housing-market data has shown the massive effect the surge in rates has had on home buyers. “The pandemic boom in home sales is over, and activity is back at pre-pandemic levels,” Mizuho Securities U.S. economist Alex Pelle and chief U.S. economist Steven Ricchiuto wrote in a research note.

It’s clear that the affordability challenges posed by rising rates and higher prices has cooled demand among home buyers. Nevertheless, home listings remain few and far between. That means that home prices likely will continue to grow — albeit at a slower pace — since even with a reduced pool of buyers there aren’t enough properties to grow around, analysts say.

And there’s the potential that rising interest rates could also put a damper on the supply of homes for sale. “Existing homeowners are rate locked-in when their existing mortgage rate is below the prevailing market mortgage rate, because there is a financial disincentive to sell their homes and buy a new home at a higher mortgage rate,” Kushi said.

Most economists anticipate that the housing market is balancing out, meaning that bidding wars and contingencies could soon become a thing of the past.



Premium discounts, safety & Ohio workers' compensation

Much of the discussion about workers' compensation surrounds group rating programs and group retrospective rating programs. Both programs can effectively reduce the amount of premium that you pay to the Bureau of Workers' Compensation (BWC). The group programs provide premium discount and rebate opportunities for employers. Qualifying for a premium discount or rebate depends on claim costs relative to an employer's size. Generally, employers qualify for the group programs by having a safe workplace with limited workers' compensation injuries and costs. The best injury is one that never occurs. If you do have a workers' compensation injury, there are strategies to help get the injured worker back to work. The goal should be to facilitate a prompt, safe return to work, limiting lost workdays and helping injured employees recover. A quick, safe return to work benefits both the injured worker and the employer.

Ohio's workers' compensation system is complex. A work injury can be an unsettling and stressful time for your employee and you. Sedgwick, as the administrator of our workers' compensation program, is here to consult with you about any specific workers' compensation questions, and we also offer various educational opportunities to help employers navigate Ohio's workers' compensation system.

There are numerous workers' compensation educational opportunities available to you from Sedgwick, the BWC and other sources. We recommend that you explore the educational opportunities that are available to you, which can help you implement strategies for a safer workplace and reduced workers' compensation costs. If you do have an injury, these educational opportunities will review ways to manage the injury to help the injured worker quickly get back to work and productivity.

Sedgwick has developed training options for our clients to assist in educating you on strategies to prevent an injury or limit the costs if an injury occurs. The resources page on the Sedgwick website (www.sedgwick.com/ohiotpa) includes safety resources and sample 'Toolbox Talks' to help you improve safety at your workplace. Additionally, Sedgwick holds webinars throughout the year on various workers' compensation and safety subjects. Our workers' compensation educational series is designed to familiarize you with Ohio's workers' compensation system and show you how to maximize your program. Webinar topics include:

- Introduction to Ohio workers' compensation
- Understanding your rate calculation
- Destination Excellence
- Seven steps to a successful workers' compensation program
- Cost containment strategies

The BWC's Division of Safety & Hygiene is also an excellent resource for training opportunities. You can find ample BWC training options on their website (info.ohio.bwc.org). Additionally, the BWC holds an annual Ohio Safety Congress & Expo each year. Typically, Safety Congress takes place in the first quarter of the year. The

Ohio Safety Congress & Expo, which began in 1927, is the largest free workplace safety conference in the United States.

Additional training resources are Safety Councils which are located throughout Ohio. The BWC's Division of Safety & Hygiene sponsors Safety Councils across the state, organized through local safety-minded organizations. These Safety Councils provide their local communities with quality programs addressing occupational safety and health, workers' compensation and risk management education and information.

There are many options to help you successfully manage your workers' compensation program. Leveraging your resources can help prepare you to minimize costs and preserve premium savings options. Additionally, leveraging your resources can help you position your employees to return home from work each day in the same healthy condition in which they came to work.

For more information, contact our Sedgwick program manager, Robert Nicoll at 330-418-1824 / robert.nicoll@sedgwick.com

OHIO HOME BUILDERS ASSOCIATION ANNOUNCES SUMMER BOARD OF TRUSTEES MEETING

Tuesday, June 21, 2022
brick house blue - Dublin, OH
6605 Longshore St., Suite 240

The Trustees of Ohio Home Builders Association will be meeting and a special presentation will be given by Dr. Ted C. Jones.

Senior Vice President/Chief Economist, Ted C. Jones, Ph.D. of Stewart Title Guaranty Co. will be presenting at our meeting. Ted C. Jones' recognized specialty is applied real estate research. Jones has completed numerous mass-appraisal assignments including more than \$3 billion of income-producing property owned by the Federal Deposit Insurance Corporation, retail properties, hotels, motels, offices, commercial land, multifamily housing, residences and numerous other special use properties. He completed a study on the impact of the Resolution Trust Corporation on real estate values and testified before the Oversight Board. Expert witness testimony has included analysis and evaluation of a solid rocket missile and carbon fiber plant, hydro, gas and coal-fired electric utilities and co-generation plants, an internal pipe coating plant in Scotland servicing the North Sea oil and gas production, and arguments on the treatment of deferred income taxes in the valuation of regulated public utilities. He has consulted The Boeing Company on property valuation issues relating to ad valorem property taxes at Boeing's diverse aerospace and aircraft manufacturing plants in Washington.

