IN THE SUPREME COURT OF OHIO

CITY OF LIMA Plaintiff-Appellee v. **STATE OF OHIO** Defendant-Appellant	**CASE NO. 2008-0128** On Appeal from the Court of Appeals, Third Appellate District, Allen County Court of Appeals Case No. 1-07-21

MERIT BRIEF OF PLAINTIFF - APPELLEE CITY OF LIMA

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STATEMENT OF FACTS
LEGAL AND FACTUAL BACKGROUND

The Ohio Constitution – Article XVIII Section 3

In 1912, Ohio citizens voted to amend the Ohio Constitution to include several provisions that expanded the powers of municipalities, including the authority to adopt their own Charter, which are referred to as the Home Rule Amendment. See Ohio Const. Art. XVIII.

Section 3 of Article XVIII of the Ohio Constitution, provides: "[m]unicipalities 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 the general laws."

Article XVIII §3 of the Ohio Constitution grants municipalities two separate types of authority: (a) to regulate matters of local self-government, and (b) to adopt and enforce police regulations that do not conflict with the State's general laws. The 1912 amendments to the Ohio Constitution were intended to give municipalities the broadest possible powers of local self-government.

The Lima City Charter

The original Charter for the City was adopted by its electorate on November 2, 1920, and became fully effective January 1, 1921. Section 72 of the City Charter was amended in 1974 to specifically allow the Lima City Council to determine by ordinance whether to establish a residency qualification for City employees.

Section 72 of the Lima Charter provides:

SECTION 72. QUALIFICATIONS OF EMPLOYEES AND OFFICERS.

> No restriction is placed upon the residency of any employee or officer of the City, any provision of this Charter to the contrary notwithstanding, except as the Council may otherwise specifically provide by ordinance; provided that all elective officers of the City of Lima shall be residents of the City and have the qualifications of electors therein during their terms of office.
>
> All employees of the City of Lima, whether residents of the City or not, shall pay Municipal Income tax to the City, as a condition of their employment, irrespective of their place of residence. This provision shall not apply to non-residents of the City, except as to wages or salaries paid by the City of Lima.
>
> No person elected to any office of the City shall, during his incumbency in the office to which he has been elected, be appointed to any office under the City.
> (Amended 11-5-74)

Under authority of Lima City Charter § 72, Lima City Council passed Ordinance 201-00 on October 23, 2000, which "... established a requirement for persons appointed by the Mayor as employees of the City on and after the date of passage of this ordinance, that as a condition of permanent employment with the City all such employees shall live in a primary permanent residency within the corporate boundaries of the municipality."

The state concedes City Charter § 72 and Ordinance 201-00 passed thereunder are an exercise of local-self government as contemplated by Article XVIII, §§ 3 and 7 of the Ohio Constitution. As the city's Mayor details in his affidavit, attached to the complaint, there exists a rational basis for the City's residency ordinance in that it:

a) promotes the City's interest in the employment of individuals who are highly committed to the betterment of the City where they both live and work;

b) enhances the quality of work performance by employing individuals who are knowledgeable about and aware of issues and conditions in the City;

c) promotes the employment of individuals with a greater empathy for the real and long term concerns and problems of the people of Lima;

d) promotes the development and maintenance of a workforce with a greater personal stake in working to ensure the City of Lima's improvement and progress over the long term;

e) promotes the greater availability of resident employees who are easily available for emergency situations and who can respond promptly if on-call for certain duties;

f) promotes the ability of the City to maintain a workforce that reflects the racial and ethnic diversity of its population and its absence would undermine those efforts;

g) produces the economic benefits that flow to a city from having resident employees which are of particular importance in an economically depressed city such as Lima;

h) promotes the value of real estate in the City;

i) promotes the development and maintenance of strong neighborhoods anchored by stable, wage-earning City employees and their families;

j) promotes numerous other benefits to the City of Lima and helps to avoid other harms.

The State Law

Ohio Revised Code § 9.481 became effective on May 1, 2006. It provides:

> [§ 9.48.1] § 9.481. Political subdivisions generally prohibited from imposing residency requirements on employees.
>
> (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.

HISTORY: 151 v S 82, § 1, eff. 5-1-06.

The City of Lima is a political subdivision as defined in R.C. § 9.481(A)(1). Revised Code § 9.481 restricts the ability of the City as a political subdivision of the State of Ohio to enact residency requirements.

The Ohio Constitution – Article II Section 34

Article II, Section 34 of the Ohio Constitution provides:

Art II § 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.

(Adopted September 3, 1912.)

The General Assembly clearly attempted to enact R.C. 9.481 pursuant to Article II, § 34 of the Ohio Constitution:

The General Assembly finds, in enacting section 9.481 of the Revised Code, 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.

SB. 82, Section 3.

In enacting R.C. § 9.481, the General Assembly of the State of Ohio declared its

intent to recognize: (a) the inalienable and fundamental right of an individual to choose where to live under Section 1 of Article I of the Ohio Constitution; and (b) that Section 34 of Article II of the 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, including its home rule provisions, impairs or limits this power. See 126 SB 82, § 2.

The Ohio General Assembly made a legislative finding 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 employees. See 126 SB 82, § 3.

Nonetheless, the Ohio Legislative Service Commission has published the following comments with respect to SB 82:

> 1. The prohibition contained in the act, insofar as it relates to municipal corporations, may violate the "home rule" provisions of the Ohio Constitution. The power of local self-government is granted to municipal corporations in Section 3 of Article XVIII. Residency requirements for municipal employees most likely are a matter of local self-government, which can be overcome only when there is a state law expressing a matter of statewide concern. Case law has shown Ohio courts recognize the local nature of employment matters involving residency issues. While there may be some extraterritorial impact from municipal ordinances creating residency requirements, courts may find the issue to be predominantly one of local concern, and, therefore, such a municipal ordinance would be upheld.
>
> 2. The United States Supreme Court and the Ohio Supreme Court have held that there is no constitutional right to be employed by a municipality while residing elsewhere. McCarthy v. Philadelphia Civil Service Comm'n. (1976), 424 U.S. 645; Buckley v. Cincinnati (1980), 63 Ohio St.2d 42.
>
> 3. Section 34 of Article II of the Ohio Constitution authorizes the passage of

> laws dealing with wages and hours of employment and laws providing for the comfort, health, safety, and general welfare of all employees. This section was originally enacted to ensure that laws regarding minimum wages and the like would not unconstitutionally impair contracts; no consideration was given to its effect on the Ohio Constitution's home rule provisions. Without a court interpretation, it is difficult to say whether this section would apply to the act's prohibition, despite the General Assembly's recognition of it, where the subject of the state law is not all employees, but instead only certain government employees.

