

**IN THE FRANKLIN COUNTY COURT OF COMMON PLEAS  
CIVIL DIVISION**

**CITY OF ATHENS**

8 East Washington Street  
Athens, Ohio 45701

**Case No. 17 CV** \_\_\_\_\_

and

**CITY OF AKRON**

166 South High Street  
Akron, Ohio 44308

**Judge** \_\_\_\_\_

and

**VILLAGE OF AMBERLEY VILLAGE**

7149 Ridge Road  
Amberley Village, Ohio 45237

and

**CITY OF AMHERST**

206 South Main  
Amherst, Ohio 44001

and

**VILLAGE OF ANNA**

209 West Main Street  
P.O. Box 140  
Anna, Ohio 45302

and

**CITY OF ASHTABULA**

4717 Main Avenue  
Ashtabula, Ohio 44004

and

**CITY OF BEDFORD**

165 Center Road  
Bedford, Ohio 44146

and

**CITY OF BEREA**  
11 Berea Commons  
Berea, Ohio 44017

and

**CITY OF BELPRE**  
715 Park Drive  
P.O. Box 160  
Belpre, Ohio 45714

and

**CITY OF BEXLEY**  
2242 East Main Street  
Bexley, Ohio 43209

and

**CITY OF BLUE ASH**  
4343 Cooper Road  
Blue Ash, Ohio 45242

and

**VILLAGE OF BLUFFTON**  
154 North Main Street  
Bluffton, Ohio 45817

and

**CITY OF BOWLING GREEN**  
304 North Church Street  
Bowling Green, Ohio 43402

and

**CITY OF BROOKVILLE**  
301 Sycamore Street  
P.O. Box 10  
Brookville, Ohio 45309

and

**CITY OF BROOKLYN**  
7619 Memphis Avenue

Brooklyn, Ohio 44144

and

**CITY OF BRYAN**  
1399 East High Street  
Bryan, Ohio 43506

and

**CITY OF CANAL WINCHESTER**  
36 South High Street  
Canal Winchester, Ohio 43110

and

**CITY OF CANFIELD**  
104 Lisbon Street  
Canfield, Ohio 44406

and

**CITY OF CANTON**  
218 Cleveland Avenue Southwest  
Canton, Ohio 44702

and

**CITY OF CARLISLE**  
760 Central Avenue  
Carlisle, Ohio 45005

and

**VILLAGE OF CARROLLTON**  
80 Second Street Southwest  
Carrollton, Ohio 44615

and

**CITY OF CENTERVILLE**  
100 West Spring Valley Road  
Centerville, Ohio 45458

and

**CITY OF CHARDON**

111 Water Street  
Chardon, Ohio 44024

and

**CITY OF CINCINNATI**

801 Plum Street  
Cincinnati, Ohio 45202

and

**CITY OF CLAYTON**

P.O. Box 280  
Clayton, Ohio 45315

and

**CITY OF CLEVELAND**

601 Lakeside Avenue  
Cleveland, Ohio 44114

and

**CITY OF COLUMBUS**

77 North Front Street  
Fourth Floor  
Columbus, Ohio 43215

and

**CITY OF CLYDE**

222 North Main Street  
Clyde, Ohio 43410

and

**VILLAGE OF CROOKSVILLE**

98 South Buckeye Street  
Crooksville, Ohio 43731

and

**CITY OF DAYTON**

101 West Third Street  
Dayton, Ohio 45402

and

**CITY OF DEFIANCE**

631 Perry Street  
Defiance, Ohio 43512

and

**CITY OF DELPHOS**

608 North Canal Street  
Delphos, Ohio 45833

and

**CITY OF DOVER**

110 East Third Street  
Dover, Ohio 44622

and

**CITY OF DUBLIN**

5200 Emerald Parkway  
Dublin, Ohio 43017

and

**CITY OF EAST LIVERPOOL**

126 West Sixth Street  