Sleeping rooms are available at AC Marriott Hotel Columbus Dublin, 6540 Riverside Dr., for Tuesday, June 21st. The room rate is \$199 plus tax. Here is a link to book your room-

<https://www.marriott.com/event-reservations/reservation-link.mi?id=1649336780906&key=GRP&app=resvlink>

Room cut-off date is May 22, 2022. Reserve today if you need a room.

See sign-up sheet on the next page.

Meeting registration can be emailed to build@ohiohba.com



REGISTRATION FORM
SUMMER BOARD OF TRUSTEES MEETING
BRICK HOUSE BLUE
6605 LONGSHORE ST., SUITE 240, DUBLIN, OH
JUNE 21-22, 2022

TUESDAY, JUNE 21, 2022

- ☐ 1:00 – 2:30 p.m. EXECUTIVE COMMITTEE MEETING
Open to Executive Committee members and OHBA Past Presidents Only.
- ☐ 2:30 – 3:30 p.m. BOARD OF TRUSTEES MEEETING
- ☐ 3:30 – 5:00 p.m. CHIEF ECONOMIST DR. TED C. JONES PRESENTATION
- ☐ 5:00 p.m. PUB CRAWL

WEDNESDAY, JUNE 22, 2022

- ☐ GOLF WITH PRESIDENT CHARLES RUMA
*If you want to golf, please RSVP by **June 1st**. Details to follow.*

NAME _____

LOCAL ASSOCIATION _____

SEND TO:
Ohio Home Builders Association
E-mail: build@ohiohba.com
Phone: (800) 282-3403

Thank you to our Sponsors -



SAVE THE DATE

2022 MCHBA Annual Golf Outing

Thursday, August 18, 2022

Shale Creek Golf Club

5420 Wolff Road, Medina

Schedule of Events:

Registration – 8:45 a.m.

Shotgun Start – 9:30 a.m.

Social – 2:30 p.m.

Followed by Dinner – 3:00 p.m.

Golf Package – \$150 per person

Includes 18 holes of golf, half a cart, box lunch & dinner

Dinner Package – \$60 per person

BBQ Dinner Plate – Ribs & Chicken – Corn on the Cob

Herb Roasted Potatoes – Salad – Rolls – Dessert

GET INVOLVED Opportunities:

Par Level / Hole Sponsor - \$100

Your company will be recognized with a sign at the putting green

Water Sponsor - \$150

Will receive recognition throughout the day by announcement

Box Lunch Sponsor - \$250

Will receive recognition throughout the day by announcement

Long Drive Sponsor - \$350

Sponsor gets announcement

Proximity Sponsor - \$350

Sponsor gets announcement

Putt Off Sponsor - \$350

Sponsor gets announcement



**MEDINA
COUNTY**

Home Builders
Association

This event is open to members and potential members so bring your friends, vendors, etc. for a fun day of golf, food, and the opportunity to win some great prizes.

Cash Prizes for Winning Golf Team

Lottery Basket - valued at \$300+

Skins & Mulligans Available

50/50 Raffle & More!

Cash Bar

Be sure to bring cash so you can go home with some great stuff!



Affordable Housing Getting Some Attention

That is good news indeed. However, we need to refine the message a bit. Affordable is undefined or quantified. We have heard recently of heavily subsidized housing being the answer. Also, projects where the rent is fixed has been touted as affordable. Now that the topic has gained attention of those who have ignored it in the past, it is no surprise many will try to benefit from it.

Lieutenant Governor Jon Husted asked OHBA President Charles Ruma to inform him of the needs of the home construction industry with suggestions to confront the housing crisis in Ohio. Charles ever so eloquently complied. We received a quick response that both his and the governor's policy staff will get right on it. While we support housing opportunities for all and a state government that accommodates that goal responsibly, it is time to address some issues that are a drag to reasonable policies hindering fulfillment of a rational housing policy.

Our request was completed in collaboration of our elected officers. Along with OHBA staff we will continue to urge passage of meaningful measures to promote housing for all. It is eminently clear the lack of available housing has caused huge spikes in prices greatly restricting opportunities to achieve home ownership.

Simply, we need to build more housing in Ohio.

We just heard the governor has signed two important OHBA backed bills.

HB 175 brings badly needed relief from the over regulation of ephemeral streams. While the initial bill would have exempted regulation in total, we were forced to restrict relief given a new expansion of waters of the United States which included most ephemeral streams. The bill creates a regulatory path the state EPA must follow when regulation is imposed on development sites. Clearly a major cost saver for all land developments.

HB 126 proved needed relief from school districts engaging in practices escalating property tax on all business land transactions. The bill has been sought for decades but school districts always prevailed til now.