See the Legislative Service Commission Final Bill Analysis Comments, Appendix Exhibit D.

Argument

Appellant State of Ohio's Proposition of Law No. 1:

> *R. C. 9.481 is constitutional legislation enacted for the comfort, health, safety, and general welfare of employees under Article II, Section 34 of the Ohio Constitution.*

Any presumption of constitutionality solely in favor of the state is in error. The City's residency ordinance and R.C. § 9.481 are both presumed constitutional. "It is firmly established that legislative enactments, whether of a municipality or state, have a strong presumption of constitutionality." *Northern Ohio Patrolmen's Benevolent Assn. v. City of Parma* (1980), 61 Ohio St. 2d 375, 377 (emphasis added) *(citing Xenia v. Schmidt* (1920), 101 Ohio St. 437, syl. 1 ("A legislative act is presumed in law to be within the constitutional power of the body making it, whether that body be a municipal or a state legislative body."). Therefore, R.C. 9.481 should receive no higher degree of deference than does the city's residency ordinance.

It is the Court's role to review the enactments and determine which "transcends the limits of legislative authority." *State ex rel. Bishop v. Bd. of Educ.* (1942), 139 Ohio St. 427, 438. "The interpretation of the Ohio Constitution is ... not a legislative but a judicial question, which ultimately [the] court must decide." *State ex rel. Shkurti v. Withrow* (1987), 32 Ohio St. 3d 424, 429. If the Court were limited to the General Assembly's own decisions about the scope of its authority, the system of checks and balances would cease to exist. This Court, and not the General Assembly, is charged to determine whether Section 9.481 falls within the scope of Section 34. This Court must assess for itself whether the language of Section 34 and the precedent flowing from it requires such a finding. Allowing the General Assembly to presume to decide this question is to abdicate this Court's

proper role.

This court should not cloth the actions of the general assembly in an "impenetrable cloak of deference." (Quote from *Manley v. Ross Corr. Inst.* 2007 U.S. Dist. LEXIS 18595, March 16, 2007.)

In rejecting the State's proposition of law, the lower court properly exercised its role in reviewing the constitutionality of R.C. 9.481. It conducted an extensive and thoughtful analysis of the applicability of Article II, Section 34. In looking at the plain text of Section 34, the court noted:

> Section 34's plain text provides four clauses. The first three are grants of legislative authority; the fourth is a supremacy clause. First, Section 34 grants the General Assembly the authority to pass laws "fixing and regulating the hours of labor" (hereinafter "hours clause"). Second, Section 34 grants the General Assembly authority to pass laws "establishing a minimum wage" (hereinafter "minimum wage clause") Third, Section 34 grants the General Assembly authority to pass laws "providing for the comfort, health, safety, and general welfare of all employees" (hereinafter "general welfare clause"). Fourth, Section 34 provides that "no other provision of the constitution shall impair or limit this power" (hereinafter "supremacy clause").

City of Lima v. State, 2007-Ohio-6149 at ¶ 26.

It is the interpretation of the general welfare clause which is at issue. The state's position is that the general welfare clause is broad and unambiguous. Certainly this court has recognized Section 34 as providing a broad grant of authority for the general assembly. *Am. Assn. of Univ. Professors v. Central State Univ.*(1999), 87 Ohio St. 3d 55. However, that grant is not limitless. The lower court correctly noted "[t]he general welfare clause's language is, however, limited by subject matter. The general welfare clause's plain language requires that the General Assembly enact laws providing for the 'general welfare' '*of employees*' (emphasis added)." *Lima at* ¶28.

The lower court then engaged in an extensive analysis of the meaning of the term

"employee" within the context of Section 34, using plain language, the doctrine of *noscitur a sociis,* legislative history (including historical circumstances, Section 34's objective, and interpretive consequences), [1] and Section 34 case law.

The lower court found that R.C. 9.481 was not validly enacted pursuant to Article II, Section 34 of the Ohio Constitution because there was absolutely no nexus between the legislation and an employee's working environment.

> [*P62] First, we determined that Section 34's plain language provides that laws may be passed providing for the 'general welfare' 'of employees.' Second, since the plain meaning of the term 'employees' can be more limited than simply signifying a status and is, therefore, ambiguous, we applied the statutory doctrine of noscitur a sociis and determined that the general welfare clause should be limited to the working environment. Third, we analyzed the legislative history, including the historical context in which Section 34 was passed and the debates, and again determined that Section 34's general welfare clause should be limited to the working environment. Fourth and finally, we analyzed Section 34 general welfare case law and determined that although Section 34 general welfare powers are broad, [**36] they are broad within the context of the working environment. Further, we noted that cases interpreting Section 34's general welfare clause are limited to laws affecting employee economic welfare.
>
> [*P63] For all these reasons, we conclude that laws enacted pursuant to Section 34's general welfare clause must, at minimum, have some nexus between their legislative end and the working environment. Since R.C. 9.481 lacks any nexus between its legislative end--restricting political subdivisions from requiring residency as condition of employment--and the working environment, we hold that R.C. 9.481 was not validly enacted pursuant to Article II, Section 34 of the Ohio Constitution.

Id. at ¶¶ 62, 63.

