

TESTIMONY BEFORE THE OHIO HOUSE STATE AND LOCAL GOVERNMENT COMMITTEE

Substitute House Bill 422
March 1, 2022

Chair Wiggam, Vice Chair John, Ranking Member Kelly, and Members of the House State and Local Government Committee:

These comments are presented to express concerns regarding proposed Sub. HB 422. These concerns are presented on behalf of the City of Perrysburg by Alice Godsey, Director of Public Utilities for the City of Perrysburg. The proposed language in Sub HB 422 will make it more difficult for municipal water and sewer utilities to collect payments for water and sewer services that have already been used by the consumer. The inability to collect for services provided could have a material adverse effect on the City. It could increase the burden on consumers who pay their bills, because they will have to cover the cost of services provided, but not collected, from nonpaying customers.

Proposed Section 701.21 states “Any person who contracts to receive subdivision services shall be financially responsible for paying all rates, fees, charges, and costs associated with the delivery of that service.” Customers who fall behind in paying their utility bills are responsible for paying the bill however, they are not always financially capable of paying their bills. Putting this statement in the law does not change the fact that there are often cash-strapped persons who sign up for utility services.

Proposed Section 701.22(A) states “If any subdivision authority attempts to certify a lien against a property or brings an action due to unpaid subdivision services, rates, or charges, there is a rebuttable presumption that amounts exceeding the termination amount cannot be certified as a lien, or recovered by the action, against the property owner.” And 701.22 (B) states “The presumption may be rebutted by any of the following based on a preponderance of the evidence.” The City of Perrysburg Codified Ordinances through recent decades have required ample written notice be given to customers prior to scheduled termination of service. The written notice states the delinquent amount that must be paid to avoid service interruption. Because of the length of time of the advanced notice, normally another bill

has been issued to the customer before the date of shut off. Only the delinquent amount on the written shut off notice can be required to be paid to avoid shut off. Because of this, some customers always carry a balance. This proposed language does not define the party who judges “the preponderance of evidence” and therefore will make dispute resolution more difficult for municipalities. If this language becomes law, the City will have no choice but to dramatically change their practices and severely limit the time between due date and termination, and to eliminate a written shut off notice due to the ambiguity of this rebuttable presumption.

Proposed Section 701.24 and 701.25 states “A subdivision authority may track any unpaid rates or charges owed by a person for any subdivision services between residential properties if both of the following are true.....” This is an administrative function of municipalities and is within their purview currently. The proposed language defines “subdivision authority” to include administrative personnel and also includes the legislative authority, such as a City Council. This legislation appears to allow City Councils to perform municipal administrative functions. This is ill-advised and objectionable.

Proposed Section 701.26 expands on the municipal duty to work with customers to answer and resolve billing disputes. The language mandates time lines and requires an extensive paper trail related to billing dispute dealings, which will be more burdensome than current practices. Unresolved disputes over \$300 would be filed with ERAC in Columbus per the proposed language. Driving to downtown Columbus takes 2.5 hours each way. This would be extremely burdensome on municipalities and unnecessary.

Proposed Section 729.49(B) requires the municipal legislative authority to certify liens to the County Auditor. This is currently an administrative function and should not be transferred to City Councils.

Proposed Section 3745.151 describes the envisioned ERAC appeals process, which would place a new burden on ERAC and on municipalities. If this becomes law, the burden includes travel time, extensive preparation time, understanding ERAC’s yet to be developed rules, and more. The one-sided recovery of attorney fees only to the appellant if they succeed, tilts unjustly against municipalities.

Proposed Section 3745.1510 would apply ERAC appeals retroactively to liens filed prior to this legislation's enactment. Such a provision would be highly burdensome and unfair to municipalities.

This legislation is designed to appease private landlords. The profit motive of these businesses distinguishes them from municipalities, like the one operated by Perrysburg. Municipalities are providing a necessary service in offering public water and sanitary sewer at equal rates for every customer class.

This proposal also could create a barrier to housing, which would be an unintended consequence of these proposed changes. Municipalities may well be forced to require hefty deposits from tenants before initiating utility service to them to protect the public revenues of the Municipality. These higher deposits may be difficult for tenants to pay and will likely reduce the potential tenant pool in a municipal water system, which would be detrimental to landlords.

Thank you for considering these comments.