More information will be included in our Legislative Review.



MEMBERS ...

I Challenge You to Help the Medina County HBA Grow & Double Our Membership!

Know someone interested in joining the Medina County HBA?

*Doing business with companies that **aren't** members? They should be!*

Let's get them to join our association. It's absolutely to their benefit.

Our Membership Application is available online or call/email me and we'll send out a member package.

Let's Work Together and Grow our Association this year! It's an ideal time to partner with other businesses



**MEDINA
COUNTY**
Home Builders
Association





CARTER *Lumber*

At our Kitchen & Bath Showroom in Medina, we have everything you need to complete your next kitchen project!

We take the worrying out of planning and choosing everything for your perfect kitchen or bathroom, from the smallest to the most important details. You'll save money over the big box stores, and we have the expertise and product knowledge to help you complete your project. Service, quality, and design is what sets us apart. Our Specialists offer the best in service, space planning and design knowledge in the industry.

***Carter Lumber has all of your
design needs covered!***

When you're ready to take on your kitchen or bath project, we'll be ready to give you the beautiful, functional space you've been dreaming of.

Brand New Full-Selection Design Center.

Conveniently located next to our Kitchen & Bath Showroom, our new full-selection Design Center will be your one-stop shop for all your project needs!

**Cabinetry, Fixtures, Counter-
tops, Doors, Trim, Hardware,
Islands, Backsplashes,
Windows and more!**



MEDINA

3725 MEDINA RD. SUITE 108
MEDINA, OH 44256
(330) 725-6760

AKRON

172 N. CASE AVE.
AKRON, OH 44305
(330) 784-5441

OLON

6199 S O M CENTER RD.
OLON, OH 44139
(440) 248-5355

ELYRIA

41625 GRISWOLD RD
ELYRIA, OH 44035
(440) 934-5266

.....
carterlumber.com

H.B. 175*
134th General Assembly

Bill Analysis

[Click here for H.B. 175's Fiscal Note](#)

Version: As Reported by Senate Agriculture and Natural Resources

Primary Sponsor: Rep. Hillyer

Helena Volzer, Attorney

SUMMARY

Ephemeral features

- Excludes ephemeral features that are not waters of the United States (WOTUS) under the federal Clean Water Act (i.e., those over which the U.S. Army Corps of Engineers lacks the jurisdiction to issue a dredge and fill permit) from regulation under Ohio's water pollution control programs, including the section 401 water quality certification program.
- Specifies that an ephemeral feature is a surface water flowing or pooling only in direct response to precipitation, such as rain or snow, and does not include a wetland.
- For ephemeral features that are WOTUS under the federal Clean Water Act, maintains the authority of the Ohio Environmental Protection Agency (OEPA) to regulate impacts to these waters.
- Establishes mitigation requirements, best management practices, and reporting and monitoring requirements that apply when these regulated ephemeral features will be impacted and a section 401 water quality certification is required.
- Excludes particular types of projects, such as water quality improvement projects and small dredge and fill projects, from the bill's mitigation requirements, best management practices, and reporting and monitoring requirements.
- Regarding a regulated ephemeral feature, prohibits the Director of Environmental Protection from both of the following:

* This analysis was prepared before the report of the Senate Agriculture and Natural Resources appeared in the Senate Journal. Note that the legislative history may be incomplete.

- Imposing or requiring any mitigation standard, criteria, scientific method, process, or other procedure or policy not specified by the bill with respect to a proposed impact to the ephemeral feature; and
- Imposing any requirement on an activity impacting a regulated ephemeral feature beyond those specified in the bill or by administrative rule for any activity impacting an ephemeral feature that requires the issuance of a section 401 water quality certification.
- Eliminates the section 401 water quality certification review fee that currently applies to all ephemeral streams (\$5 per linear foot of stream to be impacted or \$200, whichever is greater).

Federal Interagency Review Team

- Requires the Director of OEPA, the Director of Natural Resources, and the Director of Transportation to each appoint an agency designee and an alternate to the federal Interagency Review Team (IRT) (which reviews documentation and advises U.S. Army Corps of Engineers district engineers on mitigation projects).
- Specifies that the appointees must have significant experience in at least one specified subject area (wetland or stream restoration, enhancement and protection of wetlands or streams, or compensatory mitigation plan development).
- Requires at least one appointee to maintain minutes of IRT meetings and specifies that those minutes are a public record.

Protocols for the adoption of mitigation standards

- Alters a provision of current law requiring all substantive standards used by the Director of OEPA to evaluate section 401 water quality certification mitigation proposals to be adopted via rule in accordance with the Administrative Procedure Act to specify all of the following:
 - All substantive standards used by the IRT when reviewing documentation related to mitigation activities are also subject to that provision;
 - The provision applies to any guidance or guidelines used by the Director or the IRT;
 - A mitigation proposal may include proposals involving a wetland mitigation bank or stream mitigation bank, in-lieu fee mitigation, or permittee responsible mitigation; and
 - The provision also applies to the establishment of performance metrics, a request for credit release, or termination of monitoring requirements.
- Eliminates a provision of current law authorizing the Director to use additional mitigation standards, criteria, etc. (without going through administrative procedures) in reviewing a mitigation proposal if the Director notifies the applicant in advance that additional standards will be considered as part of the review process.

