



Jefferson-Belmont Regional Solid Waste Authority

Opponent Testimony to SB 119

House Energy and Natural Resources Committee – October 25, 2023

Chairman Kick, Vice Chair Lear, Ranking Member Rogers, and members of the House Energy and Natural Resources committee; good morning and thank you for the opportunity to provide opponent testimony on SB 119. My name is Albin Bauer, and I am speaking today on behalf of JB Green Team, which manages the joint solid waste management district (SWMD) comprised of Jefferson County and Belmont County.

Since the introduction of SB 119, the bill has changed considerably. Unfortunately, the bill remains problematic for not only JB Green Team, but for solid waste management districts statewide. The version before this committee contains a provision that allows a county to withdraw from a SWMD, unilaterally, with the withdrawal becoming effective after 180 days regardless of whether the two districts resulting from the withdrawal have agreed how to disentangle the solid waste and recycling collection and processing infrastructure created during the past 20 years, or whether both new districts have prepared and obtained approval of a new solid waste plan, or whether there are adverse financial impacts on the new districts.

A core problem with the amended SB 119's proposed unilateral withdrawal provision is that it is focused on just one stakeholder in the solid waste ecosystem – the county that wants to withdraw. This is completely contrary to the withdrawal process that currently exists in statute under R.C. 3734.521, which allows the interests of all stakeholders to be voiced and considered before a proposed withdrawal becomes final: not just the interests of the withdrawing county, but also the interests of the non-withdrawing county or counties, their largest municipalities, other cities, villages and townships in the counties, as well as participants in the waste management industry, and the people and businesses that generate solid waste. Under the existing withdrawal process, each of the solid waste districts resulting from a proposed withdrawal is required to prepare and adopt a new solid waste management plan, have it ratified by the board of county commissioners, the largest municipality, and by cities, villages and townships representing at least 60% of the population of the county, and then obtain final approval from Ohio EPA. This process takes about 18 months to perform, and the final steps of local ratification and Ohio EPA approval take 180-days to complete by themselves. But the result is two new solid waste districts with solid waste plans that have the support of all the important solid waste stakeholders.

The proposed unilateral withdrawal process under Amended Substitute SB 119 in its current form imposes an arbitrary deadline of six months on when the withdrawal becomes effective which short circuits the above-described safeguards under the existing withdrawal statute for protecting all stakeholder interests. These safeguards are important, and they have worked for the past thirty years since they were enacted into law. When a county wishes to withdraw from a SWMD, it may do so. There is nothing in Ohio law that prevents this from happening. But under existing law, the interests of all the stakeholders must be considered and addressed before the withdrawal is final. The existing provisions of ORC 3734.521 should remain the only process that is used to withdraw from a joint district.

An equally, if not more serious, problem with the proposed unilateral withdrawal process is that it undercuts one of the basic underpinnings of HB 592, which created solid waste management districts in 1989. The reason solid waste management districts exist in the first place is to provide assurances to smaller counties that don't have local landfill disposal capacity in their county that their residents' and businesses' trash will be disposed in a safe, sanitary and economical manner. HB 592 correctly assumed that waste would be managed in fewer but larger regional landfills located across the

state and many counties would not have a solid waste landfill. A single county, with a small population and no in-county landfill, would not have the resources to operate as a stand-alone solid waste district. The laws that were created in HB 592 require counties with a population less than 120,000 that could not demonstrate at least 10 years of waste disposal capacity, to form a joint district with other counties. The proposed unilateral withdrawal process in SB 119 allows these protections to be arbitrarily upended.

Another concern is that the main purpose of SB 119 is to address the issue of East Coast waste shipped by rail that is disposed of in Ohio landfills. SB 119 does not include any provisions that will reduce the tonnage of East Coast waste being shipped to Ohio landfills, but the new tiered disposal fee on construction & demolition debris (C&DD) under ORC 3714.07(E) of Amended Substitute SB 119 would produce a huge amount of new fee revenues on the disposal of C&DD at the Sunny Farms landfill in Seneca County. According to Ohio EPA, in 2021 Sunny Farms disposed 1,886,430 tons of C&DD in 2021, almost all of which was delivered via rail. Sunny Farms has applied for a 220-acre expansion of its landfill that will create 49 million tons of new disposal capacity and have a life expectancy of 12 to 15 years. If the expansion is approved and opens, the amount of C&DD that will be disposed at the facility will double to approximately 4 million tons per year.

The concern with the proposed tiered disposal fee on C&DD disposed at Ohio landfills is not just that it will produce a revenue windfall for a small number of health departments with no explanation as to whether they need the funds or how they would use them, it is also that in order to levy the tiered disposal fee on C&DD, the solid waste district needs to know where the C&DD was generated. If the C&DD was generated within the district, the district may levy up to \$2 per ton under ORC 3714.07(E). If the C&DD was generated outside the district, the fee may be up to \$4 per ton. The fee levied on out of state waste cannot be more than the in-district fee. How do solid waste districts verify whether C&DD was generated by a roof replacement or a structure removal inside the district or outside the district? Projects that generate C&DD start suddenly, last for a week or several weeks, and then they're gone. Will contractors and individuals eventually be required to notify the local solid waste district when they begin a new project that will generate C&DD. The proposal in ORC 3714.07(E) to have solid waste districts levy a tiered disposal fee on C&DD is substantial additional burden being imposed on solid waste districts without any corresponding benefit. It begins to change solid waste management districts into solid waste/C&DD management districts as an unintended consequence of SB 119.

JB Green Team's primary objection to SB 119 is that in attempting to address Seneca County's local concerns regarding the proposed landfill expansion, SB 119 will inflict considerable damage on solid waste districts throughout Ohio without achieving any reduction in the disposal of East Coast waste at Ohio landfills that receive large amounts of rail-shipped C&DD waste.

Thank you for your attention and consideration to our concerns. I am happy to provide any additional information or answer any questions you may have regarding our concerns about SB 119.