



**County Engineers
Association of Ohio**

136th Ohio General Assembly - Ohio House of Natural Resources

Doug Cade, P.E., P.S.

Hancock County Engineer, President of CEAO

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Opposition to Substitute Senate Bill 219

Chairwoman Robb Blasdel, Vice Chair Fisher, Ranking Member Rogers, and members of the committee, thank you for the opportunity to testify today. My name is Doug Cade, P.E., P.S., Hancock County Engineer, and I am here as the President of the County Engineers Association of Ohio. Currently, CEAO is in opposition to Substitute Senate Bill 219 as drafted. CEAO is not opposing the bill's overall goals; we are asking for targeted amendments so that it works for both energy development and the taxpayers who rely on our local roads.

We support the core purposes of SB 219: cleaning up orphaned wells, modernizing horizontal drilling regulations, and addressing federal mineral royalty distribution. Our concern is with a narrower set of provisions that were not fully vetted before the Senate vote; specifically, the bond amount, safeguards in the affidavit pathway, the structure of Road Use Maintenance Agreements, and revenue allocation. If those are not calibrated correctly, very real costs will move from private operators onto public budgets.

First, on the statement that "nothing has changed" because the affidavit pathway has existed since 2012. What has changed is the codification of a 30,000-dollar-per-mile bond cap that did not exist in prior law. Before SB 219, there was no statutory ceiling on what a county engineer could require as financial assurance; counties negotiated protections based on actual engineering costs: Guernsey County at 300,000 dollars per mile, Belmont County at 400,000 dollars per mile. SB 219 writes 30,000 dollars per mile into the Revised Code, effectively converting a floor into a ceiling and stripping county engineers of existing authority to require adequate financial assurance.

Under current law, O.R.C. 4513.34 preserves local authority to regulate overweight vehicles, and nothing in pre-SB 219 law prevented a county engineer from requiring a higher bond. SB 219 creates that limitation for the first time. To put this in perspective, Carroll County's entire annual road revenue is about 3.9 million dollars, while industry road repair investments in the Utica Shale region exceeded 12 million dollars in a single peak year. A 30,000-dollar-per-mile bond, set without engineering or cost-based analysis, would cover only a fraction of one mile of actual reconstruction, leaving taxpayers to absorb the remainder.

Second, there is the suggestion that ODNR has “sole and exclusive authority” and that county engineers are overstepping. O.R.C. 1509.02, as amended by SB 219, explicitly states: “Nothing in this section affects the authority granted to the director of transportation and local authorities in section 723.01 or 4513.34 of the Revised Code.” In other words, the General Assembly chose to preserve local road authority. CEAO is not seeking to regulate oil and gas drilling; we are seeking to regulate what happens on public roads, which is precisely the authority the legislature protected in O.R.C. 723.01 and 4513.34.

The Ohio Supreme Court’s decision in *State ex rel. Morrison v. Beck Energy Corp.* (2015) affirmed ODNR’s exclusive authority over oil and gas operations, not over public road safety. The preemption analysis in that case addressed zoning and land use, not the overweight-vehicle permitting authority that the legislature itself preserved in O.R.C. 4513.34. Additionally, Ohio Attorney General Opinion No. 2012-029 confirmed that county engineers and local officials have authority to enter into and enforce Road Use Maintenance Agreements with oil and gas operators; a legal position the Attorney General’s office articulated after the preemption landscape was well established, and which has never been overturned. CEAO is not seeking a veto over whether a well is drilled; we are seeking a review of what happens on a county road before overweight vehicles use it, and coordination by ODNR with county engineers before permits are issued, consistent with the cooperative agreements ODNR may enter under O.R.C. 1509.02.

Third, on the concern that higher bond requirements are anti-competitive and hurt small operators. The bond amounts we cite (150,000 to 400,000 dollars per mile) are not numbers CEAO invented; they are the amounts that Ohio counties with the most direct experience of shale road damage have independently determined reflect actual costs. These are market-driven, engineering-justified figures, not arbitrary barriers. A 30,000-dollar bond does not protect small operators; it protects them from accountability for the full cost of the damage. The public that uses those roads farmers, school bus drivers, emergency responders, and residents will bear the difference between the cost of repairs and what the bond can cover. That cost-shifting is the real unfairness.

CEAO is proposing a tiered bond structure based on financial fairness and actual risk, paired with pre-project improvements agreed to in a RUMA. When those improvements are in place, the need for a very low statutory bond cap or reliance on seasonal frost laws is reduced. This approach provides predictability for operators while protecting the long-term condition of public infrastructure.

We also know from other states what happens when protections are weak. In Pennsylvania, where comparable bonding or road use agreements were not required, documented road damage from unconventional oil and gas waste transport alone cost between 3 million and 18 million dollars from 2010 to 2013, with no legal mechanism to recover those costs from

operators. Both small and large operators benefited from that gap at taxpayer expense. That is an outcome Ohio should avoid.

Finally, we have heard that the industry has already invested 302 million dollars voluntarily and that this demonstrates that additional protections are unnecessary. In reality, that 302 million dollars was the direct result of enforceable RUMA obligations negotiated between county engineers and operators under the framework created by SB 315 in 2012. The positive outcomes being cited as proof that the framework is unnecessary are, in fact, proof that the framework works. Weakening it will not sustain those outcomes; it will end them.

An Ohio University study found that almost all interviewees stated that county roads under the purview of a RUMA were left in better condition than before the industry arrived, and that conclusion was tied specifically to the existence of RUMA requirements, not to industry goodwill absent those requirements. We do not remove traffic signals because most drivers will probably stop at an intersection; the signal is what makes the behavior reliable. In the same way, RUMAs and meaningful bond levels are the signal that makes responsible road use reliable in this context.

CEAO wants to be a constructive partner in this process. We are asking the House to restore a workable bond structure, preserve the effectiveness of RUMAs, and maintain the local road authority already recognized in O.R.C. 723.01 and 4513.34. We believe there is a reasonable middle path that supports energy development, protects taxpayers, and keeps our roads safe for the traveling public.

Thank you for the opportunity to provide testimony, and I would be happy to answer any questions.

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