- Establishes a 24-month timeline concerning the implementation of the changes specified above.

Property tax exemption

- Establishes a property tax exemption for property held by a 501(c)(3) organization organized for conservation purposes if either of the following apply to the property:
 - The property is subject to a mitigation requirement pursuant to a section 401 water quality certification or isolated wetland permit; or
 - The property is a nature water project that receives funding through the H2Ohio program.

Class VI injection wells

- Requires the Department of Natural Resources (DNR) to begin working with the U.S. EPA and the U.S. Department of Energy to develop a state underground injection control program for Class VI injection wells (used to inject CO₂ into deep rock formations).

Indian Lake weed mitigation

- Requires the Director of DNR to enter into a memorandum of understanding with the Indian Lake Watershed Project concerning weed harvesting services at Indian Lake and appropriates \$500,000 for weed harvesting in FY 2022.

TABLE OF CONTENTS

Federal regulation of ephemeral features.....	4
Ephemeral features under state law	5
Regulated ephemeral features.....	6
Permanent impact: mitigation requirements	7
Mitigation calculations	9
Temporary impacts: mitigation requirements	10
Best management practices	10
Additional reporting and monitoring	11
Exclusions	12
Prohibition against additional requirements	12
Other state environmental laws	12
Impacts to other statutes.....	13
Review fee	14
Federal Interagency Review Team.....	14
Protocols for the adoption of mitigation standards	14
Property tax exemption	15
Class VI injection wells	16
Indian Lake weed mitigation.....	16

DETAILED ANALYSIS

Federal regulation of ephemeral features

The federal Clean Water Act (CWA) establishes the basic structure for regulating discharges of pollutants into “navigable waters,” which the statute defines as “waters of the United States, including the territorial seas.”¹ The terms “navigable waters” and “waters of the United States” (WOTUS) are used for purposes of several CWA programs, including:

- Statutory schemes governing discharges of dredged or fill material under CWA Section 404, administered jointly by the U.S. Army Corps of Engineers (U.S. Army Corps) and U.S. Environmental Protection Agency (U.S. EPA);
- Discharges of pollutants into WOTUS from “point sources” under CWA Section 402, delegated to most states for permitting under the National Pollution Discharge Elimination System (NPDES); and
- Spills of oil and hazardous substances under Section 311.

Over time, the U.S. EPA has adopted rules defining the types of water bodies that are encompassed within the term “navigable waters.” In 1985, the U.S. Supreme Court held that “navigable waters” includes more than only those waters that would be deemed “navigable” in the “classical” or traditional sense.² However, the scope of these terms remained somewhat unclear, and the Court revisited the issue in 2006.

In *Rapanos v. United States*, the Court offered a plurality decision, posing two possible interpretations of the term:

1. Justice Scalia and three other Justices found that these waters are “relatively permanent” waters that hold a “continuous surface connection” to a traditionally navigable water.
2. Justice Kennedy, in a concurring opinion, wrote that to be a navigable water, a WOTUS must have a “significant nexus” to a traditionally navigable water.³

Attempting to clarify the rule, in 2015, the U.S. EPA adopted the second approach, evaluating waters on a case-by-case basis under the “significant nexus” test. However, in 2017, President Trump signed an executive order directing U.S. EPA to rescind the 2015 rule and instead adopt a new WOTUS rule reflecting the first approach offered by Justice Scalia in

¹ 33 United States Code (U.S.C.) § 1362(7).

² *United States v. Riverside Bayview Homes, Inc.*, 474 U.S. 121, 133 (1985).

³ *Rapanos v. United States*, 547 U.S. 715 (2006).

Rapanos.⁴ That rule took effect on June 22, 2020.⁵ Shortly thereafter, several lawsuits were filed challenging it.⁶

On August 31, 2021, a federal court in *Pasqua Yaqui Tribe vs. United States EPA* ruled that application of the 2020 WOTUS rule is suspended. The court vacated the WOTUS rule and reverted back to the 1985 version of the rule (as further interpreted under the *Rapanos* “significant nexus” test) nationwide. Thus, under this decision, whether or not a body of water, including an ephemeral stream, is a WOTUS must be determined on a case-by-case basis, considering whether the water has a “significant nexus” to a traditionally navigable water. President Biden’s administration also began administrative rulemaking to revise and clarify the WOTUS definition. The public comment period for that rulemaking closed on February 7, 2022.⁷ Until the rule is finalized, the Court’s ruling in *Pasqua Yaqui Tribe* is the current WOTUS rule.⁸

