

SPRING 2023

THE CORD REPORT

The Official Quarterly Newsletter of CORD



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CORD

1086 N. 4th St., Suite 105
Columbus, Ohio 43201

CORDOHIO.ORG

Contact Our Staff

Larry Long, Director of Membership
Development: larrylong@cordohio.org

Catina Taylor, Executive Assistant:
catina.taylor@alberslaw.com

THE 135TH GENERAL ASSEMBLY: OFF TO A FAST START

Written By Sydney Sanders
Manager of Policy and Communications
Governmental Policy Group, Inc.

The 135th General Assembly (GA) convened for the first time on Jan. 3, 2023, for Opening Day ceremonies to officially begin the new two-year session. To kick off the new GA, members of the Ohio House elected State Rep. Jason Stephens (R-Kitts Hill) to serve as Speaker of the House following months of a highly contested race. Speaker Stephens was elected by his colleagues over Rep. Derek Merrin (R-Monclova Twp.), who was initially chosen for the job during an informal, closed-door vote by the caucus shortly after November's general election. When it came time to officially elect a leader during Opening Day ceremonies, however, Speaker Stephens beat Rep. Merrin by a vote of 54-43 and was immediately sworn into office, accepting the gavel from former House Speaker Bob Cupp (R-Lima).



The House then proceeded to elect Rep. Scott Oelslager (R-Canton) as Speaker Pro Tempore on Opening Day, but chose to not elect the rest of the majority leadership team after the "surprise" victory for Speaker Stephens. When members returned weeks later on Jan. 24, they voted to adopt new House Rules, as well as to name Rep. Bill Seitz (R-Cincinnati) as majority floor leader, Rep. Jon Cross (R-Kenton) as assistant majority floor leader, Rep. Jim Hoops (R-Napoleon) as majority whip, and Rep. Sharon Ray (R-Wadsworth) as assistant majority whip by a vote of 62-34.

The House has also voted to elect members of the minority leadership team. House members re-elected Rep. Allison Russo (D-Upper Arlington) as Minority Leader for her second term. Joining Leader Russo will be Rep. Dontavius Jarrells (D-Columbus) as assistant minority leader, Rep. Jessica Miranda (D-Forest Park) as minority whip, and Rep. Tavia Galonski (D-Akron) as assistant minority whip.

In the Senate, both the majority and minority leadership teams were elected as expected. Senate President Matt Huffman (R-Lima) was re-elected by his Republican colleagues for the remainder of his term. President Huffman is joined by Sen. Kirk Schuring (R-Canton) as president pro tempore, Sen. Rob McColley (R-Napoleon) as majority floor leader, and Sen. Theresa Gavarone (R-Bowling Green) as majority whip. For the minority leadership team, Senate Democrats elected Sen. Nickie Antonio (D-Lakewood) to serve as minority leader for the 135th General Assembly. Leader Antonio is joined by Sen. Hearcel Craig (D-Columbus) as assistant minority leader, Sen. Kent Smith (D-Euclid) as minority whip, and Sen. Paula Hicks-Hudson (D-Toledo) as assistant minority whip.

Naturally, with new leadership teams, comes new committee assignments. This GA, both the House and Senate have named several brand-new committees and new member assignments. The Senate has named 19 standing committees, and while many of the panels are similar to last session, there are a few noticeable changes and brand new committees and chairs altogether. Two new committees to make their debut in the 135th GA are the Community Revitalization Committee, chaired by Sen. Terry Johnson (R-McDermott), and the Medicaid Committee, chaired by Sen. Mark Romanchuk (R-Ontario). Both new committees have already convened for introductory meetings and are ready for legislative action.

In the House, there are 28 standing committees for the 135th GA. Many of the House committees from the previous session remain standing, but are led by new chairs and vice chairs under Speaker Stephens. The House has also debuted several brand-new committees, including those for Aviation & Aerospace, Constitutional Resolutions, Homeland Security, and Pensions. The House has also opted to separate two committees from the last session; making Transportation & Infrastructure Committee into two separate panels, as well as splitting the former Health Committee into the newly created separate committees for Public Health Policy and Health Provider Services.

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In both the House and Senate, all members and committees are preparing to tackle the state budgets for F.Y. 2024-2025. Beginning in the House, all four of the state's budgets have been formally introduced by House Finance Chair, State Rep. Jay Edwards (R-Nelsonville). The State Operating Budget (HB 33) has already received several informal hearings before the House Finance Committee and subcommittees. Ohio Office of Budget and Management (OBM) Director Kimberly Murnieks kicked off the hearings with over three hours of testimony and questions on key points included in the budget proposal before the committee. During her testimony, Director Murnieks reported that the Governor's executive budget proposal is "conservatively forecast and structurally balanced." Traditionally, the House will work on the budget until mid-to-late April before it moves to the Senate for hearings. After the Senate works on the bill for a few weeks, the two chambers will come together to work on the budget in Conference Committee before it is passed to the governor by the end June.

In regards to other budgets, the House also formally introduced the State Transportation Budget as HB 23, as well as the state's Workers' Compensation & Industrial Commission Budgets (HB 31 & HB 32). Members of the House Finance Committee accepted a substitute version of HB 23 that, among other things, creates a \$1 billion Rural Highway Fund, with 80% earmarked toward financing projects on rural state highways. Unlike the state operating budget, the other three state budgets are traditionally completed before legislators leave for a brief spring break in the beginning of April.

