

# **THE ILLINOIS Manufacturer**

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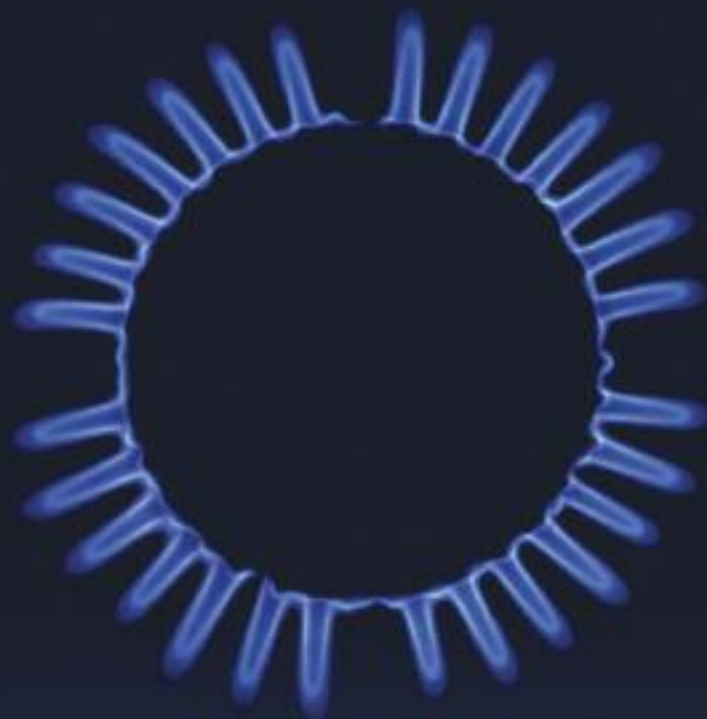
**Summer 2015**

**Uncertainty  
everywhere . . .  
Time and  
money  
dwindling  
in Illinois**

**Groundhog Day at the Capitol  
Choosing the right ACA  
employer reporting partner**

**You've been hacked — Now what?**

**Avoiding pregnancy  
discrimination claims**



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# Summer 2015



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## Mission Statement

The object for which the Illinois Manufacturers' Association was formed is to strengthen the economic, social, environmental and governmental conditions for manufacturing and allied enterprises in the state of Illinois, resulting in an enlarged business base and increased employment.

### Chairman

Andrew Faville

### President

Gregory W. Baise

### Editor

Stefany J. Henson

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For address changes and adjustments, write to *The Illinois Manufacturer*. Presort standard postage paid at Bloomington, IL. Postmaster: Send address changes to *The Illinois Manufacturer*, 220 East Adams Street, Springfield, IL 62701. Telephone: 217-522-1240.

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## Manufacturers Education Initiative a success



And unlike so many government-run pilot programs, the MEI is producing results. Many manufacturers report a significant improvement in the quality of applicants seeking employment.

**W**ith gloom and doom headlines reporting the severe dysfunction in our state government, many assume that this hell-in-a-hand-basket environment Illinois is mired in spells disaster for everything the IMA endeavors to do in conjunction with government.

Not so by a long shot. In fact, in an atmosphere where bad news is de rigeur, precious little is said about the fact that the manufacturing community and our state's education system have shown the willingness to work together for the common good of future generations. Success stories don't often generate headlines, but they DO generate results. Give me the latter every time.

Nearly five years ago, then-IMA Board Chairman Ron Bullock of Bison Gear & Engineering in St. Charles called together a group of local high schools, community colleges and manufacturers to design pathways of educational opportunities in an effort to close the skills gap facing manufacturing. They reviewed best practices of efforts across the nation to design a private-public sector partnership that would work — and work well — in the face of diminishing technical education funding. And Chairman Bullock did more than just spearhead the effort; he primed the pump with generous donations of his own funds to the IMA Education Foundation.

Ron Bullock's vision came to fruition in the fall of 2012 when the Manufacturers Education Initiative (MEI) was launched. Since then, it has grown to include 30 community colleges and nearly 60 high schools throughout Illinois. And unlike so many government-run pilot programs, the MEI is producing results. Many manufacturers report a significant improvement in the quality of applicants seeking employment. That difference is directly tied to our partnerships. And while there is much left to do, the infrastructure is in place. Kudos to IMA's Vice President of External Affairs Jim Nelson, whose patience and determination was the human-resource underpinning needed to make the program a success.

To formally recognize excellence, the IMA Board of Directors, led by Chairman Andrew Faville (Falex Corporation, Sugar Grove), recently authorized our Education Foundation to make up to ten donations of \$25,000 to the scholarship funds of top performing community colleges. Our Education Foundation Board of Directors has selected six colleges and plans to make additional awards in the near future. I'd like to tell you a little about these colleges:

- **Danville Area Community College** was first to put together a true private-public sector partnership creating the footprint of training high school students in advanced machining to the specifications of employers utilizing both dual credit and dual enrollment.
- **William J. Daley College** in Chicago was a partner in developing the approach of using stackable credentials and was key to developing the formal Manufacturers Education Initiative.
- **William Rainey Harper College** (Palatine) was also a key partner in creating the MEI and expanded its focus by offering students four areas of study leading to an Associates degree with articulation agreements for students wishing to pursue a Bachelors degree with four state universities.
- **Illinois Valley Community College** (Oglesby) not only embraced the MEI and added a newly designed advanced manufacturing space featuring some of the latest CNC machines, but also honored manufacturing's foundation with manual mills and lathes.
- **Kankakee Community College** refurbished a building to create what is currently the largest manufacturing facility at any community college in Illinois. The space includes 48 welding booths that can be monitored simultaneously. Kankakee works directly with 20 manufacturing firms and is looking to expand that number.
- **Waubonsee Community College** (Sugar Grove) is teaming up with six area high schools and expanding capacity at a newly renovated space that includes a state of the art quality control laboratory.

Other colleges are doing a fine job as well, but these six are leading the pack. It's important that we recognize their work in order to encourage similar efforts by other schools.

If you don't see your local community college listed here, call them and ask what they're doing to prepare the workforce to industry standards. Tell them to get on board; there's room for improvement and the results mean better jobs and higher-quality employees.

And the next time someone laments about the failure of the American education system, give them a glimmer of hope . . . like we're giving to young men and women looking for a career in manufacturing. ■



## Measure your progress on a global scale

The McGladrey Manufacturing & Distribution Monitor provides valuable industry information that can serve as a benchmark for your company's strategic planning.

With details on the best practices of thriving companies, the Monitor provides a close look at the issues affecting the industry around the world, and can serve as an authoritative resource for your organization. Go to [www.mcgladrey.com/manufacturing](http://www.mcgladrey.com/manufacturing) to view the latest Monitor report.

For more information, contact National Industrial Products Practice Leader and IMA board member **Karen Kurek**, at [karen.kurek@mcgladrey.com](mailto:karen.kurek@mcgladrey.com) or 312.634.3920.



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## Groundhog Day at the Capitol



At the end of the day, the process of agreeing on the budget will be fairly routine but the ultimate stake is whether or not some of Governor Rauner's agenda will be enacted into law.

Over the past several weeks, since the scheduled end of the spring legislative session and start of the state's new fiscal year on July 1, I've been asked repeatedly by family, friends, and IMA member companies about the state of affairs at the Capitol and why our elected officials cannot reach agreement on the primary mission of passing a balanced state budget. In my last column in May, I correctly predicted a long, hot summer in Springfield for lawmakers.

It's like watching the 1990's movie *Groundhog Day* starring Bill Murray and Andie McDowell. Murray plays Phil, a weatherman who is not happy to be assigned to a story featuring a weather forecasting rat and doesn't attempt to hide his frustration. Every day, he wakes up to rediscover that it's Groundhog Day again and again. He's locked into spending every day in the same place with the same people doing the same thing.

Now, imagine a similar story playing out at the State Capitol. In his first year in office, Governor Bruce Rauner proposed an aggressive Turnaround Agenda that includes significant reforms of workers' compensation, our court system, and collective bargaining rights along with term limits and redistricting reform. At every chance, the Governor correctly notes that Illinois has a massive pension debt, billions of dollars in unpaid bills, and a business climate that is not attractive to job creators.

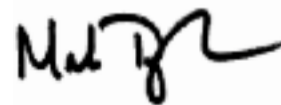
Democrat leadership continually rejects this Turnaround Agenda and refuses to negotiate "non budget" issues in concert with the state budget. Democrats did pass a \$36 billion state budget in the final days of session, but readily admitted that it far exceeds the \$32 billion in revenue that the state is expected to generate this year. Governor Rauner vetoed this unbalanced state budget with the exception of K-12 education so that schools can open on time later this summer.

Every week, the House of Representatives and Senate return to the State Capitol and host public hearings to focus on state programs that are not being funded because of the lack of a state budget. They trot out panels of individuals that lament the lack of funding for programs like child care, senior care or access to higher education in an effort to shift blame onto the Governor. At the same time, Governor Rauner and his administration express support for these valuable programs but note that they can't be funded with a grossly out of balance state budget.

This same scenario has played out for weeks. All sides are locked down into position for a long, drawn-out game of high stakes budget poker rather than sitting down in earnest to try and reach a compromise. At the end of the day, the process of agreeing on the budget will be fairly routine but the ultimate stake is whether or not some of Governor Rauner's agenda will be enacted into law.

The Illinois Manufacturers' Association has now testified before both the entire House of Representatives and Senate about the need for workers' compensation reform. Illinois has the 7th highest cost in the United States and it's often cited by manufacturers as a primary reason why they don't locate or expand (and sometimes leave) Illinois. We've called for tax reform and watched extensions of both the Manufacturers Purchase Credit and now the Research & Development tax credit get caught up in the political fight for the heart of Illinois.

We have seen an exodus of residents from the state and there is no doubt that we need real reforms to make Illinois an attractive place to do business again. It's past time for Illinois' elected leaders to sit down and get it done. ■



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# How to evaluate and select the right ACA employer reporting partner

Since being signed into law on March 23, 2010, the Patient Protection & Affordable Care Act has been referred to as many different things — Obamacare, HR 3590, HR 4872, PPACA, ACA, and perhaps most frequently, WTF (ask a neighbor if you aren't familiar with this last one). Regardless of what you call it, this piece of legislation continues to impact the way that Illinois manufacturers operate and grow their businesses.

Most recently, the focus for many manufacturers has shifted to the recently released 2015 IRS reporting rules for enforcing the employer shared responsibility provisions of the ACA, often referred to as the “pay or play” penalty.

If you missed the IMA's July 8, 2015 webinar on this topic, you may find it worthwhile to watch the recording (visit [www.mis-360.com/webinars](http://www.mis-360.com/webinars) to view it). While this article won't cover every nuance of your reporting responsibilities under the law, the webinar provides a comprehensive overview of this new compliance requirement.

In short, Internal Revenue Code §6056 mandates that employers with an average of 50 or more full-time equivalent employees (FTEs) in the calendar year prior to the reporting period must provide each full-time employee with a completed IRS Form 1095-C by the following January 31. This means that employers with 50+ FTEs in 2014 must provide any and all full time employees in 2015 with a 1095-C no later than January 31, 2016.

Overall, the chances are fairly good that you have all the information necessary to accurately complete Form 1095-C for each of your full-time employees. That said, the chances are even better that the necessary data exists across numer-

ous “systems of record” (payroll, benefits administration system, paper files, etc), making this compliance exercise maybe not as easy as you had hoped.

If you haven't seen the 1095-C, do yourself a favor and google it (“IRS Form 1095-C”). It's not long, and on the surface, it looks like a fairly simple form to complete. (Note: The 2015 version is still in draft form, and it is virtually identical to the optional 2014 final form.)

Once you have a handle on the information being captured on the 1095-C, ask yourself several key questions. Does my payroll vendor know my benefits eligibility rules? Does my benefits broker and/or administration system track time and attendance to determine full-time status and benefits eligibility? Could I easily report the different codes in Part II of the form for each of my full-time employees based on their own unique eligibility and enrollment circumstances?

