

IN THE SUPREME COURT OF OHIO

CITY OF AKRON , :
 :
 APPELLEE, : CASE # 2008-0418
 :
 v. : On Appeal from the Summit
 : County Court of Appeals,
 STATE OF OHIO, ET AL., : Ninth Appellate District
 :
 APPELLANTS. :

BRIEF OF *AMICUS CURIAE* OHIO ASSOCIATION OF PROFESSIONAL
FIRE FIGHTERS IN SUPPORT OF APPELLANT STATE OF OHIO

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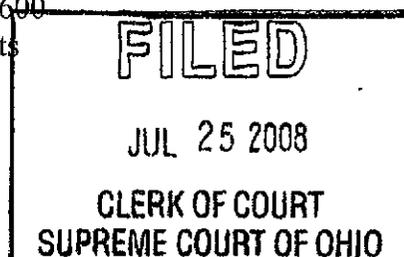


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STATEMENT OF FACTS AND INTERESTS OF *AMICUS CURIAE*

Local residency restrictions and the statewide validity of R.C. §9.481 are of great interest to *Amicus Curiae*, the Ohio Association of Professional Fire Fighters, and the more than 9,700 active Ohio firefighters represented by the Association. A number of Ohio cities, like Akron, have restrictive charter provisions or ordinances that take away the freedom of their employees to make residential choices. Those cities dictate that their employees must live within the city boundaries, thereby infringing upon the employees' right to choose where they live, significantly limiting the employees' residential options, and negatively impacting important matters such as family finances, family relationships, and school choices.

Akron's residency requirement may dramatically affect not only its employees and their interests and rights, but the family members of those employees and neighboring communities as well. For instance, employees may want to live near other family members who reside outside Akron. Those other family members may be disabled or elderly who need care or attention. Those employees could provide that care or attention, except for the fact that the Akron ordinance requires they live in Akron. Instead, they must make other arrangements, often at great expense, to insure that their family members receive the needed care or attention (or those family members may simply have to go without that care or attention).

A residency requirement, by dictating where an employee (and, of course, consequently, his/her immediate family) must live, effectively limits an employee's choices as to who his/her neighbors will be, as well as where the employee and his/her family will worship, shop, and socialize.

Individuals who may own property outside Akron either must choose not to reside on

their own property or forego a civil service job with Akron. Depending upon their financial situations, some employees may be hard pressed to afford housing in the community where they work, while more affordable housing may exist just across the city limits.

An employee may be deprived of the opportunity to send his/her child to a school better suited for the needs of that child because the employee must reside in one city and not some other community. While one school district may be particularly suited to meet the special needs of a student, the parents must send that student to the school where they are forced to live, not to the school that could better serve their needs.

Families may be caught in a dilemma. If one spouse works for Akron while the other is obligated to reside in a different community, what are they supposed to do? Divorce? Live apart?

Imposing a residency requirement upon employees not only infringes upon their right to choose where to live, but also creates the potential for an invasion of their privacy. See *State, ex rel. Fisher, v. Cleveland*, 109 Ohio St. 3d 33, 2006-Ohio-1827 (policy requiring employees to disclose their tax returns to prove residency within the city violated the employees' right to privacy).

Clearly, residency requirements such as Akron's, requiring employees to live within the city limits, not only have a significant impact on employees and their families, but those restrictions can also have a detrimental impact beyond the city of employment. For instance, if employees must live in Akron, they obviously cannot live in neighboring jurisdictions. Communities in Cuyahoga, Geauga, Medina, Portage, Stark, and Wayne Counties are deprived of potential residents and the diversity that they might provide.

Unemployment in one community may be higher because its residents are precluded from working in a neighboring community. Indeed, it should be noted that many of the benefits Akron claims to have as a result of its residency requirement actually operate to the detriment of all other communities. For instance, if there are economic benefits that flow to a city from having resident employees, then other jurisdictions are going to be deprived of those benefits. It is not just Akron that is affected by its residency requirement, but all of the area surrounding Akron as well.