Though this GA has already had no shortage of political drama and the highs and lows of the budget season are already in full swing, there is one positive light for CORD to focus on. In late December 2022, Ohio Governor Mike DeWine announced his nomination of Anne M. Vogel as the next director of the Ohio Environmental Protection Agency (Ohio EPA). Director Vogel replaced former director Laurie A. Stevenson who retired in 2022 after 34 years in various roles at the agency. Previously, director Vogel served as Policy Director for Gov. DeWine during his first term and was charged with implementing the vision for the major initiatives of the DeWine-Husted Administration, including the creation and launch of H2Ohio. Then-Policy Director Vogel worked to bring together the Ohio EPA, Ohio Department of Agriculture and Ohio Department of Natural Resources to improve Ohio's water quality through the creation of wetlands, the reduction in phosphorus runoff, and access to clean drinking water and quality sewer systems. Before joining the governor's team, Ms. Vogel spent 10 years with AEP Ohio, much of that as senior counsel on federal regulatory issues. Earlier, after obtaining a law degree from Capital University Law School, she spent seven years as an associate for Porter Wright Morris & Arthur and one year as a law clerk for the U.S. District Court for the Southern District of Ohio.

As Ohio EPA Director, Ms. Vogel said she will be focusing first on navigating the F.Y. 2024-2025 budget cycle. Included in the executive budget proposal is added H2Ohio funding amounting to \$31.35 million per year for the Ohio EPA - an increase largely attributed to the governor's proposed Rivers Initiative. On the funding increase, director Vogel said the agency displays an "incredible track record" after its first four years of H2Ohio, particularly in its work offering principal forgiveness loans to communities that could not otherwise afford that investment. Other priorities for director Vogel include wanting to enhance staff recruitment efforts and emphasizing the agency's place in the state's economic development by working more closely with the business community to clarify what regulatory requirements exist and why.

While we're certainly looking forward to seeing all that she accomplishes, Director Vogel is only one of the many new faces we'll be seeing around when looking towards our leaders in Ohio. I am confident that CORD will continue to work with both new and established policymakers in across the state to inform and advocate for Ohio's critical water and infrastructure needs. With nearly 30 new members in the legislature, new directors, commissioners, and more, there are plenty of people and topics to be excited for as we move forward into the 135th General Assembly.

WELCOME NEW ASSOCIATE MEMBERS

New CORD Associate Members

CORD is happy to introduce members to three new Associate Members. CORD appreciates the support of all Associate Members and urges members to become familiar with all other Associate Members.

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Access Engineering Solutions, located in Celina, provides civil engineering services to communities across the state. Their corporate goal is not only to deliver a successful project, but to build better communities. From funding development, to design, to construction, they help clients reach success “every step of the way”.

Access Engineering Solutions has achieved an impressive record of accomplishments, which includes a solid reputation for designing creative civil engineering work. From water lines to water towers, funding, to construction management, they exceed industry standards. The firm has a strong history of working with elected and appointed leader to develop cost effective solutions for water, sewer, and roadway challenges, which include grant writing and grant administration to help make projects affordable.



COLLECTING DELINQUENT WATER AND SEWER BILLS: CERTIFICATION OF UNPAID BILLS FOR COLLECTION, TERMINATION OF WATER SERVICE, DUE PROCESS ISSUES, AND OTHER PITFALLS

Written by John Albers, Esq, Albers and Albers
Member, CORD Board of Directors and Larry Long, CORD Director of Membership
Development

Introduction

Unpaid water and sewer bills are focusing principally on a persistent problem for public water and sewer providers. During the recent pandemic the problem of unpaid bills became even more prevalent for utility providers, including regional water & sewer districts. This article will deal with four primary topics related to the authority of regional water and sewer districts: (1) the basic state law on establishment of rates and user agreements (2) the certification of delinquent bills to the county auditor for collection (3) recent efforts to curtail district certification authority in the General Assembly, and (4) terminating water service for non-payment of bills and necessary due process procedural guarantees.

Basic State Law on the Establishment of Rates and User Agreements

ORC Sections 6119.06 and 6119.09 outline the basic statutory authority for Districts to establish rates and execute user agreements. As it relates to rates, ORC 6119.09 provides that Districts may “charge, alter, and collect rentals or other charges, including penalties for late payment, for the use or services of any water resource project . . .” Likewise, ORC 6119.06(W) authorizes a District to “Charge, alter, and collect rentals and other charges for the use of services of any water resource project . . .” As it relates to user agreements the statute authorizes a District to contract with “. . . one or more persons . . . desiring the use of services thereof, and fix the terms, conditions, rentals, or other charges, including penalties for late payment, for such use or services.” (ORC 6119.09).

Certification of Delinquent Bills to the County Auditor

Districts and other providers of water and sewer services understand that some customers may experience financial problems at various times. And Districts attempt to accommodate the problems some customers experience from time to time. Some Districts provide payment plans and work with agencies like local Community Action Agencies, who may have various forms of utility assistance available for those having problems paying their bill. Indeed, the General Assembly has recently used some of its federal “pandemic” funding to provide utility assistance to those in need through local Community Action Agencies.

But, from a big picture perspective, unpaid water and sewer bills eventually are borne by all the users of the system and are passed on to the paying customers.

In such circumstances, ORC Section 6119.06(W) specifically provides that if “. . . if such rentals or other charges are not paid when due and upon certification of nonpayment to the county auditor, such rentals or other charges constitute a lien upon the property so served, shall be placed by the auditor upon the real property tax list and duplicate, and shall be collected in the same manner as other taxes.”

Limitations on Certification to the County Auditor

There are, however, some limitations on the above authority. Thus, the District cannot certify, and the County Auditor cannot place delinquent charges as a lien on the tax duplicate in the following cases:

- The property in question has been transferred or sold to a local political subdivision under laws relating to the county land bank (county land revitalization corporation) laws, and the unpaid charges occurred prior to the transfer or sale to the political subdivision. Similar restrictions apply when title to the property is transferred to a county land bank itself.
- The property in question was sold at a sheriff's or auditor's sale and the unpaid charges were incurred prior to the sale. These two sales generally occur as a part of the state/county foreclosure/forfeiture process for delinquent land generally. In these situations, the purchaser at the sheriff's or auditor's sale cannot be the owner immediately prior to foreclosure, or a family member or entity associated with a family member.

