

**Opposition Testimony on Senate Bill 33 –
Critical Infrastructure Facilities Offenses
Before the Senate Judiciary Committee
Jen Miller, League of Women Voters of Ohio
April 10, 2019**

Chairman Eklund, Vice Chair Manning, Ranking Member Thomas, and Esteemed Committee Members,

I'm here on behalf of the League of Women Voters of Ohio including our 36 local Leagues from across the state. The League of Women Voters of Ohio will be celebrating its 100th year in 2020, and for an entire century, we have been defenders of democracy. Free speech is core to a healthy democracy, and that is why I'm here today in opposition to Senate Bill 33. SB 33 could result in criminal charges and fines for actions where no criminal trespass or property damage occurs.

If enacted, even innocuous acts like advertising otherwise legal protest events by posting flyers on telephone poles could be considered unlawful, because a telephone pole is considered critical infrastructure and the term damage is quite vague.

We are most concerned about language that could intimidate whistleblowers in which a worker could alert regulating authorities or the media about safety risks at a critical infrastructure facility. Lines 629 - 633 state that it would be illegal to "initiate or circulate a report or warning of an alleged or impending fire, explosion, crime, or other catastrophe, knowing that the report or warning is false and likely to impede the operation of a critical infrastructure facility."

Clearly a whistleblowing employee could "impede" operations, by warning that workers or the greater public are at risk. Such a claim would likely "impede" operations if it resulted in investigations, fines, or a halt in operations. And if a whistleblower is trying to prevent an accident, couldn't it be argued in a court of the law that the warning is "false," and therefore illegal?

Operating power plants, water treatment facilities, pipelines, and other critical infrastructure facilities, as outlined in this bill, is complicated. Accidents happen and so does mismanagement, as we have seen in Flint's lead-water crisis or with workers who have been sickened just for trying to put food on their kids' tables. Whistleblowers are already rare, because every person who decides to raise concerns about possible dangers at a facility face grave consequences legally, professionally, and personally. The Ohio Legislature should be finding more ways to protect whistleblowers, but unfortunately, this bill could intimidate them further.

There is the additional concern of “complicit organizations.” If a whistleblower goes to an advocacy group for advice on how to proceed, is that nonprofit now complicit even for innocuous acts like explaining which agencies to report their concerns? What if a media organization features the whistleblower’s claims through print or broadcast to the broader public, is that media entity now complicit? If so, you have effectively stifled free speech further and exposed organizations to fines for simply fulfilling their mission.

It is through free speech that whistleblowers can protect children, communities, and taxpayers from potential environmental disasters or public health threats. It is through free speech and dissent that our greatest democratic victories have been made, like enfranchising women. LWVO urges the committee to protect freedom of speech and freedom of the press by abandoning this bill.

Proponents have claimed that this bill would address acts of terrorism, vandalism, and trespassing, but it is unnecessary as such acts are currently considered criminal and are successfully prosecuted under state law.

Thank you. If you have any questions please feel free to personally contact me at director@lwvohio.org or call the LWVO office at 614-469-1505.

The League of Women Voters of Ohio, a nonpartisan political organization, encourages informed and active participation in government, works to increase understanding of major public policy issues, and influences public policy through education and advocacy.