

SubHB51
11/13/23

In 1963, Governor George Wallace disregarded the U.S. Constitution.¹ Now the Ohio sponsors of SubHB51 similarly disregard the U.S. Constitution.²

1. Ignorance about the Constitution: 51 falsely states: "each party [state] has an equal right to judge for itself ... whether infractions of the compact [the US Constitution] have occurred...."³ Any first year law student would know that statement is false.⁴

2. Shackling Police Officers:
 - (a) 51 would prohibit state police officers from enforcing any federal gun law,⁵ leaving the officers with fewer tools to stop the bad guys and putting Ohio citizens in more danger.⁶ Why require Ohio police officers to risk their lives but not give them all the constitutional tools they need?

 - (b) Also, 51's prohibition on Ohio enforcement of federal firearm laws would conflict with the officer's oath: "I do solemnly swear or affirm that I will support the Constitution and Laws of the United States of America...."⁷ Are the officers going to violate that oath to enforce or the prohibition against enforcing federal firearm laws in 51?

 - (c) Protecting spouse abusers using firearms: Ohio officers would even be prohibited from enforcing any federal law against spouse abuse involving firearms, such as 18 U.S.C. §922(g)(8)(9). You do not believe in law and order if you do not protect the victims of spouse abusers who used firearms.

3. Liability of State/Local Agencies:

51 imposes liability on state and local governments for enforcing federal firearm laws.⁸ Since Ohio police officers are required to enforce federal firearm laws, state and local agencies would frequently be subject to lawsuits for damages under 51 for enforcing what they have sworn to do: enforce federal firearm laws. Officers and municipalities would be caught between a rock and a hard place.

51 does have language pretending it is not radical, but that is a smokescreen:

 - (a) state officers can provide material aid to federal officials, but only when the suspect "is either not a citizen of this state or is not present in this state."⁹
 - Ohio officers cannot assist if Ohio citizens are involved: an absurd result.

(b) Material aid can be provided if the weapons violations are “merely ancillary” to the prosecution,¹⁰ but if the weapons violations are important to the case, Ohio officers cannot intervene, thereby encouraging crimes with firearms; and

(c) Ohio officers can participate in an inter-jurisdictional task force, but only if the task force’s purpose is “not related to firearms.” Nonsensical.

4. Violating the Supremacy Clause: The U.S. Supreme Court has said the “Constitution and laws passed pursuant to it are as much laws in the States as laws passed by the state legislature.”¹¹ If a state law singles out/discriminates against Federal laws for less favorable treatment, that violates the Supremacy Clause.¹²

51 prohibits state employees from enforcing federal firearm laws but not firearm laws of Ohio or any other state. Such discrimination would violate the Supremacy Clause, just as the District Court for the Western District of Missouri held the Missouri SAPA violated the Supremacy Clause.¹³

Summary

51 is radical legislation that would turn the clock backwards to the 1950s. 51 would violate the Supremacy Clause, protect spouse abusers who used guns and disrupt the cooperation between Ohio law and federal law enforcement personnel – harming Ohioans. Similar harm has already happened in Missouri with its unconstitutional SAPA.¹⁴

Please protect Ohioans and reject SubHB51. Thank you.

Douglas Rogers

¹ Governor Wallace’s phrase in a 1963 speech - "segregation now, segregation tomorrow and segregation forever" – “is remembered as one of the most vehement rallying cries against racial equality in American history.” <https://www.npr.org/2013/01/14/169080969/segregation-forever-a-fiery-pledge-forgiven-but-not-forgotten>

² The US Supreme Court has said that its rulings on the Second Amendment (1) “did not cast doubt on such longstanding regulatory measures as ‘prohibitions on the possession of firearms by felons and the mentally ill,’ (2) “laws forbidding the carrying of firearms in sensitive places such as schools and government buildings,

or (3) laws imposing conditions and qualifications on the commercial sale of arms.” *McDonald v. City of Chicago*, 561 U.S. 742, 785, (2010) quoting in *District of Columbia v. Heller*, 554 U.S. 570, 626-627 (2008).

³ Lines 710-713.

⁴ In 1958 the US Supreme Court unanimously explained, “If the legislatures of the several states may at will, annul the judgments of the courts of the United States, ... the constitution itself becomes a solemn mockery.” *Cooper v. Aaron*, 358 U.S. 1, 18 (1958), citing *United States v. Peters*, 5 Cranch 115, 136. The “constitution vests the whole judicial power of the United States in one supreme court” *Marbury v. Madison*, 5 U.S. 137, 173 (1804).

⁵ See lines 556-561 in 51: “(B) No public office, public officer, or employee of the state or a political subdivision shall enforce, attempt to enforce, or participate in any way in the enforcement of any federal acts, executive orders, administrative orders, rules, regulations, statutes, or ordinances regarding firearms, firearm accessories, or ammunition.”