Some other Things to Consider When You Certify to County Auditor

One question that often comes up is: How often should we certify to the County Auditor? You will need to work with your Auditor, but, generally, certify as often as possible. Some County Auditors maintain that delinquencies can only be certified once a year. We do not believe this is correct, so you should question your Auditor if he or she takes this position.

It goes without saying that efforts also should be made to certify prior to the sale of the property—this will make your life easier down the road. Likewise, if you are aware of the likelihood of a bankruptcy, be sure to certify prior to the filing of the bankruptcy, if at all possible.

Finally, once the delinquency has been placed on the tax list and duplicate and is included in the next property tax bill, monitor the payments that are made to the District by the County Auditor. One issue that you should talk to your County Auditor about is how partial property tax payments are handled. Likewise, prior delinquent taxpayers may be placed on payment plans where prior delinquencies are paid over an extended period. The District should be receiving a proportionate share of such payments.

Certification Under Attack in Ohio General Assembly

If you have been following *CORD's Legislative Alerts* on activities in the General Assembly and in the *CORD Report* you are aware that there have been many efforts recently to restrict or eliminate the right of local governmental water and sewer providers to certify delinquent bills to the County Auditor for collection with property taxes.

We have not seen bills introduced so far during this new session of the General Assembly that would place restrictions on this tool used by all public utility providers in Ohio. During the last session of the General Assembly, however, at least two bills (H.B. 422 and S.B. 193) were introduced that would prevent the certification of delinquent bills on non-owner occupied homes. H.B. 422 did pass the House by a 68-22 vote, but died in the Senate. And while it only applied to municipal utilities (which under current law can already only certify on non-owner occupied property), the fear is always that it will be amended to apply to other providers including Regional Districts. Also, if legislation is passed that only impacts one type of local government utility provider, it could be used as a precedent to change the law later. The legislation includes the following primary provisions:

- The information that needs to be submitted to a County Auditor when charges are being certified.
- Notice to the property owner.
- The establishment of a termination amount for when service is terminated.
- Allows utility systems to track unpaid rents owned by a person moving from property to property.
- The establishment of a complaint process to resolve complaints by customers.
- The creation of an appeals process to hear billing complaints within the State Environmental Review Appeals Commission. Now, can you imagine how that would work with hearing by a state level commission, along with the costs involved for customers, utilities, and the State?

Terminating Water Service for Non-Payment of Bills; Required Due Process Protections

Ohio Revised Code Section 6119.06(W) grants authority to Districts to terminate water service to those that do not pay their bills. The law provides that: "Such district may refuse the services of any of its projects if any of such rentals or other charges, including penalties for late payment, are not paid by the user thereof . . ." But that is not the end of the story. You see, the courts, have determined that the termination of water service is subject to certain "due process" safeguards that protect the customer and that must be followed by utilities generally.

In 1978 the U. S. Supreme Court, in the case of *Memphis Light, Gas, & Water Division v Craft* the court addressed a billing dispute with one of its customers. The case involved a situation where the customer purchased a house that had two sets of meters and was receiving a "double billing." For almost a year the customer's service was terminated five time for nonpayment of bills. Despite the customers ". . . good-faith efforts to determine the cause of the "double billing," she was unable to obtain a satisfactory explanation or any suggestion for further recourse from the utility's employees. Each bill contained a "final notice" stating that payment was overdue and that service would be discontinued if payment was not made by a certain date but did not apprise respondents of the availability of a procedure for discussing their dispute with designated personnel who were authorized to review disputed bills and to correct any errors."

Without going into more detail of the interesting legal issues involved in the case, the Court essentially ruled that the utility deprived the customer of an interest in property without due process of law. Specifically, the court ruled that:

Because of the failure to provide notice reasonably calculated to apprise respondents of the availability of an administrative procedure to consider their complaint of erroneous billing, and the failure to afford them an opportunity to present their complaint to a designated employee empowered to review disputed bills and rectify error, petitioners deprived respondents of an interest in property without due process of law.



Meeting the Due Process Requirements

ORC Chapter 6119 gives little guidance on how to structure a “notice” and an “administrative procedure” to consider customer complaints and an opportunity to present their complaint to the utility to rectify any errors found in the bill. So here are some suggestions in outline form that may be helpful to your District.

So, how does this procedure work?

- Do your regulations specify possible reasons for termination and explain the procedure? They should!
- Is delinquency one of the reasons?
- Do you have customer service agreements?
- Do you have tenant service agreements?
- Who is responsible? Property owner? ; Tenant? (Usually, you want the property owner responsible).
- An imperfect system.

So, what is the content of Final the Notice Before Termination?

- Account #.
- Service Address.
- Customer Name.
- Scheduled date for termination.
- Reason for termination.
- How to avoid termination.
- **You must inform the customer that they are entitled to a hearing before their services are terminated, and how to request such hearing.**
- Deadline for requesting hearing.
- Who to contact for more information.

At this point, if a hearing requested, schedule the hearing. If no hearing is requested you can then terminate service but should leave a NOTICE OF TERMINATION OF WATER SERVICE.

So, what are the Guidelines for a Hearing?

- Conducted by non-billing employee, board member, other.
- Designate who will conduct the hearing in regulations.
- Schedule within reasonable time. 5-7 days.
- Customer may be represented, call witnesses.
- One continuance permitted.
- Give reasonable access to records.
- The decision--hearing officer decision: immediate or within reasonable time.
- Notify of termination date, in writing.
- Leave NOTICE OF TERMINATION OF WATER SERVICE.
 - What happened and when
 - Instruct how to restore service

Conclusion

The timely collection of customer utility bills is critical to the management of regional water and sewer districts. All districts know that some customers will have periodic problems paying their bills on time. Most districts are experts in customer service and try to accommodate reasonable problems experienced by its customers. In the end, however, local government water and sewer providers are business operations that must operate as such. We hope this article is useful as you look at issues of delinquent bills, termination of water system, and the due process rights of your customers.