In response to the many significant ramifications imposed by a residency requirement such as Akron's, not only upon the employees and their families but on neighboring communities, the Ohio General Assembly enacted Section 9.481 of the Ohio Revised Code. That section, which became effective May 1, 2006, generally provides that "no political subdivision shall require any of its employees, as a condition of employment, to reside in any specific area of state" and that "employees of political subdivisions of this state have the right to reside any place they desire." R.C. §9.481(B)(1), (C). The statute does make one exception, allowing political subdivisions to file an initiative petition or adopt an ordinance or resolution requiring that certain employees of the political subdivision reside either in the county where the political subdivision is located or in any adjacent county in the state in order for those employees to respond to emergencies or disasters. R.C. §9.481(B)(2)(b).

When the Ohio General Assembly enacted R.C. §9.481, it referenced its intent in the following manner:

SECTION 2. In enacting section 9.481 of the Revised Code in this act, the General Assembly hereby declares its intent to recognize both of the following:
(A) The inalienable and fundamental right of an individual to choose where to live pursuant to Section 1 of Article I, Ohio Constitution.

(B) Section 34 of Article II, Ohio Constitution, specifies that laws may be passed providing for the comfort, health, safety, and general welfare of all employees, and that no other provision of the Ohio Constitution impairs or limits this power, including Section 3 of Article XVIII, Ohio Constitution. Sub.S.B. 82.

Also, when it enacted §9.481, the Ohio General Assembly made the following specific legislative finding:

SECTION 3. The General Assembly finds, in enacting section 9.481 of the Revised Code in this act, that it is a matter of statewide concern to generally allow the employees of Ohio's political subdivisions to choose where to live, and that it is necessary to generally prohibit political subdivisions from requiring their employees, as a condition of employment, to reside in a specific area of the state in order to provide for the comfort, health, safety, and general welfare of those public employees. Sub.S.B. 82.

Obviously Akron's residency requirement has a significant impact on its employees and their rights as well as an extra-territorial impact that extends outside the City of Akron. On the other hand, R.C. §9.481 represents only a minimal intrusion upon the City. Akron can still hire and retain employees. In fact, R.C. §9.481 actually increases Akron's applicant pool and makes it more likely that it will be able to hire and then retain qualified employees.

Rather than follow the state law, the City of Akron filed a complaint against the State of Ohio. The complaint alleged, among other things, that Akron is a charter city and that R.C. §9.481 violates the Ohio Constitution, primarily because it infringes upon the City's home rule powers (Sections 3, 7, Article XVIII, of the Ohio Constitution).

Both the State of Ohio and Akron filed motions for summary judgment. The Court of Common Pleas granted the State's motion for summary judgment and denied the City's motion.

However, on January 9, 2008, the Court of Appeals reversed. According to the Court of Appeals, R.C. §9.481 was invalid because "This legislation does not address any significant social issues impacting the public at large; it is not part of a comprehensive legislative scheme,

but deals with a single issue; and it applies to a relatively small segment of the population....”

Slip Opinion, p. 12. The State has appealed to this Court. *Amicus Curiae* the Ohio Association of Professional Fire Fighters now submits its brief in support of the State of Ohio.

ARGUMENT

PROPOSITION OF LAW # 1

SECTION 34, ARTICLE II, OF THE OHIO CONSTITUTION AUTHORIZES THE OHIO GENERAL ASSEMBLY TO LEGISLATE IN THE AREA OF EMPLOYEES’ RESIDENCY OPTIONS.

The Ninth District Court of Appeals started its opinion by stating “This case presents one of the classic legal questions: who gets to decide.” Opinion, p. 1. The Court of Appeals was referring to whether the City or the General Assembly could legislate in the area of residency prohibitions for public employees. But really the issue is who gets to decide what is appropriate legislation for the comfort, health, safety and general welfare of employees; the General Assembly or the Ninth District Court of Appeals? Who determines how issues of statewide concern are addressed; the General Assembly or the Ninth District Court of Appeals? *Amicus Curiae* submits that the Court of Appeals intruded upon policy issues that, by the Ohio Constitution and numerous precedents from this Court, are to be debated in and resolved by the Ohio General Assembly.