⁶ Chapter 2923 is an Ohio chapter “Weapons Control,” including §2923.13, “Having Weapons Under Disability.” “Requiring background checks on all gun sales is proven to reduce gun violence. State laws requiring background checks for all handgun sales—by point-of-sale check and/or permit—are associated with lower firearm homicide rates, lower firearm suicide rates, and lower firearm trafficking.” See <https://www.everytown.org/solutions/background-checks/>

⁷ See attached copy of required oath. The oath was approved by Attorney General Yost. This does not present a case of the Federal government establishing and trying to enforce a statewide administrative scheme, so *Printz v. United States*, 521 U.S. 898 (1997), is inapplicable.

⁸ See, eg., lines 590-599: “(F)(1) If the state or any political subdivision of the state knowingly employs an individual who is acting as or previously acted as an official, agent, employee, or deputy of the government of the United States, or otherwise acting under the color of federal law within the borders of this state, and who knowingly does either of the following after the effective date of this section, the state or political subdivision shall be subject to a civil penalty of fifty thousand dollars per employee hired by the state or political subdivision who violates the applicable provision:

(a) Enforces, attempts to enforce, or participates in any way in the enforcement or implementation of any federal acts, laws, executive orders, rules, regulations, statutes, or ordinances regarding firearms, firearm accessories, or ammunition;

(b) Gives material aid or support to the efforts of another in the enforcement or implementation of any federal acts, laws, executive orders, administrative orders,

rules, regulations, statutes, or ordinances regarding firearms, firearm accessories, or ammunition.

(2) Any person residing or conducting business in the state or a political subdivision of the state who believes that a law enforcement officer of the state or of the political subdivision of the state has taken action as described in division (F)(1) of this section shall have standing to pursue an action for injunctive relief in the court of common pleas of the county in which the action allegedly occurred, or in the court of common pleas of Franklin county, with respect to the actions of such law enforcement officer. The court shall hold a hearing on the motion for temporary restraining order and preliminary injunction within thirty days of service of the petition. In such actions, the court may award the prevailing party, other than the state of Ohio or any political subdivision of the state, reasonable attorney's fees and costs." See also lines 570-589.

⁹ Lines 641-645

¹⁰ Lines 646-659.

¹¹ *Howlett v. Rose*, 496 U.S. 356, 367 (1990)

¹² *United States v. Washington*, 142 S.Ct. 1976, 1985 (2022), citing *Washington v. United States*, 460 U.S. 536, 546 (1983) and *North Dakota v. United States*, 495 U.S. 423, 438 (1990). In *United States v. Washington*, a Washington state workers compensation law treated federal workers less favorably than other workers, and the Supreme Court held that the statute violated the Supremacy Clause. *Id.* at 1984-1985.

¹³ See *Washington*, 142 S.Ct. at 198, and *United States v. Missouri*, W.D. Missouri, Case No. 2:22-CV-04022-BCW, 2023 U.S. Dist. LEXIS 37537, **33 & 37 (2023).

¹⁴ *United States v. Missouri*, W.D. Missouri (Case No. 2:22-CV-04022-BCW 2022) **7,9, 27& 35 (2023) ("The United States' law enforcement operations have been affected through withdrawals from and/or limitations on cooperation in joint federal-state task forces, restrictions on sharing information, confusion about the validity of federal law ...[in light of the Missouri Act] and discrimination against federal employees and those who are deputized to lawfully enforce federal law for federal law enforcement who lawfully enforce federal law....State and local law enforcement personnel are withdrawing from federal joint task forces and refusing to share investigative information....these enforcement schemes are likely to discourage federal law enforcement recruitment efforts.")



NOTICE OF PEACE OFFICER APPOINTMENT

Check Box if: Correction to Record Name Change OSHP Trooper to Peace Officer
(OSHP certificate **must be attached**)

1. Within ten days of the appointment or status change, **or promotion to Chief**, submit one copy of this form either by email SF400@OhioAGO.gov, fax, or mail.
2. Type or print legibly and complete all blanks. Officer and Agency email addresses need to be entered to receive training determinations.
***NOTE:** The officer's email address will be used for all OPOTC correspondence, including advanced training course registration.
3. Submit pages 1 and 2 when an officer is newly-appointed to your agency, or has previously left the agency and returns.
4. Submit only page 1 when an officer continues to be appointed by your agency, but has a change from one status, as listed in Box 15, to a different status, **or is promoted to Chief**.
5. Enter any necessary information for a Correction to Record, submitting all affected pages, and attach a letter explaining the requested change.

