

21 February 2024

Hon. Michael A. Rulli, Chairman  
Senate General Government Committee, Ohio Senate  
North Hearing Room, Ohio Statehouse  
1 Capitol Square, Columbus, OH 43215

**WRITTEN OPPONENT TESTIMONY OF WILLIAM P. FORD**  
*Constituent of Ohio Senate District 21*

Hearing on Senate Bill No. 137, “Generally prohibit the use of ranked choice voting”  
3:00 PM

Mr. Chairman Rulli and members of the Committee:

Thank you for this opportunity for to provide written testimony in opposition to Senate Bill 137 (S.B. 137 or “Bill”). I continue to **oppose** this bill for several reasons, which are presented herein:

**I. SB 137 is an Affront to the Constitution of the State of Ohio**

In 1982, the Ohio Supreme Court (“Court”) ruled in *State, ex Rel. Evans, v. Moore* that “the state may not restrict the exercise of the power of self-government within a city... .” Under Article XVIII, Section 7 of the Ohio Constitution (“Constitution”), Municipal Corporations (or “Charter Cities”) are afforded the authority of Home Rule, among other enumerated powers, subject to the provisions of Article XVIII, Section 3, provided that such powers are not in conflict with “general laws.” Sections 8 and 9 allow amendments to city charters and approval from voters under the jurisdiction thereof. These powers originate in the Constitution, and thus are not subject to the authority of the Ohio Revised Code. Therefore, this Bill passed by the Ohio General Assembly—which would interfere with Home Rule Authority—is of questionable constitutionality, unless said Bill meets the definition of a “general law.” In 2002, in *Canton v. State*, the Court established four (4) conditions that must be satisfied (emphasis mine):

To constitute a general law for the purposes of **home-rule analysis**, a statute must (1) be part of a statewide and comprehensive legislative enactment, (2) apply to all parts of the state alike and operate uniformly throughout the state, (3) set forth police, sanitary, or similar regulations, **rather than purport only to grant or limit legislative power of a municipal corporation** to set forth police, sanitary, or similar regulations, and (4) prescribe a rule of conduct upon citizens generally.

S.B. 137 does not satisfy condition (3), and its satisfaction of condition (4) is questionable. Indeed, in *American Fin. Servs. Assn. v. Cleveland* (2006), the Court implemented another, three-step process concerning Home Rule Authority, the first being “whether the matter in question involves an exercise of local self-government or an exercise of local police power.” It states:

If an allegedly conflicting city ordinance relates solely to self-government, the analysis stops, because the Constitution authorizes a municipality to exercise all powers of local self-government within its jurisdiction.

The matter in question addressed by S.B. 137 does not involve an exercise of local police regulations, but rather only an exercise of self-government.

## **II. Legislative Pre-emption is Unconstitutional**

The Ohio Constitution does not provide any pre-emption mechanism of Home Rule Authority. In the 2014 case of *Cleveland v. State*, the Ohio Supreme Court ruled that legislative pre-emption from the State was unconstitutional. The State Law in question allowed the Public Utilities Commission of Ohio (PUCO) to regulate towing companies as “for-hire motor carriers.” The Court ruled the Law unconstitutional for violating condition (3) (“police, sanitary, or similar regulations”) of the abovementioned “general law” test, because the Law “prohibit[ed cities] the ‘licensing, registering, or regulation’ of entities that tow motor vehicles.”

## **III. Withholding Funds from Municipal Corporations**

S.B. 137 threatens to withhold local government funds from Municipal Corporations that approve the use of ranked-choice voting. Indeed, the withholding of State funds does have precedent; in 2022, the Ohio Supreme Court unanimously agreed in *Lycan v. Cleveland* that the State was allowed withhold funds from cities that continued to use automated traffic-enforcement programs (i.e. traffic cameras). In those cases, State Law was not in conflict with Home Rule Authority because they related to exercises of local police power. By contrast, S.B. 137, only involves an exercise of self-government.

## **IV. Moving Forward**

Regardless of the outcome of S.B. 137, I will remain opposed to its passage and will remain committed to its overturn, either by the Ohio Supreme Court or by a Constitutional Amendment that would implement ranked-choice voting statewide.

I appreciate your consideration of my concerns.

Thank you,

A handwritten signature in black ink that reads "William P. Ford". The signature is written in a cursive, flowing style.

William P. Ford  
Constituent of Ohio Senate District 21