

Ohio Supreme Court strikes down residency requirements by cities

By JIM PROVANCE
BLADE COLUMBUS BUREAU CHIEF

COLUMBUS — The Ohio Supreme Court ruled Wednesday that cities cannot mandate that their employees live within their borders, finding that a 2006 state law prohibiting such residency requirements does not violate cities' constitutional home-rule authority.

The 5-2 ruling relates to challenges brought by the cities of Lima and Akron in defense of their residency requirements, but would affect other cities like Toledo that have their own versions of residency requirements.

Justice Terrence O'Donnell issued a concurring opinion to insist that the ruling is not about local home rule but rather that state's right to enact laws relating to the "hours of labor, establishing a minimum wage, and providing for the comfort, health, safety, and general welfare" of all employees.

"Nothing more," he wrote. "It is neither an expansion of language nor an undercutting of dual sovereignty."

But Chief Justice Thomas Moyer questioned the court's reasoning in this case and a prior case involving the Sandusky County city of Clyde that upheld a state law preventing cities from prohibiting the carrying of concealed firearms into public parks.

"The balance struck in the Ohio Constitution between the officials of local government determining those issues that have statewide application and the General Assembly determining issues of general public interest is now tipped dramatically against the authority of local elected officials under the new conception of home rule," he wrote.

Justice Robert Cupp, of Lima, joined Justices O'Donnell, Paul Pfeifer, Evelyn Lundberg Stratton, and Maureen O'Connor in upholding the state law over the local ordinances. Justices Judith Lanzinger, of Toledo, joined Chief Justice Moyer in siding with the cities.

The 2006 state law prohibits cities from making residency a condition of employment. The law, however, does allow city residents to enact a requirement via the ballot box that employees live either in the county or an adjacent county.

Cities had maintained that having city employees live nearby, particularly those involved in public safety like police and firefighters, was crucial to a quick response by those employees.

Some 125 cities and 13 villages have some form of requirement in their charters, ordinances, or collective bargaining contracts. Toledo, Cleveland, Dayton, and Warren also had appeals

pending in the court that were on hold pending a decision in this case. Toledo's residency requirement has been watered down over time through its labor contracts.

In both Lima and Akron, local trial courts sided with the states only to be overturned by appeals courts that found the state law to be an overreach. The ruling was just the latest the court has issued related to the continuing battle between states and local home rule.