Is your blood pressure elevated yet? Take a deep breath. There is still time to develop a rational and efficient 1095-C reporting strategy, and fortunately, there are a host of solutions for manufacturers of all shapes and sizes. The only question is which solution is right for you.

Before you sign off on allowing any vendor to complete this complex compliance exercise for you, consider several of the following tips for evaluating ACA reporting solutions.

## 1. Payroll vs. Benefits

**Administration Systems:** Many payroll vendors purport to provide a reporting solution. Unless you are also licensing that payroll vendor's benefits administration platform, the “solution” you will be buying is most likely a data import function that will require you to populate an Excel spreadsheet with all the coded benefits eligibility and enrollment information required for Part II (and

see **ACA REPORTING** page 8



**Brad Urhausen** is the Employee Benefits Practice Leader for Manufacturers Insurance Services of Illinois (MIS). MIS and its manufacturers resource platform, MIS 360, is a group purchasing affinity program of the Illinois Manufacturers' Association. For more information, visit [www.mis-360.com](http://www.mis-360.com), email [info@mis-360.com](mailto:info@mis-360.com) or call 855-607-6190.

## ACA REPORTING

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Part III, if applicable) of the 1095-C. On the other hand, a benefits administration system that manages benefit plans, eligibility, and enrollment information will also need to capture and/or import the necessary time and attendance data to appropriately determine benefits eligibility and populate the 1095-C. Take the time to understand where the required data currently lives, and lean on your benefits consultant / health insurance broker to guide you down the right path.

### 2. Intuitive Part II Code

**Generation:** Regardless of the engine you select (payroll or benefits administration), be sure to ask how the system populates the codes and values for Part II of the 1095-C. There are a myriad of possible combinations of values depending on each full-time employee's situation, and the well-built reporting systems will have the necessary logic hard-coded into their platform to determine the appropriate codes and values for you.

### 3. Full-Time Eligibility

**Determination:** Any employee who is considered full-time at any point during the 2015 calendar year needs to receive a 1095-C.

Under the ACA, special measurement rules can be used to determine if and when a variable hour, part-time, or seasonal employee attains full-time status. A sound reporting system will deliver efficient tracking for identifying full-time employees, and it will generate and populate a 1095-C for those employees.

### 4. Implementation Timeline:

Don't delay in vetting and selecting the right ACA reporting partner. Many providers have announced "cut-off" dates in late summer/early fall to ensure that their clients are adequately served throughout the fourth quarter and into the reporting window. Consider mid-September as the drop dead date for identifying and implementing the appropriate reporting system.

Regardless of the ACA reporting partner you select, the process shouldn't drive you to pull out your hair or break the bank. While the costs of the various solutions do vary, this added measurement of compliance should not require a significant financial investment when leveraged and implemented correctly. Prudently evaluate your options, and swiftly select the right partner. Doing so will ensure that the only WTF in your ACA vocabulary stands for "wieldy tax form." ■

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## IMA 2015-2016 events you won't want to miss . . . see you there

Thursday, September 17, 2015

**IMA Breakfast Briefing: Workers Compensation Negotiation Strategies & Causation**

Mon Ami Gabi Restaurant, Oak Brook, 8:00-11:00 am — Jeanmarie Calcagno, with Bryce Downey & Lenkov LLC, will discuss Negotiation Strategies. *Meeting generously sponsored by the Rockford Area Economic Development Council*

Wednesday, October 21, 2015

**IMA Breakfast Briefing: Employee Handbooks: Why You Need Them & What You Should Have In It**

Mon Ami Gabi Restaurant, Oak Brook, 8:00-11:00 am — David Ritter, of Barnes & Thornburg, will discuss why you should have an employee handbook, what should be in it and the challenges employers face from government agencies when drafting a handbook. View a video by David (Employee Handbooks Gone Wild) in the IMA's Video Library. *Breakfast generously sponsored by Husch Blackwell.*

October 29-30, 2015

**Midwest Environmental Compliance Conference with EPA Region 5 Regulators**

Chicago Marriott O'Hare — For more information, visit <http://meeconference.com>. *Sponsorship opportunities are available.*

Friday, November 6, 2015

**IMA's Small Manufacturers Council**

Naperville Marriott, 1801 N. Naper Blvd., Naperville, 8:00 am-Noon — The SMC provides a forum for small manufacturers to discuss industry trends and other issues affecting manufacturing and includes legislative updates and a round table discussion among peers. Not a current SMC member? Join us on November 6th and find out what you've been missing. SMC meetings are open to IMA small manufacturers with 250 or less employees. *Sponsorship opportunities are available.*

Thursday, November 19, 2015

**IMA Annual Tax Conference**

Marriott Hotel, 1801 N. Naper Blvd., Naperville — 8:00 am-12:30 pm IMA's Annual Tax Conference will update you on tax law, multi-state sales & use tax, nexus, exemptions, deduction, exclusions and much more. *Conference sponsor: CDH — Additional sponsorship opportunities are available.*

Friday December 4, 2015

**IMA Annual Luncheon**

JW Marriott, 151 W. Adams, Chicago Our Luncheon Program's keynote speaker is Al Monaco, President & CEO, Enbridge Inc. *Sponsorship opportunities are available.*

**SAVE THE DATE:**

Wednesday, April 27, 2016

**IMA's Business Day at the Capitol 2016**

Springfield, Illinois

*Sponsorship opportunities are available.*

For more information, visit [www.ima-net.org/calendar-of-events/](http://www.ima-net.org/calendar-of-events/) or contact Kimberly McNamara at 630-368-5300, ext. 9371, or [kmcnamara@ima-net.org](mailto:kmcnamara@ima-net.org)





# Saving energy during your vacation 'shutdown'

It's that time of year again — time to think about family picnics and summer vacations! While temporarily halting operations to allow employees to recharge and focus on routine maintenance is common practice, it also requires careful planning.

One of the most important aspects of a 'temporary shutdown' for your business to consider is to ensure that your company is not wasting energy while you are enjoying your time off.

Manufacturing facilities alone are responsible for spending \$200 billion every year to power facilities and waste nearly 30 percent of that energy. While turning off all your machinery for a week or two will substantially reduce your usage, there are other factors that can drain your budget while your employees are away. To improve energy efficiency during your summer shutdown, we've com-

plied the most important things to keep in mind that can reduce energy usage and save money.

**Before heading into your summer shutdown, don't forget to check:**

**1. Lights**

Make sure all lights are turned off throughout the building in areas that won't be accessed during the shutdown. If possible, turn off any exterior lights with the exception of exit and security lighting.

**2. Appliances**

Items like chargers, computers, lamps, air compressors and other machines and equipment not in use should be unplugged. Determine if there is more than one energy source that requires a multi-step lockout procedure. Make sure all necessary devices are in lockout mode and cannot be turned on until the shutdown

is over. Redirect, stop or release all stored energy. Any power strips should be turned off.

**3. Doors and windows**

Tightly closing and locking doors and windows conserves energy by not letting out hot or cold air from the building. This includes closing the curtains to keep the room at a moderate temperature.

**4. Thermostat**

Adjust to a moderate temperature that allows any employees or workers present during the shutdown to dress in accordance with the weather and not be too hot or cold.

**5. Water**

In employee areas, such as restrooms and break rooms, check drinking fountains, faucets and toilets for water leaks. Turn off any automatic flushing systems. Also, check water meters and turn off water heaters if possible.

**6. HVAC**

Turn off all manual and automatic exhaust fans and shut down any unnecessary ventilation fans.

It is extremely important to lock-out all energy sources until work is completed so machines and equipment do not get turned on inadvertently, which can pose a serious safety risk to maintenance workers. Any potential energy must be relieved, disconnected and restrained for safety purposes. Be sure this is done by someone who is competent and aware of hazardous energy risks.

When it comes time to turn all your equipment back on, it's important to stagger the start-ups to minimize a large spike in energy demand. Determine the order in which you will turn everything back on beforehand to be as efficient as possible. Constellation offers a comprehensive portfolio of energy management services to help companies use energy more efficiently and purchase it more strategically. ■



Constellation is the preferred energy provider for IMA members. For more information, visit [www.constellation.com/IMA](http://www.constellation.com/IMA). Or, you may contact Constellation's Richard Cialabrini at 888-312-1563 or email [Richard.cialabrini@exeloncorp.com](mailto:Richard.cialabrini@exeloncorp.com). Author: Keith Poli, Constellation.

# Illinois OSHA's On-Site Safety and Health Consultation Program



Illinois OSHA's "On-Site Safety and Health Consultation Program" provides free and confidential safety and health OSHA compliance advice to small and medium-sized employers (500 employees or less). This program is administered through the Illinois Department of Labor and allows each employer to determine whether the scope of the visit is limited in nature or comprehensive (wall to wall). It includes:

- Required written program review;
- Hazard identification i.e., machine guarding, electrical, life safety;
- Hazard control recommendations and informal training;
- Industrial hygiene monitoring (air and noise);
- Injury and illness record keeping review and analysis; and
- Safety and health management system evaluation.

No citations or penalties are issued. The only prerequisite is employers must abate OSHA deficiencies deemed serious by the consultant.

## How does the typical OSHA consultation work?

### Opening conference

- Review the purpose, scope, employee rights, and the relationship to enforcement;
- Review OSHA related injury/illness data and compare with similar industries;
- Review required written programs; and
- Overview the safety and health management system.

### Walk-through

- Assessment of occupational health exposures i.e. dust, noise, mist and fumes;
- Identify sub-standard conditions and work practices;
- Discuss specific concerns;
- Interview employees as necessary; and

- Assessment of the present job safety and health program.

### Closing conference

- Review and discuss standard deficiencies and strengths;
- Review time required for abating serious hazards; and
- Discuss the contents of the written report provided by the consultant.

### How do I benefit?

Employer survey responses are overwhelmingly supportive of the prompt, professional and courteous manner of the program consultants. They believe the consultants are knowledgeable and were able to address their specific safety and health related concerns. Most importantly, they state that there is a strong likelihood of using our services again and/or recommending our services to others.

employers for OSHA standards compliance and their exemplary safety and health management systems. Worksites that receive SHARP recognition are exempt from OSHA programmed inspections for up to two years, and subsequent renewal for up to three years.

### Benefits of SHARP

By achieving SHARP status, you have placed yourself in an elite group of small businesses that maintain exemplary safety and health management systems. In addition:

- Work with CONSULTATION to identify and implement best practices;

"Participation in SHARP has driven Scot Forge to move beyond simply striving for compliance to relentlessly pursuing the goal of sending every employee home every day without an injury. We have seen a six-fold reduction in our injuries since beginning our partnership with the IL OSHA On-Site Consultation Service yielding an Experience Modification Rate (EMR) of 0.49 which improves our competitiveness in a challenging economic environment. We look forward to this relationship creating even better performance in the future."

— John McGillivray, Manager, Safety & Environmental, Scot Forge, Illinois SHARP COMPANY since 2007

### What is SHARP?

Currently 34 Illinois employers have qualified for this prestigious OSHA Cooperative Program.

The Safety and Health Achievement Recognition Program (SHARP) is designed to recognize

- Develop an innovative safety and health management system;
- Boost employee morale by creating a safe, healthy workplace;
- Involve employees to continuously improve workplace conditions;

see **SHARP** page 19

Brandy Lozosky is the Marketing & Outreach Coordinator for the Illinois Department of Labor-Illinois OSHA in Springfield. Brandy can be reached at 217-524-4246, or visit <http://www.illinois.gov/idol/Laws-Rules/safety/Consultation> for more information.



# Avoiding pregnancy discrimination claims

Understanding *Young v. UPS* and Illinois' new pregnancy accommodation laws

In March 2015, the Supreme Court issued its decision in *Young v. UPS*, addressing pregnancy discrimination in the workplace. The Court's decision has widespread implications for employers, including manufacturers, across the country. Additionally, in January 2015, Illinois enacted a new law regarding pregnancy accommodations. This article explains the *Young* decision and Illinois' new law and gives employers practical suggestions to help avoid pregnancy discrimination claims.