A. PRESUMPTION OF CONSTITUTIONALITY

Ohio has a long-established principle requiring courts to presume the constitutionality of legislative enactments. *State, ex rel. Jackman, v. Court of Common Pleas* (1967), 9 Ohio St. 2d 159, 161-162. The presumption of the constitutionality of legislative enactments can only be

overcome by proof, beyond a reasonable doubt, that the legislation and the Constitution are clearly incompatible. *State, ex rel. Dickman, v. Defenbacher* (1955), 164 Ohio St. 142; *Rocky River v. State Emp. Relations Bd.* (1989), 43 Ohio St. 3d 1, 10.

As stated by the Supreme Court in *Kettering v. State Emp. Relations Bd.* (1986), 26 Ohio St. 3d 50:

Initially, it is important to observe that legislative enactments "have a strong presumption of constitutionality." *Benevolent Assn. v. Parma* (1980), 61 Ohio St.2d 375. As Justice Locher stated in *State v. Dorso* (1983), 4 Ohio St.3d 60, 61, "courts must apply all presumptions * * * so as to uphold, if at all possible, a statute or ordinance assailed as unconstitutional." See, also, *State, ex rel. Dickman, v. Defenbacher* (1955), 164 Ohio St. 142, paragraph one of the syllabus. Thus, in the instant case, Kettering must rebut the presumption of constitutionality attaching to R.C. 4117.01(F)(2). 26 Ohio St. 3d at 52.

For the reasons stated below, the City cannot overcome the strong presumption of constitutionality of R.C. §9.481.

B. SECTION 9.481 WAS ENACTED PURSUANT TO THE GENERAL ASSEMBLY'S AUTHORITY GRANTED BY SECTION 34, ARTICLE II, OF THE OHIO CONSTITUTION

Section 34, Article II, of the Ohio Constitution provides:

Laws may be passed fixing and regulating the hours of labor, establishing a minimum wage, and providing for the comfort, health, safety and general welfare of all employees; and no other provision of the constitution shall impair or limit this power.

This Court has consistently interpreted Section 34, Article II, as a broad grant of authority to the General Assembly, not as a limitation on its power to enact legislation. *Am. Assn. of Univ. Professors, Cent. State Univ. Chapter v. Cent. State Univ.* (1999), 87 Ohio St. 3d 55, 61.

Regarding the scope of this constitutional provision, this Court stated the following:

This provision constitutes a broad grant of authority to the legislature to provide for the welfare of all working persons, including local safety forces. (Citation

omitted.) *The provision expressly states in "clear, certain and unambiguous language" that no other provision of the Constitution may impair the legislature's power under Section 34. (Citation omitted.) This prohibition, of course, includes the "home rule" provision contained in Section 3, Article XVIII. Rocky River v. State Emp. Relations Bd. (1989), 43 Ohio St. 3d 1, 13 (emphasis added).*

Or, as stated in *Central Ohio Transit Auth. v. Transport Workers Union of America, Local 208* (1988), 37 Ohio St. 3d 56, 62:

The Ohio Constitution contains a broad grant of authority to the legislature to provide for the "comfort, health, safety and general welfare of all employees," and further declares that no other constitutional provision shall impair or limit that authority. Section 34, Article II, Ohio Constitution. By refusing to interfere in the legislature's exercise of its prerogative in this area, this court upholds the doctrine of separation of powers by preserving the integrity of the legislative function. 37 Ohio St. 3d at 62.

Legislation adopted pursuant to Section 34, Article II, cannot be impaired or limited by any other provision, including the home rule provisions, of the Constitution. Simply put, the General Assembly's authority to provide for the comfort, health, safety and general welfare of employees "trumps" Akron's home rule powers.

