



S.B. 82

126th General Assembly
(As Introduced)

Sens. Grendell, Jacobson, Brady

BILL SUMMARY

- Generally prohibits political subdivisions from requiring their permanent full-time employees to reside in any specific area of the state.
- Permits citizens of a political subdivision, by initiative, or the legislative authority of a political subdivision, by ordinance or resolution, to require the political subdivision's employees, as a condition of employment, to reside either in the county where the political subdivision is located or in an adjacent county.

CONTENT AND OPERATION

The bill generally prohibits any political subdivision from requiring its employees, as a condition of employment, to reside in any specific area of the state (sec. 9.481(B)(1)). (See **COMMENT.**) It, however, creates three exceptions to this prohibition. A political subdivision may have residency requirements for volunteers (sec. 9.481(B)(2)(a)); "volunteer" is defined as a person who is not paid for service or is employed on less than a permanent full-time basis (sec. 9.481(A)(2)). The bill also authorizes citizens of any political subdivision to propose a local law by initiative, or the legislative authority of any political subdivision to adopt an ordinance or resolution, to require any employee of the political subdivision, as a condition of employment, to reside either in the county where the political subdivision is located or in any adjacent county in the state.¹ The bill states that the exceptions (other than the "volunteer" exception) result from the state's interest in ensuring adequate response times by certain employees

¹ *The bill directs, in section 9.481(B)(2)(b), citizens and their political subdivisions to use the initiative petition procedures in the Municipal Law, with substitution of political subdivision fiscal officers for municipal officials when necessary (secs. 731.28 and 731.31--not in the bill).*

of political subdivisions to emergencies or disasters and, at the same time, the state's interest in ensuring that those employees generally are free to reside throughout the state. (Sec. 9.481(B)(2)(b).)

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, however, 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. The Ohio Supreme Court has held that the Public Employee Collective Bargaining Law was enacted pursuant to Section 34 of Article II and prevails over municipal home rule authority in the realm of labor relations. *Rocky River v. State Employment Relations Board* (1989), 43 Ohio St.3d 1 (Syllabus 2).

HISTORY

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