## Young v. UPS

### Factual background

While employed for UPS, Ms. Young's doctor provided her with lifting restrictions related to her pregnancy. As her job required her to perform work beyond these limitations, Young asked UPS for a temporary light duty assignment. UPS

denied Young's request for light duty work because its policies only provided for accommodations for employees who were injured at work, had temporarily lost their federal certificate to drive a commercial vehicle or had a condition covered by the Americans with Disabilities Act (ADA). As a result, Young was forced to take an extended unpaid leave from work. Young filed suit against UPS, claiming that UPS discriminated against her in violation of the Pregnancy Discrimination Act.

### The Pregnancy Discrimination Act

In 1978, the Pregnancy Discrimination Act (PDA) amended Title VII of the Civil Rights Act of 1964. Under the PDA, sex discrimination under Title VII includes discrimination based on pregnancy, childbirth or related medical conditions. The PDA also requires that employers treat female employees

"affected by pregnancy, childbirth, or related medical conditions" . . . "the same for all employment-related purposes" . . . "as other persons not so affected but similar in their ability or inability to work." In *Young*, the Court interpreted the meaning of this requirement.

### The Court's decision

Young contended that all women dealing with pregnancy, childbirth or related medical conditions should be treated equally for all employment-related purposes as other employees with conditions that similarly impair their ability to work. However, the Court disagreed, finding that this interpretation went too far.

UPS argued that the PDA added this requirement for the limited purpose of defining sex bias to include pregnancy discrimination. The Court also rejected this view.

The Court found that an employer could not treat a pregnant employee differently than a non-pregnant employee, unless the employer had a sufficiently strong non-discriminatory reason for such discrimination. The Court held that the *McDonnell Douglas* burden-shifting framework applies in pregnancy discrimination cases. The Court explained that a plaintiff must establish (1) that she is in the protected group; (2) that she asked to be accommodated; (3) that her employer did not accommodate her; and (4) that her employer provided a similar accommodation to other, non-pregnant employees who were "similar in their ability or inability to work." If the plaintiff can establish these four elements, the burden then shifts to the defendant-employer to provide a legitimate business reason supporting its workplace policy.

see **PREGNANCY** page 19



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# You've been hacked — Now what? Steps a company must take following a cyber attack

In the short time since our first cyber risk article published in the Spring edition of *The Illinois Manufacturer*, another major hack has occurred. And this time it was not the private sector, but, rather, the U.S. Office of Personnel Management that was breached.<sup>1</sup> On Thursday, June 4, the White House announced the breach of up to four million current and former federal employees' records dating as far back as the 1980s<sup>2</sup> and impacting an estimated 2.1 million current federal employees. While the U.S. Government was the victim this time, this recent attack is yet another example that no entity is immune from the risk of a cyber attack.<sup>3</sup>

Given that the chance of a cyber attack is more than a mere possibility, companies must be proactive by developing and implementing comprehensive strategies designed to minimize the impact of a data breach. In fact, data shows that companies that are proactive in this area save time and money, and minimize the impact of a data breach on its business, in the event one occurs. For example, companies that have a strong security posture as well as a business continuity management plan will experience lower costs and expenses in the event of a data breach.<sup>4</sup> The data speaks to developing an incident response plan before a breach ever occurs.

This article discusses the issues that a company should consider and steps it should take following a cyber security breach.

## First Things First: Emergency Response

In the event of a breach, one of a company's first and primary concerns must be identifying and containing the breach. To the extent possible, a company will also want to recover any lost data. As is the case with any crisis, a company will be better

equipped to address a breach if it forms an incident response team before a breach ever occurs.

The incident response team should include personnel from several relevant areas of the company, including management, IT and human resources. It is also critical to identify an IT forensics expert that is experienced in responding to data breaches, so that you can contact that company immediately upon learning of a breach. It may also be important to retain a media consultant, depending on the nature of your business as well as the breach itself. A breached company will also want to place its insurance carrier on notice of the incident.

Finally, the participation of an attorney in the incident response process will allow for the protection of the attorney-client privilege, and will also provide assistance with responding to an investigation by the United States or other government entity, should one occur. Legal counsel will also be able to ensure your compliance with the notifica-

tion laws of every state that is impacted by the breach.

## Documenting Post-Breach Efforts

In the event of a breach, it is critical that your company document all post-breach remedial measures. This information will be important for determining the sufficiency of your remediation efforts, preventing similar incidents from occurring in the future, and — if necessary — responding to an investigation by the United States government or other entity.

It is also important that your company preserve all relevant information including hardware. A company that fails to preserve all relevant data exposes itself to potential liability for spoliation of evidence claims — a separate and independent cause of action that is based on a party's failure to preserve information relevant to a lawsuit.<sup>5</sup> Moreover, documenting remediation efforts will prove helpful in defending against subsequent lawsuits, in the event of litigation. Such an audit and evalua-

see **HACKED** page 23



## IMA MEMBER PROFILE: HENRY Technologies, Inc., Chatham, Illinois



### The secret is out!

**L**ocated in Chatham, Illinois, just south of Springfield, there's a manufacturing company with a story to tell. Many locals don't even know it exists, but this long-established business exports engineered products across the globe and makes a very significant contribution to the local economy.

IMA member HENRY Tech-

nologies, Inc., has been located on South Main Street in Chatham for over 40 years — formerly as AC&R Components and more recently as part of the HENRY group with interests in Texas, Canada, Scotland, China, Singapore and Australia. With 100 years of history, over 100,000 square feet of manufacturing space and a team nearly 100 strong, this is a business that was built on the past

and is now looking to the future.

We all rely on refrigeration but the sheer scale of the industry served by HENRY would be a surprise. It is a multi-billion dollar sector that is below most folks' radar. The display cases and freezers in our supermarkets and stores are a familiar sight, but do you ever think about how all that produce has been kept cool or frozen through the journey from farm field to fork? Think about the supply lines from distant lands, bringing a bewildering choice to our tables, from crayfish to camembert. In the realm of sport, how many acres of ice are kept frozen to support our hockey leagues? Not to mention the cooling of supercomputers, organs for transplant and all that ice cream!

HENRY manufactures a range of components used in refrigeration systems; high-integrity vessels and valves, oil management controls and safety devices, pressure relief valves and filters. All are manufactured with care by a dedicated team of people from central Illinois. Raw materials like steel, brass and copper are transformed into a catalogue of products for sale to customers worldwide who value quality,

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reliability and value for their money. As a result, the HENRY Technologies brand and 'Made in USA' can be found everywhere from the Czech Republic to Thailand and from sea to shining sea.

Hard working, committed people are key to HENRY Technologies



Theresa Smith

future. HENRY Technologies team member **Theresa Smith** from Auburn has been with the company for 15 years. Theresa is an expert in the assembly and calibration of relief valves,

used to protect lives and property in the event of a fire. Refrigerant is stored as a liquid under pressure and constitutes an explosive hazard at elevated temperatures. At home in Auburn, Theresa is an active mother of eight, grandmother of ten and great-grandmother of four. She also works part time assisting residents of a local retirement home. Theresa has said she would love to see HENRY providing opportunities for the next generation."

Machining is a core activity and one of the skilled associates doing machining is **John Spurgeon**, originally from Shipman and now living in Thayer. John has been a machinist for 38 years. Formerly at Eaton and Echlin, and now with eight years at



John Spurgeon

HENRY, John is responsible for programming and setting machines to efficiently achieve the high accuracies required in valve manufacturing. His work is key to achieving improved efficiency in this area of the business. John said, "I want to see job security, maybe even future growth, along with a real sense of the HENRY team working as a family". John keeps fit playing basketball and is a keen bowler.



Jason Vance

**Jason Vance**, also a Thayer resident, joined HENRY 18 years ago and has progressed to

become the focal point of scheduling and planning at the company. Jason thrives on the challenge of making things happen on time. He was a key member of the team tasked with improving business processes and the associated IT systems. Jason says, "Manufacturing is a learning curve. There's always pressure to improve and adapt. Everyone knows that we can't stand still. It's good to have an opportunity to help a firm with a respected history have a bright future."

HENRY manufactures uniquely designed pressure vessels. **Jessica**



Jessica Murray-Brosman

**Murray-Brosman** is part of a team that welds those vessels to standards independently verified by the

American Society of Manufacturing Engineers. It may be an unusual career choice, but Jessie has welding in her DNA. She learned the skill from her Dad and when the opportunity arose, she transferred from electromechanical assembly to the HENRY fabrication team. Jessie owns a horse, stabled near her home in Edinburg. She is a keen rider and also keeps a range of other pets including, she said, "the bear I am married to!"

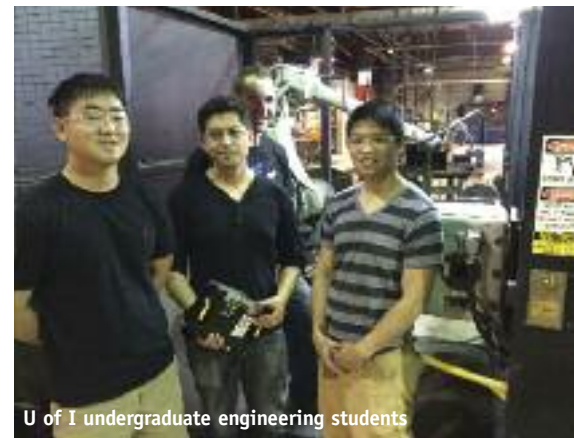
**Sandy MacDonald**, from Scotland, is Senior V.P., Operations for the HENRY Technologies Group. Sandy says, "We think it's important to develop the HENRY Technologies identity in nearby communities. To further entrench HENRY in the community, we have recently moved from a banking firm in Chicago, to a



Sandy MacDonald

local provider. We also have an exciting project running currently with undergraduate engi-

neers at the University of Illinois, Champaign. A group of bright young students is helping us to repurpose some otherwise obsolete equipment in a way we think will improve our productivity. As part of the wider HENRY Technologies Group, we can access resources and



U of I undergraduate engineering students

share knowledge with colleagues in Canada, Scotland and points east. This is a company of people who have something to be proud of. Essentially, the Chatham team does the magic of adding value to raw material. They bring money from out-of-state, even out-of-country, into this community and everyone benefits. Manufacturing activity is an important but often uncelebrated part of any local economy. I think it is right for the people at HENRY Technologies in Chatham to be proud of what they do and to be recognized for their hard work in the wider community." ■

*IMA member HENRY Technologies, Inc., is located at 701 South Main Street, Chatham, Illinois 62629. For more information about HENRY Technologies, Inc., visit their Website at [www.henrytech.com](http://www.henrytech.com), call 217-483-2406, or email [geninfo@henrytech.com](mailto:geninfo@henrytech.com).*

# Uncertainty everywhere . . . Time a

## *Taxpayer Alert: Illinois State and Local Tax Legislati*

**A**s this article is written, the Illinois General Assembly and Illinois' new governor remain in a stalemate. They have failed to agree on a budget for the current fiscal year, let alone agree on long-term tax revenue increases to address budget shortfalls or tax reform measures. This article briefly reviews the current stalemate, including its immediate impact on manufacturers, and explores potential future tax legislation and other current developments.

### **Springfield stalemate**

The Illinois Supreme Court in early May, 2015 unanimously ruled unconstitutional a landmark state pension law that aimed to scale back government worker benefits to erase a massive \$105 billion retirement system debt. While this ruling sent lawmakers and Governor Rauner back to the negotiating table, to date there has been no progress on this pressing issue. The pressure to resolve the stalemate increased when the governor on June 25th vetoed the budget passed by the General Assembly for the fiscal year commencing July 1, 2015. The Governor asserted the budget was woefully out of balance. He has refused to consider any tax hikes until the General Assembly addresses the reform legislation he had proposed to improve the business climate in Illinois, which includes tort and workmens' compensation reforms. The pressure to resolve the stalemate increased once again as the State entered the new fiscal year beginning July 1st without a budget in place.