The lower court correctly determined the application of Article II, Section 34 is to address issues directly related to or resulting from a person's employment. The courts have

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[1] The lower court noted much of its legislative history analysis was explained by this court in *City of Rocky River v. State Employment Relations Bd.*(1989), 43 Ohio St. 3d 1. See *Lima* at p. 16, n. 3.

recognized a number of statutes to have been enacted pursuant to Section 34 and indeed all of these statutes further the above-described purpose. Section 34 provides the state with the authority to:

- establish a mandatory minimum wage. *Strain v. Southerton* (1947), 148 Ohio St. 153, syl. 2.
- establish a maximum of 40 hours per week for non-teaching school district employees. *Vincent v. Elyria Bd. of Educ.* (1966), 7 Ohio App. 2d 58.
- require employers to provide safe environments for employees and others who are frequently on-site. *Comer v. The Jones & Laughlin Steel Corp.*(1959), 170 Ohio St. 117, 119.
- establish pensions for municipal employees. *State ex rel. Bd. of Trustees of Police and Firemen's Pension Fund v. Bd. of Trustees of Police Relief, and Pension Fund of Martins Ferry* (1967), 12 Ohio St. 2d 105.
- establish continuing education, training, and other safety and welfare requirements. *Am. Assn. of Univ. Professors v. Central State Univ.* (1999), 87 Ohio St. 3d 55, 61.
- regulate municipal employees' ability to collectively bargain. *City of Rocky River v. State Employment Relations Bd.* (1989), 43 Ohio St. 3d 1.

All of these enactments, recognized as deriving their authority under Article II Section 34, deal with issues directly relating to or as a result of a person's employment.

And indeed the *Lima* court noted:

> [*P29] The common law already recognizes the status-conduct distinction of an employee, for example, in tort law. The doctrine of respondeat superior 2 requires that an employer answer for torts committed by an employee. However, it is a settled tort law rule that an employer is only liable for the torts committed by an employee under the doctrine if the employee commits the tort while acting within the scope of his or her duties. See, e.g. Byrd v.

> Faber (1991), 57 Ohio St.3d 56, 58, 565 N.E.2d 584. Consequently, the law recognizes that one may be an 'employee' in status, but not by conduct. Since other areas of law draw this distinction, the scope of the term 'employees' in Section 34 [**16] should be considered.

Lima at ¶ 29.

Further, an additional analysis can be found in looking at Ohio's Workers' Compensation system. In *Kulch v. Structural Fibers, Inc.* (1997), 78 Ohio St.3d 134, the court identified the underlying purpose of Art. II, Section 34 and Section 35 (workers' compensation):

> Ohio's public policy is clearly in keeping with the laudable objectives of the federal Occupational Safety and Health Act. The public policy of this state demands that employees be provided with a safe work environment and that unsafe working conditions be corrected. This conclusion is supported by a host of statutes and constitutional provisions favoring safety in the workplace. See, e.g., 34 and 35, Art. II of the Ohio Constitution."

Id. at 152.

An employee is entitled to workers' compensation benefits only for injuries incurred in the course of his employment. *Simerlink v. Young* (1961), 172 Ohio St. 427, 429 (quoting *Industrial Commission of Ohio v. Baker* (1933), 127 Ohio St. 345). Logically, employees are not within the scope of their employment when they are at home.

> Ordinarily, an employee who has a fixed and limited working place is not to be regarded as within the course or scope of his employment while traveling between his home or place of abode and such working place, within the meaning and operation of the compensation act.

Simerlink, at 429.

The same logic applies to Art. II, Section 34. An employee's working conditions clearly are not affected by the location of his home residence. An employee's home residence is clearly not associated with an employee's working conditions. It follows that Section 34 cannot support legislation addressing the place of one's residence, a matter

wholly outside the scope of employment.

Municipal employees' choices as to residency do not relate to "hours" or "minimum wages." They do not relate to any "health" or "safety issues" for employees within an employment context. And, they do not impact employees' "general welfare" within the employment context. This is especially the case with residency which is the place an employee returns to at the end of the work day, not an issue directly related to the employment condition. *Lima* at ¶ 47.

Lima's residency ordinance is a selection and retention criterion. Applicants for City positions must decide whether they would like to work for the City while living in the City. Indeed, the residency ordinance is more akin to other pre-qualifications, such as the lack of any criminal record or the possession of certain educational degrees. Municipalities, as other employers, may decide that they would prefer to select their employees from among those who have no criminal record, or possess a certain level of education, just as they may decide that they would prefer to select employees from among those who reside (or are willing to reside) in the municipality.

The interests protected by Section 34 are, indeed, clearly distinguishable from employees' alleged "interests" in R.C. 9.481. Employees do not have the right to reside wherever they choose and be employed by a municipality. See *McCarthy v. Philadelphia Civil Serv. Comm 'n* (1976), 424 U.S. 645, 646-47 ("[t]here is no support" for a claim that a municipal employee has a constitutional right to be employed by the city while living elsewhere); *Wardwell v. Bd. of Educ.*(6th Cir. 1976), 529 F.2d 625, 628. Rather, applicants must make a choice as to whether they wish to work for and live in the city, or whether they would prefer to work and/or live elsewhere. The residency choice is made prior to

employment. The decision has no impact on employees' day-to-day work functions.

The lower court provided a well-reasoned analysis of the applicability of Section 34, and this court should affirm that decision.

Appellant State of Ohio's Proposition of Law No. 2:

R.C. 9.481 does not unconstitutionally conflict with Lima's municipal home rule powers.

The State argues R.C. 9.481 should prevail as a matter of statewide concern. This court has noted the statewide concern doctrine is relevant only in "deciding, as a preliminary matter, whether a particular issue is 'not a matter of merely local concern, but is of statewide concern, and therefore not included within the power of local self-government.'" *Am. Financial Servs. Assn. v. Cleveland*, 2006-Ohio-6043 at ¶ 29 (*AFSA*).

