



**Senate Government Oversight and Reform Committee**

**Mike Pniewski, P.E., P.S. - Lucas County Engineer**

Interested Party

May 7, 2025

**Re: Restriction on Use of Eminent Domain for Nonmotorized Trails - Remove (Lines 17110–17113, Page 600) of Sub. HB 96**

Chairman Manchester, Vice Chair Brenner, Ranking Member Weinstein, and Members of the Committee: On behalf of the Lucas County Engineer’s office and County Engineers Association of Ohio (CEAO)—representing all 88 county engineers dedicated to building and maintaining Ohio’s infrastructure—I stand before you as an Interested Party requesting the removal of the language found on **Page 600, Lines 17110–17113 of Sub. House Bill 96**, which states:

**“(2) ‘Public use does not include any taking of property for use as a trail for hiking, bicycling, horseback riding, ski touring, canoeing, or other nonmotorized forms of recreational travel.’”**

This language would bar the use of eminent domain for the creation of trails or nonmotorized travel corridors—even when such projects are part of a community’s transportation network. We respectfully urge the Committee to strike this provision for the following reasons:

**This Prohibition Undermines Local Infrastructure Planning**

Nonmotorized travel corridors are a critical part of the modern, multimodal transportation systems that Ohio communities are building today. These trails:

- Provide safe access to schools, jobs, and transit
- Expand connectivity in rural and suburban communities
- Alleviate traffic congestion and promote public health

Eminent domain is only used as a last resort, and typically only after years of planning and good-faith negotiations. Stripping this tool away—only for trails and nonmotorized travel—is arbitrary and disruptive to efficient local planning.

**Trails Are Transportation Infrastructure—Not Just Recreation**

This language mirrors a controversial provision from Wisconsin’s 2019 Act 9, which prohibited the use of eminent domain for trails and pedestrian infrastructure. That policy:

- Led to the cancellation or delay of numerous trail projects
- Prompted legal challenges, including the case of Friends of the Capital City Trail v. WisDOT, which argued the law violated equal protection and federal transportation obligations

- Undermined Wisconsin's own Complete Streets and Safe Routes to School goals

Multi-use trails serve as critical infrastructure for commuting, tourism, and connectivity. In many communities, they are not luxuries—they are necessities. By blocking trail development through eminent domain, HB 96 would place Ohio on the same damaging path Wisconsin took, which has since become a cautionary tale in transportation planning circles.

### **This Creates Legal Conflicts and Project Gridlock**

This provision invites:

- Constitutional challenges under Ohio's Takings Clause (Article I, Section 19)
- Conflicts with federal funding requirements, such as those under the Transportation Alternatives Program (TAP)
- Legal uncertainty that could force counties to abandon or reengineer fully funded, shovel-ready trail projects

These consequences increase project costs, reduce community access to federal funds, and delay implementation of vital local infrastructure.

### **Conclusion**

HB 96's language on Page 600 undermines the infrastructure planning and legal authority needed to safely and effectively build trail systems across Ohio. The County Engineers Association of Ohio urges the Committee to strike this provision to protect local authority, preserve engineering discretion, and avoid the legal chaos seen in Wisconsin after the passage of Act 9.

Thank you for the opportunity to testify. We are available to provide further technical information or real-world project impacts upon request.