



**Sub. S.B. 65\***

124th General Assembly

(As Reported by S. Judiciary on Civil Justice)

Sen. Mumper

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**BILL SUMMARY**

- Creates a specified civil immunity from tort liability for a water supplier that acquires ownership of an existing water system, enters into a written agreement with the OEPA, and complies with certain conditions in the agreement.
- Creates a specified civil immunity from tort liability for a water supplier that has not been found to be in significant noncompliance with drinking water standards with respect to harm caused by substances for which there are drinking water standards and during a period of time when the water supplied by the water supplier meets all applicable drinking water standards.

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**CONTENT AND OPERATION**

*Operation of the bill*

*Tort immunity for acquiring water suppliers*

The bill provides that a water supplier that acquires ownership of an existing water system is not liable in damages in a civil action for injury, death, or loss to person or property (a "tort action") allegedly caused by the failure of the previous owner of the acquired water system to comply with drinking water standards if the acquiring water supplier does both of the following: (1) enters into a written agreement with the Ohio Environmental Protection Agency to bring the acquired water system into compliance with drinking water standards within a

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\* This analysis was prepared before the report of the Senate Judiciary on Civil Justice Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

specified period of time, and (2) brings the acquired water system into compliance with drinking water standards within the time period agreed to under the written agreement with the Ohio Environmental Protection Agency (R.C. 6109.35(B)).

### **Tort immunity for existing water suppliers**

The bill provides that a water supplier that operates a public water system is not liable in damages in a civil action to any person for injury, death, or loss to person or property that allegedly arises from the person's consumption of water supplied by the water supplier if all of the following apply: (1) during the period of time that the water supplier supplies water to the person, the water supplied by the water supplier meets all applicable drinking water standards, (2) the water supplier has not been found to be in significant noncompliance with drinking water standards, and (3) the injury, death, or loss to person or property is alleged to be caused by a substance for which drinking water standards have been established. (R.C. 6109.35(C).)

### **Non-preemption provision**

The bill provides that the immunities created by the bill do not affect any immunities from civil liability or defenses established by another section of the Revised Code or available at common law to which a water supplier may be entitled under circumstances not specifically covered above. The bill further provides that the immunities in the bill do not create a new cause of action or substantive legal right against a water supplier. Additionally, the bill provides that the immunities created by the bill do not create an immunity from civil liability for violations of the safe drinking water provisions of the Revised Code. (R.C. 6109.35(D).)

### **Definitions**

The bill creates the following definitions (R.C. 6109.35(A)):

(1) "Water supplier" means an entity that is subject to R.C. Chapter 6109., that is subject to rules adopted under that Chapter, and that supplies drinking water through pipes, through tubing, or in a similar manner to consumers within this state.

(2) "Acquiring water supplier" means a water supplier that satisfies both of the following: (a) the water supplier acquires ownership of an existing water supplier, and (b) the water supplier and the acquired existing water supplier do not have any mutual directors, officers, controlling shareholders, or other persons with an ownership interest prior to the acquisition.

(3) "Drinking water standards" means safe drinking water standards established by the Ohio Environmental Protection Agency under R.C. Chapter 6109. or established by the United States Environmental Protection Agency under the Safe Drinking Water Act (42 U.S.C. 300).

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## COMMENT

1. "Public water system" means a system for the provision to the public of water for human consumption through pipes or other constructed conveyances if the system has at least 15 service connections or regularly serves at least 25 individuals. Public water system includes any collection, treatment, storage, and distribution facilities under control of the operator of the system and used primarily in connection with the system, any collection or pretreatment storage facilities not under such control that are used primarily in connection with the system, and any water supply system serving an agricultural labor camp. (R.C. 6109.01(A).)

2. The immunities created by this bill do not apply to a public water system that meets all of the following conditions (R.C. 6109.02):

(1) The public water system consists only of distribution and storage facilities and does not have any collection and treatment facilities.

(2) The public water system obtains all of its water from, but is not owned or operated by, a public water system.

(3) The public water system does not sell water to any person.

(4) The public water system is not a carrier that conveys passengers in interstate commerce.

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## HISTORY

ACTION	DATE	JOURNAL ENTRY
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Reported, S. Judiciary on Civil Justice	---	---

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