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Director

DEPARTMENT OF
PUBLIC UTILITIES

**Testimony of the City of Columbus in Opposition to Language Included In Sub.
H.B. 49 That Would Impose A Local Government Fund Penalty On The City of
Columbus And That Would Create A New Area-Wide Wastewater Treatment
Planning Agency For Central Ohio, Before the Senate Finance Committee
June 6, 2017**

Chairman Oelslager, Vice Chair Manning, Ranking Member Skindell, members of the committee, my name is John Newsome and I am Administrator of the Columbus Department of Public Utilities Division of Sewerage and Drainage, which is the regional wastewater utility for Central Ohio providing wastewater collection and treatment for over one million people.

I am here to today to state Columbus' opposition to language included in Substitute House Bill 49 as passed by the House of Representatives that would impose a Local Government Fund penalty on the city of Columbus and that would create a new area-wide wastewater treatment planning agency for Central Ohio. I have also submitted along with my written testimony a copy of a letter from Columbus Mayor Andrew Ginther to Senate President Obhof in which Mayor Ginther states his opposition to these provisions of the bill and identifies the very serious problems that will arise if these provisions become law.

I respectfully request that this language be removed from the bill.

The substitute bill creates Ohio Revised Code Section 5747.504, which singles out one city in the state, Columbus, and would require Columbus to charge outside customers at the same rate as inside customers for sewer and water service. Columbus considers customers within the city limits as "inside customers" and those outside the city limits as "outside customers," and charges outside customers a higher rate for sewer and water service than inside customers. Substitute House Bill 49 would penalize Columbus by cutting Columbus' allocation from the Local Government Fund by 20 percent if it continues to charge outside customers higher rates.

Columbus' water and sewer rates are not arbitrary but are determined on a cost of service basis. Outside customer rates are higher than inside customer rates because the capital and operating costs of providing service to outside customers results in higher unit costs to outside customers. Columbus' methodology for calculating the cost



of service rate differentials for inside the city and outside customers is based upon periodic cost of service studies and is consistent with national standards for determining water and sewer rates. Our 2015 Cost of Service Study results indicated that the cost of serving outside water customers is between 1.3 and 1.6 times the cost of serving inside customers. The cost of providing sewer service to outside customers is 1.2 times the cost of providing sewer service to inside customers.

Most municipal water and sewer utilities across Ohio, including Canton, Cleveland, Cincinnati, and many others, charge more for outside customers. In addition, non-municipal public sewer districts charge more for outside customers. For example, the Delaware County Regional Sewer District imposes a 50 percent surcharge on its base wastewater charge for Columbus residents in Delaware County whose wastewater is treated by the district.

Substitute House Bill 49 also would penalize Columbus by entirely eliminating its Local Government Fund allocation if Columbus continues its policy of requiring annexation in exchange for water and sewer service. Columbus is a growing, dynamic, economically sustainable city of 850,000 people managed with fiscal integrity, and with a AAA bond rating, in large part because for the past 60 years it has required annexation in exchange for water and sewer service. Because of its size and borrowing capacity in the financial markets, Columbus has been able to construct in a cost effective manner large scale sewer and water projects that have enabled economic development in Central Ohio that has provided thousands of jobs and benefited all of Central Ohio.

Examples of such development projects include the three Amazon Web Services data centers built inside three of Columbus' suburban municipal partners- New Albany, Dublin, and Hilliard- to whom Columbus provides water and sewer service. Only Columbus could provide the data centers with the very large quantities of cooling water that they need to operate. The location of these data centers has not only provided jobs and tax revenue for these suburban communities, but has provided Central Ohio companies who use Amazon Web Services with a significant data processing speed advantage over their competitors located elsewhere because of the proximity of these data centers. Moreover, pursuant to Amazon's policy, because Amazon has a physical presence in Ohio in the form of the Columbus data centers, it is now collecting sales tax on all Amazon web-based transactions in Ohio, a significant benefit to the state of Ohio and Ohio's Counties.

In addition to supporting Columbus' growth, Columbus' annexation policy also supports the growth of our suburban municipal partners by allowing them to annex in exchange for water and sewer service provided by Columbus. Columbus believes that its investments in treatment, distribution, and collection infrastructure to serve outside customers are more secure when they are provided in a municipal context. Due to the inherent powers of municipalities, development projects within cities provide more return on community investment, and are more likely to provide a stable ratepayer base generating sufficient revenue to fund Columbus' construction of water and sewer infrastructure necessary to serve the project. As a result, Columbus has reached agreements with its suburban municipal partners under which adjacent unincorporated areas are assigned either to Columbus or to the suburban municipal partner for future annexation.