### **Suspension of new EDGE credits**

The Governor's Office announced that in light of the budget stalemate, the administration is suspending future incentive offers to companies for business attraction and retention, including most notably EDGE Tax Credits. The EDGE Tax Credit program is

designed to offer a special tax incentive to encourage companies to locate or expand business operations in Illinois. The program can provide tax credits against corporate income tax liabilities to qualifying companies, equal to the amount of state income taxes withheld from the salaries of employees in newly created jobs. The non-refundable credits can be used to offset corporate income taxes over a period not to exceed 10 years. Written applications for credits are filed by taxpayers with the Department of Commerce and Economic Opportunity. The Governor's action suspended issuance of new EDGE credits by the Department, as well as suspended new Large Business Attraction Grants, Employer Training Investment Program Incentive Grants and Prime Sites Grants. However, all commitments previously made under these programs will be honored.

### **Tax increase all but certain — Form it takes purely speculative**

As part of a long term budget resolution, it seems there will undoubtedly be some significant state tax increases. Two likely candidates, an income tax hike and imposition of sales tax on services, are described below.

- **Income tax hike.** Part of the current budget crisis is attributable to the decrease at the beginning of 2015 of Illinois income tax rates. The General Assembly in 2011 increased Illinois' flat income tax rates from 3.0 percent to 5.0 percent, for individuals, and from 7.3 percent to 9.5 percent, for corporations. Pursuant to this 2011 legislation, the rates automatically decreased at the beginning of 2015 back down to 3.75 percent, for individuals, and 7.75 percent, for corporations. It seems likely that an eventual tax increase will be funded at least in part by an increase in the current income tax rates.



- **Sales tax on services.** Another likely source of new revenues could be an extension of Illinois sales/use tax to services. The Illinois tax statute as currently written is generally limited to sales of tangible personal property. In his gubernatorial campaign, Governor Rauner proposed extending the sales tax to 32 business services, including attorney, computer programming,



# and money dwindling in Illinois

## ive Roundup

by Alan V. Lindquist, Winston & Strawn



sewer and refuse services. Governor Rauner again, this spring, suggested an extension of the sales tax to services, however, he also reiterated that before he would approve such an extension the General Assembly must address the reform measures he has proposed to improve the business climate in Illinois.

At this point, what form future a tax hike to make the budget balance will take is purely speculative.

### **Tax reform will likely wait until stalemate resolved**

Tax reform measures affecting manufacturers, previously considered by the General Assembly, will likely be revisited sometime after the budget stalemate is resolved. These measures include the manufacturer's purchase credit, the premiums tax imposed by the General Assembly last year on captive insurance companies, and the double taxation faced by Illinois employees that periodically travel to and work in other states.

#### **• Manufacturer's Purchase Credit**

The Illinois Manufacturer's Purchase Credit (MPC), which expired on August 30, 2014, was a tax credit available to all Illinois manufacturing and graphic arts companies that purchased manufacturing or graphic arts machinery and equipment. The MPC equaled half of the 6.25 percent state sales tax that would have been owed if these purchases were not exempt. The MPC could be applied to offset the 6.25 percent state sales tax or use tax due on purchases of "production-related tangible personal property," such as preproduction material handling, quality control, inventory control, research and development, and related purchases. With the expiration of the credit no new credits can be earned on purchases of manufacturing or graphic arts machinery and equipment made after August 30, 2014. However, MPC may still be used to offset tax due on purchases of production-related property through December 31, 2016 (or December 31, 2015, for MPC earned in 2013). Legislation last year was introduced into the General Assembly to extend the MPC, but failed to pass. At this time the General Assembly is not actively considering an extension of the MPC.

#### **• Captive Insurance Company Tax**

Many large and midsized manufacturing companies often organize so-called "captive insurance companies" to more economically insure themselves. Last August 15th, former Governor Quinn signed into law a new 3.5 percent premium tax on payments to captive insurance subsidiaries — which in some cases can be as high as 4.6 percent. Prior to this legislation, there was no tax on these premiums, making Illinois one of the few states that did not tax premiums paid to captive insurance companies. By some estimates the tax is expected to raise at least \$100 million a year for the state. Republican legislators last year asserted that they were misled in voting for what they thought were purely technical amendments to the Insurance Code, not a tax increase. A bill, SB 1573, was introduced into the Senate on February 20, 2015 to repeal this tax, and was passed by the Illinois Senate on April 21, 2015. However, this bill has since remained in the House's Rules Committee.

#### **• Double Taxation of Wages**

For individual income tax purposes, Illinois does not tax any of the wages of a nonresident employee who may periodically come into Illinois to work but is based outside Illinois. This contrasts to other states, such as New York, which tax a nonresident employee's wages, if the employee works more than a minimum number of days in the state.

Illinois changed its Illinois individual income tax credit law in 2009, to deny Illinois residents a credit for taxes paid to states like New York that tax their wages even though Illinois does not similarly tax Illinois nonresident wages. The denial of this credit results in double taxation — the Illinois residents pay tax on

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## UNCERTAINTY

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the same wages to both Illinois and New York. The Illinois Department of Revenue's proposed solution to this double taxation problem was to change Illinois' wage sourcing rules, to henceforth tax the wages of non-residents periodically traveling to and working in Illinois. With this change in wage sourcing Illinois resident employees would once again receive a credit for taxes they pay on wages similarly sourced to and taxed by other states.

The new wage sourcing rules would subject Illinois employers to substantial new recordkeeping and tax reporting obligations. It would require them to track the time employees residing outside Illinois spend working in Illinois, and require the employers to withhold and remit Illinois income taxes on a proportionate share of the nonresidents' wages.

A bill containing this new wage sourcing methodology, HB 675, was introduced into the Illinois House by Representative Manley on February 2, 2015. This bill was opposed by the Illinois Chamber of Commerce and a number of other business organizations.

Representative Manley agreed not to push for passage of this legislation in the spring session. However, she introduced HR 451 in early May urging the Department of Revenue and a number of business organizations, including the Illinois Manufacturers' Association and the Illinois Chamber of Commerce, to collaborate as a group this summer to address this issue. The United States Supreme Court on May 18th subsequently issued its decision in *Comptroller of the Treasury of Maryland v. Wynne* striking down as unconstitutional under Maryland's denial of an individual income tax credit for taxes paid by Maryland taxpayers to other states. There is considerable doubt, however, whether Illinois' denial of a tax credit would similarly be ruled unconstitutional under the decision in *Wynne*. Accordingly, the meetings between the Illinois Department of Revenue and concerned business organizations to address Illinois' double taxation issue commenced on schedule in mid-July.

## Proposed Federal legislation of interest to manufacturers

Several bills before Congress if enacted, would also impact, Illinois manufacturers. This proposed legislation is summarized below.

- **The Mobile Workforce State Income Tax Simplification Act of 2015** ("Mobile Workforce Act") (H.R. 2315) would alleviate the double taxation issue for Illinois employees that travel to other states. This legislation would establish a safe harbor protecting traveling employees from state income tax in any state, other than their state of residence, where the individual spends 30 days or less in a given calendar year. On June 17th, the House Judiciary Committee voted to favorably report this proposed legislation to the full House by a vote of 23-4. This bill has garnered wide support and has a total of 49 sponsors.

In his gubernatorial campaign, Governor Rauner proposed extending the sales tax to 32 business services, including attorney, computer programming, sewer and refuse services.

- **The Marketplace Fairness Act** (S. 698) would enable state governments to collect sales taxes and use taxes from remote retailers with no physical presence in their state. This bill passed the Senate, but stalled in the House of Representatives. On June 15, 2015 a group of bipartisan lawmakers introduced the Remote Transactions Parity Act (H.R. 2775), which addresses a number of concerns raised by critics of the Marketplace Fairness Act, including a provision protecting remote sellers from audit by states in which they do not have a physical presence.
- **The Digital Goods and Services Tax Fairness Act of 2015** (H.R. 1643) was introduced on March 26, 2015. The act restricts taxation of digital goods or services to state and local jurisdictions whose territorial limits encompass a cus-

tomers address. Furthermore, it prohibits a state or local jurisdiction from imposing multiple or discriminatory taxes on the sale or use of digital goods or services.

On June 17th the House Judiciary Committee approved the act by a voice vote and reported it for consideration by the full House.

It is currently unclear when or whether any of these proposed bills or other state tax related legislation will be enacted by Congress.

## Cook County Sales Tax increase

Finally, the Cook County Board of Commissioners on July 15th increase the Cook County sales tax rate by one percent effective January 1, 2016. With this increase, the general sales tax rate in the City of Chicago will increase to 10.25 percent, the highest rate for any large city in the United States. County Board President Toni Preckwinkle stated she asked for this increase because of the pressure on the county's budget resulting from the failure of the General Assembly to pass pension reform legislation. Cook County has until October 1st to notify the Illinois Department of Revenue of its change in the sales tax rate for 2016. It is hoped that pension reform will be passed by the General Assembly prior to this October 1st deadline. President Preckwinkle has publicly stated that if pension reform is passed that she would consider rolling back the sales tax rate increase.

## Summary

As the foregoing discussion clearly illustrates, the state and local landscape in Illinois is very fluid. Taxpayers would be well advised to keep close watch on future tax developments. At this point what form these developments will take — be it tax hikes and/or tax reform — is unclear. However, what is clear is that manufacturers will most certainly face a significantly different tax climate in Illinois in the near future. ■

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## SHARP

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- Receive national recognition from OSHA for achieving SHARP status; and
- Improve efficiency by lowering worker compensation costs.

### The SHARP Process

To participate in SHARP, you must agree to all of the following:

- Request a comprehensive safety

and health consultation visit by completing a request on line at [OSHA.illinois.gov](http://OSHA.illinois.gov) or calling 800-972-4216;

- Correct any hazards identified;
- Implement a safety and health management system that addresses OSHA's 1989 Safety and Health Program Management Guidelines;
- Maintain your company's Days Away, Restricted, or Transferred (DART) rate and Total Recordable Case (TRC) rate below the national average for your industry; and
- Agree to notify the Illinois OSHA

On-Site Consultation Program of any changes in the working conditions or introducing new hazards into the workplace.

### How do I get started?

Requesting services is as easy as going to our website ([OSHA.illinois.gov](http://OSHA.illinois.gov)) and completing an online request form or calling 800-972-4216. After registering, a consultant will contact you to discuss your specific needs and establish a mutually agreeable visit date. ■

## PREGNANCY

Cont. from page 12

Then, if the employer establishes a legitimate business reason for its policy, the burden then shifts back to the plaintiff to establish that the reason was not "sufficiently strong" to justify the burden imposed on pregnant employees and is merely a pretext for discrimination.

The Court found that *Young* created a genuine dispute as to whether UPS provided more favorable treatment to employees whose ability to work cannot reasonably be distinguished from her ability to work. Accordingly, the Court vacated the Fourth Circuit's decision, which had affirmed the district court's grant of summary judgment in favor of UPS, and remanded the case back to the Fourth Circuit.

### EEOC's recent pregnancy discrimination guidance

In 2014, the Equal Employment Opportunity Commission (EEOC) issued new guidance on pregnancy discrimination and asserted the position that the PDA requires employers to accommodate a pregnant employee's request for light duty work if it has a policy or practice of providing light duty work to other employees.

The Solicitor General requested that the *Young* Court give the EEOC's guidance special weight during oral argument. However, the Court noted that it could not rely significantly on the EEOC's guidance because of the "timing, consistency, and thoroughness of consideration." With respect to the timing of the guidance, the Court noted that the

guidance was promulgated after the Court agreed to hear the *Young* case. As for consistency, the Court noted that the EEOC's guidance takes a position on which previous EEOC guidelines were silent and is inconsistent with positions for which the government had long advocated, without explaining the basis for its recent guidance.

### ADA implications

The *Young* Court noted that the future significance of its decision may be limited by several statutory changes, including the 2008 amendments to the ADA, which arose after the events that led to *Young*. The amendments expanded the definition of "disability" under the ADA. While pregnancy is still not considered to be a disability under the expanded definition under the ADA, a pregnancy-related impairment that substantially limits a major life activity is a disability pursuant to the ADA. The Court specifically noted that it expressed no view regarding these statutory changes.

### Illinois law regarding pregnancy accommodations

In addition to the United States Supreme Court Decision in *Young*, which applies to employers across the nation, Illinois employers should understand Illinois' new law regarding pregnancy accommodations, which applies to all Illinois employers.