TOP DRAWER REGIONAL DISTRICTS: JEFFERSON WATER AND SEWER DISTRICT

**Written by Albert J. Iosue, P.E., Director
Jefferson Water and Sewer District**

Jefferson Water & Sewer District was established in 1987 to provide water and sewer services within Jefferson Township in Franklin County, Ohio. At the time of formation, the Jefferson Township Trustees believed it was important to maintain the rural nature of the township while controlling growth and potential annexation, and the best way to do that was by providing water & sewer utility services to township residents. JWSD supplies water and sewer services to just over 4,000 service connections.

Jefferson Township is located in eastern Franklin County just east of Columbus and covers approximately 15.34 sq. miles with a population of 11,5000 residents. The township is rural in nature with open greenspace, has large sized residential lots, and is located closely to both I-270 and I-670, making it an ideal location for anyone that enjoys nature but has the interest of being near a major metropolitan city.

Jefferson Water and Sewer District is governed by a five-member Board of Trustees, all of which are residents of Jefferson Township, and appointed by the Jefferson Township Trustees for three-year alternating terms. The District board meetings are held once per month on the 3rd Thursday at the District office. The Board of Trustees is responsible for setting policy, approving the annual budget, authorizing expenditures, investing funds, and hiring the Director who manages the daily operations of the District. The current trustees have a combined service of 89 years on the Board and were instrumental to the early growth and expansion of the District.

Albert J. Iosue, P.E., was hired as the Director in August 2020 and is a graduate of The Ohio State University with a bachelor's degree in civil engineering and has his State of Ohio Professional Engineers licensure. The District also has a 12-member full-time staff consisting of a controller, office manager, superintendent, project manager, customer service representatives, inspector, and service technicians. Director Iosue and his team manage the daily operations of the District including water treatment and delivery, sewer collection and disposal, operational maintenance, capital projects, billing, collections, and all other administrative functions.

JWSD receives its raw water from below ground through two separate well fields; one at the water treatment plant and the second approximately a mile to the east. The water treatment plant has the capacity to process more than 2.2-million gallons of water per day and is often run at full capacity during high-use summer months. The District also owns and maintains 2 water towers capable of storing 1.5 million gallons of water, booster stations, 21 sanitary sewer lift stations, and more than 100 miles of water & sewer lines each. The Operations Department services and maintains the water & sewer systems.



Jefferson Water and Sewer District strives to set affordable water and sewer rates which fund the daily operations, capital needs, debt service, and reserve funds of the District. Currently, an average customer using less than 4,000 gallons of water per month pays \$77.88 for water & sewer service. The rates schedule is tiered as a way to encourage and promote water conservation; the more water a customer uses, the higher the per gallon rate. In January 2023, the District implemented a 5% rate increase to the minimum water service charge and a 9.15% increase to the minimum sewer service charge to cover operational expenses due to increased industry costs. The 2023 annual operating budget will generate \$7.4 million in revenues while expending \$4.0 million in expenses. The remaining \$3.4 million is allocated to capital improvements, debt repayment, and funding necessary reserves. The District has continually prepared and achieved a balanced annual budget.

The District is always making capital improvements to system components, whether it's repairing or replacing water or sewer lines, to expanding system capacity at the water treatment plant. The District is currently in the process of designing an expansion to the water treatment plant including the addition of a 300,000-gallon clear well, the expansion of administrative office space, improvements to a "red water" recycling system, and other miscellaneous plant improvements. The 2023 annual capital budget as approved is \$7.3 million. The District has also begun GIS mapping its entire water & sewer infrastructure in an effort to better maintain and service all assets into the future.

The Jefferson Water and Sewer District Water Treatment Plant was designed to produce water for approximately 5,000 customers. Due to continued growth within the Township, and the current number of customers receiving services, finished water production, and locating additional water sources is a current challenge for the District. By proceeding with the Water Treatment Plant Improvement Project, the District is working to ensure that the water plant will be able to produce the amount of water needed to continue servicing Jefferson Township residents into the future.



Jefferson Water & Sewer District Offices in Blacklick

PER- AND POLYFLUOROALKYL SUBSTANCES (PFAS) AND YOU

Written by Linda Aller
Certified Professional Geologist &
Registered Environmental Health Specialist
Bennett & Williams, Environmental Consultants

This is part-one of a two-part article prepared for the *CORD Report* to be sure CORD members and facility operators become familiar with the complex technical aspects of the problem and how it might affect their operations and needed changes in testing, analysis, reporting, and treatment in the future. Part one will focus on the complex science and chemistry that surround the issue of PFAS substance and possible human health implications. Part two, which will be published in the June issue of the *CORD Report*, will update you on the multiplicity of federal actions that have occurred in the last two years, discuss methods to remove PFAS from drinking water, and will look at personal health issues that surround PFAS.

Since the last article on PFAS appeared in the *CORD Report* in June 2021, you have likely become familiar with the acronym PFAS. PFAS is the broad class of chemicals that has been dubbed “forever chemicals” because of their persistence in the environment. In fact, sampling for 29 PFAS by all public water systems that serve a population of greater than 3,300 people is already underway pursuant to the Unregulated Contaminant Monitoring Rule (UCMR5).

On a staggered schedule, starting in January 2023 and ending in December 2026, the finished water of all water systems will be sampled between one and four times, depending on the number of people served by the public water system. However, this effort just scratches the surface of all that has happened in the last two years – and it is likely that future developments will affect not only the operation of your water system but also your personal life.

Important News

As this article goes to press, the USEPA has indicated that the long-awaited draft maximum contaminant levels (MCLs) for PFOA and PFOS should be released on or before March 3, 2023. The 2009 USEPA Health Advisory was 70 parts per trillion (ppt) of either PFOA or PFOS or the total of both. In June 2022, the USEPA announced much lower Interim Health Advisory numbers for PFOA at 4 parts per quadrillion and PFOS at 20 parts per quadrillion. These concentrations were calculated to be protective of children, as an increase in this calculation would lead to a child’s immune response to a childhood vaccine being significantly impaired. Critics argued that detection limits of 2 ppt in the approved drinking water methods for PFOA and PFOS could not detect concentrations in the parts per quadrillion set by the Interim Health Advisory numbers. Rumor has it that the soon-to-be-announced draft MCLs will be above the 2 ppt detection limit, but likely below 10 ppt. If this is true, these draft MCLs could result in the need for PFOA and/or PFOS removal in your treatment process if low levels of PFOA and/or PFOS are present in your finished water.



