

Ohio Senator Kevin Bacon  
Chairman, Senate Judiciary Committee

November 12, 2018

Dear Senator Bacon and other members of the Senate Judiciary Committee,

I'm writing to urge the Judiciary Committee to reject Senate Bill 250, which sets forth harsh new penalties for protests near "critical infrastructure" in Ohio.

By looking clearly at the genesis of the bill, its stated but misleading intent, and the actual impact it could have on one of our most cherished freedoms, I hope that a majority of the senators on this committee will conclude the bill should be stopped.

Senate Bill 250 is patterned after a model written by the Koch brothers-funded American Legislative Exchange Council. ALEC released its model "Critical Infrastructure Protection Act" in January in an attempt to block protests like the one at Standing Rock Indian Reservation in North and South Dakota. Since then, various states have introduced bills mirroring what ALEC wrote. Ohio is one of those states.

The Ohio bill imposes draconian fines and prison sentences for protests near a "critical infrastructure facility," which is expansively defined to include oil, gas, electric, water, telecommunications and railroad facilities, among many others.

The bill is misleading because the definition of "infrastructure" is left intentionally broad, to deflect attention from what the bill actually targets. The bill's sponsor, Senator Frank Hoagland, has been quoted as saying the legislation's main focus is to "protect the people. I believe if we don't maintain communications and mobility, we will never be successful, as a district, a state and/or a county."

But make no mistake. The bill isn't about telecommunications or trains. Quite simply, the legislation before the Judiciary Committee is aimed at stifling protests at facilities involved in the extraction and transport of oil and gas -- the beating heart, not coincidentally, of the multibillionaire holdings of Charles and David Koch.

(It should be noted that Senator Hoagland's District 30 covers southeastern Ohio, where much of the state's fracking is concentrated. If it turns out that SB 250 is enacted, the legislation should come with binding assurance from sponsor Hoagland that his security consulting firm, 360 Safe Solutions, and security training provider, Special Tactics and Rescue Training, will never accept contracts to work a security detail at protests involving "critical infrastructure." That's a basic, conflict-of-interest-avoidance pledge.)

The Ohio bill would add the broad category of critical infrastructure to the long-standing crimes in Ohio of "criminal mischief," "criminal trespass" and

“aggravated trespass” -- and then boost imprisonment and fines far above current law if critical infrastructure is in any way involved during a protest.

The crime of criminal mischief, for example, which traditionally has meant actual harm to property, could under this proposal be construed to mean simply “impeding” or “impairing” a facility’s operation, without any actual damage.

And the punishment for criminal mischief would change from, at most, a first degree misdemeanor punishable by up to 180 days in jail and a fine of \$1,000, to a first degree felony, punishable by up to 11 years in prison and a fine of \$20,000.

The bill is also written to intimidate large environmental groups who support pipeline protests by subjecting them to penalties for “complicity” and making them liable for fines 10 times bigger than the increased fines for individuals. This provision is aimed directly at trying to keep environmental groups on the sidelines for fear of being found guilty of felonies and facing massive penalties.

All these measures are designed with one central mission in mind – insulating the business interests of the fossil fuel industry from criticism and controversy. All these measures are designed with one vital thing shunted aside -- the First Amendment right of citizens to political protest.

Rejecting this bill is a chance for Ohio lawmakers to show that the fossil fuel industry does not have them by the throat. Most important, rejecting this bill would show that Ohio’s senators are not willing to sacrifice constitutionally-protected rights of citizens by criminalizing them for environmental protests.

A few days ago, we marked Veterans Day, a good time to remember in an era of fraught political discourse that there would not be a First Amendment without our fighting men and women. Can the Senators on this committee find it in their hearts to honor those veterans in the best way possible, by upholding one of our country’s most essential freedoms, even when it may impose an inconvenience on corporations?

sincerely,

Alison Grant  
Bay Village, Ohio  
(440) 821-8951