As noted by the lower court, this court, however, appears to have rejected use of the statewide concern doctrine as a separate regulatory ground. Acknowledging the confusion of the case law in this area, this court has noted:

> [**P29] We recognize, however, that the application of "statewide concern" as a separate doctrine has caused confusion, Dayton, 157 Ohio App.3d 736, 2004 Ohio [*175] 3141, 813 N.E.2d 707, P 32-76, because some courts have considered the doctrine a separate ground upon which the state may regulate. As stated by Vaubel, the term "statewide concern" describes "the extent of state police power which was left unimpaired by the adoption of the Home Rule Amendments as well as * * * those areas of authority which are outside the outer limits of 'local' power, i.e., those matters which are neither 'local self-government' nor 'local police and sanitary regulations.'" Vaubel, Municipal Home Rule in Ohio, at 1108. We agree with the Second District Court of Appeals in its conclusion that the doctrine is relevant only in "deciding, as a preliminary matter, whether a particular issue is 'not a matter of merely local concern, but is of statewide concern, and therefore not included within the power of local self-government.'" Dayton, 157 Ohio App.3d 736, 2004 Ohio 3141, 813 N.E.2d 707, P 76, quoting Billings v.

Cleveland R. Co. (1915), 92 Ohio St. 478, 485-86, 111 N.E. 155.

AFSA at ¶ 29.

This court then determined:

> [**P30] Thus, the statewide-concern doctrine falls within the existing framework of the Canton test, and courts should consider the doctrine when deciding whether "the ordinance is an exercise * * * of local self-government," Canton v. State, 95 Ohio St.3d 149, 2002 Ohio 2005, 766 N.E.2d 963, P 9, or whether "a comprehensive statutory plan is, in certain circumstances, necessary to promote the safety and welfare of all the citizens of this state." Kettering v. State Emp. Relations Bd. (1986), 26 Ohio St.3d 50, 55, 26 OBR 42, 496 N.E.2d 983.

Id. at ¶30.

Relying upon the *AFSA* court's determination that the statewide concern doctrine falls within the existing framework of the *Canton* test, the lower court then engaged in a *Canton* analysis which concluded that R.C. 9.481 fails prongs three and four of the *Canton* general law test. The State, while arguing the *Canton* test does not apply at all, does not attempt to refute the lower court's conclusion that Section 9.481 does not meet the *Canton* test (if the test indeed does apply). If the *Canton* test does apply, then the lower court decision should clearly be affirmed.

If the *Canton* test does not apply, then the statewide concern doctrine should be used only to decide, as a preliminary matter, whether full-time public employee residency is "not a matter of merely local concern, but is of statewide concern, and therefore not included within the power of local self-government." *AFSA* at ¶ 29.

As noted in the brief of amicus curiae Ohio Municipal League (p.7), in *Cleveland Electric Illuminating Company v. Painesville* (1968), 15 Ohio St.2d 125, this court determined that a balancing test must be performed to determine if a matter is properly a matter of statewide concern for the state legislature and not a matter of local self

government:

> Thus, even if there is a matter of local concern involved, if the regulation of the subject matter affects the general public of the state as a whole more than it does the local inhabitants the matter passes from what was a matter for local self government to a matter of general state interest.

Id. at 29.

Lima's residency ordinance has no substantial extraterritorial effects. Clearly, it is not related to the on-the-job working conditions of an employee – which is what Section 34 governs. Just as clearly, it is related to a prospective employee's eligibility for future employment with the city – which is a local civil service matter, governed under Section 3.

A municipality's qualifications for its own employees are a local issue. "It would seem obvious not only from what this court has said with reference to the selection of municipal officers as being a matter of purely local concern, but also from the dictates of common sense, that the method of selection of municipal officers, their compensation and their purely local duties are matters which do not conflict with any general problem or concern of the state at large." *State ex rel. Hackley v. Edmonds* (1948), 150 Ohio St. 203, 216.

Residency is a qualification for employment. The qualification, duties, and manner of selection of officers all are within the self-government powers of a municipality. *State ex rel. Frankenstein v. Hillenbrand* (1919), 100 Ohio St. 339, 343. The appointment, removal, qualifications and duties of its officers and employment are within a municipality's Home Rule authority. *State Personnel Bd. Of Review v. Bay Village Civ. Serv. Comm.* (1986), 28 Ohio St.3d 214 citing *Benevolent Assoc. V. Parma* (1980), 61 Ohio St.2d 375. Further, the court has repeatedly held that the appointment of police officers constitutes an exercise of local self-government. *State ex rel. Regetz v. Cleveland Civil Service Comm.* (1995), 72 Ohio St.3d 167, citing *State ex rel. Canada v. Phillips* (1958), 168 Ohio St. 191.

See also *State ex rel. Hipp v. N. Canton* (1996), 75 Ohio St.3d 221; *State ex rel. Meyers v. Columbus* (1995), 71 Ohio St.3d 603; *Harsney v. Allen* (1953), 160 Ohio St. 36 (The organization and regulation of its police force, as well as its civil service functions, are within a municipality's powers of local self-government). Lima's residency law is simply a qualification for employment, which is a matter of local self-government.

The City's residency requirement is a prerequisite for employment with the City and therefore a matter of its civil service. The Supreme Court has held that the State's constitutional authority with respect to municipal civil service derives solely from Ohio Constitution Article XV, Section 10. *State ex rel. Canada v. Phillips* (1958), 168 Ohio St. 191 at 196 (quoting *State ex rel. Lentz v. Edwards* (1914), 90 Ohio St. 305, 309). The establishment of qualifications for employment fall under the civil service laws. *State Personnel Bd. of Review v. City of Bay Village Civil Service Comm.* (1986), 28 Ohio St.3d at 216. ("A municipality is considered to have general home-rule authority to regulate the appointment, removal, qualifications, compensation, and duties of its officers and employment.") A residency requirement is a "qualification" for employment akin to other requirements for employment.

The effects of the residency ordinance are directly limited to those persons seeking employment with the City. The ordinance is a direct result of the City's choice of the best method for carrying out its municipal functions. It applies only to city workers appointed by the Mayor and hired after the effective date of the ordinance. It does not apply to previously hired employees of the city nor does it apply to other citizens of Lima or to any other persons who work inside the City limits, or to anyone else in the State of Ohio.