The Court of Appeals, however, neglecting this Court's admonition in *Central Ohio Transit Auth. v. Transport Workers Union of America, Local 208*, supra, ruled that Section 34, Article II, did not apply. Rather than construe the Section as a broad grant of authority, the Court imposed some startling restrictions on the Section and on legislation passed pursuant to its provisions. According to the Court, Section 34 authorizes legislation only if it secures "the blessings of freedom to citizens of Ohio or furthers the 'general welfare' of the state." Slip Opinion, p. 9. And apparently the Court of Appeals feels that legislation furthers the "general welfare" of the state only if it addresses significant social issues impacting the public at large, is part of a comprehensive legislative scheme rather than dealing with a single issue, applies to

more than a “relatively small segment of the population,” or pertains to the protection or regulation of a previously existing right or obligation. Slip Opinion, p. 12. There is no authority whatsoever for these far-reaching limitations on Section 34.

The Court of Appeals tried to base its decision on the Preamble to our Constitution. Slip Opinion, pp. 9-10. That preamble reads as follows: “We, the people of the State of Ohio, grateful to Almighty God for our freedom, to secure its blessings and promote our common welfare, do establish this Constitution.” As part of that constitution, the people gave the General Assembly plenary power to legislate for the comfort, health, safety and general welfare of employees. But the Ninth District Court of Appeals turns this around and claims that the Preamble grants it the power to second-guess the General Assembly and strike down legislation because, in the Court’s opinion, it does not promote the common welfare. The problem with the Court’s approach is that it is totally inconsistent with numerous precedents. The Court of Appeals essentially had to fabricate a number of artificial criteria for it to reach its conclusion.

The Court of Appeals first faulted R.C. §9.481 because it supposedly did “not address any significant social issues impacting the public at large.” Slip Opinion, p. 12. Where in the world did the Court find authority for a proposition that legislation is invalid unless it addresses significant social issues impacting the public at large? Does legislation affecting how much vacation credit an employee receives, when the employee transfers from one public employer to another, address significant social issues impacting the public at large? Perhaps not, yet this Court has not hesitated to uphold such legislation. *State, ex rel. Villari, v. Bedford Hts.* (1984), 11 Ohio St. 3d 222, and *State, ex rel. Adkins, v. Sobb* (1986), 26 Ohio St. 3d 46. Besides, we

think the multitude of public employees covered by the state's residency law,¹ their family members, and the communities adversely affected by local restrictions on residency, might strongly disagree with the Court of Appeals' conclusion that the residency legislation does not address significant social issues impacting the public at large.

The Court of Appeals next faulted R.C. §9.481 because it "is not part of a comprehensive legislative scheme, but deals with a single issue." Slip Opinion, p. 12. Again, there is absolutely no authority that a law is invalid if it only deals with a single issue. In *State, ex rel. Mun. Constr. Equip. Operators' Labor Council v. Cleveland*, 114 Ohio St. 3d 183, 197, 2007-Ohio-3831, this Court had no problem upholding legislation which dealt with only one issue (sick leave benefits for public employees). Contrary to the Court of Appeals rationale, our Constitution actually requires legislation to contain only one subject. See *Simmons-Harris v. Goff* (1999), 86 Ohio St. 3d 1; and *State, ex rel. Ohio Civ. Serv. Emps. Ass., AFSCME Local 11, AFL-CIO, v. State Emp. Relations Bd.*, 104 Ohio St. 3d 122, 2004-Ohio-6363.

