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Senate Agriculture and Natural Resources Committee
House Bill 340 – Proponent Testimony

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Chairman Hoagland, Vice Chair Schaffer, Ranking Member O'Brien, and members of the Senate Agriculture and Natural Resources Committee, my name is Adam Schwiebert and I serve as a policy analyst for the County Commissioners Association of Ohio. I thank you for the opportunity to share CCAO's support for House Bill 340 and how it will benefit county government.

Drainage is admittedly a topic that few people consider. Ohio is blessed with abundant water resources, with most portions of the state receiving 35 to 40 inches of precipitation annually. But excess water can be highly destructive, resulting in damage to homes, businesses and roadways as well as decreased agricultural soil productivity. A system must be in place to handle this excess water, and for well over 100 years, that system in Ohio has been petition drainage.

Petition drainage provides a statutory process for private citizens, municipalities, townships, boards of county commissioners and others to present their drainage challenges and proposed solutions to county government. The process involves many local officials including county commissioners, county engineers, and soil and water conservation districts, among others. These groups work together throughout the petition process as drainage projects are proposed, reviewed, constructed and maintained. Common drainage improvements include, but are not limited to, drainage ditches, underground tile pipes, and the clearing of logjams and other waterway obstructions.

County commissioners play a significant role in the petition drainage process. Commissioners receive completed petitions, conduct in-person inspections of proposed drainage improvement sites, hold public meetings on drainage projects, approve assessments and hold ultimate authority to approve or dismiss a submitted petition. It makes sense, therefore, for commissioners to take interest in ensuring Ohio's petition drainage statutes serve local government and Ohioans well.

The problem plaguing petition drainage today is that much of the enabling statues in the Ohio Revised Code (ORC) have not been updated in many decades. Many petition drainage statutes are ambiguous, incompatible with other drainage statutes, and do not reflect modern technology and practices. This can lead to confusion for local officials and landowners, inefficiencies, and at times, unnecessary legal costs.

To tackle the task of updating and harmonizing Ohio's drainage laws, the Drainage Law Revision Task Force, chaired by Union County Commissioner Steve Stolte, was formed in 2013. The task force is comprised of county commissioners and engineers, soil and water conservation district staff, the Ohio Farm Bureau Federation, OSU Extension and others. For five years, the task force reviewed and revised existing drainage statutes to create a more efficient and streamlined drainage process. The completed product of those efforts is found in House Bill 340.

Highlights of the changes included in the bill include the following:

Greater uniformity across ORC chapters. Different petition drainage statutes are located in different chapters of the ORC. Petitions filed with boards of county commissioners follow the process outlined in ORC 6131 while petitions filed with Soil and Water Conservation Districts are governed by ORC 940. The bill attempts to align these two chapters and others as closely as possible on issues like petition content requirements, notification requirements, deadlines, and appeals. Better aligning these chapters will help reduce confusion among landowners and local officials, whichever petition process is utilized.

Clarification of lead county roles and responsibilities. It is not uncommon for petition drainage projects to cross county lines. The ORC allows for this possibility in ORC 940 6133, which establish a joint county petition process. However, the current ORC 940 and 6133 do not adequately delineate which county in a multi-county petition project bears certain administrative responsibilities. HB 340 establishes which county is considered the lead county for a joint petition, thus reducing confusion between local officials.

Embracing modern technology and practices. Current statute does not reflect technological changes and processes that have developed since drainage statutes were last revised. For example, current statute requires that county commissioners physically inspect proposed drainage improvement sites in-person in a process called the "view." Except for trained drainage engineers, most individuals gain little from this experience. HB 340 allows commissioners to utilize technology, such as videos and/or drones, to provide a more comprehensive view of a proposed improvement, and in doing so, save time and promote greater understanding of a project.

Updated bonding thresholds to reflect current costs. The current bond requirement when submitting a completed drainage petition under ORC 6131 – to cover expenses like mailing costs and other preparatory work - is set by statute at $500 plus two dollars for every benefiting parcel listed on the petition in excess of 200. The bill updates this bond amount to $1,500 and $5 for every benefitting parcel over 200 to reflect inflationary cost increases since the statute was last revised.

Sod and seeded strip width specifications. Current statute requires sod or seeded strips, ranging from a minimum of four feet to a maximum of fifteen feet, to be placed along ditch

improvements for erosion control and maintenance access purposes. HB 340 increases the minimum strip width from 4 feet up to 10 feet, while the 15-foot maximum remains unchanged. This expanded sod strip will promote water quality improvement and allow for easier access for maintenance purposes.

Improved readability and modernized terminology. Many of the petition drainage statutes have existed for decades and are not drafted in a manner that is easy for most landowners to understand. The bill reorganizes the drainage statutes in a manner that is simpler, providing greater clarity to landowners and local officials about the steps and requirements of the process. This update will reduce confusion for both county officials and private citizens, with the goal of reducing costly errors and mistakes.

The work of the Drainage Law Revision Task Force was extensive, as you see in the bill text and accompanying analysis. I hope that my testimony has helped summarize the key changes included in HB 340 and the importance of a petition drainage process that keeps up with modern times and practices.

CCAO thanks Speaker Cupp for his sponsorship of this legislation and I thank the committee for your time and consideration. I am happy to answer any questions you may have.