



John R. Kasich, Governor
Mary Taylor, Lt. Governor
Craig W. Butler, Director

Proponent Testimony on Senate Bill 2
Director Craig W. Butler
Senate Energy and Natural Resources Committee
February 7, 2017

Chairman Balderson, Vice-Chair Jordan and members of the Senate Energy and Natural Resources Committee, I am Craig Butler, Director of Ohio EPA, and I appreciate the opportunity to testify in support of Senate Bill 2, sponsored by Senator Hite. Thank you, Senator Hite, for your sponsorship of this bill, as well as your assistance and guidance in working to improve this bill. This bill is focused on Governor Kasich's and my continued efforts to protect Ohioans and the environment, improve water quality in Ohio, and eliminate regulatory burdens where appropriate.

This is a broad bill that continues to build on the Governor's commitment to protect Lake Erie while also addressing critical concerns in surface and drinking water and solid waste. Senate Bill 2 is very similar to Senate Bill 333 that was discussed in this committee last November and December. My testimony today will provide an overview of these key issues.

Protecting Lake Erie and Encouraging Better Use of Dredge Materials

As discussed in Senator Hite's testimony, the statutory changes in Senate Bill 2 will give the Ohio Lake Erie Commission, established in 1997, clear direction to protect Lake Erie and help Ohio meet its commitments under the binational Great Lakes Water Quality Agreement. This agreement calls for reducing phosphorus in Lake Erie's Western Basin by 40 percent, and the Lake Erie Commission will focus its effort and resources on this important goal. The Commission will also help identify and support programs to enable the beneficial use of dredged materials. Meeting this important 40 percent reduction goal will require the effort and collaboration of many state agencies, federal agencies, local governments and non-government organizations, and aligning the Lake Erie Commission's mission and actions will be an important step in streamlining Ohio's efforts.

Reducing nutrients into Lake Erie is a priority aimed at decreasing the occurrence of harmful algal blooms. As part of this effort, Senate Bill 1 enacted in 2015 prohibited open lake disposal of dredged material to Lake Erie by July 1, 2020. When the open lake disposal prohibition takes effect, alternative outlets must be available for the 1.5 million cubic yards of dredged material that is dredged each year. An example to help put this in perspective: 55 percent of the material dredged each year comes from Toledo Harbor. It would take 114,750 dump trucks lined up for 625 miles (from Columbus almost to Boston) to hold all the dredged material that is taken out of Toledo Harbor each year.

Identifying beneficial uses for this material is critical to ensuring that the Army Corps of Engineers will be able to meet its Congressionally-mandated requirement to effectively and efficiently conduct its navigational dredging. Ohio EPA has been actively developing a dredged material beneficial use strategy with the primary goal of helping to develop private sector business opportunities around the beneficial use of dredge material. In May of last year, we held a dredged materials workshop directed at the private sector with more than 150 participants from private, public and nonprofit stakeholders to discuss possibilities for using this material in a beneficial way. It was also helpful for the Agency to get a better understanding of the obstacles, real or perceived, that the private sector has about using dredged material. Some of the ideas from this workshop have been incorporated into Senate Bill 2.

Senate Bill 2 will provide me with the authority to develop rules regarding beneficial use of material dredged from federal navigation channels during harbor or navigation maintenance activities. In addition, it directs Ohio EPA to develop rules containing the criteria under which dredged material would not be a “waste” but will also be protective of human health and the environment.

Improving Water Quality in Ohio – Drinking Water

Following the passage of House Bill 512 last year, which is considered historic with Ohio leading the nation in protecting drinking water, Senate Bill 2 is also focused on strengthening Ohio’s program to protect the safety of drinking water in our communities. This bill addresses three specific issues to ensure Ohioans have access to safe and reliable drinking water. Behind me I have real-life examples of the problems we are trying to prevent with the new provisions in Senate Bill 2 (see poster boards). First, Senate Bill 2 will require financial assurance for new or modified community water systems. This language is important to ensure safe drinking water for residents in mobile home parks and other public water systems owned and operated by private entities.

Unfortunately, we find examples of residents who have been forced to go without water or are provided unsafe water for extended periods of time due to an owner’s unwillingness or inability to repair the water system. When this occurs, considerable state and local resources have been expended to respond and provide emergency safe drinking water to these residents when catastrophic or repeated problems occur and the owners refuse to fix the system or fail to have the money reserved to do so.

Senate Bill 2 will also allow me to seek receivership through a court order to tap into these funds to resolve issues if a public water system is operating in a way that presents a threat to public health, and the owner refuses to fix the problem.

Additionally, Senate Bill 2 will require public water systems to demonstrate technical, financial, and managerial capability by implementing an asset management program. What we envision is that each public water system will complete an inventory and evaluation of assets, operation and

maintenance programs, emergency preparedness programs, and long-term planning for funding, infrastructure replacements and capacity projections.

I again refer to the real-life examples of why this issue must be a priority. An asset management program is a sound strategy for any business, but it is critical for public water systems. We have found that water systems without asset management programs have endured significant problems with extended periods of water use restrictions or no water at all due to issues such as deferred maintenance, lack of management oversight, and no historical records of water lines or maps of service areas.

Protecting the Environment

Senate Bill 2 creates common sense regulations to help protect the environment by establishing regulatory oversight of Construction and Demolition Debris (C&DD) processing facilities that are currently unregulated. On the positive side, Ohio has seen, and fully supports, a burgeoning construction and demolition debris recycling industry develop in recent years, which has diverted a significant amount of material from landfills.

While the overwhelming majority of C&DD transfer and recycling facility owners operate legitimate facilities, there are instances where material is collected, abandoned, or the facility is operating as an open dump. Since the transfer and recycling facilities are not currently regulated, the cost of cleanup and mitigating potential hazards falls to local communities, solid waste management districts and Ohio EPA. Ohio EPA is currently dealing with such an example in Northeast Ohio.

Senate Bill 2 will subject these processing facilities to licensing, financial assurance, and siting requirements. It also outlines regulations for Ohio EPA to address abandoned landfills by clarifying the legal authority to gain site access, test for hazards, and do necessary work to protect human health and the environment.

As evidenced in my testimony today, Senate Bill 2 will continue to protect Ohioans and our environment. This is common sense legislation that is needed to provide balance between helping communities and businesses address water quality issues and streamlining burdensome rules. Thank you again for the opportunity to testify today. I look forward to answering any questions.