



**Opponent Testimony - Ohio Environmental Council Action Fund
House Bill 175
Presented to the Ohio House Agricultural and Conservation Committee
May 19, 2021**

Chairman Koehler, Vice Chair Creech, Ranking Member Brent and Members of the Ohio House Agriculture and Conservation Committee, thank you for the opportunity to testify before this committee today in opposition to House Bill 175 (HB 175). My name is Pete Bucher and I serve as the Managing Director of Water Policy with the Ohio Environmental Council Action Fund.

Simply put, this legislation is bad for Ohioans and their drinking water. This proposed legislation would change two key things in the Ohio Revised Code. Those changes include:

1. Changing the definition of an “Ephemeral Stream” to an “Ephemeral Feature”
2. Removing an “Ephemeral Feature” from what is defined as “Waters of the State” no longer making these waterways subject to regulation by Ohio EPA most notably a section 401 water quality certification for dredge and fill operations

By excluding ephemeral streams from regulation under Ohio’s Water Pollution Control Law, changes would be triggered in other chapters of the Revised Code that do not appear in the bill that utilize this definition. Thus, the bill has the effect of excluding ephemeral streams for purposes of regulation under the following programs:

1. O.R.C. 903.01 - Concentrated Animal Feeding Facilities
2. O.R.C. 1503.50 - Forest Management
3. O.R.C. 3746.07 - Voluntary Action Program (VAP)

So this legislation would not only directly rollback drinking water protections, it would trigger several other regulatory changes that would cause industry and regulatory confusion.

Under section 6111.01 of Ohio Revised code, the following definitions for pollution currently exist:

As used in this chapter:

(A) "Pollution" means the placing of any sewage, sludge, sludge materials, industrial waste, or other wastes in any waters of the state.



(B) "Sewage" means any liquid waste containing sludge, sludge materials, or animal or vegetable matter in suspension or solution, and may include household wastes as commonly discharged from residences and from commercial, institutional, or similar facilities.

(C) "Industrial waste" means any liquid, gaseous, or solid waste substance resulting from any process of industry, manufacture, trade, or business, or from the development, processing, or recovery of any natural resource, together with such sewage as is present.

(D) "Other wastes" means garbage, refuse, decayed wood, sawdust, shavings, bark, and other wood debris, lime, sand, ashes, offal, night soil, oil, tar, coal dust, dredged or fill material, or silt, other substances that are not sewage, sludge, sludge materials, or industrial waste, and any other "pollutants" or "toxic pollutants" as defined in the Federal Water Pollution Control Act that are not sewage, sludge, sludge materials, or industrial waste.

HB 175 would no longer require a permit to discharge any of these pollutants into an ephemeral stream under Ohio's Water Pollution Control Law. This is extremely problematic due to the clear science highlighting the connectivity of our watersheds. If any of these pollutants were discharged into an ephemeral stream following a rain event, when they form, the pollutant will end up downstream in a larger water system. These largest surface water systems are the source of drinking water for over half of all Ohioans, **this legislation is bad for Ohioans and their drinking water.**

Undercutting our investment in water quality.

The state of Ohio is investing over 6 figures of taxpayer money into the science based, well rounded water quality improvement program H2Ohio. HB 175 would be directly undercutting that investment of taxpayer dollars by eroding foundational water quality regulations that are preventing pollution across the state. If we are opening our waterways to further water quality problems as this bill would do, we will never truly see the benefits of the H2Ohio investment. **HB 175 takes our state in the wrong direction.**

The cost of pollution.

This legislation will also be detrimental to Ohioans pocketbooks. Without protections for ephemeral streams, and our other waterways, Ohioans, and not polluters, will be faced with the clean-up costs. By removing permitting requirements that currently exist, the polluter won't have to pay any fees for degrading water quality through discharging. This new pollution in a water system will need to then be treated at a drinking water treatment facility increasing the cost on our water bills due to increased treatment costs. An estimated 11% of Americans already cannot afford their water bill and this will only make this issue worse.



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Additionally, Ohio already has an estimated \$30 billion need over the next 20 years for water infrastructure upgrades. Further polluting our waterways will continue to stress aging infrastructure and again the treatment costs in communities across Ohio. **This legislation is bad for Ohioans and their drinking water.**

Conclusion

Not only will this legislation fail to protect the ecological qualities of the 36,000 or more miles of ephemeral streams in Ohio, it will also fail to protect the drinking water of millions of Ohioans who rely on surface water sources. The bill purposely ignores the science in favor of an interpretation that benefits those that would be causing pollution. On behalf of our members and supporters we strongly urge a no vote on this legislation if a vote occurs.

Chairman and members of the committee, thank you for considering our perspective and our recommendations. I would be happy to answer any questions if you have them.

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