



# THE BUCKEYE INSTITUTE

**Interested Party Testimony Submitted to the  
Ohio House State and Local Government Committee on  
House Bill 121**

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Chair Anielski, Vice Chair Hambley, Ranking Member Holmes, and members of the committee, thank you for the opportunity to testify today. My name is Greg Lawson and I am the research fellow at **The Buckeye Institute**, a think tank that advocates free-market policies for Ohio.

The policy under consideration addresses the funding and regulation of public water and wastewater projects. This is an important issue not only for taxpayers' pocketbooks but also for their health and wellbeing, and one we looked at in our recent policy brief, *Competition Saves Taxpayer Money on Water and Sewer Line Repair*.

Many factors, such as soil conditions and load, influence the engineering specifications for such a project. Design engineers are qualified experts who must closely study the particular conditions of the project and take these factors into account. They are therefore in the best position to determine what material or materials are suitable.

If more than one material is suitable, economics will likely become a factor. The best value may not always be the cheapest bid. The lowest-cost material that meets the specification may indeed be the best value, or the highest-cost material may be the best value over the long-run, taking into account factors such as the durability of the material and financing terms.

To ensure that taxpayers get the best value, governments should embrace competitive bidding. Free competitive markets raise quality and lower prices. Governments should refrain from imposing regulations that negate the market incentives for industries to lower costs and provide better products.

Businesses should make their best proposal for the work required, and governments should select the bid that provides the best value for taxpayers. Taxpayers can and should make local officials justify their decisions and hold them accountable.

Indeed, Ohio recognizes the value of competitive bids and state law requires government contracts be open to competitive bidding in most situations.<sup>1</sup> As the Ohio Supreme Court has explained, competitive bids on government projects “protect the taxpayer, prevent excessive costs and corrupt practices, and provide open and honest competition in bidding for public contracts.”<sup>2</sup>

Engineers may worry that absent a restrictive ordinance, the county may be required to choose the lowest bid. But that is not the case. Ohio law instructs that contracts be awarded to the “lowest and *best* bidder.”<sup>3</sup> Thus, if, in the engineer's professional opinion, the lowest bid is not also the best bid, the engineer may legally select the better product or service even at the higher price.<sup>4</sup>

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<sup>1</sup> OHIO REV. CODE ANN. § 307.86.

<sup>2</sup> *Cementech v. City of Fairlawn*, 109 Ohio St. 3d 475, at 477.

<sup>3</sup> OHIO REV. CODE ANN. § 735.05 (Emphasis added).

<sup>4</sup> *Danis Clarkco Landfill Co. v. Clark County Solid Waste Management Dist.*, 73 Ohio St. 3d 590, at 603.

As communities look to repair and replace expensive infrastructure, local leaders should embrace competition and accountability and respect the know-how of the trained professionals tasked with fixing the problems.

Thank you for your consideration. Appended to my testimony is a **reprint of an op-ed** that Buckeye recently published in a local Ohio newspaper which you may also find useful and informative.

# Newark Advocate

## **Water and sewer pipe issues can't be out of sight, out of mind**

*Newark Advocate*

By Joe Nichols

June 18, 2017

Those of you who are tired of getting jarred by potholes on your way to the grocery probably welcomed promises of increased federal infrastructure spending with open arms.

Many of those federal dollars flow back to our communities for us to decide how to spend, so it's important to remember that infrastructure goes deeper than roads and bridges — literally. You probably see crumbling roads daily; what you don't see are the miles of water and wastewater pipes lying underground that are also in need of replacement.

Although this critical infrastructure is out of sight, it can't be out of mind. Most of us don't think about water and sewer pipes until something goes wrong — as we saw tragically happen to the people of Flint, Michigan and Sebring, Ohio. That's unfortunate, because although we rely on these pipes constantly for clean water and modern sanitation, much of the pipe in Ohio is on its last legs.

The cost of these replacements will impact your family's monthly water and sewer bill. The U.S. Environmental Protection Agency estimates that \$27 billion worth of these pipes will need replaced or installed in Ohio by 2031 — approximately \$6,000 per household — so it's critical that the job gets done right the first time.

To ensure things go smoothly, lawmakers should keep two things in mind: accountability and competition.

Water and sewer projects are often financed by a mix of your federal, state, and local tax dollars, but specific decisions like what pipe materials to use are typically made by your local officials like city councils and engineers — and rightly so. As local residents, you have far more influence with how your city council spends your tax dollars than with state or federal officials, which gives those local officials a stronger incentive to hear out your concerns before making important decisions.

To ensure the most sensible pipe material is chosen for your community, local governments need to allow for healthy, transparent competition to replace existing pipes. This will help keep down costs. Iron, plastic, steel, concrete, and even clay all are used for water and wastewater piping. Each of these materials has its pros and cons — some materials may be more expensive up-front but save money over the long-term due to their durability. Factors such as the load that the pipe

will need to carry and soil conditions can influence the choice of materials. These decisions are best left in the hands of local engineers and city councils who are most familiar with local conditions.

History has shown that local accountability and competition give us the best services for the lowest cost. As local governments across Ohio take on the multi-billion-dollar task of replacing water and wastewater pipes, they should adhere to these principles. As we recently learned from the Flint and Sebring crises, letting water and sewer infrastructure remain “out of sight, out of mind” can be a costly mistake.

*Joe Nichols is a Newark Township resident and policy analyst at The Buckeye Institute.*