### When does the law apply?

The amendment applies to all full-time, part-time and probationary employees and applicants who are pregnant, recovering from childbirth or those employees or applicants who suffer from medical or common conditions related to pregnancy or

childbirth. Although not clearly defined, "conditions related to pregnancy" may potentially be interpreted broadly to include conditions associated with assistive reproductive technology (such as *in vitro* fertilization) and possibly even abortions.


### What does the law require employers to do?

The amendment requires employers to provide reasonable accommodations for medical or common conditions related to pregnancy and childbirth. A reasonable accommodation is any reasonable temporary change that allows the employee to do the essential functions of her job. Such accommodations may include, but are not limited to, more frequent restroom breaks, water breaks, periodic rest periods, a private space for expressing milk, seating, light duty, temporary transfers to less strenuous positions, modified work schedules and leave to recover from childbirth. Leave is not required to be paid. If an employee takes leave, the employer is required to reinstate the employee to an equivalent job.

Employers are only required to provide reasonable accommodation if an employee or applicant requests such an accommodation. Once an employee requests an accommodation, the employer is required to have a timely, good faith and meaningful conversation with the employee or applicant regarding what accommodations might be reasonable, considering the essential functions of the job. However, employers may not require employees or applicants to accept an accommodation.

Employers do not need to provide an accommodation or reinstate an employee if doing so would cre-

see **PREGNANCY** page 29



USS ILLINOIS (SSN-786) crew alongside the ship in the building shed at General Dynamics, Electric Boat Division, in Groton, Connecticut

by Len Wass

# Crew of the USS ILLINOIS (SSN-786)

## *a new Virginia Class nuclear attack submarine*

Soon, the newest, most advanced U.S. nuclear submarine will be named after our great state of Illinois. The USS ILLINOIS is a Virginia Class nuclear attack submarine, currently under construction in Groton, Connecticut. It will be christened by First Lady Michelle Obama on October 3 with the traditional champagne bottle being broken over the bow. Commissioning will occur in the early part of 2016, again in Groton, Connecticut, at a date to be determined later.

The IMA recently became aware of this large scale national defense project using products from Illinois manufacturers. Large companies, such as Caterpillar, are building the submarine's diesel generators; smaller companies, like Stanley Machining and Tool Company of Carpentersville, are making elements of the submarine's Tomahawk launch tubes. Other Illinois companies are also participating in its construction. The USS ILLINOIS (SSN-786) is only one of the entire fleet of Virginia Class Submarines either built, under construction, or planned, that could enjoy the fine

engineering, technology and workmanship of IMA members' products and services.

The USS Illinois Commissioning Committee and the USS ILLINOIS (786 Club) presented a program for members of the IMA at the President Lincoln Hotel in Springfield on May 6th. The presentation focused on the

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Large companies, such as Caterpillar, are building the submarine's diesel generators; smaller companies, like Stanley Machining and Tool Company of Carpentersville, are making elements of the submarine's Tomahawk launch tubes.

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capabilities of this extraordinarily complex and effective warship. The USS ILLINOIS will be the first naval vessel to be named after our state in over 118 years, the last being a battleship named in 1897 and part of President Teddy Roosevelt's Great

White Fleet.

The nuclear submarine force is the only element of defense expenditures which is growing, and will grow even more with approved funding of a new class of strategic deterrent missile subs. Growth could be even greater, if Congressional discussions about increasing the number of fast attack subs authorized for funding materializes. The largest shipbuilding contract ever awarded by the U.S. Navy was made recently for ten more Virginia Class submarines. In this time of sequestration and reduced government spending, the place for manufacturers to be is supplying the Virginia Class submarine and missile deterrent submarine construction programs. These programs will be with us for several decades to come.

The Virginia Class of attack submarines surpasses the performance of any current threat submarine, ensuring U.S. undersea dominance well into the next century. They are the first U.S. submarines designed for a broad spectrum of open-ocean and littoral missions around the world. For example, they are capable of conducting anti-submarine warfare;



anti-surface ship warfare; strike warfare; special operation forces support; intelligence, surveillance, and reconnaissance; irregular warfare; and mine warfare missions. Their inherent stealth, endurance, mobility and firepower directly enable them to support five of the six Maritime Strategy Core Capabilities — sea control, power projection, forward presence, maritime security and deterrence. Virginia Class submarines have several interesting innovations. For example, a pair of extendable “photonics masts” outside the pressure hull replaces traditional periscopes. Within the masts’ are high-resolution cameras with light-intensification and infrared sensors, an infrared laser rangefinder and an integrated Electronic Support Measures (ESM) array. Signals from the masts’ sensors are transmitted through fiber optic data lines to the control center. These submarines also make use of pump-jet propulsors for quieter operations.

Just as the US Navy is preparing to launch and commission the USS ILLINOIS (SSN 786), so too is a civilian volunteer organization working to raise funds for the extensive launching and commissioning ceremonies (not funded by taxpayer money) to support the ship and its crew

throughout its 35-year life. The USS Illinois Commissioning Committee (USSICC) is comprised of volunteers throughout Illinois. To carry out its mission, it brings the crew to Illinois and hosts various meet and greet events throughout the state.

These events are opportunities for IMA member to develop important relationships with Navy procurement managers. The USSICC is charged with organizing a host of events surrounding the commissioning of the ship. It also offers VIP invitations to these events as described on its Website: [www.ussillinois.org](http://www.ussillinois.org). (Because the USSICC depends exclusively on voluntary donations, it extends VIP Invitations in accordance with a donor table on the Website.)

Celebrations and receptions surrounding the commissioning of the USS ILLINOIS will include:

**a. Committee Chairman and Commanding Officer's Reception**

This event is held the night before the commissioning ceremony with two primary purposes: 1. To provide the Committee Chairman and the ship's Commanding Officer an opportunity to recognize the organizations and individuals who have supported the commissioning events; and 2. To bring together sen-

ior and middle levels of government, military, major contractors, and subcontractors so they can meet and become aware of one another's capabilities. Invitees include the committee members, the platform guests in the area, the sponsor, wardroom members and local military and government officials. For IMA members, this is primarily a marketing event. IMA members have the opportunity to mix with the leadership and middle levels of government, military and contractors. This event is designed to thank the contributors by having them exchange calling cards with Navy and government brass, as well as with major contractors who might subcontract for IMA member products and services. Typical attendees would be the Secretary of the Navy, the Chief of Naval Operations, the top Submarine Admiral in the Pentagon, etc. The event would also include middle level operatives from these groups, many of them working in procurement, design, etc. The Chairman's reception will normally average between 300-500 guests. It is a stand-up reception (heavy hors d'oeuvres) with about 45 minutes set aside for the Commanding Officer to make comments and receive gifts.

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## USS ILLINOIS (SSN 786) Ship's Crest

*Designed by Christopher Durdle, Roseville, Illinois, December 2014*

**A**t center, a blue shield with orange-gold outline and detail, divided into four quadrants. Upper right quadrant is a five pointed star in commemoration of the first USS ILLINOIS (BB-7). Lower right quadrant is the Roman numeral XXI representative of the 21st state of the Union. In the lower left quadrant is an outline of the State of Illinois. In the upper left quadrant is a trident with crossed, single-bit axes. The trident is representative of the sea power projected by the submarine, and the crossed axes in memoriam of President Abraham Lincoln, the “Railsplitter President.” In each corner of the crest are pinnate shapes representing the corn, beans and livestock that Illinois produces for the nation.

Above the crest appears the silhouette of the starboard aspect of a Virginia Class Submarine and standing atop is a 13 pointed White Tailed Deer. The White Tailed Deer is the official state animal of Illinois and the 13 points represent the 13th Virginia Class Submarine. The deer also represents the strength of the state and the Navy. Flowing to either side from the top of the shield are a verdant foliage representing Illinois forest and prairie life.

Framing the foliage and shield at the top are two submarine dolphins, the port side being silver and starboard side being gold. The silver dolphin for the enlisted crew and the gold for the ship's officers. Below the shield is a red cardinal facing to starboard with wings outstretched. The cardinal is the Illinois state bird and represents the bravery of the American military, its outstretched wings showing that the Navy is prepared to take on anything.

Beneath the cardinal is a downturned banner with the Latin words “NEMO MAGIS FORTITER” meaning “none more brave” which is a line from the fourth stanza of the Illinois State Song. Surrounding the crest is a blue oval with “USS ILLINOIS” atop and “SSN 786” below. Around the outside of the oval is a red rope commemorating the symbol of the Recruit Division Commander at Naval Training Center Great Lakes, Illinois — the Navy's only remaining and oldest Recruit Training Command.

The entire crest is in the style of a family crest showing that like a family, the USS ILLINOIS, the State of Illinois and the Navy are united and ready to serve for the good of our nation. Throughout the crest are seen the colors of Blue and Orange — the colors of the University of Illinois and the cardinal from Illinois State University representing the many fine institutions of higher education throughout the state. ■



## USS ILLINOIS

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The entire evening event goes on for about three hours.

### b. Platform Breakfast

This event on the morning of commissioning is a VIP breakfast held about two hours prior to the commissioning ceremony, and restricted to VIPs. The primary purpose is to assemble the platform guests, their families and other VIPs. Typically only the senior government, military and contractor personnel come to this event, which makes it a "target rich" environment. The event continues from the breakfast venue to the bus ride to the VIP seating at the commissioning site, to the interpersonal interfacing that occurs while on the VIP platform. Platform guests are briefed about their role during the ceremony and also about the events that will take place on the commissioning platform. After the briefing, they will be transported to the commissioning site where they will be escorted to a VIP seating section. Pastries, coffee and juices will be available for invited guests if the reception is in the morning, and light hors d'oeuvres if the reception is held in the afternoon. Approximately 150-250 guests can be anticipated.

### c. Commissioning Ceremony

The commissioning ceremony is the responsibility of the Commanding Officer (CO), but VIP seating invitations are issued by the USSICC. The CO is responsible for script preparation and assigning platform participants. The Secretary of the Navy selects the principal speaker, which will be the official Navy sponsor, First Lady Michelle Obama. This should ensure robust media coverage of the event. The ceremony normally takes one hour to complete and will be conducted outdoors in the vicinity of the ship. The number of individuals invited will vary depending on the location of the ceremony and interest in the ship. Approximately 3,000-5,000 people are expected. VIP seating, obviously, will be much smaller and more intimate.

The USSICC's ongoing support of the crew and their families will continue with the formation of the 786 Club, which the Commissioning Committee will form. Major donors



A commissioning ceremony along side the piers at the submarine base in New London, Connecticut, for another Virginia Class submarine, the USS NEW HAMPSHIRE.



The USS ILLINOIS Commissioning Committee, accompanied by the Commanding Officer, CDR Jesse Porter, USN, at the Union League Club of Chicago.

will be given a number of waived initiation fees. The Club maintains a close relationship with the crew of the USS ILLINOIS on behalf of the citizens of Illinois. This will be similar to the 721 Club which has supported the USS CHICAGO (SSN-721) for the past 30 years and has enjoyed a day submerged on the submarine approximately every two years. Operational commitments determine the ship's availability for these cruises. However, the "angles and dangles" demonstration on a submerged nuclear submarine is something participants will never forget.

The 786 Club will help support the needs of the ship and its crew in areas such as books, exercise equipment, the ship's Welfare & Recreation Fund and the ship's Family Assistance Group. Each holiday season, crew members receive a "ditty bag" of items donated by Illinois businesses and Club members, and age and gender appropriate presents for the crew's children

will be purchased and delivered.

786 Club members are invited to go on an annual holiday trip to the submarine's home port, which will be Pearl Harbor, Hawaii. A visit to personally thank the USS ILLINOIS crew members for their service, as mentioned earlier, will include a day sail submerged aboard the USS ILLINOIS. Visiting with the crew and their families, and boarding the USS ILLINOIS, are some of the most fulfilling aspects of the 786 Club.