Ephemeral features under state law

The bill alters the manner in which Ohio regulates ephemeral features, which are surface waters, not including wetlands, that flow or pool only in response to precipitation, such as rain or snow.⁹ Under current law, ephemeral features are regulated under Ohio’s Water Pollution Control Law, and a person must obtain a permit from the Ohio Environmental Protection Agency (OEPA) to discharge dredge or fill material into an ephemeral feature. That permit is referred to as a section 401 water quality certification (401 certification). Any other discharge of pollutants into an ephemeral feature requires a National Pollutant Discharge Elimination (NPDES) permit.¹⁰ The bill, instead, establishes the following two classes of ephemeral features:

1. Ephemeral features that are WOTUS under the CWA and subject to regulation by the U.S. Army Corps of Engineers (U.S. Army Corps) for dredge and fill operations. Under the bill, the discharge of dredge and fill material into this type of ephemeral feature requires a 401 certification issued by OEPA. Any other discharge of pollutants requires an NPDES permit from OEPA. In addition, other specific state requirements established by the bill apply to these ephemeral features and the issuance of 401 certifications, including mitigation requirements, best management practices, and reporting and monitoring requirements.
2. Nonregulated ephemeral features. These ephemeral features are not WOTUS under the CWA and are not subject to regulation by the U.S. Army Corps. The bill deregulates

⁴ Executive Order 13778 of February 28, 2017.

⁵ 33 Code of Federal Regulations (CFR) § 328.3 (April 21, 2020).

⁶ See *California v. Andrew Wheeler*, Civil Action No. 3:20-cv-03005 and *Pasqua Yaqui Tribe v. United States EPA*, 2021 U.S. Dist. Lexis 163921.

⁷ See [86 Fed.Reg. 69372](#).

⁸ U.S. EPA, “[Current Implementation of Waters of the United States](#).”

⁹ R.C. 6111.01(V).

¹⁰ See R.C. 6111.03(J) and 6111.04, not in the bill.

these ephemeral features and no permit under Ohio's Water Pollution Control Law is required from OEPA to conduct dredge or fill operations in them or discharge other pollutants in them (but see, "**Other state environmental laws**," below). Thus, if the ephemeral feature is not regulated under federal law, it will not be regulated under the bill's provisions.¹¹

Regulated ephemeral features

As indicated above, for those ephemeral features subject to regulation, the bill requires the issuance of a 401 certification from OEPA whenever the ephemeral feature will be impacted by a dredge and fill operation. The bill also establishes mitigation requirements, best management practices, and additional reporting and monitoring requirements that apply to the issuance of a 401 certification. These requirements vary, depending on whether the impact to the ephemeral feature is temporary or permanent. An impact is **temporary** when all of the following apply:

- It facilitates a proposed activity or aids in the access, staging, or development of any construction;
- It will not last more than two years; and
- Upon termination of the impact, the conditions of the ephemeral feature are expected to return to pre-impact functionality or better condition within 12 months after the termination.

A **permanent** impact is any impact that is not temporary.¹²

The bill delineates four distinct categories of requirements and standards that the Director of OEPA may impose:

1. Mitigation requirements and standards that apply when a feature will be permanently impacted;
2. Mitigation requirements and standards that apply when a feature will be temporarily impacted;
3. Best management practices that the Director may impose for:
 - a. Permanent impacts when the Director requires a person to conduct mitigation by constructing an equivalent area of channel or site-specific measurement to provide a geomorphically stable feature in the impacted watershed; or
 - b. Any temporary impact.¹³
4. Additional reporting and monitoring requirements the Director may impose for:

¹¹ R.C. 6111.01(H) and (V) and 6111.311 to 6111.316; see R.C. 6111.03(J), not in the bill.

¹² R.C. 6111.311(F) and (G).

¹³ R.C. 6111.313 and 6111.315.

- a. Permanent impacts when the Director requires a person to conduct mitigation by constructing an equivalent area of channel or site-specific measurement to provide a geomorphically stable feature in the impacted watershed; and
- b. All impacts. These requirements include, additional reporting and demonstrations that the Director may impose (such as providing the minimum acreage of the mitigation and demonstrating other factors regarding the mitigation) up to two years after the completion of construction of any required mitigation.¹⁴

The bill applies existing definitions for terms such as “mitigation,” “wetlands,” and “eight-digit hydrologic unit” when used in the context of the bill’s new requirements.¹⁵

Permanent impact: mitigation requirements

The bill authorizes the Director to require a person proposing to permanently impact an ephemeral feature subject to regulation to do any of the mitigation tasks shown in the table below.¹⁶

Permanent impacts		
Mitigation task	Calculation to be used ¹⁷	Additional specifications
Provide mitigation by constructing an equivalent area of channel at a 1:1 ratio	Use area of mitigation (AMIT) or site-specific measurements	The mitigation must provide a geomorphically stable feature within the 8-digit hydrologic unit watershed
Provide bioretention on the project site in accordance with the rainwater manual used by OEPA	Use AMIT or site-specific measurements	Performance and monitoring of performance can be no more than what is normally required for a bioretention structure
Provide increased volume and surface area to the water quality volume (WQV)	Use volume of mitigation (VMIT) or site specific measurements	<ul style="list-style-type: none"> ▪ WQV must be increased by the VMIT without increasing the maximum WQV discharge; ▪ Drawdown times may be increased proportionally; ▪ Additional required surface area may be in the form of a wetland shelf as part of a wet extended detention

¹⁴ R.C. 6111.314(A) and (B).

