

By: Geoff Guss, Assistant General Sales Manager - McWane Ductile Midwest

Good morning, good afternoon, or good evening. Whenever or wherever you are reading this, we want you to know that the ductile iron pipe industry and our allies are fighting for the ability of municipalities to control their product preferences on water, sanitary, and storm sewer projects.

In case you are unaware, there is a nation-wide effort by the PVC pipe and chemical industries to deny engineers, utilities, public entities, and other waterworks professionals the ability to design projects in the manner that best serve the needs of their communities. They are trying to accomplish this by introducing legislation at the state level that would effectively mandate the use of PVC pipe on all projects, even if the project engineers and other water professionals conclude that other materials would better serve the public. Ohio is the latest state in which the plastic industry has tried to legislate a market for their product. This is the second time this type of bill has been brought up in Ohio (it failed last year), and similar bills have been introduced in several other states, including Arkansas, Indiana, Oklahoma, Texas, North Carolina, South Carolina, and Tennessee. This effort has received widespread, unified opposition from groups such as engineers, utilities, contractors, architects, public entities, and the business community. As a result of these unified efforts, no state has passed this legislation.

Our industry has always supported local specification decisions because not every community or project is the same, and thus, not every community or project requires the same type of piping materials. For example, installing a waterline through an urban area with heavy traffic loads might require stronger, more durable pipe in order to avoid the risk of repair excavations. Similarly, pipelines through contaminated soils, or soils that might become contaminated, require certain types of piping materials in order to avoid the infiltration of contaminants. Although many types of pipe might receive approval for general usage in water projects, not every type of piping material is equal, and certain types are more suitable than others for specific circumstances. The local municipalities and engineers are the best option to choose the products that will best fit each individual application or community because they are trained through local experience as to what the geographically different needs might be.

The PVC pipe industry attempts to justify its attack on local decision makers by claiming that it will increase competition in markets that disallow their products. In fact, it does the exact opposite. Currently, the different product types compete twice on every waterworks project. First, we compete at the local level, doing municipal specification work to get our product approved as suitable for the project or in the community. Once the local entity decides what products suit their needs, the makers of the approved materials compete again through the bid process. The PVC industry's bill will remove a crucial aspect of this very competitive process by eliminating competition based on history, performance, product characteristics, and overall suitability. In other words, local authorities will likely be forced to buy the cheapest product even if it is the most expensive and unsuitable product over the long run. If a municipality chooses to spend more money for a product they feel to be superior to a cheaper option, they could open themselves up to bid protests, and every time they choose to disqualify a product pre-bid, they would open themselves up to project-specific litigation.

The members of the engineering community have expressed their staunch criticism of this legislation as well. One consulting engineer told me, "Who's going to stamp the drawings for every job? I'm certainly not going to put my stamp on a drawing without knowing what type of piping materials is to be installed on that application. There are professional and financial liabilities accompanying every time I put my stamp on a drawing."

Even the State Chapters of our governing bodies, American Water Works Association, and Rural Water Association have opposed this legislation. AWWA released a statement through their Ohio Section's Water Utility Council that refers back to Indiana's Chamber of Council's statement against their own version of the legislation. It reads, "The Chamber supports an open and competitive process to identify the 'best' option for a project including 'piping.' It is possible that the lowest proposal may not be the best, and a community's engineers should provide guidance in the selection of the best and proper materials for a project. The state should not

unduly restrict the selection of the most appropriate choice for that community and that situation. Senate Bill 68 seems to create an unfair restriction." Ohio AWWA's Water Utility Council statement goes on to read, "The same policy considerations weigh against passage of OH House Bill 214."

As the only ductile iron pipe manufacturer in Ohio, we helped organize a grass roots effort to inform industry professionals about this bill. And boy, did we ever get a response! This summer the sponsor of the bill hosted an "interested party meeting" to provide interested parties from both sides an opportunity to discuss their opinions on the legislation. Twenty-seven professionals attended and voiced their opposition, including representatives from AWWA,

the Rural Water Association, engineering groups, municipalities, the steel industry, the Concrete Pipe Association, the Ductile Iron Pipe Research Association, and many others. The number of attendees was so large that they had to move the meeting to a larger board room in order to accommodate all the opponents of the bill.

This meeting was important because we were finally able to sit around a table with the proponents of this legislation to discuss our objections and to show a united front. The grass roots effort to inform our industry professionals of the legislation was a success. While there may be attempts to introduce this bill in other states, our coalition will continue to fight the fight.

I would like to thank everyone who is helping us defeat this effort to override the judgment of local engineers and officials, thereby forcing plastic pipe into their water systems. But we recognize that the fight is not over. The plastic industry is continuing to push the bill, but the dedicated team at McWane Ductile remains ready to respond. We will continue to need your help, and we ask that you remain vigilant for future attacks. Together we will protect the rights of local authorities to make their own decisions and better serve their customers.