OFFICER INFORMATION		1. Name (Last) (First) (Middle)		2. Social Security Number (last 5 only)	
3. Previous Name(s) or Alias (Last) (First) (Middle)					
4. Birth date (mm/dd/yyyy)		5. Officer's Individual Email Address*		6. Phone Number	
7. Home Mailing Address (#/Street/PO Box) (City) (State) (Zip Code) (County Name)					
8. Basic Training Academy (Academy Name) (Academy Number) (Dates of Training) <small>(Only complete if this is the officer's first appointment or OSP)</small>					

AGENCY INFORMATION		9. Agency Name			
10. Reporting Authority's Email Address		11. Agency Phone Number			
12. Agency Mailing Address (#/Street/PO Box) (City) (Zip Code) (County Name)					

APPOINTMENT INFORMATION (Complete Date, Status and ORC)		13. New Appointment Date / /		14. Status Change Date / /	
15. Select New Status _____ Full-Time _____ Part-Time _____ Auxiliary _____ Reserve _____ Special _____ Seasonal <small>For the purpose of this form, full-time means those in active pay status (including those on vacation, sick, bereavement, personal or administrative leave; on compensatory time or holidays) receiving compensation and benefits for 40 hours in a work week or 80 hours in a 14-day period.</small>					
16. Select New ORC					
_____ City Full-Time/Part-Time (737.02)		_____ City Auxiliary/Reserve/Special (737.051)		_____ City Chief (737.02)	
_____ Village Full-Time/Part-Time/Special (737.16)		_____ Village Auxiliary/Reserve (737.161)		_____ Village Chief (737.15)	
_____ Township Police Officer (505.49)		_____ Township Constable (509.01)		_____ Other Chief - List ORC/Charter _____	
_____ Other - List ORC/Charter _____		_____ Deputy Sheriff (311.04)		_____ Sheriff (311.01)	

ATTESTATION OF REPORTING AUTHORITY		I have carefully read this document and fully understand its contents and I sign it of my own free will and volition. I attest that the information provided on this document is true and correct and is based on my personal knowledge or inquiry. I further understand and acknowledge that submission of falsified records is a criminal violation.			
17. Signature of Reporting Authority		18. Printed Name and Title		19. Date / /	
20. Signature of Witness		21. Printed Name (First, Middle, Last)		22. Date / /	

Submit to OPOTC

Officer Name (Last)

(First)

(Middle)

SSN (last 5 only)

23. OATH OF OFFICE

I do solemnly swear or affirm that I will support the Constitution and Laws of the United States of America, the Constitution and Laws of the State of Ohio, and Laws and Ordinances of the political subdivision to which I am appointed and to the best of my ability will discharge the duties of this office.

Signature of Appointee

Name of Appointing Authority (Typed or Printed Legibly)

Signature of Appointing Authority

Title of Appointing Authority (Typed or Printed Legibly)

OHIO PEACE OFFICER APPOINTMENT HISTORY

Please list all prior appointments. Use additional copies of page 2, as needed, to list the entire appointment history.

24. Appointed By (Agency Name and County):	25. From(mm/dd/yyyy): / /	To(mm/dd/yyyy): / /
26. Appointment Status (Check Appropriate Box) <input type="checkbox"/> Full-Time <input type="checkbox"/> Part-Time <input type="checkbox"/> Auxiliary <input type="checkbox"/> Reserve <input type="checkbox"/> Special <input type="checkbox"/> Seasonal		

27. Appointed By (Agency Name and County):	28. From(mm/dd/yyyy): / /	To(mm/dd/yyyy): / /
29. Appointment Status (Check Appropriate Box) <input type="checkbox"/> Full-Time <input type="checkbox"/> Part-Time <input type="checkbox"/> Auxiliary <input type="checkbox"/> Reserve <input type="checkbox"/> Special <input type="checkbox"/> Seasonal		

30. Appointed By (Agency Name and County):	31. From(mm/dd/yyyy): / /	To(mm/dd/yyyy): / /
32. Appointment Status (Check Appropriate Box) <input type="checkbox"/> Full-Time <input type="checkbox"/> Part-Time <input type="checkbox"/> Auxiliary <input type="checkbox"/> Reserve <input type="checkbox"/> Special <input type="checkbox"/> Seasonal		

33. Appointed By (Agency Name and County):	34. From(mm/dd/yyyy): / /	To(mm/dd/yyyy): / /
35. Appointment Status (Check Appropriate Box) <input type="checkbox"/> Full-Time <input type="checkbox"/> Part-Time <input type="checkbox"/> Auxiliary <input type="checkbox"/> Reserve <input type="checkbox"/> Special <input type="checkbox"/> Seasonal		

36. Appointed By (Agency Name and County):	37. From(mm/dd/yyyy): / /	To(mm/dd/yyyy): / /
38. Appointment Status (Check Appropriate Box) <input type="checkbox"/> Full-Time <input type="checkbox"/> Part-Time <input type="checkbox"/> Auxiliary <input type="checkbox"/> Reserve <input type="checkbox"/> Special <input type="checkbox"/> Seasonal		

39. Appointed By (Agency Name and County):	40. From(mm/dd/yyyy): / /	To(mm/dd/yyyy): / /
41. Appointment Status (Check Appropriate Box) <input type="checkbox"/> Full-Time <input type="checkbox"/> Part-Time <input type="checkbox"/> Auxiliary <input type="checkbox"/> Reserve <input type="checkbox"/> Special <input type="checkbox"/> Seasonal		