Review - What are PFAS?

PFAS compounds are manmade chemicals that are now known to be comprised of over 12,000 different PFAS substances. Initially discovered in 1938, in a failed experiment involving refrigerator coolant, the white, waxy material was non-reactive, heat resistant and non-stick. The discovery was made by research chemist Dr. Roy Plunkett, who worked for DuPont, and was born in New Carlisle, Ohio and educated at Ohio State. The first uses of this new chemical was in the Manhattan Project (making of the atom bomb) in World War II and was used to coat valves and seal pipes used to enrich uranium 235 for the bomb.

Eighty-five years later, PFAS have been widely used for almost everything. One common use is for firefighting foams to improve flowability and “smother” fires. Other common uses is to make textiles, leathers and carpets stain resistant and water, oil and stain repellent; make cookware non-stick; make ski wax for skis and dental floss glide easily; make food wrappers, dog food bags and microwave popcorn bags repel moisture and grease; make household polishes, waxes and cleaning products glide easily; and impart long-lasting and “slippery” properties to cosmetics and personal care products such as moisturizers, shaving cream, shampoo and soaps.

Industrial uses also include enhancement of wetting properties of paints, inks and coatings; use in semi-conductors and photolithography for anti-reflective coatings, etching, wetting agents and surfactants; use in wire manufacturing for coatings and to enhance insulation properties; use in resins, plastics and molds as flame retardants, mold release coatings, plastics manufacture and plumbing flux agents; use in metal coatings processes to reduce worker exposure to chromium; as surfactants to aid in application of pesticides and insecticides; and as surfactants to aid in fracking in oil and gas drilling operations [although, according to Horwitt and Gottlieb (2022), many of these chemicals are not reported under trade secret protection]. Medical uses include devices implanted in humans as replacements for arteries and valves as well as synthetic blood, which is only used when human blood is not available.

What is the Big Deal About PFAS?

Health Effects. Although the health effects of only a very few PFAS (think on the order of eight) have begun to be documented, the potential health effects include increased risk of cancer (kidney, testicular, liver and prostate); thyroid disease; lowered antibody response to vaccines; ulcerative colitis; increased cholesterol levels; reduced fertility in women; lower fertility in women due to lower sperm counts and reduced sperm quality and motility; developmental effects in babies such as smaller head circumference, decreased birth weight and shorter penises; effects on growth, learning and behavior of infants and children; interference with hormones, including early menopause and delay of puberty of adolescent girls; increased chance of obesity (particularly in girls at age 20) when exposed in PFAS in utero; and changes in liver enzymes.

Presence in the Environment. PFAS have been found in all environmental media all over the world. Some of the most common media are described below:

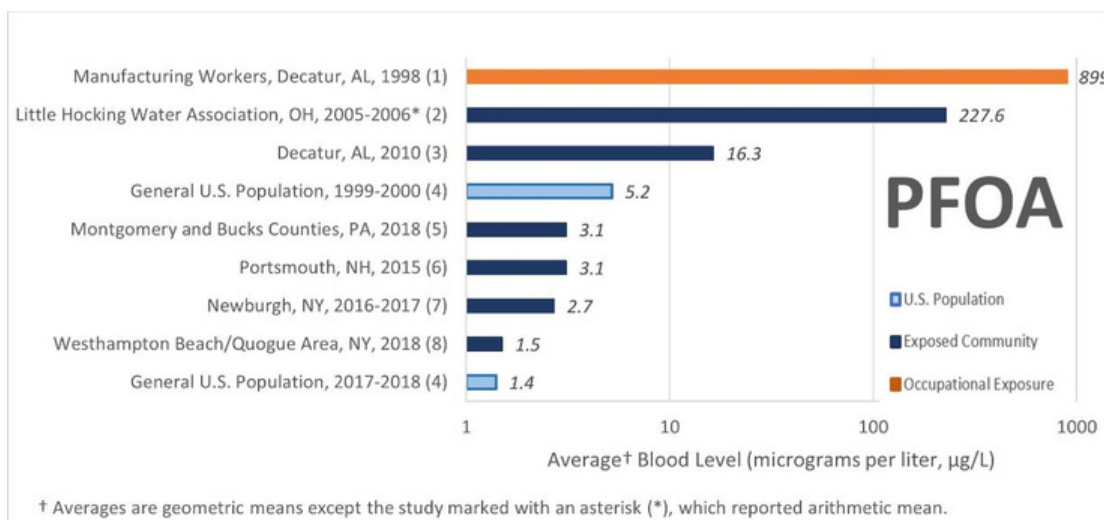
- **Air** Surprisingly, PFAS have been found to be present in air not only close to manufacturing plants where PFAS are emitted, but also in air above the oceans and on beaches and shores (where waves volatilize PFAS) and in polar regions (where PFAS have been transported long distance in air currents, particularly in the northern hemisphere);
- **Oceans** PFAS have been found not only close to shore and potential discharge points from man-made activities, by also in the middle of the Atlantic Ocean, where PFAS have been documented to travel with the ocean currents;
- **Rivers/Streams** PFAS are present in rivers and enter the river from industrial discharges as well as from wastewater treatment plant discharges because PFAS are not removed in traditional wastewater treatment plant treatment process. Wastewater treatment plant discharge may actually have more PFAS in the effluent due to transformation of PFAS into breakdown products or different compounds. Once in the river, PFAS can be persistent when they sorb to fine sediments and are re-released. Galloway (2020) sampled surface water around Parkersburg, West Virginia and found concentrations of PFOA greater than 1,000 ng/L in 2016. ORSANCO (2022) sampled the Ohio River Basin in 2021 and found detections of PFAS at every sampling station, with the highest measured concentration being GenX (HFPO-DA) at 32.20 ng/L;
- **Rain** PFAS have been found in rain in samples collected all over the world. Cousins et al. (2022) concluded that “levels of PFOA and PFOS in rainwater often greatly exceed” the USEPA Lifetime Drinking Water Health Advisory Levels announced in June 2022.
- **Ice Cores** PFAS have been found in Arctic ice, far from any industrial source of potential pollution. Pickard et al. (2020) found short chain PFAS in the High Arctic of Canada that increased starting in 1990. Hartz et al. (2023) found 26 PFAS in remote Arctic ice core near Svalbard Norway, including, PFBA, PFPeA, PFOA, PFNA, PFUnDA, PFHxA, PFDA, and PFHpA.