¹⁵ R.C. 6111.311(D).

¹⁶ R.C. 6111.313(B)(1).

¹⁷ See “Mitigation calculations” table, below.

Permanent impacts		
Mitigation task	Calculation to be used ¹⁷	Additional specifications
		<p>basin sized using the rainwater and land development manual;</p> <ul style="list-style-type: none"> Where no onsite stormwater detention is planned, surface water storage volume with slow discharge may be provided using the VMIT as the temporary storage volume; and When storage practices will be used, performance and monitoring of performance must be no greater than normally required for a particular storage structure.
Provide mitigation by constructing an equivalent area of channel at a 1:1 ratio by purchasing credits at an approved wetland mitigation bank or in-lieu fee mitigation program for the ephemeral feature that is being impacted within the impacted 8-digit hydrologic watershed	N/A	<ul style="list-style-type: none"> If there are no wetland mitigation bank credits or in-lieu fee mitigation credits within the mitigation bank service area that includes the impacted 8-digit hydrologic unit watershed, credits may be purchased from another provider in the state; When mitigation will occur at an approved wetland mitigation bank, in-lieu fee mitigation program, or mitigation paid to the department of natural resources, mitigation credits must be acquired based on the acreage of streambed impacted and proof of acquisition must be sent to the Director before any impact may occur.
Provide equivalent area of channel at a 1:1 ratio by contributing funds to the Department of Natural Resources for the purpose of stream improvement activities to address acid mine drainage or other water quality impacts	Use AMIT or site-specific measurements	This mitigation may occur outside of the 8-digit hydrologic unit watershed where the impacts will occur

Mitigation calculations

For purposes of the mitigation calculations referenced in the table above, the bill defines and specifies certain terms, as shown below.¹⁸

Mitigation calculations		
Term	Unit of measurement in which resulting term is expressed	Calculation
Area of mitigation (AMIT)	Expressed in feet squared	<ol style="list-style-type: none"> First, calculate the area of the streamway (ASW) as: <ol style="list-style-type: none"> Width of a streamway (WSW) multiplied by the valley length of stream (LV). Next, calculate the AMIT as follows: <ol style="list-style-type: none"> For streams with a slope that is less than or equal to 2%, the AMIT = ASW divided by 2; For streams with a slope that is greater than 2%, but not more than 4%, the AMIT = ASW divided by 5; For streams with a slope of greater than 4%, the AMIT = ASW divided by 8.
Width of a streamway (WSW)	Expressed in feet	147 multiplied by DA ^{0.38}
Valley length of stream (LV)	Expressed in feet	N/A
Drainage area (DA)	Expressed in square miles	N/A
Volume of mitigation (VMIT)	Expressed in cubic feet	VMIT = AMIT multiplied by 1, assuming a 1 foot stream depth
Site-specific measurements	N/A	Streambed area, bankfull width, entrenchment ratio, or flood prone area may be substituted for AMIT or VMIT

¹⁸ R.C. 6111.311(A), (B), (C), (E), (H), (I), and (J); R.C. 6111.313(A).

Mitigation calculations		
Term	Unit of measurement in which resulting term is expressed	Calculation
Water quality volume (WQV)	N/A	Surface area divided by drawdown depth

Temporary impacts: mitigation requirements

The bill requires the Director to require a person proposing to temporarily impact an ephemeral feature to do all of the following:

- Restore any ephemeral feature subject to regulation that is impacted upon completion of the temporary impact;
- Restore the flow regime to that of the pre-impact ephemeral flow regime or better;
- Restore the physical integrity of the ephemeral feature to its pre-impact or better condition;
- Provide at least three high resolution color photographs taken at the restored area, including one facing upstream, one facing downstream, and a close-up that clearly depicts the substrate composition and size for each restored ephemeral feature. Photographs must accurately depict the quality of the ephemeral feature and must not include excessive cover that would prevent the observation of substrates, such as leaf litter, snow, or ice.
- Continue to conduct monitoring or implement additional measures to meet performance standards if the restoration areas are not meeting restoration performance criteria within two years following the completion of restoration activities.¹⁹

Best management practices

The bill authorizes the Director to require both of the following to perform best management practices:

1. Any person the Director required to perform mitigation for a permanent impact by constructing an equivalent area of channel or site-specific measurement to provide a geomorphically stable feature in the impacted watershed (see, row 1 of the “**Permanent impacts mitigation table**,” above);
2. Any person required to do mitigation for a temporary impact.

¹⁹ R.C. 6111.313(B)(2).