It is an exciting time to be a manufacturer in Illinois. The technologies that have made the USS ILLINOIS one of the most advanced naval vessels in the world also brings prosperity to our state. The USS ILLINOIS is one of our own; and the support of its crew and welfare of its families is something in which the citizens of Illinois can take pride. Please visit the USS ILLINOIS Website ([www.ussillinois.org](http://www.ussillinois.org)) for information on how to be part of this historic event for Illinois. ■

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tion should include identifying what data was compromised and how, what systems were affected by the breach, how the breach was detected and when, and the post-breach efforts. Of course, a natural — and critical — part of this process will involve addressing whatever issues are attributable to the identified vulnerabilities in the system.<sup>6</sup>

In addition to allowing an emergency response team to perform its various duties, companies should also evaluate any ongoing cyber risks on a higher level, including device management, information management and employee training. Once a breach occurs, your company is “on notice” of such an incident. While the law does not require a company to be perfect, the standard of reasonableness requires that a company make reasonable post-breach efforts to prevent future incidents, in light of the lessons learned from the breach itself. The failure to do so could prove extremely detrimental in the event of litigation.

### Compliance Issues and Notification Requirements

A third, but crucial step is to identify and comply with the relevant notification requirements. There may be state, federal as well as industry-specific requirements that must be satisfied. Notably, a company is required to comply with the notification laws of every state in which a breach occurs. This means that your company could, potentially, be responsible for complying with the laws of 47 different states.

Depending upon the nature of the breach, a company will also need to consider whether it is necessary to provide identity monitoring and protection to the victims of the breach. It also may be appropriate to assist victims by providing identity recovery services.

### Dollars and Sense

The costs associated with a data breach are significant. As reported in The Ponemon Institute’s Cost of Data Breach Study: Global Analysis, in the United States, the average cost of a non-malicious data breach was \$195 per record, and the average cost of a

malicious or criminal attack was \$246 per record.<sup>7</sup> Additionally, in the United States, where companies are (for the most part) legally required to notify victims of a data breach, the average notification cost exceeds \$500,000 in the event of a single breaching event. Perhaps more troubling is the fact that the average cost of business lost by a U.S. company following a breach exceeded a staggering \$3.3 million, and businesses also suffer from the loss of reputation, diminished goodwill, as well as abnormal customer turnover.

The failure to comply with post-breach legal requirements could prove even more costly. For example, Illinois law requires that a company inform victims of a data breach, and the failure to do so could expose your company to liability for consumer fraud violations and hefty fines.<sup>8</sup> Further, a company that violates other, relevant laws, following a data breach<sup>9</sup> potentially subjects itself to civil penalties.<sup>10</sup> Not surprisingly, legal violations are also aggressively prosecuted.<sup>11</sup> For example, in the first quarter of 2014 alone, the Consumer Financial Collection Bureau collected almost \$40 million in fines and penalties.<sup>12</sup> For these reasons, it is critical that any company that experiences a breach ensures timely compliance with any relevant laws, statutes and regulations.

### Post-Breach Employee Training

IBM estimates that over 95 percent of all breach incidents investigated can be attributable to “human error” in some respect.<sup>13</sup> The most commonly recorded form of human errors include system misconfiguration, poor patch management, use of default user names and passwords or easy-to-guess passwords, lost laptops or mobile devices, and disclosure of regulated information via use of an incorrect email address. Perhaps unsurprisingly, the most prevalent contributing human error is “double clicking” on an infected attachment or unsafe URL. Incorporating employee training helps to reduce the pre-breach risks that result from human error. However, it is equally important to reinforce cyber risk training after a breach, to ensure that your company is maintaining a culture of cyber awareness.

Interestingly, following the OPM hack discussed above, the federal

government (as it must) continues to send vital information to its thousands of employees. Multiple reports have surfaced that many employees are mistaking these emails for malicious phishing campaigns and deleting and reporting them. This is one area that should be addressed in post-breach employee training.<sup>14</sup>

The last thing that any company wants is for history to repeat itself, and to fall victim to the same type of data breach a second time. Post-breach employee training and awareness can help your company to manage this risk. Moreover, attorney involvement in post-breach training will allow for the protection of the attorney-client privilege.

### Is litigation on the horizon following a breach?

A company should expect litigation following a breach. Data shows that the rising prevalence of cyber breaches also means an increase in consumer protection class action lawsuits. Some courts are dismissing these class action suits because plaintiffs have not suffered an actual harm or injury and thus lack standing or the ability to bring a lawsuit.<sup>15</sup> Some other high profile suits, however, have been allowed to proceed. For instance, *In re Target Corp. Customer Data Security Breach Litigation*, Target brought a motion seeking to dismiss the suit, however, the motion was denied. After this decision,<sup>16</sup> Target agreed to pay \$10 million to settle the lawsuit.<sup>17</sup>

### Conclusion

According to former F.B.I. director Robert Mueller, “there are only two types of companies: those that have been hacked and those that will be.”<sup>18</sup> Cyber and data security breaches affect companies of all sizes and are only becoming more ubiquitous in an increasingly connected business environment. Given how common these kinds of threats are becoming, companies must take actions before, during, and after attacks to minimize costs, reduce exposure and to manage this important risk. ■

### References

1. “Data hacked from U.S. government dates back to 1985: U.S. official,” Reuters Tech, <http://www.reuters.com/article/2015/06/06/us-cybersecurity-usa-idUSKBN00L1V320150606> (June 5, 2015).

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2. *Id.*
3. Despite this recent attack on the U.S. Government, the Senate failed to pass new cyber security legislation that would encourage the sharing of information concerning cyber threats between the private sector and the federal government, and enhance law enforcement's ability to investigate and prosecute cyber crimes. "Senate Fails to Include Cybersecurity Legislation as Part of the National Defense Authorization Act," The National Law Review, Legislative Activity, <http://www.natlawreview.com/article/senate-fails-to-include-cybersecurity-legislation-part-national-defense-authorizatio> (June 15, 2015).
4. Ponemon Institute Research Report, 2014 *Cost of Data Breach Study: Global Analysis*, Ponemon Institute (May 2014).
5. *Compare Kilburg v. Mubiuddin*, 2013 IL App (1st) 113408, 990 N.E.2d 292 *appeal denied*, 996 N.E.2d 14 (Ill. 2013) and *appeal denied*, 996 N.E.2d 14 (Ill. 2013) (complaint alleged facts sufficient to support finding that cab company had duty to preserve event data recordings), *with Trask-Morton v. Motel 6 Operating L.P.*, 534 F.3d 672 (7th Cir. 2008) (pre-suit destruction of electronic data and documents was not spoliation absent evidence that motel acted in bad faith and had reason to anticipate litigation).
6. Notably, subsequent remedial measures may not be admissible as evidence of negligence in the event of litigation.
7. Ponemon Institute Research Report, 2014 *Cost of Data Breach Study: Global Analysis*, Ponemon Institute (May 2014).
8. Failure to properly notify a consumer of a data breach amounts to a violation of the Illinois Consumer Fraud and Deceptive Business Practices Act ("CFDBPA"). See 815 Ill. Comp. Stat. Ann. 530/20. When prosecuting a CFDBPA violation, in addition to common civil remedies, the Attorney General or State's Attorney may request and the Court may impose a civil penalty of up to \$50,000 per violation. See 815 Ill. Comp. Stat. Ann. 505/7. Additionally, in cases involving senior citizens, the court may impose an additional civil penalty of up to \$10,000 for each violation. *Id.* Finally, the Attorney General or the State's Attorney may also recover costs associated with prosecuting the case. 815 Ill. Comp. Stat. Ann. 505/10.
9. A majority of states define a breach as the unauthorized access and acquisition of data that compromises the security, confidentiality and/or integrity of personal information, but notably, often excludes the good faith acquisition of the information. *See, e.g.* Cal. Civ. Code § 1280.15; 815 ILCS § 530/1 *et seq.*; Mich. Comp. Laws §§ 445.63, 445.72; Tex. Bus. & Com. Code §§ 521.002 *et seq.*
10. For instance, the Dodd-Frank Act, which applies to many financial institutions, provides that "[a]ny person that violates, through any act or omission, any provision of Federal consumer financial law shall forfeit and pay a civil penalty." The statute provides for three tiers of penalties. The first tier applies to "any violation of a law, rule, or final order or condition imposed in writing by the Bureau" and sets a penalty of not more than \$5,000 per day that the violation occurred or the party continues to fail to pay the penalty. The second tier provides that "for any person that recklessly engages in a violation of a Federal consumer financial law, a civil penalty may not exceed \$25,000 for each day during which such violation continues." Finally, the third tier provides that "for any person that knowingly violates a Federal consumer financial law, a civil penalty may not exceed \$1,000,000 for each day during which such violation continues." 12 U.S.C. § 1055(c)(1)-(3).
11. In California, for example, a company can face administrative penalties up to \$25,000 per patient when medical information is compromised. Cal. Civ. Code § 1280.15. Additionally, delays in notification can result in a \$100/day fine up to \$250,000. *Id.* In Michigan, a company could pay up to \$250.00 for each failure to provide notice, up to \$750,000.00. *See* Mich. Comp. Laws §§ 445.63, 445.72. And in Texas, a company could be forced to pay at least \$2,000, but not more than \$50,000, per violation. *See* Tex. Bus. & Com. Code §§ 521.002 *et seq.* The State also assesses a penalty of \$100 per day for a failure to timely notify consumers, up to \$250,000. *Id.* Finally, Texas provides for the full recovery of attorneys' fees, court costs, and investigatory costs, incurred in obtaining injunctive relief or civil penalties. *Id.*
12. Semi-Annual Report of the Consumer Financial Protection Bureau, October 1, 2013-March 31, 2014, available at <http://www.consumerfinance.gov/reports/semi-annual-report-spring-2014/>.
13. IBM Global Technology Services, Managed Security Services, *IBM Security Services 2014 Cyber Security Intelligence Index*, IBM Security Services (June 2014).
14. <http://www.businessinsider.com/federal-employees-are-mistaking-official-government-emails-for-phishing-scams-2015-6>
15. *Maglio v. Advocate Health & Hospitals Corp.*, 2015 IL App (2d) 140782-U (trial court's dismissal of plaintiffs' claims where plaintiffs did not allege that any of their personal information was used in any unauthorized manner, but rather, only asserted an increased risk of such, was appropriate).
16. Of note, the U.S. Supreme Court recently granted certiorari in *Spokeo, Inc. v. Robins*, to consider a question critical to the viability of data breach class actions: standing. Since the Supreme Court's most recent standing decision in *Clapper v. Amnesty Int'l USA*, a majority of lower courts have dismissed data breach claims for failing to satisfy Article III's injury-in-fact requirement; however, a growing chorus of lower courts have sanctioned such actions.  
Similar to data breach class action members who allege that compromised personal information puts them at risk of future identity theft, Thomas Robins, a private plaintiff purporting to sue on behalf of a class of millions of others, alleged only that Spokeo's publication of inaccurate information would adversely affect his *future* employment prospects, not that it caused him an actual or concrete present harm. The district court dismissed the claims, and the Ninth Circuit reversed, holding that Robins' contention that his individual FCRA rights were violated was itself a sufficient basis to confer standing, even though the risk of any tangible harm lay in the future. Unlike in failed data breach class actions, the Ninth Circuit held that the violation of statutory rights constituted a concrete *de facto* injury.  
Ultimately, the Court's decision will have a significant impact on data breach litigation and the viability of plaintiffs' claims in these kinds of suits. *See Spokeo, Inc. v. Robins*, The Oyez Project at IIT Chicago-Kent College of Law, [http://www.oyez.org/cases/2010-2019/2015/2015\\_13\\_1339](http://www.oyez.org/cases/2010-2019/2015/2015_13_1339) (last visited June 25, 2015).
17. *Target agrees to pay \$10 million to settle lawsuit from data breach*, Reuters Tech, <http://www.reuters.com/article/2015/03/19/us-target-settlement-idUSKBN0MF04K20150319> (March 19, 2015).
18. Mueller, Robert S., III, former Director of the Federal Bureau of Investigation, "Combating Threats in the Cyber World: Outsmarting Terrorists, Hackers, and Spies." RSA Cyber Security Conference. California, San Francisco. 1 Mar. 2012 speech.