Under these agreements, suburban municipalities have reaped substantial economic development benefits where Columbus provides water and sewer service for a project that is annexed to the suburban community. Columbus provided water and sewer service to the Amazon data center in New Albany under such an agreement. All of these longstanding and effective regional economic development efforts are at risk as a result of this unwarranted and unnecessary legislation. The Committee should note that the Central Ohio Mayors Association, which includes the mayors of suburban communities provided water and sewer service by Columbus and whose residents pay more for that service than Columbus residents, opposes proposed Section 5747.504 contained in Substitute House Bill 49.

Substitute House Bill 49, in proposed Ohio Revised Code Section 6111.61, would also create a new area-wide waste water treatment planning agency for central Ohio. These provisions of the bill are patently unfair and are inconsistent with the provisions of section 208 of the Federal Clean Water Act. These provisions are also inconsistent with Ohio EPA's agreement with the Mid-Ohio Regional Planning Commission under which the commission will conduct some section 208 wastewater treatment planning.

The planning agency created under this section has a board consisting of nine members made up of the largest municipalities in Central Ohio. Only three board seats are given to Columbus and six are given to the next six most populous municipalities. So, Columbus, with a population of over 800,000, and which owns and operates the wastewater treatment and collection system for Central Ohio, cedes control of wastewater treatment planning to six municipalities whose combined population is a fraction of Columbus' population. That is unreasonable and unfair.

Finally, Sub. H.B. 49 amounts to an unconstitutional interference with Columbus' municipal utility power under Article XVIII of the Ohio Constitution. Under the Ohio Constitution municipalities enjoy broad authority to operate water and wastewater utilities. The General Assembly cannot limit the price a municipality can charge to non-inhabitants. A municipality may impose whatever limitations it deems necessary on the extraterritorial provision of utility service provided that they are not unreasonable, arbitrary, or capricious and bear a rational relationship to health, safety, and welfare. This includes the condition of annexation. Substitute House Bill 49 by penalizing Columbus for exercising its broad constitutional utility power amounts to an unconstitutional interference with that power.

Mr. Chairman, members of the committee, your attention and consideration in this matter are very much appreciated. I would be happy to take any questions at this time.



OFFICE OF THE MAYOR

June 2, 2017

The Honorable Larry Obhof
Senate President
1 Capitol Square, 2nd Floor
Columbus, OH 43215

Dear Senate President Obhof,

Because you are as committed to the people of the great state of Ohio and the City of Columbus as I am, I want to bring to your attention concerns about an unconstitutional amendment to House Bill 49.

This amendment, which only applies to our city, would require the City of Columbus to charge the same water and sewer rates to areas outside our municipal boundaries as areas inside the city. Our rates are based on a cost of service analysis and follow standard practices established by the American Water Works Association and followed by other Ohio municipalities. Columbus is one of many cities across the United States to charge outside multipliers, which cover costs of increased consumption, pumpage/storage costs, distance/elevation and bonding risk that applies only to City of Columbus residents.

House Bill 49 also establishes an area-wide wastewater treatment planning agency for central Ohio with a nine-member board appointed by Governor Kasich. This is in direct conflict with Section 208 of the Clean Water Act. The Mid-Ohio Regional Planning Commission has been working with the Ohio EPA to take over the 208 planning responsibilities for the region.

Under this amendment to House Bill 49, Columbus and our suburban partners would be at a competitive disadvantage for any future annexations because it would ban the long-standing local government practice of requiring annexation in order to provide services. This means suburbs will be forced to provide services to townships without annexation agreements, losing control of growth policies. That is why the Central Ohio Mayors and Managers Association opposes this amendment.

Because of this amendment, Columbus would likely no longer be able to provide full-service contracts to communities, requiring suburbs and townships to establish master meter contracts. Columbus would no longer handle meter reading, billing individual accounts, customer service or maintaining other jurisdictions' infrastructure. This would force communities to spend capital dollars on water tanks, pump stations and the maintenance of

those facilities. Communities would also have to hire more staff to complete work on lines, and handle their own meter reading, billing and customer service.

Master meter contracts also involve meeting state and federal regulatory requirements. Communities would become a public water system and face the additional cost of meeting EPA/OEPA regulations and testing requirements that currently are Columbus' responsibility. The economy of scale that suburban communities currently enjoy would be lost if each becomes its own water system.

House Bill 49 unnecessarily singles out the City of Columbus, with great cost to our suburban partners. This bill would end capital projects outside the City of Columbus and force us to reevaluate capacity fees and collect fees not previously collected from suburban communities.

It is my hope that you and your Senate colleagues will remove this amendment to House Bill 49, helping us avoid costly litigation at taxpayer expense and removing the threat of destabilizing economic growth and budget certainty in Central Ohio.

Thank you.

Sincerely,



Andrew J. Ginther
Mayor