



**Representative Bob Cupp**

**4<sup>th</sup> House District**

**SPONSOR TESTIMONY – HB 340**

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Good afternoon Chair Wiggam, Vice Chair Stephens, Ranking Member Kelly and members of the committee.

I appreciate the opportunity to offer sponsor testimony on HB 340, which updates, clarifies, and synchronizes Ohio's [decades old] landowner petition process for accomplishing necessary and adequate drainage of agricultural and other lands. Although the basic petition drainage process may be unknown to many, it is an essential tool for assuring that land has proper drainage. And, the bill itself is fairly straight forward because it makes common sense updates to a long-standing statutory process, which, we believe, are non-controversial.

Water is a life-giving element, but too much water, if not properly handled can damage crops, compact soil, lead to destruction of property, and diminish productivity and usefulness of land. If enacted, HB 340 will update Ohio petition drainage laws, some of which haven't

changed since 1860. Ohio's petition drainage laws are a vital component of Ohio's drainage infrastructure. Petition drainage projects are found throughout Ohio and help provide for better utilization of Ohio's soil and water resources. Common petition drainage projects include drainage ditches, culverts, levees and other structures, as well as improvements to waterways.

Very basically, the petition drainage statutes provide a method by which one or more landowners who need drainage improvements to benefit their land – which may include replacing clogged underground tile, cleaning dead trees and debris backing up water in existing drainage streams -- to file a petition either directly with the county commissioners in which the land is located or through the local soil and water conservation district to request that improvements be made and the costs assessed to all landowners benefiting from the requested improvements. If it is found that the benefits of the improvement will outweigh the costs, the project is approved, the work is done, and each benefiting property owner pays their fair share of the cost.

This petition drainage process was created to provide Ohio landowners a means to establish the drainage infrastructure necessary to improve the productivity of land and ultimately benefit the public good. Ohio's existing petition drainage statutes, portions of which date back to the 1860s, have served Ohioans well for many years, but, as with many things, over time they have fallen out of pace with current technology, no longer reflect current best processes, and utilizes archaic terminology causing confusion for affected landowners and for county officials who must administer the laws.

In 2013, some six years ago, the County Commissioners Association of Ohio convened an informal but structured Drainage Law Revision Task Force, to develop recommendations for

the update and revision of Ohio's petition drainage statutes. The task force was comprised of county commissioners, county engineers, representatives of soil and water conservation districts, OSU Extension and other partners. House Bill 340 is the product of that task force's efforts. The intent of the recommended changes is to modernize the petition drainage system by embracing the use of modern technology, resolving statutory ambiguities revealed through experience, provide greater statutory clarity, allow for greater efficiency, and to reduce unnecessary legal costs for affected landowners.

To that end, one of the primary goals of HB 340 is to align two chapters of the Revised Code that relate directly to the petition drainage process, but differ how they are administered. ORC Chapter 940 establishes the petition drainage process when a petition is filed with the soil and water conservation district; ORC Chapter 6131 establishes the petition drainage process when the petition is filed and processed through the county commissioners. Currently these two chapters of ORC do not always align, which causes confusion and decreases efficiency. Under HB 340 the statutory language and processes in both chapters would track each other more closely by aligning timelines for hearing notices, amendments to petitions, appeals of decisions, and other preparatory work.

Another goal of HB 340 is to provide more clarity when the projects are multi-county. It is not uncommon for petition drainage projects to cross county lines and sometimes involve more than two counties. Although the current statute creates a joint board of county commissioners and soil and water supervisors in those situations, it is unclear which county is the "lead county" on the project. HB 340 clarifies that gap. The lead county is defined as the county which a majority of the initial length of the proposed improvement is located and that county will administer the petition process. This new definition will reduce confusion that now exists.

Another major component of HB 340 is to authorize the use of new technology in the surveying of a potential petition drainage project to streamline the process. An example is the required view of the proposed project. Currently, the statute calls for soil and water supervisors or county commissioners to do a physical on-site walk-through of the entire length of a proposed drainage improvement, which could be miles long and in remote territory. HB 340, instead, would allow for the use of photos and video taken by drones to be utilized in lieu of an onsite hike. This will allow both for greater efficacy in examining the project by county officials and for enhanced public understanding of petitioned drainage projects.

In addition to authorizing the utilization of updated technology, the bill also updates terminology and readability. Because some sections of ORC 930 and 6131 have not been revised since 1860, modern terminology and definitions replace some outdated language. Moreover, HB 340 reorganizes the order of the drainage statutes for a more logical flow.

HB 340 also provides for inflationary increases in the amount of the bond required to be deposited when a petition for a drainage improvement is filed. The bond is used to pay for the all costs associated in preparing for the view and first hearing if the petition is not granted or is dismissed. The current bond amount is \$500 plus \$2 per every benefiting parcel listed on the petition in excess of 200 parcels. This would change under HB 340 to \$1,500 plus \$5 dollars for every benefiting parcel over 200 parcels. This reflects the amount of inflation since the statute was last revised. Additionally, for repairs to a drainage project, HB 340 permits county commissioners to increase the maximum the county engineer may expend from \$4,000 to \$24,000.

While HB 340 primarily addresses long needed updates to streamline the petition drainage process, it also addresses some aspects of how the land surrounding a petition drainage product is regulated. For erosion control, current statute requires sod or seeded strips along the drainage system, which act as a buffer to deter erosion caused by the flow of water. HB 340 increases the minimum size of the buffer strips from 4ft to 10ft, the total acreage of the buffer strips is then removed from any taxable property evaluation by the county auditor. This change will save tax payers in the long run and will increase soil conservation efforts. This change in law is supported by the Ohio Farm Bureau, which I believe speaks to its importance.

This overview contains just a few of the updates made by HB 340. Over the last 6 years practitioners and experts in this process have worked diligently to identify areas in need of clarification in Ohio's petition drainage statute and are in support of the bill.

I hope you will see the need and will support the bill, too. To that end, testimony will be provided in future hearings on the need for this update to the petition drainage law and will provide more information and explanation of the proposed changes and why they will improve the existing process.