



# Ohio Section

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## American Water Works Association

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May 28, 2019

The Honorable Representative Jamie Callender  
Chair, House Public Utilities Committee  
77 S. High Street, 13<sup>th</sup> Floor  
Columbus, OH 43215  
Rep61@ohiohouse.gov

Re: H.B. 163 – Opponent Testimony

Dear Representative Callender:

I am writing on behalf of the Ohio Section of the American Water Works Association (AWWA) Water Utility Council regarding the proposed House Bill 163. The AWWA Ohio Section is the leading water policy organization in Ohio. AWWA Ohio Section member utilities include publicly-owned and investor-owned water utilities that provide safe drinking water to millions of Ohioans and thousands of business and institutional customers in Ohio's big cities, small towns, and rural areas.

AWWA's membership includes more than 4,600 water utilities that supply safe drinking water to approximately 180 million people in North America. AWWA membership also includes a broad spectrum of water professionals, including treatment plant operators, managers, scientists, environmentalists, manufacturers, educators, regulators, and those outside the water industry who hold a genuine interest in drinking water supply and public health. AWWA's mission is to unite the water community to protect public health and provide safe and sufficient water for all. AWWA also sponsors scientific research, provides public information, and advocates for public policy measures to improve the quality and availability of water in North America and beyond.

The AWWA Ohio Section supports Ohio EPA's efforts to regionalize public water systems in order to help drive down cost of service and, potentially, improve managerial capabilities of the public water systems. Regionalization can help improve public health, while reducing public expense. We are concerned that H.B. 163, as written, will put a chilling effect on regionalization, which could negatively affect public health and cost the citizens of Ohio more.

Operating a public water system requires significant public expenditure both for the capital to put the system in place and for the on-going operations and maintenance expenses. Additionally, there is a large responsibility to operate the system in a manner that protects public health and welfare. Utility operators take that responsibility very seriously.

For a utility to decide to provide service to an area outside the jurisdictional boundaries, there must be sufficient reason to do so in order to overcome the additional risk of providing that service. Often, the reason to do so is monetary. This specific situation was considered by the Ohio Legislature and codified in the 1950s in ORC 743.12 (1956) and 743.13 (1953). Of specific interest to this discussion is ORC 743.13, *Expense of service outside municipal corporation*, which governs when an entity other than the water utility pays for constructing the facilities outside the municipality. It states:

*"The same rule and regulations which govern the furnishing of water or electricity to its own*

*citizens shall apply in all cases, except that the rates charged therefor shall not exceed those within the municipal corporation by more than one tenth.”*

This is one specific situation which might occur. The utility might construct the facilities on the other jurisdiction's behalf, might or might not provide the actual operation and maintenance of the facilities outside the jurisdictional limits, or might do any number of things and each would cost a different amount. This could even include the utility needing to recover the cost of previously constructed capital.

Regardless of the specific situation, this is an agreement into which municipal corporations (or other legal entities) would usually enter if it is in the best interests of all parties. The corporation seeking the service is opting to do so because it believes the agreement is less expensive than the alternative, provides better public health protection, and/or is advantageous for other reasons. The corporation seeking to provide service may be hoping to realize an economic benefit from the utility investment made which would hopefully more than offset any economic losses the corporation may realize by providing that service to “a competitor for business and other interests.”

My utility is a case in point. Avon Lake is situated on the shores of Lake Erie and built its original water plant in the 1920s. In the 1950s, Avon Lake was approached by Avon (directly to our south) to provide bulk water service because sufficient water for Avon's growth interests was not available. An agreement was reached, and we are still providing that service more than 60 years later. As we worked through that agreement, we considered that Avon is competing for businesses and residents. Since that time, we have entered into agreements to provide service to six other jurisdictions, all while keeping these competing economic factors in mind.

The reasons why these other jurisdictions approached Avon Lake are numerous. Some could not find the water they needed for growth. Others determined the cost to treat the water they had available was more than they cared to pay. Others possibly did not have or want to maintain the expertise to operate a water treatment system. Regardless of the reason, those jurisdictions approached Avon Lake and an agreement was reached that was in the best interests of all parties. Avon Lake Regional Water recently reviewed the rates its bulk water recipients charge their individual customers. Through this mutually beneficial relationship, six of the seven jurisdictions are able to charge rates below the state average, and the seventh is a rural water district that has significant infrastructure it must maintain due to its rural nature. Additionally, those jurisdictions are able to receive high-quality water, knowing that a professional management entity is treating the water and delivering it to the jurisdictional limits.

Because it opens up utilities/municipalities to frivolous lawsuits, affects home rule, and could cost existing customers more money, H.B. 163, as written, would cause utilities/municipalities to think long and hard as to whether to provide service to outside jurisdictions. Without this service, these outside jurisdictions may not be able to affordably comply with public drinking water requirements—a situation we do not believe anybody wants—and lead to the opposite result from the believed intent of the bill.

We request that this bill not be passed out of Committee for consideration by the full House.

Sincerely,



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