Association of Ohio Drinking Water Agencies, Inc.
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H.B. 422 Opponent Written Testimony
House State & Local Government Committee
March 2, 2022

Chairman Wiggam, Vice Chair John, Ranking Member Kelly and, Members of the Committee, thank you for the opportunity to present written testimony on behalf of the Association of Ohio Drinking Water Agencies, Inc. ("AODWA"). My name is Tyler Converse and I serve as President of AODWA. AODWA opposes House Bill 422, which, if enacted, will significantly restrict municipalities in recovering unpaid utility balances. Unfortunately, these unpaid costs would necessitate an increase in the costs of service for the general service population.

AODWA represents the interests of Ohio's drinking water agencies. **AODWA's members include the cities of Akron, Avon Lake, Canton, Cincinnati, Cleveland, Columbus, Dayton, Delaware, Lima, Toledo, Warren and the Del-Co Water Company**. Together, our membership provides water service to over half the citizens of Ohio. A fundamental purpose of our organization and its members is to ensure safe and clean drinking water for Ohioans. AODWA and its members are concerned that the proposals in HB 422 would introduce significant financial challenges that would frustrate the ability of local governments to achieve this fundamental purpose. This legislation would also increase the administrative burden on utilities and require hiring additional staff, a cost that would be passed on to the customer base. As a result, the proposal would have unintended consequences by increasing the financial strain on utilities, thereby increasing rates for all ratepayers, for a marginal benefit that would be provided to for-profit landlords, who comprise a small minority of the total service area population. Although many of the bill's proponents discuss fairness considerations, the bill merely shifts responsibility for unpaid amounts to local governments, though landlords are in a much better position to track the location of renters from thousands of units each month and mitigate the risk of non-payment through the lease.

The following non-exhaustive list identifies several of AODWA's significant concerns:

1. The legislation would make it more difficult for a municipal corporation to certify a lien for an amount greater than the "termination amount." *See* proposed R.C. § 701.22. "Termination amount" is defined as the amount of rates or charges that result in termination under the municipality's regulations. R.C. § 701.20(H). As a result, the legislation would create a "rebuttable presumption" that amounts exceeding the termination amount cannot be certified as a lien against the property owner. If the local regulations indicate that the termination amount is $100 in a given scenario, then any additional unpaid amounts could not be certified as a lien on the property unless the City can establish one of the four facts identified in proposed R.C. § 701.22(B)(1)-(4). There are a number of problems with this provision alone, including that many local governments do not have pre-defined termination amounts identified in their regulations. Instead, the termination amounts vary. This legislation would remove this discretion and would force immediate shutoffs, thereby disrupting utility service for many consumers, an additional unintended consequence. As with many of the other aspects of the legislation, this would lead to an increase in unpaid services by property owners at the expense of utilities and ratepayers.

2. The legislation would also require that municipalities investigate every complaint received in a manner that would again increase administrative requirements and trigger increased costs for the general population. *See* proposed R.C. § 701.26. All complaints would need to be resolved within 10 days, or the municipality would become required to provide updates once every five business days. This provision would apply regardless of the nature or legitimacy of the complaint, and regardless of any change in status, resulting in mandatory "busy work" that would further drive increases in costs for all ratepayers.

   This requirement would be duplicative and wasteful because utilities already have their own administrative billing appeals processes. Customers may require that the utility provide a review and decision as to contested bills that can be appealed, initially to a local administrative body. The parallel process would cause confusion.

   This language in the proposed R.C. § 701.26 is not limited to billing disputes involving landlord-tenant issues. The only requirement is that the person "believes they have been improperly billed." This requirement would trigger significant expense on the part of the local government—and by extension, the public, for any billing dispute.

3. Any consumer complaining about a billing practice would have the right to force litigation in the Environmental Review Appeals Commission, a specialty environmental tribunal located in Columbus. *See* proposed R.C. § 701.26(C). The consumer would have this right when the complaint "is not resolved to the satisfaction of the complaining party." This would force the Commission to address billing disputes, leading to an extreme increase in the volume of cases handled by the Commission. Billing disputes are often complex, and this would require the Commission to evaluate and determine the propriety of an individual utility's adherence to local procedures. Compounding the problem, the Commission has significant experience with environmental concepts and addressing disputes concerning scientifically technical concepts such as the modeling of the transport of substances in the air, but that specialization does not cover billing disputes.

   This element would also have the unintended consequence of inundating the Commission with billing disputes, preventing the Commission from addressing other pressing issues, such as environmental permits, which often carry economic significance, such as permits for real estate development and other significant economic drivers. This Commission was previously the subject of enacted legislation designed to require more prompt resolution of cases due to a case backlog, and this legislation would only add to the existing case load.

   Again, this language in the proposed R.C. § 701.26(C) is not limited to billing disputes involving landlord-tenant issues, and instead requires litigation at the Commission for any dispute for which a person "believes they have been improperly billed."

4. The legislation would make it more difficult for municipalities to track unpaid rates or charges between residential properties. *See* proposed R.C. § 701.24. Tracking these unpaid amounts owed would only be permitted when services provided to the consumer were terminated at the prior residential property. Again, this provision would merely increase the level of unpaid services, and would ultimately lead to increase costs for the service area population to the benefit of those whose properties are unpaid.

5. The legislation interferes with municipal home rule authority under Ohio Constitution Article XVIII sections 4 and 6, which specifically authorizes municipalities to own and operate utilities.

Finally, AODWA believes that its members already expend significant effort to avoid the incurrence of large unpaid tenant invoices, which we believe is one of the primary purposes of the legislation. Many utilities have prompt termination of service policies that initiate disconnection for nonpayment. They also use *utility bill relief policies* to eliminate large bills for incidents such as toilet leaks, burst pipes, and similar events which protects the incurrence of significant utility bills. Additionally, some utilities send out courtesy leak notices when an AMR system detects a potential problem in an effort to prevent the residence from running up a large bill. Based on qualified income, the utilities also use state and federal resources to cover the costs of utility bills. Some also complete meter readings as a courtesy for owners at no cost when tenants move in or out. Many permit multiple bills to be sent, *i.e.*, one bill sent to the owner with one sent to the tenant, again to ensure that any billing issues are remedied promptly. Finally, utilities frequently allow payment arrangements (i.e., installment plans) for tenants when the property owner consents. Each of these measures is taken to avoid the incurrence of significant costs on the part of tenants, without prompting the variety of indirect expenses that this legislation would introduce.

Again, AODWA understands that the purpose of this legislation is to address perceived unfairness in connection with tenants who leave landlords responsible for unpaid utility services. However, the result of this legislation would force significant increases in the costs of service that would be passed on to ratepayers. The proposed legislation would create a more inequitable result.

As a result, AODWA and its member agencies strongly oppose HB 422's proposals to restrict municipal and other local governments from recovering unpaid invoices. We respectfully ask that the committee postpone a vote on the legislation to allow for additional discussion regarding the impacts of this measure. Mr. Chairman and Members of the committee, your attention and consideration in this matter are very much appreciated.