The notion that a residency requirement has extraterritorial effects is

unsubstantiated. First there is nothing in the record before this court to support that notion. Second, it is purely speculative. While it may be true that a city employee required to live inside the city presumably would not buy or build a house in an adjacent city, township, or county, it does not necessarily follow that the house outside the city would not be bought or built by someone else. Nor is it logical to assume city employees would not shop outside the city, or that school enrollment and property taxes outside the city would decline. There simply is no evidentiary or logical support for the state's argument in this regard. In contrast, as noted above at page 2-3 from the affidavit of Mayor Berger, there is ample support in this record of why residency is a matter of local concern.

There is no constitutional right to city employment when one is not a city resident. Residency requirements have been in effect for decades and have never been found to be a matter of statewide concern or unconstitutional. *Assoc. of Cleveland Firefighters, Local 93 of the Int'l Assoc. of Firefighters v. City of Cleveland* (N.D. Ohio 2006), 422 F. Supp. 2d 883; *Campbell v. City of Allen Park* (6th Cir. 1987), 829 F.2d 576 (firefighter's termination was upheld for not meeting residency requirement); *McCarthy v. Philadelphia Civil Serv. Comm.* (1976), 424 U.S. 645 (residency requirement upheld on due process and equal protection grounds when challenged by firefighters); *Buckley v. City of Cincinnati* (1980), 63 Ohio St. 2d 42.

Matters with far more significant extraterritorial effects than those of the City's residency ordinance have been recognized as matters of local self-government. For example, in *City of Cleveland v. City of Shaker Heights* (1987), 30 Ohio St. 3d 49, the Supreme Court found that the City of Shaker Heights had Home Rule power to barricade two streets within its jurisdiction, which caused approximately 7,000 to 14,000 cars to be rerouted per day

within two neighboring cities. Despite the court's recognition of the tangible impact on Shaker Heights' neighbors, the court held that the municipality retained power over its own streets. "Adverse extraterritorial traffic effects on a neighboring municipality are not, standing alone, enough to overcome the presumption of the validity of a legislative enactment taken under a municipality's home rule powers." *Id.* at 53. It is clear that the City's choice of applicants for employment has far less, if any, tangible impact on its neighbors. In fact, there is no evidence before this court that the city's residency ordinance would have any effect on other jurisdictions.

Lastly, if indeed residency has substantial extraterritorial effects, then what is the justification for R.C. 9.481 allowing political subdivisions to limit residency to the immediate county? Are the outlying counties somehow less deserving of protection from extraterritorial effects? In essence, what this means is that the state has determined that the outlying counties would not suffer significant extraterritorial effects.

Moreover, R.C. 9.481 cannot be a law of statewide concern because it is not truly a general law. It does not have uniform application and therefore violates Article II, Section 26 of the Ohio Constitution. The Uniformity Clause, Article II, Section 26 of the Ohio Constitution, requires that "[a]ll laws of a general nature, shall have a uniform operation throughout the State." Under the Uniformity Clause, all general laws must have universal operation as to all persons and things in the same condition or category. The tests for establishing uniformity have been set out in *Stanton v. Powell,* (1924), 109 Ohio St.383, 385 and in *Desenco, Inc. v. City of Akron* (1999), 84 Ohio St.3d 535, which requires the statute to be of a general nature and:

> [T]o satisfy Section 26, Art. II], it is sufficient if a law operates upon every person included within its operative provisions,

> provided such operative provisions are not arbitrarily and unnecessarily restricted . . . A law operates as an unreasonable classification where it seeks to create artificial distinctions where no real distinction exists.

Desenco, at 542.

Furthermore, if the application of the law leads to arbitrary and capricious results, there is a denial of equal protection and the law is unconstitutional. *Emmons v. Keller* (1970), 21 Ohio St.2d 48 (overruled on other grounds). Laws may not establish arbitrary or "unnecessarily restricted" operative provisions. *State ex rel. Stanton v. Powell* (1924), 109 Ohio St. 383, 385 ("A law operates as an unreasonable classification where it seeks to create artificial distinctions where no real distinction exists."). This clause "does not forbid different treatment of various classes or types of citizens, but does prohibit nonuniform classification of such be arbitrary, unreasonable or capricious." *Canton v. State* (2002), 95 Ohio St. 3d 149, 149. Where a State statute relating to collective bargaining, for example, excludes supervisors, it is an unconstitutional violation of the Uniformity Clause. *State ex rel. Dayton Fraternal Order of Police, Lodge No. 44 v. State Employment Relations Bd.*(1986), 22 Ohio St. 3d 1.

R.C. §9.481 applies across the state but creates arbitrary classifications of public employees and therefore does not have uniformity. R.C. §9.481 creates arbitrary and artificial distinctions between full-time and part-time employees, and between emergency personnel and other city employees. Part-time and full-time union employees and emergency personnel are governed by the same collective bargaining agreements and civil service laws, yet the statute differentiates the rights of these groups. The statute precludes the City from choosing its full-time, full-year employees from only those who are willing to reside in the City. However, the city could require its volunteers, part-time employees,

temporary employees, and seasonal employees to live in the City. This distinction is arbitrary and illogical. It would place a greater burden on these part-time employees who perform similar employment functions for the City and would deny them the purported and invalid "protections" of Section 9.481. There is no logical basis to exclude volunteers, part-time employees, temporary employees, and seasonable employees from the statute. As such, Section 9.481 does not operate uniformly throughout the State. This arbitrary distinction violates the *Desenco* test and therefore does not have uniform application.

