



# OHIO SECTION AWWA

## Water Utility Council

**Testimony Of Shawn Wagner, City of Newark Water Treatment Plant  
Superintendent, Before The Ohio House Of Representatives State And Local  
Government Committee In Opposition To H.B. 121**

**May 9, 2017**

Chairwoman Anielski, Vice-Chair Hambley, members of the committee, I am Shawn Wagner, Water Treatment Plant Supervisor for the City of Newark, Ohio, which is a member of the Ohio Water Utility Council (OWUC) of the Ohio Section of the American Water Works Association (AWWA). I am testifying today of behalf of the AWWA Ohio Section and its members in opposition to House Bill 121.

The AWWA Ohio Section is the leading water policy organization in Ohio. AWWA Ohio Section member utilities include publicly owned and investor-owned water utilities that provide safe drinking water to millions of Ohioans and thousands of business and institutional customers in Ohio's big cities, small towns, and rural areas.

The AWWA Ohio Section is an affiliate of the AWWA, which is the authoritative national resource on safe drinking water, with more than 50,000 members sharing knowledge on water resource development, water and wastewater treatment technology, water storage, distribution, utility operations and management. The AWWA membership includes more than 4,600 water utilities that supply safe drinking water to roughly 180 million people in North America. The AWWA's mission is to unite the water community to protect public health and to provide safe and sufficient water for the public.

The AWWA Ohio Section believes that H.B. 121 constitutes a substantial and unwarranted intrusion by the state of Ohio into the operational and capital spending decisions of local public water utilities across the state. The language of the bill raises

several very serious concerns that I will outline briefly.

I. H.B. 121 will apply to projects funded by Ohio EPA's state revolving loan funds. Many local public water utilities rely heavily upon Ohio EPA loan funds for water treatment and water distribution capital improvement projects. So, H.B. 121 will have a substantial statewide impact.

II. H.B. 121 will impose substantial additional costs and delays in every state funded drinking water project because local water utilities will be forced to abandon their long-standing construction and material specifications and to employ a professional engineer to conduct a pipe material assessment in every project. Many AWWA Ohio Section utilities maintain written construction and material specifications that establish which pipe materials are acceptable in particular applications. These specifications reflect the collective judgment of not just the utilities' professional engineering staff but also their operations and maintenance managers as to what pipe materials are appropriate in any given application and in the context of local soil, traffic, and other conditions. As such, local utility material specifications reflect not just engineering specifications but local utility judgments on life-cycle costs, maintenance costs, and environmental and social costs.

Currently, local utilities use a qualifications-based selection process to hire professional engineers to perform design work for wastewater capital improvement projects. The professional engineers design the project consistent with the utility's pipe material specifications. The project is then bid out for construction with the pipe material as provided in the design plans and consistent with the utility's material specifications. H.B. 121 will disrupt this process by requiring local utilities to abandon their specifications and pay a professional engineer to conduct a pipe material assessment in every state funded project. This will increase costs and delay projects for all utilities, but will be particularly burdensome for smaller utilities that operate with limited resources.



III. Some AWWA Ohio Section members allow plastic water pipe in their material specifications and some do not. In the judgment of some utilities, plastic water pipe is subject to a greater risk of failure in some environments such as areas where the pipe is subject to frequent and heavy external loads from vehicle traffic. Plastic pipe is less strong than other pipe materials such as ductile iron and requires very precise and careful installation. In particular, back-filling of plastic pipe must be very precise. If voids are left under the pipe or larger rocks protrude from the back-fill, and the pipe is subject to external loads, for example from vehicle traffic, there is a significant risk of failure that is not present when stronger pipe materials are used.

This risk is compounded in urban areas where water pipes share the right of way with other underground utilities. In such circumstances, the underground utilities are subject to frequent excavation, and back-filling may be less than perfect. Given that water pipes are under significant internal pressure, when plastic water pipe fails it can fail catastrophically with whole sections of the pipe blowing out. In the judgment of some water utilities these circumstances present an unacceptable risk of imposing the substantial social and economic costs upon their customers that would arise from the disruption of the most vital of public services, the reliable provision of clean safe drinking water. With all due respect, the General Assembly should not second-guess local water utilities by voting this bill into law, but should leave these matters to the considered judgment and expertise of Ohio's local water utilities, some of whom have been operating drinking water utilities since the 1870's.

IV. If H.B 121 becomes law it will result in a significant increase in bid challenges and litigation in state funded water treatment and distribution projects. As written, the bill will require utilities to have a professional engineer conduct a pipe material assessment in every project based upon "engineering specifications." Plastic water pipe meets a number of national standards for use in water distribution systems and arguably meets "engineering specifications." Plastic pipe is cheap to produce and will always come in at a lower initial cost than other pipe materials. "Engineering

specifications” is a narrowly defined term that does not include consideration of life-cycle costs, maintenance costs and other factors. While plastic pipe may have significantly lower initial costs, its true cost may equal or exceed the cost of other pipe materials when these other factors are considered. The proponents of this bill have been relentless, returning year after year to advocate for this legislation despite being previously rejected by the General Assembly. If this bill becomes law and a local utility selects a pipe material other than plastic pipe, we fully expect that such utilities will be subject to litigation challenging such a selection.

V. This bill is being sold by its proponents, plastic pipe manufacturers and more significantly the very large chemical companies that supply plastic feedstock to these manufacturers, as an effort to establish a free market for pipe materials. In truth, this bill is everything but an exercise in free market economics. In truly free markets, producers of goods and services go into the market and try to sell their products and services to potential customers. In a free market, potential customers can freely choose those products and services that meet their needs. I ask the members of the Committee to recognize this bill for what it is—an attempt by a large industrial oligarchy with enormous financial resources to increase its market share by enlisting the General Assembly to force local water utilities to buy its products at considerable expense to the communities and ratepayers they serve. Finally, the Committee should know that this bill is part of what has been a multi-state effort by its proponents to pass similar legislation in several other states. Every state that has considered similar legislation has rejected it. Ohio should not be the first state to pass this unwarranted and unnecessary legislation into law.

Madame Chair and members of the Committee, your attention and consideration in this matter are very much appreciated. I would be happy to respond to any questions you may have at this time.