



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

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H.B. 662

132nd General Assembly
(As Introduced)

Reps. Howse, Ramos

BILL SUMMARY

- Specifies a municipal corporation's constitutional authority to enact policies to effectively allocate its resources in order to satisfy municipal law enforcement needs and comply with federal immigration laws as appropriate.
 - Eliminates the state law prohibition against a state or local employee unreasonably failing to comply with a lawful federal request for assistance regarding the USA Patriot Act or federal immigration or terrorism investigation, or a Presidential executive order pertaining to homeland security.
 - Eliminates the state law prohibition against a municipal corporation materially hindering or preventing its employees from complying with the USA Patriot Act or a Presidential executive order pertaining to homeland security, or from cooperating with state or federal immigration services and terrorism investigations.
 - Eliminates a provision that makes municipal corporations that take one of the above prohibited actions ineligible to receive homeland security funding.
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CONTENT AND OPERATION

Municipal resource allocation for immigration law compliance

The bill specifies that in accordance with the Home Rule Amendment to the Ohio Constitution,¹ a municipal corporation may enact an ordinance, policy, directive, rule, or resolution as necessary to allocate its personnel, resources, and funding to effectively and efficiently use those resources to govern its law enforcement needs and to

¹ Ohio Const., art. XVIII, sec. 3.

determine how to comply with its duties under federal immigration laws and other federal laws.² The Home Rule Amendment provides municipal corporations the authority to (1) exercise all powers of local self-government and (2) adopt and enforce within their limits such local police, sanitary, and other similar regulations that are not in conflict with general laws. Under home rule precedent, a municipality's actions regarding the administration of its police force, to the extent a municipality is administering its internal affairs and things like pay, benefits, organization of the force, and allocation of resources and priorities, are generally matters of local self-government.³ A municipal ordinance that falls within the second category—police, sanitary, and similar regulations—is valid unless it conflicts⁴ with a general law⁵ of the state. The bill does not create new authority for municipalities or require or define the scope of ordinances, policies, directives, rules, or resolutions that may be enacted in regard to law enforcement needs and compliance with federal immigration. The bill only recognizes the constitution's grant of home rule authority. Finally, neither the Home Rule Amendment nor the bill excuses a municipality from following federal law.

The bill repeals provisions of law that do the following:

- Prohibits a state or local employee from unreasonably failing to comply with any lawful federal request for assistance regarding the USA Patriot Act or a federal immigration or terrorism investigation, or a Presidential executive order pertaining to homeland security. A statement of disagreement or a critical opinion does not qualify as unreasonable noncompliance;
- Prohibits a municipal corporation from enacting an ordinance, policy, directive, rule, or resolution that would materially hinder or prevent its employees from complying with the USA Patriot Act or a Presidential executive order pertaining to homeland security, or from cooperating with state or federal immigration services and terrorism investigations. A

² R.C. 9.63, newly enacted by the bill.

³ *State ex rel. Canada v. Phillips*, 168 Ohio St. 191 (1958).

⁴ Meaning the ordinance allows an action state law prohibits, or vice versa. *Village of Struthers v. Sokol*, 108 Ohio St. 263 (1923).

⁵ A general law is a law that (1) is part of a statewide and comprehensive legislative enactment, (2) applies to all parts of the state alike and operates uniformly throughout the state, (3) sets forth police, sanitary, or similar regulations, rather than purports only to grant or limit the legislative power of the municipal corporation to set forth police, sanitary, or similar regulations, and (4) prescribes a rule of conduct upon citizens generally. *Canton v. State*, 95 Ohio St.3d 149 (2002).

statement of disagreement or a critical opinion does not qualify as unreasonable noncompliance;

- Eliminates a provision that makes a municipal corporation that enacts a prohibited ordinance, policy, directive, rule, or resolution ineligible to receive homeland security funding.⁶

HISTORY

ACTION	DATE
Introduced	05-22-18

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⁶ R.C. 9.63, repealed by the bill.

