



City of Akron, Ohio

DANIEL HORRIGAN, MAYOR

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Chairman Callender, Vice-Chairman Wilkin, Ranking Member Smith and members of the House Public Utilities Committee, thank you for allowing me to submit testimony in opposition to House Bill 163 (HB 163). Previously, in May 2019, I submitted testimony opposing this bill. Since that time, circumstances have drastically changed - HB 163 has been amended several times, and we currently find ourselves in the midst of a global pandemic. In light of these changed circumstances, I am compelled to file this additional testimony in opposition.

The City of Akron is home to an award winning drinking water utility system. Such a system does not come cheap, nor is it created overnight. Akron's water system has cost this city hundreds of millions of dollars to develop, over multiple generations. The result, however, was worth the time and investment, as Akron is now able to provide its residents and neighboring communities with the highest quality of water.

The passage of HB 163 jeopardizes the success of this system, will result in higher water rates to customers, and will likely cause the cessation of water service to communities outside of Akron. In addition, there is nothing in this legislation that would stop another municipality from receiving Akron's water at a set maximum rate, then subsequently billing and "up-charging" their residents any rate they deem fit – allowing an outlying community to generate profits from Akron utilities, due to State government action.

Many years ago, Akron's neighboring communities learned of Akron's investments and began to recognize the value of Akron's water system to their citizens' welfare, human health, and economic prosperity. These communities desired similar infrastructure to serve their own citizens' needs, but the sheer magnitude of cost and regulatory responsibility to create such a water system rendered that desire unrealistic. Subsequently, they aggressively pursued contractual agreements with Akron to allow their citizens to be served with Akron's water resources. Akron obliged and entered into a multitude of drinking water supply and/or sanitary sewer agreements with neighboring communities.

Over the years, Akron's agreements to serve water to outlying communities have taken various forms. Some took the form of Joint Economic Development Districts (JEDD's), which effectively ceased annexation, created new income tax revenue streams for Akron and its bordering townships, created hundreds of millions of dollars in water and sewer infrastructure, and led to economic development in under-developed areas. Other agreements took the form of base water agreements, or master-meter water agreements, coupled with revenue sharing. In other communities, no water service agreements exist. But no matter the form, all of these extra-territorial arrangements had a similar impact – they allowed businesses and residents outside of Akron to obtain access to the benefits of Akron's high-quality water utility.

Arbitrary Rate Restrictions Create Negative Impact on Akron's General Fund Obligations

HB 163 imposes arbitrary rate restrictions on Akron utilities and prejudicial direct payment limitations on the City of Akron. These limitations will have far-reaching future consequences, affecting Akron's general fund obligations. Even more disheartening, HB 163 attempts to impose these restrictions at a time when the country is in the throes of a health crisis never before experienced in our lifetimes. As a result of the current pandemic and shuttering businesses, water usage is down approximately 15% and Akron's income tax revenues are suffering significantly. As a suspected consequence of the State-mandated moratorium on water disconnections, customer delinquencies are at record levels. This bill imposes further direct losses to an already fiscally-suffering city service, and one which has been identified by the State as a primary defense to the current pandemic. As I have expressed very publicly in other forums, I truly believe the survival of America's cities is contingent upon what larger forms of government do during this critical time. The passage of HB 163 will deliver another fiscal blow to Ohio's cities, while furthering the risk of the spread of COVID-19 by decreasing access to clean drinking water.

Increased Costs to Customers

As amended, HB 163 purports to remedy some of the harsh results that may have ensued from passage in its original form. To this end, amended HB 163 attempts to "grandfather-in" contractually agreed-to rates and direct payment arrangements in existence as of the date of passage. While this amendment is a step in the right direction, it does not go nearly far enough, and does not address what occurs when contracts expire. Unsurprisingly, Akron's utility agreements will all expire at different times. Some will expire within the next 5 years, and some will not expire for over 70 years. Upon expiration, the mandates of HB 163 will inevitably lead to utility rate changes at different intervals, laying a foundation for resentment among sister communities and disputes between Akron and its neighbors, resulting in costly litigation. In all cases, passage of HB 163 will likely lead to losses in utility service, increased costs/rates to consumers, and the de-valuation of local governmental assets, such as utility infrastructure.

Promoting Lesser-Quality Water by Disincentivizing Regionalization

By arbitrarily capping utility rates and eliminating direct payments, HB 163 makes it non-economical to consolidate smaller, ad hoc systems into larger utility systems. In doing so, this bill undermines Ohio EPA's regionalization initiative, which encourages small water operators to abandon their outdated systems and connect to larger, more advanced systems. Ohio's

regionalization initiation not only reduces overall administrative costs to the state, but it also prevents smaller communities statewide from receiving lesser-quality water. In the past, Akron has been a leader in this state program, eliminating a multitude of burdensome public water systems. Akron will no longer be able to champion this program with the restrictions imposed by HB 163.

Allows Neighboring Communities to Generate Profits from Akron’s Utilities

As amended, HB 163 also creates a unique paradox with regard to a common community-to-community master-meter arrangement. Under HB 163, Akron would be required to supply an outlying community with water at a set maximum rate. This water is then provided to the outlying community through one large “master-meter” and the community is then responsible for distribution (and billing) of the same to its residents. In this scenario, while HB 163 would require Akron to limit the rate it charges to the outlying community, there would be no similar limitation on what that community, in turn, charges its customers. In other words, an outlying community that essentially acts as a reseller of Akron water could charge a markup to its residents significantly in excess of what Akron is able to charge. In doing so, the outlying community could generate profits from Akron utilities, due to State government action. This outcome is neither desirable, nor equitable.

Simply put, HB 163 jeopardizes the Akron water system and its ability to promote the public health. HB 163 endangers multiple contractual relationships and long term negotiated arrangements between Akron and its neighboring communities. It does this in the midst of a catastrophic event that has resulted in staggering loss of life and economic devastation – the full impact of which we have yet to see. The passage of this bill will result in the deterioration of relationships between local governments, an increase in litigation, a decrease in the quality of service provided, and an overall increase in costs. As such, the City of Akron vehemently opposes this legislation.

Thank you again for the opportunity to present testimony.

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City of Akron