



**Ohio Municipal Electric Association (OMEA)
Testimony on House Bill 93
November 19, 2024**

Chair O'Brien, Vice Chair Gavarone, Ranking Member DeMora and members of the Senate Local Government Committee, thank you for the opportunity to provide opponent testimony on Substitute House Bill 93, a measure which will have a negative impact on municipal utility services within the State of Ohio.

About OMEA

The Ohio Municipal Electric Association (OMEA) serves as the legislative liaison for 80 of Ohio's 89 municipal electric communities and for American Municipal Power (AMP), the Columbus based, non-profit wholesale power supplier and services provider to more than 130 municipal electric systems in nine states. Ohio's 89 municipal electric systems account for approximately 5% of the electric sales in Ohio and serve approximately 400,000 residential, commercial and industrial meters. Ohio municipal electric systems range in size from Cleveland Public Power with 73,000 meters to the City of Toledo with one meter. The majority of our member communities are villages. As non-profit entities, municipal electric systems exist to provide reliable, affordable electric service to their customer-owners. Ohio's municipal electric systems are locally owned, managed and governed.

House Bill 93 Overview

House Bill 93 would change the longstanding practice of placing property liens for unpaid municipal utility services. Municipalities across the state provide a variety of utility services, all of which are provided to a specific address. The original legislation was limited to water, wastewater and trash disposal services. However, a late amendment added in the House would expand the bill to include electric and natural gas service. While we remain concerned about the bill as a whole due to the dangerous precedent it sets and the potential increase in costs to other utility ratepayers, we continue to seek an amendment to remove the provisions applicable to municipal electric utilities.

The core issue of HB 93 revolves around specific situations where an entity that is not the property owner has accrued unpaid utility services at the property. The bill was introduced to eliminate the responsibility of landlords for unpaid utility bills at their rental properties. We believe that this logic is fundamentally flawed for several reasons.

First, the property owner (landlord) has a direct course of action for getting utility payments from their tenants. This direct line of communication with their tenants to reinforce that such bills are paid, with a potential eviction notice should the notices go unheard, is the most effective way to ensure payment. Municipalities do not have such authority and, if certain requirements are met, must utilize the property lien to obtain eventual payment. The use of the property lien is a measure of last resort and not widely used by our membership.

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Secondly, the municipal utility's participation in the property owner/landlord's for-profit venture is solely as a service provider. The municipal utility provides the needed utility services for the property owner/landlord to make that property profitable. The municipal utility does not have a say in who does or does not rent properties, which is a business decision solely left up to the property owner/landlord. HB 93 shifts those business risks, which under current law are assumed by the property owner/landlord in their business model, onto the non-profit utility.

It is important here to expand on the municipal utility's role. As a service provider, the utility services are rendered to properties up front with the expectation of being reimbursed. The municipal utility has already paid for the expenses needed (such as labor, supplies, etc.) to deliver the service to a residence for the benefit of the property owner/landlord. Unlike other transactions, like the purchasing of groceries or gasoline where the payment is at the point of sale, the municipal utility provides the service with the expectation that they get reimbursed for those services within a certain time. HB 93 shifts the property owner/landlord's for-profit business risks back onto the municipal utility.

Assuming that a tenant does not pay their utility bill, the property (and in turn the property owner) has already derived a benefit from the nonpayment of these services. A property owner would have a difficult time renting these properties without the necessary utility services provided for their current and prospective tenants. It is not unreasonable to assume that in certain circumstances that a secondary entity who has a direct interest in the property would be required to either pay the unpaid amount or utilize their own legally afforded recourses to ensure the bill is paid.

Under HB 93, the municipal utility would now have to go through a burdensome legal process to recoup these costs. Doing so would expend more municipal financial (taxpayer) resources to collect these unpaid amounts. This also assumes that many of these amounts would be eventually paid to make the municipal utility whole. However, due to the length and costs associated with the legal process, many of these costs will never be recovered and the municipal utility would be stuck with those costs.

Per the LSC Fiscal Note on HB 93: "It is unclear whether the expense of pursuing this remedy would exceed the amount to be collected in many cases. Because of that uncertainty, it is plausible to assume that unpaid rates for many accounts would simply never be collected. While some municipal service providers would lose revenue under these circumstances, given that recouping unpaid rates via property liens can take years or decades, it is difficult to determine how or if these changes would impact cash flow for municipal service providers overall."¹

If a municipal utility bill remains unpaid, the direct result is that either the utility itself or their customers will be responsible with these charges. We do not believe it is a fair system when one set of costs are shifted onto other customers of the utility.

Indirectly, if HB 93 were to be passed and enacted, the municipal utility may be forced to charge upfront "security deposits" across the entire customer base (in a similar fashion to what landlords can currently do with their tenants) to ensure bills are paid or funds are available to pay future potential unpaid amounts. We would argue that this may have broader impacts outside of the payment of municipal utility bills, potentially impacting the ability of tenants to enter into a lease altogether.

¹ Page 2, Ohio LSC Fiscal Note & Impact Statement HB 93 (As Passed By The House)

Additional concerns with HB 93 include:

- **Infringement upon Home Rule Authority** – By codifying specific methods by which a municipal utility could collect unpaid bills, HB 93 violates the Home Rule Authority provided to municipalities via the Ohio Constitution (Article XVIII).
- **Does nothing to address the offending party in question** - Nothing in HB 93 puts further guardrails on the main culprit of why this legislation is needed: habitual offenders. We have seen instances where one family member accrues a utility charge and then service is opened under the name of another family member at the residence. Other offenders simply go from property to property once utility service has reached a certain unpaid threshold and is threatened to be shut off.
- **Other reasonable options are available without dramatically altering the Ohio Revised Code** – Solutions such as “double billing”, where both the tenant and the landlord are sent the same utility bill so that the property owner/landlord can be notified of and address the potential lack of payment in a timely manner, was one solution presented during House consideration. Property owners/landlords also have the option to include utility fees within their rent payments. Again, these direct methods of collection are preferred to address the nonpayment of utility charges and do not shift the burden of services rendered upon the municipal utility service provider or other customers.
- **Retention of 10% of collected amounts for lien servicing** – Language included in the House version of the bill also requires that 10% of lien amounts be collected by the County Treasurer and withheld from the municipal utility. As explained previously, this is another example of a municipal utility being assessed a fee in the delivery of their services to a residence. Additionally, the legislation further restricts the payment of a municipal utility lien to the municipal utility to a biannual distribution schedule of December 31 and June 20 only. The state imposing a fee or tax on municipal utility service is unconstitutional and makes no impact on the original issue at hand, and threatens to raise the utility rates of all other customers.

We urge the committee to reject this legislation and seek alternative remedies to concerns raised by landlords.

Potential Amendment

An amendment was added to the bill just prior to passage out of the House State and Local Government Committee that would have a direct, negative impact on municipal electric utilities. As such, we are requesting that an amendment be drafted to remove the bill's expanded notification and lien prohibition requirements on municipal electric utilities.

The amendment in question places additional notification requirements and waiting periods upon a Board of Public Affairs before the lien process could begin. Since the amendment is included within same Ohio Revised Code section that describes the global powers of a Board of Public Affairs, we are concerned that this language will place additional financial and labor costs upon municipal electric and natural gas utilities, which is not the intent nor focus of this legislation.

As such, we are requesting that language be drafted to exclude municipal electric utilities from the components of this legislation.

Chair O'Brien, Vice Chair Gavarone, Ranking member DeMora, and members of the Senate Local Government Committee, thank you once again for the opportunity to provide testimony on House Bill 93 today.