CONCLUSION

The state's enactment of R.C. 9.481 does not override the city's constitutional home rule powers of self-government to enact a residency requirement. R.C. 9.481 is not validly supported by Article II, Section 34 of the Ohio Constitution. That section deals with conditions directly related to or resulting from a person's employment. Residency does not fall under that rubric. It is, in its essence, a qualification for employment with the city, not a working condition. Moreover, R.C. 9.481 is not a general law of statewide concern. There are no extraterritorial effects of the residency ordinance, and it does not apply equally to similar classes of employees. Lastly, R.C. 9.481 violates the Uniformity Clause of the Ohio Constitution. It creates arbitrary classifications of public employees and yields capricious results.

For those reasons, this court should affirm the lower court's decision, and enter judgment in favor of appellee, declaring R.C. 9.481 to be unconstitutional.

Respectfully submitted,
City of Lima, Ohio

By_____

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CERTIFICATE OF SERVICE

This is to certify that a copy of this document was served upon the following by regular U.S. mail on September 10, 2008.

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APPENDIX

Revised Code section 9.481 ..... A
Lima City Charter Section 72 ..... B
Lima City Ordinance 201-00 C
Legislative Service Commission Final Bill Analysis Comments ..... D
Ohio Const. Art. XVIII ..... E
Article II, Section 34 of the Ohio Constitution ..... F
Article II, Section 26 of the Ohio Constitution ..... G

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* CURRENT THROUGH LEGISLATION PASSED BY THE 126TH OHIO GENERAL ASSEMBLY *
* AND FILED WITH THE SECRETARY OF STATE THROUGH MAY 1, 2006 *
* ANNOTATIONS CURRENT THROUGH JANUARY 1, 2006 *

OHIO REVISED CODE GENERAL PROVISIONS
CHAPTER 9. MISCELLANEOUS
CONSTRUCTION MANAGEMENT SERVICES

GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION

ORC Ann. 9.481 (2006)

§ 9.481. Political subdivisions generally prohibited from imposing residency requirements on employees

(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.

HISTORY: 151 v S 82, § 1, eff. 5-1-06.

NOTES:

The provisions of § 2 of 151 v S 82 read as follows:
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.

The provisions of § 3 of 151 v S 82 read as follows:

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.

SECTION 69. GENERAL POWER AND DUTIES OF MAYOR.

It shall be the duty of the Mayor to act as chief conservator of the peace within the City; to supervise the administration of the affairs of the City; to see that all ordinances of the City are enforced; to recommend to the Council for adoption such measures as he may deem necessary or expedient; to keep the Council advised of the financial condition and future needs of the City; to prepare and submit to the Council such reports as may be required by that body, and to exercise such powers and perform such duties as are confronted or required by this Charter or by the law of the State.

SECTION 70. MAYOR'S RIGHT IN COUNCIL.

The Mayor and the directors of all departments established by the Charter, or that may hereafter be established by ordinance, shall be entitled to seats in the Council. Neither the Mayor nor the director of any department shall have a vote in the Council, but the Mayor shall have the right to introduce ordinances and to take part in the discussion of all matters coming before the Council; and the directors of departments shall be entitled to take part in all discussions in the Council relating to their respective departments. The Council by ordinance or resolution may authorize other City officials to have seats in Council.

SECTION 71. VACANCY IN OFFICE OF MAYOR; ACTING MAYOR.

If at any time the office of Mayor is vacant by reason of non-election, death, resignation, removal from office in any way except by recall election, removal of residence from the City, or from any other cause whatsoever, such vacancy shall be filled by the President of Council for the unexpired term, provided however, that in the event that a written declination of his right to assume said office be presented to the Council by the President of Council within thirty (30) days after the occurrence of the vacancy or in the event that the President of Council does not qualify for the office of Mayor within said thirty (30) days period, the Council may thereupon appoint a Mayor to serve for the balance of the unexpired term.

When the Mayor is absent from the City, or is unable for any cause to perform his duties the President of Council shall be the Acting Mayor.

Council may make an appointment of an Acting Mayor whenever such need arises. Such Acting Mayor whether an incumbent of the office of President of Council or any other person, shall be entitled to receive compensation, as determined by ordinance of Council, for such duties which shall be in addition to any other compensation which he may be entitled to receive as a Municipal official.
(Amended 11-6-62)

SECTION 72. QUALIFICATIONS OF EMPLOYEES AND OFFICERS.

No restriction is placed upon the residency of any employee or officer of the City, any provision of this Charter to the contrary notwithstanding, except as the Council may otherwise specifically provide by ordinance; provided that all elective officers of the City of Lima shall be residents of the City and have the qualifications of electors therein during their terms of office.

EXHIBIT
B

All employees of the City of Lima, whether residents of the City or not, shall pay Municipal Income tax to the City, as a condition of their employment, irrespective of their place of residence. This provision shall not apply to non-residents of the City, except as to wages or salaries paid by the City of Lima.

No person elected to any office of the City shall, during his incumbency in the office to which he has been elected, be appointed to any office under the City.
(Amended 11-5-74)

DEPARTMENT OF LAW

SECTION 73. CITY SOLICITOR - QUALIFICATIONS AND GENERAL DUTIES.

The City Solicitor shall be an attorney-at-law, admitted to practice in the State of Ohio, and shall have such assistants of like qualifications as the Council may authorize. The City Solicitor shall act as the legal adviser to, and attorney and counsel for, the Municipality and all its officers in matters relating to their official duties. He shall prepare all contracts, bonds and other instruments in writing in which the Municipality is concerned and shall endorse on each his approval of the forms and correctness thereof; and no contract with such Municipality shall take effect until his approval is endorsed thereon.

SECTION 74. SAME - ELECTION; TERM.

Commencing with the Municipal election held in November, 1945, the City Solicitor shall be elected as provided for the election of officers herein for a term of four (4) years, assume office on the first day of January following his election and serve until his successor his elected and qualified.
(Amended 11-7-44)

SECTION 75. SAME - SALARY.