The Court of Appeals also felt the common welfare was not served because the residency law "applies to a relatively small segment of the population." Slip Opinion, p. 12. It is difficult to determine how the Court of Appeals considered a residency law, that covers employees of all political subdivisions, to apply only to a "small segment," especially when this Court noted in *State, ex rel. Bd. of Trustees of Pension Fund, v. Bd. of Trustees of Relief Fund* (1967), 12 Ohio St. 2d 105 that "The cities and towns and other political subdivisions of the state of Ohio

¹According to the State Employment Relations Board, there are more than 400,000 public employees in the State covered by collective bargaining agreements negotiated pursuant to Revised Code Chapter 4117 (excerpt from SERB Annual Report, attached hereto as an appendix), and, of course, there are many more public employees in the State who are not represented by an employee organization.

constitute en masse one of the largest of the employers in the state.” 12 Ohio St. 2d at 107. Again, there is no basis for this limitation on legislative action, and we have to wonder what magic number the Court of Appeals had in mind for determining when a law crosses the line from applying to a small segment (and therefore is invalid) to applying to a large segment of the population (and therefore is valid). Is a minimum wage law invalid because most people earn more than the minimum wage, and the law thus applies only to a small segment of the population? Obviously not. Is a law requiring local governments to transfer assets to the state’s pension fund invalid because it applies only to public employees who were members of local pension funds? This Court did not hesitate to uphold such a law in *State, ex rel. Bd. of Trustees of Pension Fund, v. Bd. of Trustees of Relief Fund* (1967), 12 Ohio St. 2d 105.

Finally, the Court of Appeals opined that the residency law did not provide for the general welfare because it “does not pertain to the protection or regulation of any existing right or obligation of the affected employees. Slip Opinion, p. 12. Contrary to what the Court of Appeals says, public employees prior to 1984 and the adoption of Revised Code Chapter 4117 did not have the right to insist upon collective bargaining with their employers, and public employers were under no obligation to bargain with employee organizations. Chapter 4117 did not merely protect or regulate existing rights or obligations; instead, it created entirely new rights and obligations. Nonetheless, this Court upheld the new laws on collective bargaining. *Kettering v. State Emp. Relations Bd.* (1986), 26 Ohio St. 3d 50; *Rocky River v. State Emp. Relations Bd.* (1989), 43 Ohio St. 3d 1.

The Court of Appeals, in its rush to invalidate R.C. §9.481, had to fabricate a number of limitations upon Section 34, Article II. However, there is no authority for placing restrictions on

the Section or limiting its scope. By providing employees with the right to choose where they live, the General Assembly has provided for the comfort and general welfare of those employees. Regardless of whether or not R.C. §9.481 may violate the home rule provisions of the Constitution, the statute must still be upheld since it was passed pursuant to the authority vested in the General Assembly by Section 34, Article II.

PROPOSITION OF LAW # 2

R.C. §9.481, AS A GENERAL LAW OF STATEWIDE CONCERN, SUPERSEDES THE POWERS OF LOCAL SELF-GOVERNMENT AND HOME RULE

A. LAWS OF A GENERAL NATURE PREVAIL OVER THE POWERS OF LOCAL SELF-GOVERNMENT AND HOME RULE

Section 3, Article XVIII, of the Ohio Constitution provides:

"Municipalities shall have authority to exercise all powers of local self-government and to adopt and enforce within their limits such local police, sanitary and other similar regulations, *as are not in conflict with general laws.*" (Emphasis added.)

Section 7, Article XVIII, of the Ohio Constitution provides:

"Any municipality may frame and adopt or amend a charter for its government and may, subject to the provisions of section 3 of this article, exercise thereunder all powers of local self-government."

This Court has made it clear that these two sections of the Constitution are limited to the authority of municipal corporations to adopt laws not in conflict with "general laws." For instance, in upholding the State's Public Employee Collective Bargaining Act, this Court in *Rocky River v. State Emp. Relations Bd.* (1989), 43 Ohio St. 3d 1, stated the following:

This court has already determined that "[t]he collective bargaining law of the state of Ohio is a law of a general nature. * * *" *Dayton F.O.P.*, supra, at paragraph one of the syllabus. Section 3, Article XVIII explicitly withholds from municipalities the authority to exercise powers or adopt regulations which are in conflict with "general laws." The home-rule amendment, Section 7, Article XVIII, grants

municipalities powers of home rule "subject to the provisions of section 3 of this article * * *." (Emphasis added.) Therefore, the power of home rule is constitutionally limited to powers not in conflict with "general laws." 43 Ohio St. 3d at 12-13.

