

Spencer Wells, Treasurer
CLASH
18115 Harvard Road
Cleveland, Ohio 44128

September 25, 2023

Dear Chairman Rulli and Ranking Member DeMora,

Cleveland Lead Advocates for Safe Housing opposes Senate Bill 158.

1. CLASH believes that SB 158 is unconstitutional since it proposes to take away citizens' right to petition for changes to the City Charter and to propose legislation to address local issues that are within the jurisdiction of a home rule community. The Ohio Constitution Article 1 Section 1 says "All men [sic] are, by nature, free and independent, and have certain inalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing, and protecting property, and seeking and obtaining happiness and safety. All political power is inherent in the people." Any Senator who supports SB 158 is at risk of violating her or his oath of office (Article XV, Section 7).

2. Senate Bill 158 is overly broad and vague. Adoption would result in a decade of hair-splitting litigation over the language in the proposed bill. In its analysis of this proposed bill, the Legislative Service Commission observes: "The Ohio Constitution does grant the General Assembly authority to limit a municipal corporation's authority to tax, assess, borrow money, incur debt, and loan its credit.⁴ A court would need to determine whether the bill's prohibition is related to one of these, or falls under home rule authority." Worse still, the cost of potential litigation would have a chilling effect on citizens' organizations which do not have the assets of professional lobbyists and litigators.

3. Despite Senator Cirino's assertion that his legislation is not aimed at Cleveland, it clearly is inspired by the PB CLE campaign. None of the elected representatives who really do represent voters in the City of Cleveland is in support of the bill. By conferring "emergency" status on this bill, Senator Cirino has made it clear in legislation and in press statements that the focus of this legislation is to nullify the ballot initiative proposed by PB CLE. The characterization of the bill as "an emergency measure necessary for the immediate preservation of the public peace, health, and safety. The reason for such necessity is to prevent municipal corporations from circumventing current appropriations law, ensuring the responsible stewardship of treasury funds and preventing the interruption of local peace, health, and safety services. Therefore, this act shall go into 'immediate effect'" can only refer to the PB CLE charter amendment, since no similar initiative exists or is contemplated in any Ohio municipality. The Senator's intent is clear. In Scene Magazine, he states ""So it's not just about Cleveland. If this were to happen in Cleveland, I think it's such a bad idea, I wouldn't want to see it come up anywhere else." The Senator hangs his hat of this whatifism...a sorry substitute for thoughtful legislative action.

4. If SB 152 is adopted, the Cleveland Lead Advocates for Safe Housing's organizational interest in bringing issues to the ballot by citizen initiative could be outlawed by the Ohio General Assembly. Today's testimony on Senate Bill 158 is our second effort to stop legislation which is designed to undermine citizen efforts to address local health and safety issues.

In 2017, CLASH and a coalition of lead safety advocates from around the state came to the Ohio Senate to oppose a House-passed amendment to the 2017 Budget bill. That amendment would have barred municipalities from enacting laws regarding lead poisoning. That amendment was specifically intended to pre-empt lead safety legislation in Toledo, but it would have undermined CLASH's right to bring a citizen initiative that led to the Cleveland Lead Safe Certificate program enacted by Cleveland City Council in 2019.

Those Senators in 2017 had the wisdom to stop an individual's pet peeve against a local initiative that, if it had been adopted, would have blocked lead safety initiatives around the State.

Today, CLASH calls upon the Ohio Senate to continue to protect the rights of citizens in home rule cities by rejecting SB 158. An ill-considered, one-off effort to undermine the rights of citizens in municipalities by a single elected official is not worthy of serious consideration by the Ohio Senate.

Sincerely,

Spencer Wells, Treasurer

On behalf of Cleveland Lead Advocates for Safe Housing