Under the bill, best management practices include 15 specifications regarding how construction activities should be conducted and how an impacted area must be restored. The specifications include requirements such as:

- The disturbance and removal of vegetation from the project construction area must be avoided where possible and minimized to the extent practicable;
- Fill material must consist of suitable non-erodible material and be maintained and stabilized to prevent erosion; and
- Chemically treated lumber must not be used in structures that come into contact with waters of the state.²⁰

Additional reporting and monitoring

The bill authorizes the Director to impose reporting and monitoring requirements on any person or entity that the Director required to perform mitigation for a permanent impact by constructing an equivalent area of channel or site-specific measurement to provide a geomorphically stable feature in the impacted watershed (see, row 1 of the “**Permanent impacts mitigation table**,” above). Those additional reporting and monitoring requirements include:

1. A requirement that mitigation required for the ephemeral feature be monitored for up to two years after completion of mitigation construction activities (including specifications that no further monitoring be required if performance criteria are met, but that the monitoring may be extended and a mitigation plan revised if not);
2. A requirement that construction of required mitigation begin no later than 30 days after completion of fill activities and must be completed no later than one year thereafter, unless additional time is required for the project;
3. A requirement that annual monitoring reports be submitted to the Director no later than December 31 of each year following the first full growing season and completion of mitigation construction until performance criteria are met; and
4. Requirements specifying what information the reports must contain (such as the status of all required mitigation for the project, contact information, a list of native seed mixes planted in all mitigation areas, and specific color photographs).²¹

The bill also establishes additional reporting and demonstration requirements that the Director may impose (such as providing the minimum acreage of the mitigation and demonstrating other factors regarding the mitigation) up to two years after the completion of

²⁰ R.C. 6111.315(E), (H), and (O). For a complete list of the 15 best management practices, see R.C. 6111.315.

²¹ R.C. 6111.314(A). For a complete list of details regarding what the annual report must contain, see R.C. 6111.314(A)(3)(a) to (h).

construction of any required mitigation, regardless of whether the impact of that mitigation was permanent or temporary.²²

Exclusions

The bill specifically excludes two types of projects from the bill's mitigation requirements, best management practices, and reporting and monitoring requirements. Under the bill, the Director may not impose these requirements or practices or any additional requirements upon either of the following:

1. A restoration or enhancement project that will result in a net improvement of water quality. The bill specifies that projects that will result in a net improvement of water quality may include a project under section 319 of the CWA, an H2Ohio project, a water resource restoration sponsor program, a wetland mitigation bank, or an in-lieu fee mitigation project. To qualify under this exception, a person must submit a demonstration as part of a mitigation proposal that the project will result in a net improvement in water quality.
2. A project for the filling or discharge of dredged material into a regulated ephemeral feature that impacts $\frac{3}{100}$ of an acre or less of streambed. For purposes of this exclusion, when culvert maintenance or replacement is involved in the project, only an impact to a regulated ephemeral feature that goes beyond the enclosed configuration of the existing culvert structure must be included in the calculation of the impacted streambed acreage.²³

Prohibition against additional requirements

Regarding ephemeral features subject to the bill's requirements, the bill specifically prohibits the Director from both of the following:

- Imposing or requiring any mitigation standard, criteria, scientific method, process, or other procedure or policy not specified by the bill with respect to a proposed impact to a regulated ephemeral feature; and
- Imposing any requirement on an activity impacting a regulated ephemeral feature beyond those specified in the bill or by administrative rule for any activity impacting an ephemeral feature that requires the issuance of a 401 certification.²⁴

Other state environmental laws

Though certain ephemeral features are excluded by the bill from regulation under the Ohio's Water Pollution Control law, the bill specifies that other pollution control laws still apply to deposits of waste in ephemeral features. In particular, the improper disposal of solid, infectious, or hazardous wastes or construction and demolition debris in ephemeral features is

²² R.C. 6111.314(B).

²³ R.C. 6111.316.

²⁴ R.C. 6111.312.

still prohibited. And, the Director of Environmental Protection and other state agencies may continue to take any actions under other laws (but not the Water Pollution Control Law) that apply to the discharge, deposit, dumping, or placement of waste, debris, or other materials in an ephemeral feature. For example, the Department of Health can still regulate the deposit of radioactive material in an ephemeral feature.²⁵

Impacts to other statutes

To exclude certain ephemeral features from regulation under Ohio's Water Pollution Control Law, the bill alters the definition of "waters of the state." However, other chapters of the Revised Code that do not appear in the bill use this definition. Thus, the bill has the effect of also excluding those ephemeral features for purposes of regulation under the following programs:

Citation	Heading
R.C. 903.01	Concentrated Animal Feeding Facilities (CAFFs)
R.C. 1503.50	Forest management
R.C. 3746.07	Voluntary Action Program (VAP)

In addition, many other provisions of the Revised Code refer to "waters of the state" with similar or slightly varying definitions than that used in the Water Pollution Control Law. In these provisions, the term "waters of the state" does not exclude any ephemeral features. The table below indicates all references to a defined term "waters of the state" that bear some relation to the Water Pollution Control Law.