See also *DeVennish v. Columbus* (1991), 57 Ohio St. 3d 163, 167 (“[T]he municipal power of local self-government is constitutionally limited to the exercise of powers which do not conflict with any general law.”).

Through the years the General Assembly has passed numerous laws affecting or governing the terms and conditions of employment of employees in political subdivisions, including charter cities such as Akron. And this Court has consistently rejected the notion that Sections 3 or 7 of Article XVIII of the Ohio Constitution invalidated those laws.

For instance, in 1983 the General Assembly passed Chapter 4117 of the Revised Code requiring all Ohio cities to collectively bargain with some of their employees and establishing the procedures to be followed for that bargaining. The City of Akron, despite the fact that it is a charter city, must follow that state law. See generally *State, ex rel. Dayton Fraternal Order of Police Lodge No. 44, v. State Emp. Relations Bd.* (1986), 22 Ohio St. 3d 1; *Kettering v. State Emp. Relations Bd.* (1986), 26 Ohio St. 3d 50; and *Rocky River v. State Emp. Relations Bd.* (1989), 43 Ohio St. 3d 1. In recognizing that the State collective bargaining act law prevailed over city charters, this Court in *Cincinnati v. Ohio Council 8, American Fedn. of State, Cty. & Mun. Emp., AFL-CIO* (1991), 61 Ohio St. 3d 658, stated the following:

R.C. Chapter 4117, of which R.C. 4117.10(A) is a part, is a law of a general nature which is to be applied uniformly throughout the state. (*Citation omitted.*) As such, it prevails over any inconsistent provision in a municipal home-rule charter by virtue of Section 3, Article XVIII of the Ohio Constitution. See, e.g., *Clermont Environmental Reclamation Co. v. Wiederhold* (1982), 2 Ohio St. 3d 44, 48-49, and cases therein cited. We have also recognized that R.C. Chapter 4117 prevails over home-rule charters because it was enacted pursuant to Section

34, Article II of the Ohio Constitution. 61 Ohio St. 3d at 662.

There are numerous other examples of state laws of a general nature prevailing over inconsistent municipal corporation ordinances or charters. For example, in *State, ex rel. Evans, v. Moore* (1982), 69 Ohio St. 2d 88, this Court upheld the prevailing wage law as it applied to municipal corporations.

In *State, ex rel. Villari, v. Bedford Hts.* (1984), 11 Ohio St. 3d 222, this Court held that the State could legislate as to the amount of vacation municipal corporations had to grant its employees (“We believe and so find that R.C. 9.44 manifests a similar concern for the security and protection of public employees, and at the same time presents only a minimal intrusion into matters of traditionally local concern.” 11 Ohio St. 3d at 225).

In *State, ex rel. Adkins, v. Sobb* (1986), 26 Ohio St. 3d 46, this Court specifically rejected the contention that a city’s home rule powers invalidated the State’s regulation of vacation for employees of municipal corporations. The Court stated:

The city argues that it is entitled to regulate the vacation leave of its employees pursuant to its powers of local self-government under Sections 3 and 7, Article XVIII of the Ohio Constitution. State law must govern, however, when a statute addresses a matter of general and statewide concern in an area otherwise subject to municipal regulation. See, e.g., *State, ex rel. Evans, v. Moore* (1982), 69 Ohio St.2d 88. Further, the constitutional home-rule powers of municipalities are subject to the requirement that municipal regulations "not [be] in conflict with general laws." Section 3, Article XVIII. 26 Ohio St. 3d at 48.

Finally, in *State, ex rel. Mun. Constr. Equip. Operators' Labor Council v. Cleveland*, 114 Ohio St. 3d 183, 197, 2007-Ohio-3831, this Court noted that the State’s laws on public employee sick leave entitlement “are laws of a general nature that prevail over conflicting municipal ordinances.”

