



Representative Michael E. Henne
Ohio House District 40

Sponsor Testimony – HB 419
December 6th, 2017

Chairman Butler, Vice Chairman Hughes, Ranking Member Boggs and members of the Civil Justice Committee, thank you for the opportunity to present HB 419, Sovereign Immunity.

The doctrine of Sovereign Immunity in England was based on the idea that the “King can do no wrong”. This doctrine eventually came to the United States and was first applied in Ohio in 1840. Sovereign Immunity has undergone a number of legislative revisions and interpretations by the courts since then, including the extension of sovereign immunity to municipal corporations as subdivisions of the state.

Different rulings made by different interpretations using different theories have made this a confusing issue. Whether the municipal corporation was exercising their public, judicial or legislative powers, whether the municipal corporation was using powers to serve and protect or improve the territory, whether the function they were performing was voluntary or by legislative authority, whether it was for the common good of all or it related to a special corporate benefit.

Eventually, the legislature tried to put some clarity to the discussion and defined sovereign immunity in the Ohio Revised Code. HB 419 only addresses section 2744.02, which provides political subdivision employees defenses for negligent acts while responding to an emergency call in the scope of their job and without willful or wanton misconduct. HB 419 only aims to clarify the definition of “responding to an emergency” to include the use of “lights and sirens”.

Every police department manual I have found provides for the use of lights and sirens in responding to an emergency. There is some logic to providing some immunity when the police, fire or EMS are providing emergency services, but it also makes sense to alert the public if they are operating in this heightened state. HB 419 does not prohibit emergency responders from operating without lights and sirens. Instead, the municipal corporation will not be able to claim sovereign immunity if they do.

At this time, I will be happy to answer any questions the committee may have.

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