- **Biosolids** Biosolids are organic solids from wastewater treatment plants that are most commonly used as soil amendments in agriculture. Concentrations of PFAS in biosolids depend on the composition of the wastewater load. States are beginning to ban the spreading of sludge without testing for PFAS.
- **Soils/Sediments** The highest concentrations of PFAS are found in soils where biosolids with high concentrations of PFAS have been used as agricultural amendments. NOVA (2020) reported concentrations of 1,000,000 ppt in soil on the Stone farm in Arundel, Maine where biosolids had been legally used on fields since the 1980's. PFAS is also found in soils from direct spills (typically by firefighting foams), and are also found in soils that were subjected to air deposition (typically near a manufacturing plant). PFOA concentrations as high as 85,100 ppt were measured in Ohio soil in the vicinity of the former Dupont plant in Washington Bottoms, West Virginia.
- **Household Dust** PFAS has been found in household dust and poses a risk due to inhalation as well as ingestion. Toddlers are believed to have the highest risk because they spend time on the floor where dust settles and collects. Babies have the highest respiration rate which makes them vulnerable as well. Dust in fire stations has been shown to have higher concentrations of PFAS in dust than in houses.
- **Groundwater** Concentrations of PFAS in public and private wells have been found miles away from manufacturing facilities in North Carolina, West Virginia, New York and New Hampshire where contamination was caused by air deposition alone. Concentrations of PFOA as high as 24,000 ppt has been found in private wells as well as public wells along the Ohio River where contamination is due both to infiltration from the river and air deposition.
- **Landfill Leachate** PFAS in landfill leachate is variable, however median concentrations of PFAS in municipal solid waste leachate were 10,000 ng/L, in construction and demolition debris landfills were 6,200 ng/L and MSWI ash leachate were 1,300 ng/L (Chen et al., 2023). Leachate is typically disposed in a wastewater treatment plant, where no removal of PFAS occurs.

Presence in Wildlife. The Environmental Working Group (EWG, 2023) compiled research from over 100 recent peer-reviewed papers on PFAS in wildlife. Over 330 species were found to be affected and examples were found on all continents except Antarctica. Over 120 PFAS species were documented to be present in wildlife such as fish, birds, reptiles, frogs, horses, polar bears, dolphins, cats, sea turtles, and alligators.

Presence in Human Blood. ATSDR (2023) shows graphs of concentrations of PFOA, PFOS and PFHxS in blood in exposed populations from 1998 to 2018. Concentrations of PFOA in the general US population was 5.2 ug/L in 1999-2000, but was reduced to 1.4 ug/L in 2017-2018. Manufacturing workers had concentrations as high as 899 ug/L in 1998, while an exposed population that unknowingly drank highly contaminated drinking water for years had an average of 227.6 ug/L. The half-life (the time it takes to reduce the concentration in the blood by one half) varies by PFAS. For example, PFOA has a half-life of approximately 3 years, while PFHxS has a half-life of 4.7 years. The replacement chemical for PFOA, HFPO-DA (or GenX) has a half-life of 90 days.

The largest exposure route for PFAS to humans (with the exception of worker exposure) has been shown to be by ingestion – first by drinking water (Domingo and Nadal, 2019) and then by food. Recent studies of concentrations of PFAS in fish by Barbo et al. (2023) show that eating one freshwater fish contaminated with PFAS may be equal to drinking PFAS-laden water for a month.



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CORD'S LEGISLATIVE, LEGAL, & POLICY INITIATIVES FOR 135TH GENERAL ASSEMBLY

One of the primary purposes of CORD is to represent the interests of Regional Water and Sewer Districts before the Ohio General Assembly, state elected officials, and administrative agencies. CORD works closely with the Ohio Rural Water Association (ORWA) and shares resources to assure our presence at the Statehouse is visible and our advocacy is meaningful and respected. CORD and ORWA work closely on legislative issues and jointly retain the services of The Governmental Policy Group, Inc., a well-respected Columbus governmental affairs firm to represent our interests before the Ohio General Assembly and administrative agencies.

CORD also collaborates and builds coalitions with other public sector organizations including the Ohio Township Association (OTA); the County Commissioners Association of Ohio (CCAO) and its affiliate, the County Sanitary Engineers Association of Ohio (CSEAO); the Ohio Municipal League (OML); and the Association of Metropolitan Wastewater Agencies (AOMWA) where common interests coincide.

As the 135th General Assembly begins its work, following is a summary of some of the legislative issues that CORD and its lobbyists will be pursuing. These issues come to CORD from its members. If your district has a particular interest in one of these issues or has another issue you feel should be addressed by the State Legislature, please contact Larry Long at larrylong@cordohio.org.

