



WRITTEN TESTIMONY TO THE SENATE ENERGY AND PUBLIC UTILITIES  
COMMITTEE

OPPONENT TESTIMONY

HB 201

June 8, 2021

Chair McColley, Vice Chair Schuring, Ranking Member Williams, and members of the Senate Energy and Public Utilities Committee, thank you for the opportunity to write in opposition of HB 201.

HB 201, if enacted, would violate Ohio's Home Rule. In the Ohio Constitution, Article XVIII Sec. 4933.41 states that "every person seeking to obtain distribution service or retain natural gas service has the right to obtain any available distribution service or retain natural gas service from a natural gas company. . ." However, section (B) limits this right by PUCO regulations and tariffs and subject to municipal home rule rights of Sections 4 and 6 of Article XVIII. Section 4933.41 (C) then takes away municipal home rule by precluding municipal regulation of gas usage.

The net effect of the proposed statute is a citizen only has the right to utility natural gas usage under state regulations but not under municipal regulations. Article XVIII Section 3 grants municipal corporations the right to exercise police powers concurrently with the state so long as the exercise of the local police power does not conflict with the state's exercise of its police powers.

The State police power as used here is the right to use natural gas subject to state PUCO regulations and tariffs. Section (C) of 4933.41 prohibits municipal corporations from promulgating any building code or similar requirements that limits the use of residential, commercial or industrial consumers within their boundaries from obtaining natural gas service. Building Codes or similar requirements are not in conflict with PUCO regulations and tariffs. Hence the municipal exercise of its police powers does not conflict with the state's exercise of its police powers.

The utilization of natural gas within a municipality is not the same in every municipality. For instance, some municipalities may have readily available alternative sources of energy which are cost effective, while others may not. This means the regulation of gas emissions are different for each municipality. This is a classic home rule issue.

The enactment of Ohio Constitution Article XVIII envisions a system of dual sovereigns—the state and local government. The only difference between the dual sovereign’s argument of Ohio Attorney General Yost in his March 17, 2021 filing in Federal Court against the U.S. Secretary of Treasury is that there, the State of Ohio is arguing that the Federal Government is making a state sovereign decision in violation of the Tenth Amendment. This legislation violates the Home Rule provisions of the Ohio Constitution and should not be adopted.

Thank you for your time and your consideration of our position, and we urge your opposition to this bill.