



## **H.B. 258**

124th General Assembly  
(As Introduced)

**Reps. Flowers, Ford, Cates, Sullivan, Grendell, Metzger, Wolpert, Schmidt, Reidelbach, Schaffer, Fessler, Calvert, Seitz, G. Smith**

---

### **BILL SUMMARY**

- Removes the statutory requirement that city and village fire chiefs, village fire prevention officers, city police chiefs, and village marshals be electors of the city or village.
- Prohibits political subdivisions, other than counties and school districts, from requiring their employees to reside in any specific area of this state.

---

### **CONTENT AND OPERATION**

The bill removes the statutory requirement that city fire or police chiefs be an elector of the city, and that a village fire chief, fire prevention officer, or marshal be an elector of the village. Removing this requirement removes the statutory mandate that, among other things, these officers be a resident of the city or village. (Sec. 733.68.)

The bill also statutorily prohibits any political subdivision, except counties and school districts, from requiring its employees, as a condition of employment, to reside in any specific area of the state (sec. 3.19).

---

### **COMMENT**

The prohibition contained in the bill, insofar as it relates to municipal corporations, may violate the "home rule" provisions of the Ohio Constitution. The power of local self-government is granted to municipal corporations in Section 3 of Article XVIII. Residency requirements for municipal employees most likely are a matter of local self-government, which can be overcome only when there is a state law expressing a matter of statewide concern. Case law has shown Ohio courts recognize the local nature of employment matters involving residency issues. While there may be some extraterritorial impact from municipal

ordinances creating residency requirements, it seems that the issue is predominantly one of local concern, and, therefore, such a municipal ordinance would be upheld. However, only a court can make a definitive interpretation.

Another constitutional provision could apply to the bill's prohibition. Section 34 of Article II of the Ohio Constitution authorizes the passage of laws dealing with wages and hours of employment and laws providing for the comfort, health, safety, and general welfare of all employees, and may override the "home rule" provisions in these circumstances. This section was originally enacted to ensure that laws regarding minimum wages and the like would not unconstitutionally impair contracts; no consideration was given to its effect on the Ohio Constitution's "home rule" provisions. Without a court interpretation, it is difficult to say whether this section would apply to the bill's prohibition, where the subject of the state law is not all employees, but instead only certain government employees.

---

## HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	05-15-01	p. 426

h0258-i.124/kl