Commencing with the term of the officer elected in the Municipal election held in November, 1953, the salary of the City Solicitor shall be in such amount as may be fixed by the Council, but which shall in no event be less than the sum of thirty-six hundred dollars ($3,600.00) per annum and shall be payable monthly. No change of salary may be made to take effect during the term of such officer and any determination of the amount of such compensation may be made by the Council only by ordinance passed in the year 1952 or in any even numbered year subsequent thereto.
(Amended 11-6-51)

SECTION 76. SAME - ASSISTANT CITY SOLICITOR; APPOINTMENT; QUALIFICATIONS; TERM; SALARY; DUTIES.

The City Solicitor shall appoint an Assistant City Solicitor who shall be an elector of the City of Lima and who shall be an attorney-at-law, admitted to practice in the State of Ohio, and shall be the prosecutor in any criminal or Municipal court and shall perform such other duties as may be required of him by the Mayor or City Solicitor. He shall receive a salary in an amount to be fixed by the Council which shall be not less than fifty ($50.00) dollars per month, payable monthly, and such assistance as the Council may authorize. He shall hold office at the pleasure of the City Solicitor.
(Amended 11-7-44)

ORDINANCE NO.

Introduced by _____ Councilman

Seconded by _____ Councilman

Form Approved _____ Director of Law

PUBLICATION: I hereby certify that Ord. No. _____ was published in a summary manner according to law in the Lima News on _____

_____
Sally Clemans, Clerk

VOTE	1ST		2ND		3RD	
	Y	N	Y	N	Y	N
MOORE	✓					
NIXON	✓					
HIRE	✓					
DESENBERG		✓				
NAPIER	✓					
GLENN	✓					
TOWNSEND	✓					
ADAMS	✓					
HUFFMAN	✓					
TOTAL	8	0				

AN ORDINANCE ESTABLISHING A RESIDENCY REQUIREMENT FOR FUTURE EMPLOYEES OF THE CITY; AND DECLARING AN EMERGENCY.

WHEREAS, the Mayor has requested that Council implement a requirement that future City employees live inside the corporate boundaries of the municipality; and,

WHEREAS, the City has entered into collective bargaining agreements with The American Federation of State, County, and Municipal Employees, Ohio Council 8, Local 1002, AFL-CIO, The International Association of Firefighters, AFL-CIO, Local 334, and The Fraternal Order of Police, Ohio Labor Council, Inc. (excluding the bargaining unit for Park Rangers), wherein the employees belonging to said unions have agreed through the collective bargaining process to a residency requirement for future employees; and,

WHEREAS, pursuant to City Charter section 72, Council has the authority to implement a residency requirement for employees, and Council hereby determines that such a requirement is in the best interests of the City, its inhabitants, and its employees; and,

WHEREAS, an emergency exists because of the immediate need to establish a residency requirement as set forth herein, and it is necessary that in order to preserve the public peace, property, health and safety, and to provide for the usual daily operation of the municipal government, and by reason thereof, this ordinance shall take effect forthwith upon its passage; **Now, Therefore,**

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LIMA, OHIO, TWO-THIRDS OF THE MEMBERS ELECTED THERETO CONCURRING:

Section 1. Subject to the further provisions herein, there is hereby established a requirement for persons appointed by the Mayor as employees of the City on and after the date of passage of this ordinance, that as a condition of permanent employment with the City all such employees shall live in a primary permanent residence within the corporate boundaries of the municipality.

EXHIBIT C

Section 2. Future employees covered under this ordinance and who are also members of The International Association of Firefighters, AFL-CIO, Local 334, shall not be required to establish residency until 180 calendar days after the expiration of the employee probationary period as may be set forth in the applicable collective bargaining agreement.

Section 3. Future employees covered under this ordinance and who are also members of The Fraternal Order of Police, Ohio Labor Council, Inc. (excluding the bargaining unit for Park Rangers), shall not be required to establish residency until 6 months after the expiration of the employee probationary period as may be set forth in the applicable collective bargaining agreement.

Section 4. Future employees covered under this ordinance and who are also members of The American Federation of State, County, and Municipal Employees, Ohio Council 8, Local 1002, AFL-CIO, shall not be required to establish residency until 90 days after the expiration of the employee probationary period as may be set forth in the applicable collective bargaining agreement.

Section 5. Future employees covered under this ordinance who are not members of a collective bargaining unit must establish residency within ~~360~~ days of the effective date of appointment by the Mayor (inclusive of the probationary period) 540 10/23

Section 6. The Mayor is authorized to establish a policy to administer the provisions of this ordinance, and the Mayor is further authorized to extend the periods of time set forth in sections 2 through 5 above, for a period not to exceed 1 year, if the Mayor determines it to be appropriate under the circumstances then existing for any employee, on a case-by-case basis.

Section 7. This ordinance shall not apply to those persons who are current employees of the City prior to the date of passage of this ordinance; however, should any such existing employee separate from employment with the City, and then be re-appointed to the same or a new position, then the residency requirements of this ordinance shall apply.

Section 8. This ordinance shall not apply to any existing or future employees appointed to the position of Park Ranger.

Section 9. Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the adoption of this ordinance were taken in an open meeting and that all deliberations of this Council and of any of its committees that resulted in those formal actions were in meetings held in compliance with the law.

Section 10. The Clerk of Council is authorized and directed to cause publication of this ordinance to be made in a summary manner as provided by the City Charter.

Section 11. For the reasons set forth in the preamble hereto which is made a part hereof, this ordinance is hereby determined to be an emergency measure and shall take effect and be in force forthwith provided that it receives the affirmative vote of two-thirds of the members elected to

Council; otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

Passed: October 23, 2000.

President of Council

Approved: October 23, 2000.

Mayor

Attest: Clerk

EXHIBIT D

Sub. S.B. 82

126th General Assembly
(As Passed by the General Assembly)

Sens. **Grendell, Jacobson, Brady, Mumper**

Reps. **Wolpert, Bubp, Brinkman, Yuko, Fende, Domenick, Uecker, Walcher, Collier, Blessing, Cassell, Chandler, Evans, D., Flowers, Hagan, Hartnett, Hughes, Kilbane, Law, Oelslager, Patton, T., Perry, Peterson, Redfern, Reidelbach, Sayre, Schneider, Seitz, Stewart, D., Taylor, Woodard**

Effective date: May 1, 2006

ACT SUMMARY

- Generally prohibits political subdivisions from requiring their permanent full-time employees to reside in any specific area of the state.
- Permits citizens of a political subdivision, by initiative, or the legislative authority of a political subdivision, by ordinance or resolution, to require the political subdivision's employees, as a condition of employment, to reside either in the county where the political subdivision is located or in an adjacent county.