B. R.C. §9.481 IS A GENERAL LAW OF STATEWIDE CONCERN

Clearly residency requirements such as Akron's, requiring employees to live within the city limits, have a significant impact that extends well beyond the city of employment. As noted at pages 1 - 4, *supra*, Akron's residency requirement dramatically affects not only the interests and rights of its employees and their family members, but neighboring communities as well. In response to the statewide implications of residency requirements, the General Assembly enacted R.C. §9.481.

If the home rule provisions do not prevent the General Assembly from requiring Akron to collectively bargain with its employees, if the home rule provisions do not prevent the General Assembly from requiring Akron to pay prevailing wages, if the home rule provisions do not prevent the General Assembly from mandating vacation leave provisions for Akron employees, and if the home rule provisions do not prevent the General Assembly from requiring Akron to comply with statewide sick leave provisions, then clearly those provisions do not prevent the General Assembly from protecting the rights of Ohio citizens to reside where they please and preventing Akron from infringing upon those rights. Section 9.481 is not in violation of Sections 3 and Section 7 of Article XVIII of the Ohio Constitution.

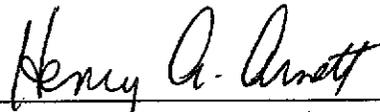
CONCLUSION

Akron's residency requirement is not simply an issue of local self-government. The residency requirement directly affects not only employees but also their family members. It restricts the employees' right to decide where they should live. It significantly affects not just their workday, but it also dictates every hour of their lives outside the workplace. It also impacts communities outside the City of Akron, often to the detriment of those communities.

Ohio law, R.C. §9.481, represents a minimal intrusion upon Akron's local self-

government while protecting the rights of Ohio citizens. The Ohio law is not in violation of the home rule provisions of the Ohio Constitution, and, in addition, was well within the authority of the General Assembly to enact pursuant to Section 34, Article II. Accordingly, the Ninth District Court of Appeals should be reversed.

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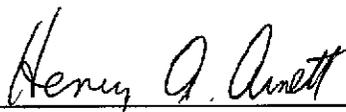
CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Brief was served by regular U.S. mail, postage prepaid, this 25th day of July, 2008, upon the following:

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CONSTITUTIONAL PROVISIONS

Preamble

We, the people of the State of Ohio, grateful to Almighty God for our freedom, to secure its blessings and promote our common welfare, do establish this Constitution.

§ 2.34 Welfare of employees

Laws may be passed fixing and regulating the hours of labor, establishing a minimum wage, and providing for the comfort, health, safety and general welfare of all employees; and no other provision of the constitution shall impair or limit this power.

§ 18.03 Powers

Municipalities shall have authority to exercise all powers of local self-government and to adopt and enforce within their limits such local police, sanitary and other similar regulations, as are not in conflict with general laws.

§ 18.07 Home rule

Any municipality may frame and adopt or amend a charter for its government and may, subject to the provisions of section 3 of this article, exercise thereunder all powers of local self-government.

STATUTORY PROVISIONS (SUBSTITUTE SENATE BILL 82)

AN ACT

To enact section 9.481 of the Revised Code to generally prohibit political subdivisions from imposing residency requirements on certain employees.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That section 9.481 of the Revised Code be enacted to read as follows:

Sec. 9.481. (A) As used in this section:

(1) "Political subdivision" has the same meaning as in section 2743.01 of the Revised Code.

(2) "Volunteer" means a person who is not paid for service or who is employed on less than a permanent full-time basis.

(B)(1) Except as otherwise provided in division (B)(2) of this section, no political subdivision shall require any of its employees, as a condition of employment, to reside in any specific area of the state.

(2)(a) Division (B)(1) of this section does not apply to a volunteer.

