



## **OHIO HOUSE STATE AND LOCAL GOVERNMENT COMMITTEE**

**June 13, 2023**

### **Opponent Testimony House Bill 93**

Chair John, Vice Chair Dean, Ranking Member Brennan, and members of the Ohio House State and Local Government Committee:

My name is Rod Davisson, and I serve as a representative of the Ohio Municipal League. Thank you for the opportunity to share the viewpoint of the Ohio Municipal League, an organization that proudly represents over 700 municipalities throughout our state. We are here to express our concerns and opposition to the proposed legislation concerning the collection of past due utility payments from landlords as contained in House Bill 93.

While we understand and appreciate the intention behind this bill to alleviate the pressures on landlords, we must consider the broader implications and potentially detrimental effects on our municipalities and, ultimately, our citizens.

Firstly, this proposed legislation significantly restricts the ability of municipalities to recoup past due utility payments. It is vital to recognize that these funds are not just revenue for municipalities, but they are the lifeblood for the operation and maintenance of essential public utilities – water and sewage– that our citizens depend upon daily. Any disruption in these funds could lead to potential interruptions in these vital services.

Moreover, landlords play an integral role in ensuring that their tenants pay utility bills, especially in municipalities that have post high school institutions of higher education. There are 177 public universities, regional campuses, community colleges, technical schools, and independent campuses in Ohio. That is the equivalent of two for every county. In municipalities housing post high school educational institutions, tenants routinely do not pay the last month's utilities because they leave the municipality after the school year. Landlords have the ability to get home addresses to guarantee payment—municipalities do not have this ability. In addition, in the existing system, landlords are ideally positioned to ensure these obligations are met. They maintain direct communication with tenants and have the power to enforce payment through actions such as eviction. Unlike municipalities, landlords have a direct lever of influence, which can be used to encourage prompt payment of utilities.

To address the issue at hand, we propose more straightforward solutions that have proven effective in many communities. One such solution is to send a bill to both the landlord and the tenant, allowing the landlord to monitor the payment of utility fees. Another option is for landlords to include utility fees within rent payments, thereby allowing them to pay the

municipality directly. Both options would ensure accountability and timely payment without the need for legislative intervention.

Furthermore, the proposed bill interferes with existing service contracts between municipalities and landlords, introducing a degree of uncertainty and potential instability. If municipalities cannot recoup utility costs, they might have no choice but to refuse to provide services to rental properties or require substantial upfront deposits, making it financially untenable for landlords to operate. In addition, there are serious constitutional concerns about this bill. The U.S. Constitution prohibits states from passing laws that impair the obligation of contracts. If existing agreements between municipalities and landlords stipulate that landlords are responsible for unpaid utilities, this new law could be seen as impairing those contracts.

The proposed legislation also infringes upon the Home Rule Authority granted to Ohio municipalities by our state constitution. This authority allows municipalities to govern local matters, including the management and collection of utility bills. By limiting the municipality's ability to manage its utilities, the proposed law would violate these constitutional, Home Rule powers.

It is important to acknowledge that the state cannot compel a municipality to provide these utility services. If the risk and financial burden of non-payment become too great, municipalities may be forced to reconsider whether they can afford to provide these services at all.

Further, if the law disproportionately impacts certain groups, such as low-income households and individuals, it could potentially be challenged under the Fourteenth Amendment's Equal Protection Clause. If the legislation does not provide adequate procedures for a municipality to rebut the presumption and recover unpaid utility charges from property owners, it could potentially be challenged under the Due Process Clause.

Finally, if the new law results in municipalities being forced to supply utilities without being able to collect payment, this could constitute a taking without just compensation, a violation of the Fifth Amendment's Takings Clause.

Because of these considerable concerns and potential constitutional violations, the Ohio Municipal League strongly opposes the proposed bill. We believe there are alternative ways to support landlords that do not compromise the financial stability of our municipalities, infringe upon our constitutional rights, or jeopardize the welfare of our citizens.

We eagerly look forward to engaging in further discussions on this matter and working collaboratively to find a solution that serves the best interests of all parties involved, without resorting to potentially unconstitutional and overreaching legislation. We trust that by working together, we can ensure that landlords, tenants, and municipalities all have their rights protected and needs met.

Thank you for your time and consideration. We appreciate the opportunity to present our views and look forward to continuing to collaborate with you on this critical issue.

I am happy to take any questions from committee members.