## IMA's 2015-2016 Annual Compensation Report now available . . .

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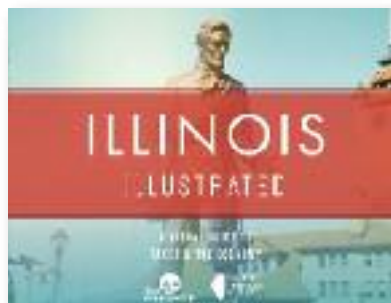
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## Illinois Illustrated: A Visual Guide to Taxes & the Economy



Illinois is at a turning point. It currently faces a large volume of unpaid bills, a multi-billion dollar budgetary shortfall, and the partial sunset of tax increases from 2011. Between all of this and the state's failed attempt at pension reform, Illinois is in need of policy solutions. Budget, revenue, and structural proposals are all currently on the table, but tax reform needs to be part of the discussion.

However, for taxpayers and legislators alike, understanding the problems embedded in the state's tax code is a dizzying task. There are many types of taxes levied on many different activities, and keeping track of each tax in the context of the overall economy is difficult.

In order to help inform the conversation about Illinois' fiscal future, the Tax Foundation has released a new study in partnership with the Taxpayers' Federation of Illinois that offers a broader perspective of Illinois' taxes and helps readers visualize some of the lesser-known aspects of its business tax environment. *Illinois Illustrated: A Visual Guide to Taxes & the Economy* provides detailed illustrations of each of Illinois' major tax types — individual income taxes, business taxes, sales and excise taxes, and property taxes — to help make the complicated task of understanding the state's tax code manageable.

Here are just a few examples of the more than 40 key findings:

- Illinois' economy is moving away from goods and toward services.
- Illinois' tax burden ranks higher than most other states.

- Businesses' effective tax rates vary widely by industry and age of firm.
- Illinois has the highest combined average sales tax rate among its neighbors, but the sales tax applies to less and less of the state's economy over time.
- The value of Illinois' gas tax has declined over time.

Source: *The Tax Foundation* — By Liz Malm, Joseph Henchman, Jared Walczak. Download a copy of the report at [www.taxfoundation.org](http://www.taxfoundation.org).



## At the Capitol: No movement on real workers' compensation reform

Despite continued calls by Governor Rauner, the IMA, and the general business community for reforms in workers' compensation, Democrats refuse to negotiate on a package that will reduce costs in Illinois. Currently, according to the nationally-recognized Oregon Department of Insurance study, the cost of workers' compensation in Illinois is 7th highest in the nation.

Senate Democrats recently introduced and passed legislation (SB 162) that makes minimal changes that will have little to no impact on rates in Illinois. While the employer community continues to advocate for creation of a primary cause standard, the Senate legislation actually codifies the "a cause" standard into statute that forces an employer to fund 100 percent of the cost of an injury even if the workplace is only one percent at fault.

In addition, the legislation attempted to alleviate the "traveling employee" situation that has resulted in numerous court cases including *Venture-Newberg*. While it seeks to prohibit claims of traveling employees in certain circumstances, it creates a very broad exemption for personal deviations. There are also provisions in the legislation that create an Ombudsman Program to help educate both employees and employers of their duties and obligations under the Workers' Compensation Act.

SB 162 passed the Senate Judiciary Committee and full Senate (36-19-1) on partisan Democrat votes and sits in the House Rules Committee.



## Overture Group celebrates five-year anniversary

The Overture Group celebrated its five-year anniversary in August. "We're thrilled to have reached our five year anniversary and we're thankful to have partnered with a wide range of wonderful clients. We have a passion for getting to know our client's business to deliver excellence from pre-search preparation through post-placement transition," says Bob Lindeman, Managing Director.

In 2010, Overture's Managing Directors, Brandi Adam Mueller, Bob Lindeman, and John Liacone, broke off from the nation's fifth largest accounting and consulting firm to form their own executive recruiting firm. With offices in Illinois and Iowa, The Overture Group has expanded to become one of the leading search and interim staffing firms in the Midwest.

The Overture Group specializes in assisting clients with finding the right executive to fill key roles in finance, accounting, human resources, operations and technology. The Overture Group partners with mid-size companies providing superior leadership and resources to their organization.

The Overture Group is a premier Midwest professional/executive search and placement firm headquartered in Lisle, Illinois, with an additional office in Cedar Rapids, Iowa. The company is an IMA member. Visit their Website at [www.theoverturegroup.com](http://www.theoverturegroup.com) for more information.



*Continued on page 26*

## DMDII releases five new solicitations for R&D projects in digital manufacturing and design innovation

The Digital Manufacturing and Design Innovation Institute (DMDII), a UI LABS collaboration, is announcing its latest call for technology proposals. This new call for proposals will consist of over \$20 million in funding across five applied research and development project topics. DMDII will use these funds to invest in digital design and manufacturing technologies that can improve American factories, reduce manufacturing costs and create new opportunities for American manufacturing businesses.

The five topics, ranging from improved cyber security for manufacturers to reducing the variability of manufactured items, will focus on different aspects of digital manufacturing and design innovation. They were developed by DMDII's industry, university and government members based on the most compelling business opportunities proposed as innovative solutions to industry problems in these technology domains.

Digital design and manufacturing is the use of computing, data analysis, and networking technologies in factories and across the lifecycle of manufactured products. Digital manufacturing is often referred to as "smart manufacturing" or "Industrie 4.0."

"This is what the future of manufacturing looks like," said Dr. William P. King, DMDII's Chief Technology Officer. "These topics represent key digital manufacturing technologies that can significantly improve the competitiveness of American manufacturing businesses."

The five topics are as follows:

### 1. Completing the Model-Based Definition (DMDII-15-11).

Companies spend billions of dollars on cost avoidance, repairing data, translators, and other human-in-the loop tasks. Software applications for product model definition for characterizing assemblies, parts, attributes, and

manufacturing information usable by various software for the whole product life cycle is needed.

### 2. Technologies Enabling Supply Chain Visibility (DMDII-15-12).

The goal of this topic is to demonstrate technologies that can provide real-time, dynamic visibility into the status of key information to facilitate efficient response to rapidly changing conditions.

### 3. Cyber Security for Intelligent Machines (DMDII-15-13).

This topic focuses on the development of technologies that can identify, manage and mitigate the cyber security risks associated with digitally connected manufacturing equipment.

### 4. Hardware/Software Toolkit for Real-Time Machine and Process Diagnostics, Monitoring and Self-Correction (DMDII-15-14).

This topic aims to implement machine intelligence into manufacturing equipment in a way that is low cost and scalable.

### 5. Agile Manufacturing to Compensate for Production Variability (DMDII-15-15).

The goal of this topic is to demonstrate digital manufacturing technologies that mitigate variability among manufactured products, and to thereby reduce manufacturing costs and more rapidly bring new products to market.

"Our members are committed to working together to digitize American manufacturing, and these project calls are another sign of our tremendous momentum," said Dr. Dean Bartles, Chief Manufacturing Officer at UI LABS and Executive Director of DMDII. "The topics identified in this call for proposals have the potential to create significant benefits for our members and to drive the future of smart manufacturing. DMDII is continuously recruiting new members, and we invite any U.S. company to join and benefit from these exciting technology advances."

Of the \$20 million in project funding, DMDII has allocated \$10 million towards these applied R&D

projects, with the funds originating from the U.S. Government via the Department of Defense. The additional \$10 million in project funds will be contributed by at least 1:1 "cost-share" by industry and academic team members.

The projects will run for approximately 12 to 24 months, and DMDII expects that the resulting technologies will be transitioned to industry shortly thereafter. DMDII is particularly interested in how these technologies can help small manufacturing businesses. All manufacturers and technology companies are encouraged to contact DMDII about becoming involved in these technology projects.

DMDII is planning a public workshop at UI LABS, in Chicago, Illinois, on September 10, 2015, at which the technical requirements for each solicitation will be thoroughly described, and efforts will be made to encourage the formation of competing teams. Teams are encouraged to include large, medium and small manufacturing and technology companies, academic institutions, government agencies, and other organizations.

Complete information about the project calls, proposal submission requirements, and workshop logistics are available by visiting the DMDII website ([www.dmdii.org](http://www.dmdii.org)). Proposals are due in October.

UI LABS solves large-scale industrial challenges by forming consortia of university, industry and civic partners who innovate and commercialize new technology solutions. UI LABS is developing a portfolio of applied research and commercialization programs that lead to a return on investment for its partners and improve local, regional and national competitiveness. Learn more at [www.uilabs.org](http://www.uilabs.org) and [www.dmdii.org](http://www.dmdii.org).





## John Deere Excavator set to help clean up Ohio River — Manufacturer donated 210G LC excavator to Living Lands & Waters



John Deere Construction & Forestry designed a 210G LC excavator specifically for Living Lands & Waters to help remove garbage from America's rivers.

By the end of 2015, more than one million pounds of garbage will be removed from the Ohio River. That feat will be accomplished by Chad Pregracke and Living Lands & Waters, with the help of their new John Deere 210G LC Excavator.

John Deere is a longtime supporter of Living Lands & Waters. This year, the company's Construction & Forestry Division partnered with Pierce Pacific Manufacturing and Erb Equipment Company to design an excavator to specifically meet Pregracke's heavy-duty clean-up demands. The machine was unveiled at the Inland Marine Expo in St. Louis on June 17.

Living Lands & Waters has a big job ahead of them. "In terms of the volume of garbage in the rivers, the Ohio River is one of the worst in the country," said Pregracke. "It really needs a full-court press for any change to happen."

Living Lands & Waters has been working in the Ohio River since 2001, relying entirely on volunteer labor — as it does for all its river cleanup projects — to remove everything from plastic bags to automobiles. But according to Pregracke, they didn't seem to make a dent, and that frustrated him. "I decided we needed to bring in some equipment to make this go faster," he said.

To illustrate his point, Pregracke

used the example of a 55-gallon barrel, filled with mud — a common item found in the rivers. Removing an item like that often takes a group of four volunteers 30 minutes to free it from the riverbed.

The excavator will be able to perform the same task in a matter of seconds. "It's really going to increase the volume and safety of our work," said Pregracke. With that increased productivity, Pregracke set a goal of removing one million pounds by the end of the year.

"The work that Chad Pregracke does through Living Lands & Waters is nothing short of inspirational," said Mara Downing of John Deere. "We commend Chad and his organization for their dedication to improving the quality of life of those who depend upon our nation's rivers and watersheds."

Pregracke is a native of East Moline, Illinois, near the John Deere corporate and Construction & Forestry Division headquarters. He started Living Lands & Waters in 1998 as a not-for-profit organization dedicated to the beautification and restoration of America's major rivers and the education of environmental issues. For more information, visit [www.livinglandsandwaters.org](http://www.livinglandsandwaters.org).

The John Deere excavator began working on the Ohio River in early August.

IMA member Deere & Company is a world leader in providing advanced products and services and is committed to the success of customers whose work is linked to the land. For more information, visit John Deere at its worldwide website at [www.JohnDeere.com](http://www.JohnDeere.com).



## Nominations for The Manufacturing Institute's 2016 STEP Ahead Awards open

The Manufacturing Institute recently announced nominations for the 2016 STEP (Science, Technology, Engineering and Production) Ahead Awards are open. The fourth annual STEP Ahead Awards, recognizing manufacturing women who display leadership within their companies, honor top performers in manufacturing and further encourage women to mentor and support the next generation of female talent.

The STEP Ahead Awards, a part of the larger STEP Ahead initiative, began in 2012 to broadcast the role of women in manufacturing through recognition, research and best practices for attracting, retaining and advancing strong female leaders. In 2016, the Institute will honor 100 women and 30 Emerging Leaders, a category introduced last year to honor women under the age of 30 who have achieved unique accomplishments at the start of their careers.

To nominate a woman in manufacturing for a STEP Ahead award, visit: [www.themanufacturinginstitute.org](http://www.themanufacturinginstitute.org).