- Legislation to require ODOT to pay for moving water and sewer lines located within the road right-of-way during road improvement projects.
- Continued legislative effort to prevent future PUCO regulation of District rate setting.
- Reform legislation providing for expanded "quick-take" eminent domain authority for Districts.
- Reform legislation preventing municipalities from taking District customers through annexation where state funding is utilized (like USDA 1926(b) protection for federal loans).
- Reform legislation allowing for easier and more frequent certification of delinquent accounts to the County Auditor for collection by placement on the tax list and duplicate.
- Legislation enabling Districts to apply directly for CDBG Funding.
- Reform legislation permitting simpler disconnection procedures for delinquent customers.
- Reform legislation clarifying which personal services do not require competitive bidding.
- Legislation increasing the authority of Districts to construct their own projects through force account.
- Remove ambiguities in R.C. Chapter 6119 relating to adding territory to a District.
- Legislation authorizing fines for violations of District regulations.
- Oppose policies implementing moratoriums on service disconnections for non-payment.
- Oppose legislation preventing local governments from placing a tax lien on property when water service charges are unpaid.
- Legislation defining "unanimous" to be 3 of 3 or 2 of 2, etc. like ORC 307.86 (County Competitive Bidding Law).
- Legislation permitting districts to form a group for insurance purchasing.
- Legislation to clarify storm water authority (6117.02 and 307.79).
- Legislation stating that County Auditor records must show the existence of special assessments, even for parcels with agricultural deferment.
- Legislation to permit districts to charge a fee for maintenance of storm sewers and road ditches which in turn would relieve township of the responsibility (OAG 81-039 and 82-025).
- Legislation comparable to ORC 505.241 (Dues for township government association).
- Legislation to require notification to Districts of property to be obtained by land banks and requirement that districts and land banks negotiate over payments of all or part of certified delinquent charges.

Township Legislative Proposals for the 135th General Assembly

CORD and its lobbyists work closely with other local government associations in the Ohio General Assembly. The Ohio Township Association (OTA) has developed detailed legislative proposals for the current session of the General Assembly, some of which CORD supports and others CORD has no position on or may oppose. The complete Legislative Programs and Priorities of OTA is available on the OTA website at: [For Distribution-135th GA Priorities.pdf \(noviams.com\)](https://www.noviams.com/For-Distribution-135th-GA-Priorities.pdf).

Following is a summary of some of the legislative issues included in the OTA Legislative Program, which may be of interest to CORD members:

- All local governments should have the authority to offer water and sewer services to their residents. In the case of townships, only "home rule" townships currently have this authority under state law.
- Municipalities should not require annexation in exchange for water or sewer services, nor should residents of townships be forced to pay excessive charges for those services. Support legislation that would prohibit municipalities from receiving water and sewer development funds from the state if they engage in such predatory practices.
- Support changes in annexation law that require hearings when not otherwise required and give county commissioners more discretion in certain types of annexation petitions. This applies to annexation petitions proposed by a municipality where contiguous land is owned by the municipality, county, or the state.
- Support increases in current force account limits and index force account thresholds to a construction cost index to keep pace with inflation.
- Support increases to current \$50,000 competitive bid limit to \$100,000 and index the threshold in order to keep pace with inflation.
- Support a statutory exemption that prohibits mandatory tap-in to a sewer system if the owner's Household Sewage Treatment System is functioning properly.
- Support authority of townships to adopt their own subdivision regulations for the unincorporated area. This authority now rests with the county.
- Support changes in law that guarantee a portion of funding from the Ohio Public Works Commission be allocated to townships, through the 19 District Integrating Committees.



BITS AND PIECES FROM CORD



Things you may have missed and may want to know
Written by Larry Long, Director of Membership and Development

Welcome Anne Vogel, Ohio's new EPA Director!

With the retirement of Ohio EPA Director Laurie A. Stevenson at the end of last year, Governor Mike DeWine has appointed Anne M. Vogel as the new Director. Vogel most recently served as Policy Director for the Governor during his first term to assist in driving the Administration agenda, which included the H2Ohio water quality initiative. Vogel also served as Infrastructure Coordinator for Governor DeWine, overseeing a cross-agency team charged with securing federal grants for infrastructure improvements.



The Director spent a decade at American Electric Power Company, with experience in both regulatory matters and operations. She was responsible for federal energy policy development in Washington. Following Vogel's graduation from Capital Law School, she started her career as a litigator at the Columbus law firm of Porter Wright and subsequently clerked for Judge Edmond Sargus, U.S. District Court for the Southern District of Ohio. Vogel also holds an MBA from OSU.

State Rainy Day Fund Reaches 3.5 billion

In late January, Governor DeWine announced that Ohio's Rainy-Day Fund (RDF) had reached a cash balance of nearly \$3.5 billion, which had never been seen before in the fund's history. The Ohio Office of Budget and Management (OBM) transferred \$727 million into the fund to reach the historic number. The fund is capped at 8.5 percent of General Revenue Fund revenues.

Following this announcement, a *Toledo Blade* editorial characterized it as "*Rainy Day Fund Shame*" acknowledging that: "It's hard to criticize a "rainy day fund." Prudence dictates cash reserves as a good budget practice, and it seems conservative." Yet, the *Blade* points out that as the Administration brags about the level of the rainy-day fund, "the hoarding" of financial resources in the fund could be at the expense of local governments. According to the *Blade*, "what they don't talk about is 13 years of . . . negligence on local government funding", referring to slicing the Ohio Local Government Fund in half in recent years.

"If Ohio used the historic average of 3.66 percent of the state's General Revenue Fund, Toledo would take in \$33 million, and if the now-forgotten principle of conservatism favoring decentralization of power prompted 5 percent of the general revenue fund to local government, Toledo would have \$45 million from this source", not the 10.3 million expected under the current slashed formula. **"And there is no local government in Ohio where this is not true."**



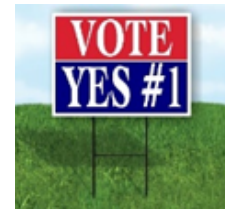
Governor DeWine's State FY24/25 State Budget—The Big Picture

While CORD will be reporting regularly on issues of importance to Districts in the state budget, in the aggregate the FY 24/25 spending plan recommends state General Revenue Fund (GRF) spending of about \$28.1 billion in FY24 and \$29.4 billion in FY25, representing increases of 3.2% and 4.8% increases. The state All Funds budget totals are \$103.3 billion for FY24, a 3.5% increase, and \$99.7 billion in FY25, a 3.4 decrease. According to OBM Director Kim Murnieks it is "a conservative, moderately growing general fund budget." As Governor DeWine said at his State of the State address: "This is Ohio's time," DeWine said. "People are returning to the heartland because we have lower taxes, a good regulatory environment, a strong business climate, and a great quality of life. The sun is coming up in Ohio, the wind is at our back, and together, we have the power to change the course of Ohio's history. Ohio, this is our moment!"



