

**Testimony of  
Donald L. Mader, Executive Director  
American Council of Engineering Companies of Ohio  
to the  
House Energy & Natural Resources Committee  
regarding House Bill 214  
May 24, 2016**

Chairman Landis, Vice Chair Hagan, Ranking Member O'Brien, I am Don Mader, executive director of the American Council of Engineering Companies of Ohio. We are here today to testify in opposition to House Bill 214.

For the record, my association is made up of 120 engineering firms located all over the state of Ohio, many of which are engaged in the design our public water and wastewater systems, in addition to bridges, highways, building structures and systems and environmental projects.

In order to offer engineering services in the state of Ohio, engineering firms must be licensed by the state and they must carry professional liability insurance to protect the public against any claims that might be filed as a result of their negligent errors or omissions.

We oppose this legislation for one very simple reason. In our considered opinion, there is only one entity that should decide the type of pipe that will be used on a public water or wastewater projects – the independent professional engineer of record who puts his or her license and livelihood on the line when designing this critical public infrastructure.

With your permission, I would take just a few moments to address a couple of what I think are very inaccurate assertions that have been made by the proponents of this legislation.

The most troubling claim of the proponents is that professional engineers are biased against PVC pipe because they're not familiar with the product and they're resistant to change.

I can assure you that my engineering firms know all about the relative merits and shortcomings of PVC pipe. In fact they know about the relative merits and shortcomings of PVC pipe, and concrete pipe and iron ductile pipe and clay pipe, because that's their professional obligation.

My engineering companies specify the use of PVC pipe on projects every day, all over the state – when, and only when, it is appropriate for the project at hand.

If the committee would like to really get into the weeds on this legislation, I can arrange for you to hear from professional engineers who could explain in great detail when the use of PVC pipe is appropriate and when it is not.

Or I could take you on a tour of some local civil engineering firms and show you their libraries full of construction material specification books, including books describing the technical attributes and applications of PVC pipe.

Certainly there are municipalities that are skeptical of the merits of PVC pipe, but it is the obligation of the PVC pipe industry to sit down with the engineering staffs of these municipalities and demonstrate the merits of their product.

Instead, this industry wants the General Assembly to help force open the doors to the marketplace and gain an advantage over their competitors by mandating the use of their product.

The state of Ohio licenses professional engineers and requires them to make protection of the public health and safety their first priority. It is the engineering firm, and the professional engineer that seals project plans, who take all the risk when they specify the type of pipe that will be used on water and wastewater projects.

If an engineering firm makes a bad judgment call and specifies the wrong material and there's a problem on the project, it's the professional engineering firm that gets sued. It's the professional engineer who's personal license and livelihood is on the line – not that of the pipe manufacturer.

Given this huge responsibility you have placed on them, we ask you to continue to allow them to exercise their independent professional judgment in determining what kind of piping material is best suited for any particular project.

This bill proposes that public authorities may not “prefer one type of suitable piping material over another” in the design and construction of water and waste water facilities that are funded in whole or in part by the state, “unless sound engineering practices suggest that one type of suitable material is more appropriate for a particular project.”

But the bill does not specify whose “sound engineering” judgment would control in such situations? The judgment of the engineer who works for the PVC pipe manufacturer? That conflict of interest is rather obvious.

We submit that, without question, the independent consulting engineer whose license and livelihood are on the line must make this determination.

Proponents of this bill would have you believe that local governments willingly pay thousands of dollars more for piping material on their projects just because they have some unjustifiable bias against PVC pipe. Nothing could be further from the truth.

If the use of plastic pipe holds the promise of reducing our client's cost of construction, while meeting all necessary performance criteria vital to the protection of the public health and safety, the professional engineer is obligated – as a matter of his or her professional code of ethics – to so advise the client.

At the very foundation of the profession of engineering is the search for ways to build things or solve problems less expensively and more efficiently and safely than we have in the past. For proponents to suggest that professional engineers are simply ignoring a more efficient, cost-

effective material or technique out of ignorance or laziness casts the serious doubt on their credibility.

At a time when our public infrastructure is under severe pressure and funding for infrastructure repair and construction is scarce, it strains credulity to suggest that local government officials and their consulting engineers of ignoring cost-saving alternatives out of sheer bias or ignorance.

Let's be honest and call this bill what it is: It is part of a nationwide campaign by one industry to compel the use of a product that it cannot or will not sell in the marketplace. Nothing more, nothing less.

We urge the committee to reject HB 214.

Thank you for allowing me to testify today. I will be happy to try to answer any questions you might have.