



Ohio General Assembly | Written Testimony in Support of HB 292
Ohio Senate Ways and Means Committee
January 24, 2018

Member Organizations

Jewish Community Board
of Akron

Canton Jewish
Community Federation

Jewish Federation of
Cincinnati

Jewish Federation of
Cleveland

Jewish Federation of
Columbus

Jewish Federation of
Greater Dayton

Jewish Federation of
Greater Toledo

Youngstown Area Jewish
Federation

Affiliated Communities

Beth Israel Synagogue,
Hamilton

Emanuel Jacob
Congregation, Mansfield

Temple Shalom,
Springfield

Knesseth Israel Temple,
Wooster

Observer Organizations

Agudath Israel of
America

Commission on Legislation &
Civic Action, Ohio Region

American Israel Public
Affairs Committee

American Jewish
Committee
Cincinnati Chapter
Cleveland Chapter

Anti-Defamation League
Hadassah

Israel Bonds

Jewish Council for Public
Affairs

Jewish National Fund,
Cincinnati

Jewish National Fund,
Cleveland

NA'AMAT USA

National Council of
Jewish Women

Negev Foundation

Union for Reform
Judaism

Orthodox Union

United Synagogue of
Conservative Judaism

ORT America

Chairman Eklund, Vice Chair Terhar, Ranking Member Williams, and Members of the Committee:

Ohio Jewish Communities, the government advocacy, public affairs, and community relations voice of Ohio's eight Jewish federations and their nearly 150 partner agencies statewide submits this testimony in support of HB 292, to modify residence test for income tax purposes.

This legislation passed both in committee and from the House itself with overwhelming, bipartisan support. We hope the Senate can act similarly.

Statement of Interest

Ohio's Jewish federations, our observer organizations, and individual institutions include more than 150 Ohio agencies serving tens of thousands of Ohioans of all faiths (or none at all) from "cradle to hospice" in our community centers, K-12 schools, on college campuses, as young professionals, families, and seniors on issues ranging from refugee resettlement to job training and placement and from senior care to food pantries and counseling centers.

Jewish refers only to our values, and not to whom we serve. Anyone may receive critical services at any of our agencies.

Federations and their agencies serve as a community table to convene on critical issues as well as a partnership between our private sector philanthropists, the nonprofit sector, and all levels of government.

In short, our community services agencies serve as a force multiplier for meeting vital human needs in a way neither government nor the private sector could do on its own.

Through fundraising from individuals and couples we raise the bulk of our agencies' funds to assist people across Ohio. A key demographic of that donor base is senior citizens and retiree "snowbirds" who split their time between Ohio and another state.

Legislative History

In 1993, the General Assembly enacted ORC §5747.24, creating what is often referred to as the "bright-line" statute, creating presumptions that an individual is not an Ohio tax resident if the individual has an "abode" or place of residence outside Ohio for the entire year, and has no more than a certain number of "contact periods in the state" during the taxable year.

In 2006, the General Assembly amended the bright-line statute, increasing to 182 the permitted number of contact days without becoming an Ohio tax resident, and making the bright-line presumption irrebuttable unless the taxpayer fails to file a statement saying that he was not domiciled in Ohio and had at least one abode outside Ohio, both during the entire year. The presumption is rebuttable if it contains a false statement.

How This Became an Issue

In Cunningham v. Testa, 144 Ohio St. 3d 40 (2015), the Ohio Supreme Court ruled against a taxpayer who sought non-Ohio residency status based on the bright-line presumption. The court found that the Ohio tax commissioner has the power to undo the bright-line presumption if (s)he finds a basis for asserting the taxpayer's statement is incorrect.

The merits of that particular case, and that appellant, aside, it is clear that longstanding precedent in Ohio allowed former residents with limited contact periods to still visit the state each year but not be subject to state taxation. It is equally clear to our agencies that it was this ability to stay connected to their former domicile that kept them engaged in the community as donors.

Any legal or tax uncertainty plays to the fears of cautious, older donors.

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Why Legislative Action is Necessary

It is for this reason corrective legislative action is needed. The very types of services our agencies offer in partnership with, and in lieu of, government action is now at risk due to decreased gift giving by these seniors.

The Cunningham case has created judicial precedent which we believe is contrary to the intent of the "bright-line" test and the General Assembly must correct that error.

Only a decisive legislative fix can answer nervous donors and help provide the needed rules for the tax commissioner and courts.

Goal of State and Nonprofit Community Remains the Same

The state and the nonprofit community both seek to serve those in need in the most cost-efficient, but human-effective ways possible. This proposed legislation is a simple, modest effort to maximize individual charitable donations, which will minimize the state's outlays of taxpayer funds for social services which the nonprofit community can cover.

We would welcome any questions you have. Again, we ask that you give immediate consideration to this legislation and report it positively to the Senate floor.

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Howie Beigelman, Executive Director
Ohio Jewish Communities