Revised Code sections containing "waters of the state"	Subject
6119.011	Regional water and sewer districts
1513.01 and 1513.07(A)(5)	Coal surface mining
1509.01 and 1509.22(C)(2)	Brine disposal
6121.01	Ohio Water Development Authority
6112.01	Private sewer systems

²⁵ R.C. 6111.011. See R.C. Chapter 3748, not in the bill.

Revised Code sections containing “waters of the state”	Subject
939.01 and 939.10	Soil and water conservation
940.01 (F) and (G); see 940.02(G)	Soil and Water Conservation Commission

Review fee

The bill eliminates the current review fee for a 401 certification that applies to any ephemeral stream. That fee is \$5 per linear foot of stream to be impacted, or \$200, whichever is greater.²⁶

Federal Interagency Review Team

The bill requires the Director of OEPA, the Director of Natural Resources, and the Director of Transportation to each appoint an agency designee and an alternate to the federal Interagency Review Team (IRT). Under the CWA, the IRT reviews documentation and advises the U.S. Army Corps of Engineers’ district engineers on mitigation projects. Under the bill, the appointees to the IRT must have significant experience in at least one of the following three subject areas:

- The restoration of wetlands or streams;
- The enhancement and protection of wetlands or streams; or
- The development of compensatory mitigation plans.

At least one appointee must maintain accurate and complete minutes of IRT meetings, including any documentation of the basis for any comments or decisions of the IRT with respect to wetland mitigation banks, stream mitigation banks, in-lieu fee mitigation proposals, permittee responsible mitigations, approvals, credit releases, or management. The bill specifies the minutes are a public record.²⁷ Current law does not specify requirements concerning appointees to the IRT.

Protocols for the adoption of mitigation standards

The bill alters a provision of current law requiring all substantive standards used by the Director of OEPA to evaluate 401 certification mitigation proposals to be adopted via rule in accordance with the Administrative Procedure Act. In so doing, the provision specifies all of the following:

- All substantive standards used by the IRT when reviewing documentation related to mitigation activities are also subject to that provision;

²⁶ R.C. 3745.114.

²⁷ R.C. 6111.31(A) and (B).

- The provision applies to any guidance or guidelines used by the Director or the IRT;
- A mitigation proposal may include proposals involving a wetland mitigation bank or stream mitigation bank, in-lieu fee mitigation, or permittee responsible mitigation; and
- The provision also applies to the establishment of performance metrics, a request for credit release, or termination of monitoring requirements.

Current law creates an exception to the requirement that all substantive mitigation standards be adopted by rule. Under that exception, the Director may use additional mitigation standards, criteria, etc. (that are not established via rule) in reviewing a mitigation proposal if the Director notifies the applicant in advance that additional standards will be considered as part of the review process. The bill eliminates this exception.

Finally, the bill establishes a timeline by which the Director must adopt the rules as follows:

1. The Director must review and adopt the substantive standards not later than 24 months after the bill's effective date;
2. Beginning on the date the Director adopts the standards or 24 months after the bill's effective date, whichever is earlier, standards that have not been adopted by rule do not have the force of law and cannot be used in the review of any 401 certification, permit denial, or as a standard of mitigation;
3. The administrative actions taken by the Director are not subject to requirements governing the elimination of existing regulatory restrictions; and
4. Until the effective date of actions taken by the Director or 24 months after the bill's effective date, whichever is earlier, the Director may continue evaluating the adequacy of a mitigation proposal contained in an application for a 401 certification in accordance with current law.²⁸

Property tax exemption

The bill authorizes a property tax exemption for certain property owned or held by a 501(c)(3) organization that is dedicated to the conservation of natural resources or improving water quality. To be eligible for the property tax exemption, the property must be subject to one of the following:

1. The property is subject to a mitigation requirement pursuant to a section 401 water quality certification or isolated wetland permit; or
2. A project to improve the quality of the state's natural waters that receives funding through the H2Ohio program.²⁹

²⁸ R.C. 6111.31(C) and Section 4.

²⁹ R.C. 5709.09.

Class VI injection wells

The bill requires the Department of Natural Resources (DNR) to begin working with the U.S. EPA and the U.S. Department of Energy to develop a statewide underground injection control program for Class VI injection wells (used to inject CO₂ into deep rock formations) in order to receive primary enforcement authority (primacy) in Ohio over those wells from the U.S. EPA.³⁰

Indian Lake weed mitigation

The bill requires the Director of DNR to enter into a memorandum of understanding with the Indian Lake Watershed Project concerning weed harvesting services at Indian Lake and appropriates \$500,000 for weed harvesting projects in FY 2022. The bill re-appropriates any unused portion of those funds for FY 2023.³¹

HISTORY

Action	Date
Introduced	03-03-21
Reported, H. Agriculture & Conservation	09-28-21
Passed House (61-33)	09-29-21
Reported, S. Agriculture & Natural Resources	---

ANHB0175RS-134/ks

³⁰ R.C. 1571.30. For more information regarding Class VI wells, see U.S. EPA, [“Class VI – Wells used for Geologic Sequestration of Carbon Dioxide.”](#)

³¹ Sections 5 and 6.