

H Cantino opponent testimony SB 33, 4-2-19

Dear Chair Eklund and Senate Judiciary Committee members:

I urge you to reject SB 33. It is vague, arbitrary, inconsistent with the Ohio Revised Code, unnecessary, and clearly unconstitutional. It violates due process by arbitrarily - with no definition of what constitutes "critical" - singling out certain infrastructure that it merely labels, with *no justification for selection of these and not other infrastructure categories*, and then deems undefined activities as tampering, making them potential felony offenses. The bill thus violates due process. As Mr. Thomas Cartwright eloquently elucidated in testimony delivered to the Senate Judiciary Committee on Sub SB 250 last fall, the bill makes non-destructive action at some sites punishable with higher penalties (third degree felonies) than destructive behavior elsewhere (misdemeanors under Ohio law). It thus targets people and, *even more so*, organizations deemed to support actions at these arbitrarily labeled sites for unfair extra punishment, a violation of due process, and is clearly intended to chill dissent, a fundamental violation of First Amendment rights. Similar bills are already chilling dissent and have been used to charge protestors *on private property who had permission to be there* with felonies, according to recent news coverage ([Inside Climate News: More States Crack Down on Pipeline Protesters, Including Supporters Who Aren't Even on the Scene](#) 3-28-19)

The specification of ten times higher penalties for 'organizations' deemed to support covered activity (which clearly cannot control actions of people -- including agent provocateurs who often infiltrate actions, hired by the corporations that are the target of the action) is clearly intended to intimidate, relying on this chilling effect that has been clearly ruled unconstitutional by the U.S. Supreme Court in multiple decisions since the 1950s. The possibility that the corporations will then benefit financially due to this bill's provisions, when having inserted agent provocateurs who do cause criminal mischief, charges are brought against innocent bystanders as well, certainly smacks of corporate-government collusion and corruption, and even of fascism.

Why aren't hospitals considered critical infrastructure? And schools? Why is it largely dirty fossil fuel corporate infrastructure that's deemed critical (although some other categories have been added to deflect from this initial focus)? Because they're obviously targets of first amendment protests due to their infliction of harm on people and communities and the *urgency*, well understood by millions of Americans, to avert climate disaster within the decade. The urgency and seriousness of climate catastrophe, outlined in last November's federal 4th National Climate Assessment (whose first sentence reads: "*Climate change creates new risks and exacerbates existing vulnerabilities in communities across the United States, presenting growing challenges to human health and safety, quality of life, and the rate of economic growth,*") is well understood by the educated public, including judges, such that the NECESSITY defense has now been deemed acceptable in courtrooms even when there has been clear intent to disrupt activity on these sites.

SB 33 would not just redundantly penalize already penalized activity but also single out for felonious charges the vague and overbroad "tampering" activities at these arbitrarily selected and undefined sites, leaving citizens who are concerned about the livability of our planet to wonder whether their peaceful presence on a corporate site (which may have been imposed on the community against its will or even against the wishes of its elected officials) will result in felony convictions, jail, fines, and all the consequences in our society of a felony conviction. This

intimidation of protest violates First Amendment rights, which you as elected officials have the duty to uphold.

Furthermore, the suppression of the public's voice by limiting oral testimony against the bill to 5 speakers, which was not done for proponent testimony, is a despicable suppression of First Amendment rights and clear abrogation of the standard legislative process. In combination with Senator Hoagland's office's lies to the public in its statement made to a constituent that the bill only targets organizations that "pay protestors" – *as if there are ANY such environmental organizations!!* – shows our state legislators to lack a commitment to justice, transparency, and truth. Mr. Hoagland's office's interest in deceiving the public, in obfuscation and suppression of dissent is appalling. I hope that the Judiciary Committee – of all committees, one that should have some level of professional ethics – does not stoop to passing this unnecessary, unconstitutional, and fascism-promoting legislation.

I urge your judicious attention to justice, law, and the fundamental constitutional rights of Ohio citizens in your consideration of this dangerous bill,

Heather Cantino, Athens