

**WITNESS INFORMATION FORM**  
**HOUSE PUBLIC UTILITIES COMMITTEE**  
**REPRESENTATIVE JAMIE CALLENDER, CHAIRMAN PLEASE COMPLETE**

THE WITNESS INFORMATION FORM BEFORE TESTIFYING

DATE: November 20, 2019

NAME: Rev. Joan VanBecelaere

ORGANIZATION:

(IF APPLICABLE) Unitarian Universalist Justice Ohio

POSITION/TITLE: Executive Director

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ARE YOU REPRESENTING:

YOURSELF

ORGANIZATION  \_\_\_\_\_

DO YOU WISH TO TESTIFY ON

LEGISLATION (BILL NUMBER): SB 33

SPECIFIC ISSUE: \_\_\_\_\_

SUBJECT MATTER: \_\_\_\_\_

PLEASE INDICATE YOUR POSITION ON THE BILL

PROPONENT: \_\_\_\_\_

OPPONENT:  \_\_\_\_\_

INTERESTED PARTY: \_\_\_\_\_

PLEASE GIVE A BRIEF STATEMENT OF THE GROUNDS ON WHICH YOU FAVOR OR  
OPPOSE SUCH ENACTMENT:

Please statement Written Testimony below.

WILL YOU HAVE A WRITTEN STATEMENT, VISUAL AIDS, OR OTHER MATERIAL  
TO DISTRIBUTE? YES  – Please See Below NO \_\_\_\_\_

(IF YES, PLEASE PROVIDE COPIES TO THE CHAIRMAN OR SECRETARY

HOW MUCH TIME WILL YOUR TESTIMONY REQUIRE? N/A- Written Testimony Only

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November 20, 2019

Opposition Witness Written Testimony, SB 33

Ohio House Public Utilities Committee

Rev. Joan VanBecelaere, Unitarian Universalist Justice Ohio

Chairman Callendar, Vice Chair Wilkin, Ranking Member Smith and members of the House Public Utilities Committee; I write in opposition to SB 33. I find that the recent amendments do not help clarify this ill-defined and problematic legislation. Instead, the amendments make the bill's provisions murkier and magnify its chilling effect on the exercise of first amendment rights. Please stop SB 33 now so the State of Ohio does not have to face lengthy, expensive, and ultimately futile court trials.

**“Improperly tamper”**

The amendment adds new language providing that “improperly tamper” means to “change the physical location or the physical condition of the [critical infrastructure] property.” This language still lacks sufficient clarity and it does not define “tamper” in a way that designates any kind of concrete or lasting harm.

What about a temporary change to the surface of the property, such as graffiti on a pipe? Does that constitute a change to its physical condition? Do we really want to charge people with a felony for non-violently putting graffiti on a pipe?

What about changes to the physical condition of a construction site, e.g. protesters' footprints in the mud on the site? This definition could still be interpreted to capture peaceful, nondestructive protest activity as well as minor acts of civil disobedience. Is this truly worthy of a felony charge?

Felony charges are usually reserved for the most serious offenses to people and society. Felony charges impose the strongest sanctions imposed by our justice system. Felonies include murder, terrorism, aggravated assault, manslaughter, arson, kidnaping, rape, vehicular homicide, and other heinous crimes. Felonies follow the perpetrator for life, impacting their ability to get a job and engage in other life activities even after prison sentences are served.

**Is marking a bit of graffiti or leaving footprints in the mud or even sitting nonviolently at a critical infrastructure site really deserve a felony charge? Do we really believe that these non-violent actions rank in seriousness with murder, terrorism, rape and arson?**

**Expanded civil liability for third parties and organizations.**

SB 33 originally provided for civil liability only if a person or organization “compensates a person for causing damage” to a critical infrastructure facility or pays the person's fines or court costs. And this provision would have impeded a congregation from assisting congregants in time of need.

But the amended language provides that a person or organization is liable in a civil action if they “provided compensation to the person for damaging” the facility or “directed, authorized, facilitated, or encouraged the person to damage” a facility. [Amend. lines 16-21]

First issue: the language around civil liability does not require that organizations act “knowingly” in providing compensation, or directing/authorizing/facilitating/encouraging—that is, the organization doesn’t have to know in advance that an individual plans to or will damage a facility in order to be liable.

Neither participants themselves nor organizations can predict or control the actions of all those who attend a legal, non-violent protest. Imposing broad civil liability on third parties and organizations, including congregations, for criminal conduct that may take place at a protest will have a real and chilling effect on the exercise of free speech.

**This all certainly appears designed to impede individuals, non-profit organizations, and faith communities from engaging in any aspect of public witness organizing, preparation, or participation, so as to avoid being held responsible for the unforeseeable actions of all participants. This is an impediment to the exercise of first amendment rights.**

Secondly, the direct/authorize/facilitate/encourage language is extremely vague and may encourage both arbitrary application on the part of law enforcement, and self-censorship on the part of individuals and organizations. It could include not only organizations that organize public witness, but those who “facilitate” protesters by providing water or medical aid, or who “encourage” protesters by distributing materials that amplify the message of public witness. Those supportive organizations could also face civil liability under the amended language.

**An example:** if public witness protesters chant a generic slogan, such as “Stop the pipeline!” and other protesters then enter onto pipeline property to protest (thereby trespassing), the amended language means that those who only chanted may be civilly liable for having “encouraged” the trespass.

### **Defining “compensation.”**

The amended language newly defines “compensation” to include not only money, but any “thing of value” or “financial benefit.” [Amend. lines 45-47] This broad definition means that an organization that provides any “thing of value” to individuals who later commit an unlawful act, may be held liable. This could include such things as training in non-violent protest tactics prior to a protest in which critical infrastructure is “tampered with.”

### **Improper organizational involvement with a critical infrastructure facility.**

SB 33 originally provided for criminal fines for organizations “found guilty of complicity” in an individual’s criminal conduct. The amended version replaces those provisions with new ones of criminal penalties for organizations that “knowingly direct, authorize, facilitate, or encourage a person to commit” or “provide compensation to a person for committing” the criminal offenses set forth in the bill. [Amend. lines 44-93] The fines remain the same and would easily bankrupt

most non-profit organizations or congregations where a member is found liable for criminal mischief or aggravated trespass under the provisions of SB 33.

And, while the fines are the same, the offenses are not. They now include the broad “provide compensation for” and “direct/authorize/facilitate/ encourage” language noted above. While these provisions provide that the act must be done “knowingly”—the language still remains broadly vague and would require only a minimal connection between an organization or congregation and an individual who is charged with an offense under SB 33.

**Please stop this legislation**

For these reasons and so many more, I ask that you vote against passage of this unnecessary and very problematic legislation.