



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

Helena Volzer

H.B. 29

132nd General Assembly
(As Introduced)

Reps. Leland and Boggs, G. Johnson, Patterson, Craig, Kent, Lepore-Hagan, K. Smith

BILL SUMMARY

- Eliminates law authorizing the maintenance of buffers around municipal water reservoirs by contiguous property owners.
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CONTENT AND OPERATION

Maintenance of buffer around drinking water reservoir

The bill eliminates a provision of law that purports to require a municipal corporation (see **Comment**) that owns a drinking water reservoir to allow contiguous property owners to alter the buffer zone around the reservoir. Specifically, the statute allows the property owner to alter the buffer zone for any of the following purposes:

- (1) Creation of an access path that is not wider than five feet to the body of water;
- (2) Creation of a view corridor along adjacent property boundaries;
- (3) Removal of invasive plant species;
- (4) Creation and maintenance of a filter strip of plants and grass that are native to the area surrounding the reservoir in order to provide adequate filtering of wastewater and polluted runoff from the owner's property to the body of water;
- (5) Beautification of the property.

The bill also eliminates a provision of law that would prohibit a peace officer or other official with authority to cite trespassers on a buffer zone from issuing a civil or

criminal citation to an individual who enters the property for the sole purpose of mowing grass, weeds, or other vegetation or for any of the purposes outlined above.¹

COMMENT

R.C. 743.50, the section repealed by the bill, was enacted by Am. Sub. H.B. 64 (131st General Assembly), the Main Operating Budget, and was to take effect September 29, 2015. However, five Ohio cities² filed a Complaint for Declaratory Judgment and Injunctive Relief against the state in the Court of Common Pleas for Franklin County,³ and the court subsequently issued a Preliminary Injunction ordering that the provisions and effective date of R.C. 743.50 are preliminarily enjoined and do not have any force or effect until the court enters a final judgment. The court also enjoined the state from enforcing, applying, or implementing, or otherwise acting on any provision of R.C. 743.50 until the court enters a final judgment. Finally, any action, order, directive, instruction, or other action that purports to enforce or take any action relating to, or in reliance on a provision of R.C. 743.50 are void, ineffective, and enjoined until the court enters a final judgment.⁴

It is unclear if R.C. 743.50 infringes upon a municipal corporation's authority under the general home rule or public utility home rule provisions of the Ohio Constitution.⁵ Among other arguments the cities raise in their complaint, they assert that R.C. 743.50 violates both of these provisions.

The cities also allege that R.C. 743.50 violates the One-Subject Rule, which provides that no bill may contain more than one subject.⁶

¹ R.C. 743.50. This section applies in the case of a municipality that has established and implemented a watershed management program with regard to a drinking water reservoir.

² Columbus, Akron, Barberton, Lima, and Westerville.

³ Complaint for Declaratory Judgment and Injunctive Relief, *City of Columbus, et al. v. State of Ohio*, Case No. 15-CV-7915 (Sept. 9, 2015).

⁴ Agreed Order for a Preliminary Injunction, *City of Columbus, et al. v. State of Ohio*, Case No. 15-CV-7915 (Sept. 15, 2015).

⁵ Article XVIII, Sections 3 and 4 of the Ohio Constitution.

⁶ Article II, Section 15 of the Ohio Constitution.



HISTORY

ACTION

DATE

Introduced

02-01-17

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