## Manufacturing Day 2015: October 2nd

### Mark Your Calendar — October 2

Manufacturing Day is a celebration of modern manufacturing meant to inspire the next generation of manufacturers. It occurs annually on the first Friday in October.

Visit [www.mfgday.com](http://www.mfgday.com) and join the conversation on Twitter using #MFGDay.

*Continued on page 28*

### Get involved this year

The Manufacturing Institute ([www.themanufacturinginstitute.org](http://www.themanufacturinginstitute.org)) provides videos on why Manufacturing Day matters, how it can help you, and how you can participate.

Watch [www.mfgday.com/getting-involved-webinar](http://www.mfgday.com/getting-involved-webinar).

There are more than 230 Manufacturing Day events planned for 2015. Find events in your area: [www.mfgday.com/events](http://www.mfgday.com/events).

Let the NAM help you in making your Manufacturing Day as successful as it can be. For more information, additional assistance or answers to your questions, please contact NAM Director of Public Affairs and Grassroots Advocacy Chris Glen at 202-637-3121 or [cglen@nam.org](mailto:cglen@nam.org).



### Chicagoland Safety, Health and Environmental Conference, September 21-24, Naperville

The Chicagoland Safety, Health and Environmental Conference ([www.chisafetyconf.org](http://www.chisafetyconf.org)) is being held September 21-24, 2015 at the Naperville campus of Northern Illinois University. Founded in 1988, the conference is sponsored by the Northeast Illinois, Chicago and Three Rivers Chapters of the American Society of Safety Engineers, the Chicago Section of the American Industrial Hygiene Association, the local section of the Alliance of Hazardous Materials Professionals and is planned in association with OSHA, Northern Illinois College of Engineering and Engineering Technology, and the National Safety Education Center.

This is a premier regional training conference that in 2014 drew more than 1,000 session attendees, speakers and vendors from 13 states and two foreign countries. The conference provides education and training on current issues for manufacturing companies and professionals who have HR, safety, health, training, environmental or preparedness responsibilities and those who wish to advance their professional development.

The Chicagoland Safety, Health

and Environmental Conference includes dynamic training workshops; knowledgeable, proven speakers; a Business Expo featuring great products and services and a Networking Social. Five tracks provide professional training sessions in OSHA Compliance, Professional Development, General Safety, Industrial Hygiene and the Environment.

Sessions last 90 minutes, half day or all day.

The Thursday Keynote Speaker is Mr. Nick Walters, OSHA Regional Administrator. He will provide valuable insight and perspective regarding current safety and environmental issues facing business, industry, local governments and other types of businesses and service providers.

The conference week concludes with the Chicagoland EHS Golf Outing on Friday September 25, 2015. Information can be found at [www.ThreeRivers.ASSE.org/events](http://www.ThreeRivers.ASSE.org/events). This separate event requires registration and payment using the Three Rivers website. Hole or event sponsorship information can also be found at the Three Rivers website, [www.ThreeRivers.ASSE.org/events](http://www.ThreeRivers.ASSE.org/events). The outing will be held at The Village Greens of Woodridge.

Contact Ken Orms, [k.orms@att.net](mailto:k.orms@att.net), if you have additional questions.



### ADM donates \$325,000 to promote clean waterways

Archer Daniels Midland Company recently presented a \$325,000 donation to Living Lands & Waters, an organization that promotes the health and vitality of U.S. inland waterways, at a volunteer cleanup event at Starved Rock State Park in Oglesby, Illinois.



Aundrea Lollar of Nucor Steel and Cheryl K. Luning with American Building Products (division of Nucor) won the "Best Use of Recycled Materials by a Large Manufacturer" at the Illinois Recycling Association's annual luncheon in Peoria on June 18, 2015. Pictured from left are Ed Peck (Nucor), Aundrea Lollar (Nucor), Cheryl K. Luning (ABP) and Mark Denzler (IMA).

The donation brings ADM's total support for the organization since 2004 to more than \$1.7 million. The funds will be used to support additional river cleanup events as well as an equipment expansion project, which will help Living Lands & Waters substantially its outreach and services. Their goal is to remove 1,000,000 pounds of garbage from the rivers this year, which is three times more than they've been able to accomplish in previous years.

"ADM recognizes that America's inland waterways are vital arteries whose health is essential to our nation's economy, our communities and our wildlife," said Chad Pregracke, founder of Living Lands & Waters. "The company's support

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of Living Lands and Waters demonstrates real commitment to ensuring that these waterways are healthy and navigable.”

Directed by experts from Living Lands & Waters, more than 200 volunteers from 60 different ADM locations spent the morning cleaning up debris from areas at the park that have been impacted by recent flooding.

“It’s truly impressive to see how much can be accomplished in just a few hours when organizations like Living Lands & Waters and ADM coordinate their efforts,” said Kerry Novak, site superintendent at Starved Rock State Park. “They were able to clean up trails and campground areas and also remove exotic species along the river area in one morning, which would have taken us weeks to accomplish on our own.”

“Cleaning up our nation’s waterways is critically important for numerous communities and industries, as well as ADM’s own transportation network. It’s also an overwhelming task, and we’re proud to support Living Lands & Waters not just with funding, but also with man-hours at volunteer events like the one today at Starved Rock State Park,” said Jeff Becker, vice presi-

dent, operations for ADM’s Ag Services business unit.

The donation was given through ADM Cares. ADM Cares is a social investment program that directs funds to initiatives and organizations that drive meaningful social, economic and environmental progress worldwide. The program comprises three distinct focus areas: supporting the responsible development of agriculture, improving the quality of life in ADM communities and fostering employee giving and volunteer activities.

Living Lands & Waters is a 501(c)(3) environmental organization established by Chad Pregracke in 1998 and headquartered in East Moline, Illinois. Living Lands & Waters conducts a variety of initiatives including Community River Cleanups, Big River Educational Workshops, the MillionTrees Project, the Riverbottom Forest Restoration Project and Adopt-a-River Mile.

For more than a century, the people of Archer Daniels Midland Company have transformed crops into products that serve the vital needs of a growing world. Learn more at [www.adm.com](http://www.adm.com).



## Midwest Environmental Compliance Conference (MECC) – October 29-30 in Chicago

The Illinois Manufacturers’ Association is proud to co-host the first annual Midwest Environmental Compliance Conference (MECC) scheduled for October 29-30 in Chicago.

Registration is now open. \*Regulated facilities receive a discount from the Standard Rate. We also offer reduced rates for businesses sending three or more to the MECC.

One of the many issues to be addressed in this two-day event is EPA’s “Next Generation Compliance.” David Hindin, OECA, USEPA will be a keynote speaker on the topic. What Next Gen means for Illinois facilities and why you should care will also be addressed.

The MECC is specifically designed for regulated entities charged with the important task of environmental management. Visit <http://meconference.com> for more information.



## PREGNANCY

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ate an “undue hardship” by being prohibitively expensive or disruptive.

The amendment requires employers to conspicuously post notice of employee rights under the amendment, including information regarding filing a charge with the Illinois Department of Human Rights. Additionally, employers that have employee handbooks must include such notice in their handbooks.

Finally, employers are prohibited from retaliating against employees that request an accommodation.

### Can employers obtain medical documentation?

Employers may request medical documentation to support an employee’s request for an accommo-

dation if the request relates to a medical condition (as opposed to a common condition). Employers should be cautious to limit the information they request to the medical reason for the accommodation, the description of the needed accommodation and the applicable time period.

### What employers can do to help avoid pregnancy Discrimination Claims

The Supreme Court’s decision in *Young* and Illinois’ recent amendment to its human rights act make it easier for employees who are pregnant or those with conditions related to pregnancy, who have temporary physical restrictions to pursue discrimination claims against their employers. Accordingly, employers should closely review and revise their employment policies and practices to help avoid pregnancy discrimination claims.

First, employers should consider ensuring that any light duty accommodations that are made for certain categories of employees are also available to employees who are pregnant; if employers choose not to do so or are unable to do so, employers should be ready to provide a sufficiently strong justification for not doing so. Employers should similarly revise their employment handbooks accordingly.

Second, employers should make sure that managers and human resources personnel know how to respond to a pregnant employee’s request for an accommodation.

Finally, Illinois employers should post a notice of employee rights to pregnancy accommodation under the Illinois Human Rights Act and amend existing employment handbooks to include such notice. ■



## New IMA members

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### TRIVISTA PROFESSIONAL PLACEMENT SERVICES

Chicago

### WEST LIBERTY FOODS

Bolingbrook

### WIPFLI LLP

Rockford, Oak Brook & Tinley Park

## 2015-2016 Calendar of events

Thursday, September 17, 2015

### IMA Breakfast Briefing: Workers Compensation Negotiation Strategies & Causation

Mon Ami Gabi Restaurant, Oak Brook,  
8:00-11:00 am — Jeanmarie Calcagno, with  
Bryce Downey & Lenkov LLC, will discuss  
Negotiation Strategies. *Meeting generously  
sponsored by the Rockford Area Economic  
Development Council*

Friday, October 2, 2015

### Manufacturing Day

Wednesday, October 21, 2015

### IMA Breakfast Briefing: Employee Handbooks: Why You Need Them & What You Should Have In It

Mon Ami Gabi Restaurant, Oak Brook,  
8:00-11:00 am — David Ritter, of Barnes &  
Thornburg, will discuss why you should have  
an employee handbook, what should be in it  
and the challenges employers face from gov-  
ernment agencies when drafting a handbook.  
View a video by David (Employee Handbooks

Gone Wild) in the IMA's Video Library.

*Breakfast generously sponsored by Husch  
Blackwell.*

October 29-30, 2015

### Midwest Environmental Compliance Conference with EPA Region 5 Regulators

Chicago Marriott O'Hare — For more information,  
visit <http://mecconference.com>. *Sponsorship  
opportunities are available.*

Friday, November 6, 2015

### IMA's Small Manufacturers Council

Naperville Marriott, 1801 N. Naper Blvd.,  
Naperville, 8:00 am-Noon — The SMC pro-  
vides a forum for small manufacturers to dis-  
cuss industry trends and other issues affecting  
manufacturing and includes legislative  
updates and a round table discussion among  
peers. Not a current SMC member? Join us on  
November 6th and find out what you've been  
missing. SMC meetings are open to IMA small  
manufacturers with 250 or less employees.  
*Sponsorship opportunities are available.*

Thursday, November 19, 2015

### IMA Annual Tax Conference

Marriott Hotel, 1801 N. Naper Blvd.,  
Naperville — 8:00 am-12:30 pm  
IMA's Annual Tax Conference will update you  
on tax law, multi-state sales & use tax, nexus,  
exemptions, deduction, exclusions and much  
more. *Conference sponsor: CDH —  
Additional sponsorship opportunities are  
available.*

Friday December 4, 2015

### IMA Annual Luncheon

JW Marriott, 151 W. Adams, Chicago  
Our Luncheon Program's keynote speaker is  
Al Monaco, President & CEO, Enbridge Inc.  
*Sponsorship opportunities are available.*

### SAVE THE DATE:

Wednesday, April 27, 2016

IMA's Business Day at the Capitol 2016  
Springfield, Illinois  
*Sponsorship opportunities are available.*

Visit <http://www.ima-net.org/calendar-of-events> for information, pricing, registration, etc., related to all IMA events.  
For more information on IMA events, contact Kimberly McNamara at [kmcnamara@ima-net.org](mailto:kmcnamara@ima-net.org), 800-875-4462, ext. 9371



# Midwest Environmental Compliance Conference

CHICAGO MARRIOTT O'HARE  
October 29-30, 2015

## Registration and Agenda at

[WWW.MECCONFERENCE.COM](http://WWW.MECCONFERENCE.COM)

## Featuring

- Peer-to-Peer Compliance Tips
- EPA's Next Generation Compliance Revolutionizes Enforcement
- Impact of Great Lakes issues on industry
- Six State Environmental Agency Breakouts
- Keynote Addresses by
  - Susan Hedman, Regional Administrator
  - David Hindin, US EPA, OECA
  - Marianne Horinka, former US EPA Administrator



Illinois Manufacturers' Association

IMA members: use "IMA" promotion code at registration for 15% discount

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