(b) To ensure adequate response times by certain employees of political subdivisions to emergencies or disasters while ensuring that those employees generally are free to reside throughout the state, the electors of any political subdivision may file an initiative petition to submit a local law to the electorate, or the legislative authority of the political subdivision may adopt an ordinance or resolution, that requires any individual employed by that political subdivision, as a condition of employment, to reside either in the county where the political subdivision is located or in any adjacent county in this state. For the purposes of this section, an initiative petition shall be filed and considered as provided in sections 731.28 and 731.31 of the Revised Code, except that the fiscal officer of the political subdivision shall take the actions prescribed for the auditor or clerk if the political subdivision has no auditor or clerk, and except that references to a municipal corporation shall be considered to be references to the applicable political subdivision.

(C) Except as otherwise provided in division (B)(2) of this section, employees of political subdivisions of this state have the right to reside any place they desire.

SECTION 2. In enacting section 9.481 of the Revised Code in this act, the General Assembly hereby declares its intent to recognize both of the following:

(A) The inalienable and fundamental right of an individual to choose where to live pursuant to Section 1 of Article I, Ohio Constitution.

(B) Section 34 of Article II, Ohio Constitution, specifies that laws may be passed providing for the comfort, health, safety, and general welfare of all employees, and that no other provision of the Ohio Constitution impairs or limits this power, including Section 3 of Article XVIII, Ohio Constitution.

SECTION 3. The General Assembly finds, in enacting section 9.481 of the Revised Code in this act, that it is a matter of statewide concern to generally allow the employees of Ohio's political subdivisions to choose where to live, and that it is necessary to generally prohibit political subdivisions from requiring their employees, as a condition of employment, to reside in any specific area of the state in order to provide for the comfort, health, safety, and general welfare of those public employees.

State Employment Relations Board

“promoting orderly and constructive relationships
between all public employers and their employees”



Governor of the State of Ohio
Ted Strickland

SERB Chairman
Craig R. Mayton, J.D.

SERB Vice Chairman
Karen L. Gillmor, Ph.D.

SERB Member
Michael G. Verich, J.D.

**Collective Bargaining Agreements by Employer Type
As Of June 30, 2007**

Employers	Employers with Contracts	Employer Type	Number of Contracts On File	Employees Covered By Contracts
Local Government				
250	245	City	986	45,368
87	4	County Auditor	5	117
28	13	County Children Services	16	1,452
88	9	County Clerk of Courts	9	288
88	37	County Commissioners	67	2,932
88	3	County Coroner	3	39
88	52	County Engineer	57	1,673
37	17	County Health Care	19	1,172
16	2	County Hospital	4	2,419
88	49	County Job and Family Services	52	8,153
48	1	County Mental Health	1	38
88	44	County Mental Retardation	72	6,749
1	1	County Narcotics Agency	1	8
2	2	County Prosecutor	2	24
87	6	County Recorder	6	44
88	85	County Sheriff	192	9,278
19	12	County Support Enforcement Agency	12	794
88	8	County Treasurer	8	163
12	10	Emergency Medical District	11	421
17	9	Fire District	10	178
87	13	Health District	13	361
52	11	Park District	19	731
4	4	Sanitary District	5	107
18	1	Conservancy District	1	4
19	8	Water/Sewer District	10	385
251	28	Library	31	2,922
40	18	Metropolitan Housing Authority	35	1,723
6	3	Port Authority	6	215
1	1	Regional Turnpike Commission	1	928
14	12	Regional Transit Authority	20	5,352
15	14	State University	42	16,848
14	9	Community College	15	1,504
9	3	Technical College	4	450
151	85	Township	201	2,845
21	12	Miscellaneous	16	525
2'010	831	Total	1,952	116,210
State Government				
1	1	Attorney General	3	544
1	1	Auditor of State	1	36
1	1	Office of the Governor	6	41,445
1	1	Secretary of State	1	50
1	1	Treasurer of State	1	87
5	5	Total	12	42,162
Boards of Education				
743	655	Boards of Education	1,225	241,916
Summary				
Total of all employers			2,758	
Total number of employers with contracts			1,491	
Total contracts filed with SERB			3,189	
Total employees covered			400,288	