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HOUSE FINANCE COMMITTEE
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Chairman Oelslager, Ranking Member Cera and Committee Members, my name is Madeline Fleisher and I am testifying today on behalf of the Environmental Law and Policy Center (ELPC) as an interested party on House Bill 7. ELPC is a Midwest environmental non-profit with offices across the region, including myself here in Columbus, and has for decades worked to protect and preserve the Great Lakes. Over the past several years much of that work has involved advocacy to address the longstanding and worsening crisis of phosphorus pollution in western Lake Erie that drives algae outbreaks in the basin every summer, harming Lake Erie's value as a resource for drinking water, recreation, and ecological treasure. We have also been engaged in conversations around the problems caused by nutrient pollution across the state, from Grand Lake St. Marys to the Ohio River, which suffered an algae bloom of nearly 650 miles back in 2015.

We very much appreciate the fact that you and your colleagues in the General Assembly and governor's office are placing a high priority on doing more to reduce phosphorus pollution through creation of the H2Ohio trust fund proposed in this bill. I think there's little dispute that efforts to date have not been enough, even where there has been substantial focus in western Lake Erie, as phosphorus loading into the basin has continued and even been exacerbated by more severe springtime rainfall associated with climate change. However, I'm here to provide ELPC's view that more funding, even at the scale contemplated through the H2Ohio fund, is not enough.

By far the predominant source of nutrient pollution in Ohio is large-scale agriculture, from runoff of both commercial fertilizer and manure.¹ Ohio's primary approach to such pollution has been to encourage voluntary steps at row crop and livestock operations to adopt various management practices to prevent or mitigate that runoff. ELPC's view is that such voluntary efforts will not work for years, if ever, without a robust accountability framework setting minimum, common-sense requirements for avoiding nutrient pollution. The Clean Water Act provides – in fact, requires – such a framework, in the form of a Total Maximum Daily Load, or TMDL. A TMDL sets an overall cap on water pollution like phosphorus, and implements that cap through a plan that allocates the overall load to particular tributaries and sources, with accompanying monitoring and regulatory measures such as enforcement through Clean Water Act permits for large livestock operations.

Throwing more money at this problem without a plan for where it's most needed and can be most effective – plus guardrails to make sure the money is used wisely – will set Ohio up for failure. I'll highlight at least one notable example of where the current approach in Lake Erie needs additional work. Recently, ELPC partnered with the Environmental Working Group to release a study using satellite imagery to analyze the presence of livestock feeding facilities in the Maumee River watershed across Ohio and other western Lake Erie states. That analysis was important because current estimations of the sources of phosphorus pollution in western Lake Erie generally rely on outdated information about manure sources, such as a binational report by the United States and Canada from last year that stated manure represented about 20% of the

¹ Ohio EPA, Nutrient Mass Balance Study for Ohio's Major Rivers (April 2018), https://epa.ohio.gov/Portals/35/documents/Nutrient%20Mass%20Balance%20Study%202018_Final.pdf.

phosphorus loading in western Lake Erie based on data from over a decade prior.² Our study showed that, since 2005, the number and size of large livestock facilities in the Maumee River watershed has increased significantly while row crop acreage has remained fairly constant – suggesting that manure may be playing a much bigger role than previously thought.³ That’s particularly important because state regulations around manure application are in some key respects less stringent than for commercial fertilizer, for example allowing application of manure at levels far higher than the amount of fertilizer needed to actually grow crops. We did this analysis because we want to highlight these potential issues and stumbling blocks, but it’s really state governments, along with U.S. EPA, who are tasked with protecting water quality and need to do more to develop an up-to-date plan for where to get the most bang for any spending dollars, and how to ensure results on the back end, before starting to write checks with taxpayer money.

Therefore, as you’re shaping the direction of the H2Ohio fund, ELPC urges you to provide specific direction to the endowment board on spending priorities. From the start, this fund should be focused on developing a plan to gather more detailed monitoring data for the Maumee River and other watersheds, sufficient to identify geographically targeted nutrient reductions, consistent with Ohio’s phosphorus reduction targets for 2020 and 2025 under the Great Lakes Water Quality Agreement. Any eligibility for funding for agricultural measures, especially for industrial livestock facilities, should be conditioned on obtaining a Clean Water

² International Joint Commission, Fertilizer Application Patterns and Trends and Their Implications for Water Quality in the Western Lake Erie Basin at 4, Tbl. ES-1 (Feb. 2018) (relying on 2007 data regarding manure runoff), https://legacyfiles.ijc.org/tiny_mce/uploaded/Publications/IJC_FertReport.pdf.

³ METHODS AND RESULTS: EWG AND ELPC ANALYSIS OF AFOS IN MAUMEE RIVER BASIN (Apr. 9, 2019), <https://www.ewg.org/maumeemethodology>.

Act permit and adopting certain minimum requirements on issues such as soil testing and limiting application of nutrients to the agronomic rate. I'm sure other water quality advocates can work with the endowment board to come up with other useful guardrails to ensure accountability and results from any spending from the H2Ohio Fund, but including that as a specific part of this bill will get them off to a running start.