



State of Ohio Environmental Protection Agency

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**Proponent Testimony, House Bill 352
Before the House Local Government and Public Administration Committee
Charlotte Hickcox, Ohio EPA
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Thank you Madame Chairwoman, Ranking Member Blair and members of the committee. I am Charlotte Hickcox, Legislative Liaison for Ohio Environmental Protection Agency (Ohio EPA) and I am here to testify in support of House Bill 352 sponsored by Rep. Bolon.

The purpose of Ohio's Safe Drinking Water Laws and Regulations is to protect the public health and welfare, and to enable the state to assume and retain primary enforcement responsibility under the federal Safe Drinking Water Act. Part of the Safe Drinking Water Act is focused on *preventing* contamination and noncompliance in public drinking water supplies so that a consumer can rest assured that the water they drink from a public water supply is safe.

The statutory changes proposed in H.B. 352 are intended to provide additional protections to the public based on problems we have experienced at some public water systems in Ohio. A public water system does not have to be out of compliance with drinking water regulations to have significant potential issues that could present a danger to public health and safety. Representative Bolon, in her sponsor testimony, outlined for you the experience at one public water supply in particular and the provisions of this bill that would help prevent that situation from occurring at other locations.

That provision of H.B. 352 would address these potential problems by requiring preventative steps be taken by a public water supply to avoid costly situations resulting in that system providing inadequate or unsafe water to the public. Admittedly, compliance with the federal Safe Drinking Water Act, and the associated federal and state regulations, has become increasingly complex and costly. At the same time, Ohio's drinking water infrastructure is aging and becoming more difficult and costly to maintain and replace. A growing number of Ohio's communities are struggling to develop and maintain the technical, managerial and financial resources necessary to meet these increasing demands. This has called into question the ability of some drinking water systems to provide a reliable, safe water supply to their customers.

To be able to respond to these issues, H.B. 352 will require that existing public water systems take proactive steps to evaluate their technical, managerial and financial resources and to plan for addressing their deficiencies in those areas. New systems are

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already required to provide this assurance and review. The change would require existing systems to conduct the same review.

With respect to financial capabilities, without adequate financial resources, a public water system is not able to maintain and replace essential equipment. If that equipment fails, the system may not be able to ensure an adequate supply of safe water, or perhaps no water at all. Secondly, insufficient managerial oversight can mean a public water system is not properly maintained nor operated by appropriately trained and certified individuals. Again, without adequate technical expertise and oversight there can be operational failures that result in a poor or unsafe water being delivered to the public.

As an example, I have attached photos of a Village's small public water system that consists of a surface water source, two raw water intakes, one raw water pump station, a water treatment plant and two storage tanks. The Village had many operational and maintenance issues accumulated over time and resulted in a threat to public health and noncompliance in the drinking water system.

The Village failed to plan for and maintain compliance with applicable drinking water standards. The water treatment facilities were not adequately maintained or funded. The Village failed to ensure qualified and certified operators were in technical operation of the water system. If the financial, operation and maintenance plans had been developed and implemented before the system had deteriorated, the Village water system would not be in its current condition. Had proper planning been conducted and reinvestment into the water treatment facilities been made, the violations, and the increased costs, accumulated by the Village could have been avoided.

The Ohio EPA currently has limited ability to require systems to address these non-regulatory types of deficiencies. Deficiencies within a public water system need to be addressed *before* they result in significant risks to public health and safety. The legislation before you seeks to ensure that a water system has the mechanisms in place to efficiently run over a long period of time. By seeking to require systems to complete an evaluation of their capability, as well as Ohio EPA requiring remediation of deficiency of the technical, managerial and financial capability of the public water system, we hope to eliminate the above example from happening again in some other part of the state.

The second provision of H.B. 352 builds upon the fact that Ohio's drinking water requirements rely on self-reporting by the public water system to ensure that they are providing safe drinking water. There are approximately 5212 public water systems in Ohio serving approximately 10.8 million people daily. The honesty and integrity of the individuals providing the information regarding the quality of the drinking water is the basis for determining if the public water systems are in compliance.

The vast majority of the professionals involved with the production of drinking water are conscientious and they take their jobs very seriously. Unfortunately, Ohio EPA has identified a need for establishing appropriate penalties to help maintain the integrity of the drinking water program including the value of self-reporting within that program. While most of Ohio EPA's major regulatory programs have specific criminal penalties to deal with the most egregious violations, there are no specific criminal penalties for violations of Ohio's drinking water requirements. H.B. 352 will provide for felonies for knowing violations and misdemeanors for reckless violations. These criminal penalties are needed

as an appropriate deterrent to ensure ethical behavior, and maintain public trust and confidence in the safety of Ohio's public drinking water.

As noted above, Ohio's lack of specific criminal penalties to deal with serious violations of drinking water requirements has impeded our ability to effectively address these violations. For example, over the past ten years the Ohio EPA, Office of Special Investigations has investigated approximately forty-six drinking water complaints/ violations. Thirty-five of those investigations involved some type of falsification of information reported to Ohio EPA. Currently, there is no mechanism for prosecuting a drinking water falsification case at the state level using Ohio's drinking water laws. Under this legislation, the Ohio Attorney General's Office would be responsible for prosecution of these cases which is consistent with all other Ohio EPA's programs.

Thank you Chairwoman Chandler and members of the committee for allowing me to speak on behalf of House Bill 352. I have with me several staff members from the Division of Drinking and Ground Waters and the Office of Special Investigations at Ohio EPA that can answer any technical questions you may have.