CONTENT AND OPERATION

Prohibition, right, and exceptions

The act generally prohibits any political subdivision from requiring its employees, as a condition of employment, to reside in any specific area of the state (R.C. 9.481(B)(1)). It relatedly states that political subdivision employees generally have the right to reside any place they desire (R.C. 9.481(C)). (See **COMMENT** 1.)

The act, however, creates three exceptions to the prohibition and the right. A political subdivision may have residency requirements for volunteers (R.C. 9.481(B)(2)(a)); "volunteer" is defined as a person who is not paid for service or is employed on less than a permanent full-time basis (R.C. 9.481(A)(2)). The act also authorizes citizens of any political subdivision to propose a local law by initiative, or the legislative authority of any political subdivision to adopt an ordinance or resolution, to require any employee of the 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 the state.[1] The act states that the exceptions (other than

the "volunteer" exception) result from the state's interest in ensuring adequate response times by certain employees of political subdivisions to emergencies or disasters and, at the same time, the state's interest in ensuring that those employees generally are free to reside throughout the state. (R.C. 9.481(B)(2)(b).)

General Assembly intent statement and finding

The act states in uncodified law (Section 2) that the General Assembly, in enacting R.C. 9.481, declares its intent to recognize (a) the inalienable and fundamental right of an individual to choose where to live under Section 1 of Article I of the Ohio Constitution (see **COMMENT** 2 below) and (b) that Section 34 of Article II of the 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, including its home rule provisions, impairs or limits this power (see **COMMENT** 3 below). The act also states that the General Assembly finds, in enacting R.C. 9.481, 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 employees (Section 3).

COMMENT

1. The prohibition contained in the act, insofar as it relates to municipal corporations, may violate the "home rule" provisions of the Ohio Constitution. The power of local self-government is granted to municipal corporations in Section 3 of Article XVIII. Residency requirements for municipal employees most likely are a matter of local self-government, which can be overcome only when there is a state law expressing a matter of statewide concern. Case law has shown Ohio courts recognize the local nature of employment matters involving residency issues. While there may be some extraterritorial impact from municipal ordinances creating residency requirements, courts may find the issue to be predominantly one of local concern, and, therefore, such a municipal ordinance would be upheld.

2. The United States Supreme Court and the Ohio Supreme Court have held that there is *no* constitutional right to be employed by a municipality while residing elsewhere. *McCarthy v. Philadelphia Civil Service Comm'n.* (1976), 424 U.S. 645; *Buckley v. Cincinnati* (1980), 63 Ohio St.2d 42.

3. Section 34 of Article II of the Ohio Constitution authorizes the passage of laws dealing with wages and hours of employment and laws providing for the comfort, health, safety, and general welfare of all employees. This section was originally enacted to ensure that laws regarding minimum wages and the like would not unconstitutionally impair contracts; no consideration was given to its effect on the Ohio Constitution's home rule provisions. Without a court interpretation, it is difficult to say whether this section would apply to the act's prohibition, despite the General Assembly's recognition of it, where the subject of the state law is not *all* employees, but instead only *certain government* employees.

HISTORY

ACTION	DATE
Introduced	03-01-05
Reported, S. State & Local Gov't & Veterans Affairs	06-15-05
Passed Senate (19-13)	06-21-05
Reported, H. Local & Municipal Gov't & Urban Revitalization	01-17-06
Passed House (68-28)	01-18-06

06-sb82-126.doc/kl

[1] *The act directs, in R.C. 9.481(B)(2)(b), citizens and their political subdivisions to use the initiative petition procedures in the Municipal Law, with substitution of political subdivision fiscal officers for municipal officials when necessary (R.C. 731.28 and 731.31--not in the act).*

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*** ANNOTATIONS CURRENT THROUGH JANUARY 1, 2007 ***
*** OPINIONS OF ATTORNEY GENERAL CURRENT THROUGH APRIL 18, 2007 ***

CONSTITUTION OF THE STATE OF OHIO
ARTICLE XVIII. MUNICIPAL CORPORATIONS

GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION

Oh. Const. Art. XVIII, § 3 (2006)

§ 3. 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.

(Adopted September 3, 1912.)

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CONSTITUTION OF THE STATE OF OHIO
ARTICLE II. LEGISLATIVE

GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION

Oh. Const. Art. II, § 34 (2006)

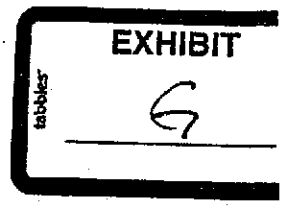
§ 34. Welfare of employes

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 employes; and no other provision of the constitution shall impair or limit this power.

HISTORY:

(Adopted September 3, 1912.)

1 of 1 DOCUMENT



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*** CURRENT THROUGH LEGISLATION PASSED BY THE 127TH OHIO GENERAL ASSEMBLY AND FILED WITH THE SECRETARY OF STATE THROUGH APRIL 18, 2007 ***
*** ANNOTATIONS CURRENT THROUGH JANUARY 1, 2007 ***
*** OPINIONS OF ATTORNEY GENERAL CURRENT THROUGH APRIL 18, 2007 ***

CONSTITUTION OF THE STATE OF OHIO
ARTICLE II. LEGISLATIVE

GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION

Oh. Const. Art. II, § 26 (2006)

§ 26. What laws to have a uniform operation

All laws, of a general nature, shall have a uniform operation throughout the state; nor, shall any act, except such as relates to public schools, be passed, to take effect upon the approval of any other authority than the general assembly, except, as otherwise provided in this constitution.