Ohioans Generous in Support of Local Property Tax Levies

Despite tough economic times, Ohioans continue to show support for most local property tax levies. Last November speaks for the support of many local government levies that were on the ballot. Leading the list, as always, were local school levies, where 79% (87 of 120) were approved. For park and recreation levies, 85% were approved while 18 of 19 library levies passed. When it came to health and human services levies, all 19 senior services levies passed; all seven of the children's services levies passed; and all five of the mental health levies passed.



Latest Update on H2Ohio

Last November Agency Directors from the Ohio Department of Agriculture, Ohio Department of Natural Resources, Ohio EPA, and Ohio Lake Erie Commission provided an update on the progress of Governor Mike DeWine's H2Ohio initiative. This presentation is now available on video at: [H2Ohio Stakeholder Presentation November 2022](#) | [H2Ohio in case you missed it.](#)



2022 State of the Great Lakes Report: Lake Erie has Worst Conditions

While progress has been made to restore and protect the Great Lakes in recent years, there are still significant challenges to further improvements to the Great Lakes, especially for Lake Erie. So says the State of the Great Lakes 2022 report. The report, published by the U.S. EPA and the Canadian government in accordance with the 2012 Great Lakes Water Quality Agreement. The report uses nine indicators of ecosystem health, such as drinking water, fish consumption, and beach closures, to assess the Great Lakes. It describes these indicators in two ways: Current Status, which is described in terms of good, fair, or poor, and the Trends Over Time, which are described as improving, unchanging, or deteriorating over a 10-year period. Overall, the report says the status of the Great Lakes, which provide drinking water to roughly 28 million Americans and Canadians, is fair and its trend is unchanging. The report also assesses the state of each of the Great Lakes; the report finds that Lake Erie has the worst conditions.



IRS Mileage Rates for 2023

IRS has issued the 2023 optional standard mileage rates used to calculate the deductible costs of operating an automobile for business, charitable, medical, or moving purposes.

Beginning on January 1, 2023, the standard mileage rates for the use of a car (also vans, pickups or panel trucks) will be:

- 65.5 cents per mile driven for business use, up 3 cents from the midyear increase setting the rate for the second half of 2022.
- 22 cents per mile driven for medical or moving purposes for qualified active-duty members of the Armed Forces, consistent with the increased midyear rate set for the second half of 2022.
- 14 cents per mile driven in service of charitable organizations; the rate is set by statute and remains unchanged from 2022.



Union Membership on the Rise

The Federal Bureau of Labor Statistics reported recently that the percentage and number of workers in Ohio belonging to unions increased in 2022. Last year, 52,000 more Ohio workers joined a union than in 2021. It is estimated that union members in Ohio now total just shy of 700,000 workers. Ohio ranked third nationally with its increase, with California gaining 99,000 union workers and Texas with 72,000.



Workers' Compensation Cuts Rates for Public Employers

Earlier this year the Ohio Bureau of Workers' Compensation announced it was cutting public employer rates by an average of 2.5%. This cut follows single-to-double-digit rate decreases over the last nine years, except when rates increased by 6.1% in 2019 and 2.2% in 2022. Private employer rates could also experience a new 8% reduction. Actuaries say this savings would have been greater were it not for difficult investment performance. As of end of 2021 BWC showed single year investment losses of \$1.6 billion; this loss was just a little over \$1 billion at the end of last year. The total investment portfolio is approximately \$20 billion.

Following a national study late last year, it was found that Ohio BWC had the 5th *lowest* premium rates nationally for all employers. Ohio improved its ranking 12th place in 2020; if one goes back to 2008 Ohio rates were the 3rd *highest* in the U. S.

Already Talking About the 2026 Race for Governor?

Way too soon, you say? But not long after Mike DeWine's big win in November and his second inauguration as Ohio's 70th Chief Executive, the first candidate for the 2026 race announced his candidacy. Republican Matt Mayer, who works for a public policy think tank, was the first out of the starting blocks, making his announcement in late January. Included among his priorities for Ohio are to:

- Make Ohio a "right to work" state.
- Eliminate JobsOhio.
- Freeze state spending.
- Eliminate the state income tax.
- Have state funding follow students.
- Streamline local government to reduce local income, sales, and property taxes.
- Adopt pay for performance for elected officials.

Mayer, "frustrated and fed up with the status quo of mediocrity we've had to live with for far too long" believes "establishment career politicians" have had a chance to reenergize the state but have ignored key reforms. But Mayer has left the door open for him to reconsider if his "smart polices" are put in place.

No word yet about which Democrat will be the first out of the starting gate.



Gubernatorial Appointments of Interest

Thomas W. Johnson of Columbus was reappointed to the **Environmental Review Appeals Commission** for a term beginning Jan. 6, 2023, ending Oct. 22, 2028.

Gary R. Salmon of Oxford (Butler County) reappointed to the **Sewage Treatment System Technical Advisory Council** in the Department of health for a term beginning Jan. 1, 2023, ending Dec. 31, 2025.

Glen Martin Vonderembse of Milford (Clermont County) to the **Sewage Treatment System Technical Advisory Council** in the Department of Health for a term beginning Jan. 1, 2023, ending Dec. 31, 2025.

Leigh Ann Miller of Granville (Licking Co.) has been reappointed to the **Environmental Education Council** for a term beginning October 7, 2022, and ending October 1, 2024.