East Liverpool, Ohio 43920

and

**CITY OF ENGLEWOOD**

333 West National Road  
Englewood, Ohio 45322

and

**VILLAGE OF EVENDALE**

10500 Reading Road  
Evendale, Ohio 45241

and

**VILLAGE OF FAIRFAX**

5903 Hawthorne Avenue  
Fairfax, Ohio 45227

and

**CITY OF FAIRFIELD**  
5350 Pleasant Avenue  
Fairfield, Ohio 45014

and

**VILLAGE OF FARMERSVILLE**  
117 East Walnut Street  
Farmersville, Ohio 45325

and

**CITY OF FINDLAY**  
318 Dorney Plaza  
Findlay, Ohio 45840

and

**CITY OF FRANKLIN**  
One Benjamin Franklin Way  
Franklin, Ohio 45005

and

**VILLAGE OF FRAZEYSBURG**  
7 West Second Street  
P.O. Box 160  
Fazeysburg, Ohio 43822

and

**CITY OF GAHANNA**  
200 South Hamilton Road  
Gahanna, Ohio 43230

and

**CITY OF GALLIPOLIS**  
333 Third Avenue  
Gallipolis, Ohio 45631

and

**VILLAGE OF GAMBIER**

115 Meadow Lane  
Gambier, Ohio 43022

and

**CITY OF GENEVA**

44 North Forest Street  
Geneva, Ohio 44041

and

**VILLAGE OF GENOA**

102 East Sixth Street  
Genoa, Ohio 43430

and

**VILLAGE OF GIBSONBURG**

532 North Webster Street  
Gibsonburg, Ohio 43431

and

**CITY OF GRANDVIEW HEIGHTS**

106 Grandview Avenue  
Grandview Heights, Ohio 43212

and

**VILLAGE OF GRANVILLE**

141 East Broadway  
P.O. Box 514  
Granville, Ohio 43023

and

**CITY OF GROVE CITY**

4035 Broadway  
Grove City, Ohio 43123

and

**CITY OF HAMILTON**

345 High Street  
Hamilton, Ohio 45011

and

**VILLAGE OF HARTVILLE**

202 West Maple Street  
Hartville, Ohio 44632

and

**CITY OF HEATH**

1287 Hebron Road  
Heath, Ohio 43056

and

**VILLAGE OF HEBRON**

934 West Main Street  
Hebron, Ohio 43025

and

**CITY OF HILLSBORO**

130 North High Street  
Hillsboro, Ohio 45133

and

**VILLAGE OF HOLLAND**

1245 Clarion Avenue  
Holland, Ohio 43528

and

**CITY OF HUBER HEIGHTS**

6131 Taylorsville Road  
Huber Heights, Ohio 45424

and

**VILLAGE OF JEFFERSON**

27 East Jefferson Street  
Jefferson, Ohio 44047



and

**VILLAGE OF JOHNSTOWN**

599 South Main Street  
Johnstown, Ohio 43031

and

**CITY OF KETTERING**

3600 Shroyer Road  
Kettering, Ohio 45429

and

**CITY OF LAKEWOOD**

12650 Detroit Road  
Lakewood, Ohio 44107

and

**CITY OF LANCASTER**

104 East Main Street  
Lancaster, Ohio 43130

and

**VILLAGE OF LEESBURG**

P.O. Box 305  
Leesburg, Ohio 45135

and

**CITY OF LIMA**

50 Town Square  
Lima, Ohio 45801

and

**VILLAGE OF LINCOLN HEIGHTS**

1201 Steffen Avenue  
Lincoln Heights, Ohio 45215

and

**VILLAGE OF LOCKLAND**

101 North Cooper Avenue

Lockland, Ohio 45215

and

**CITY OF LOGAN**

10 South Mulberry Street  
Logan, Ohio 43138

and

**CITY OF LOVELAND**

120 West Loveland Avenue  
Loveland, Ohio 45140

and

**CITY OF MANSFIELD**

30 North Diamond Street  
Mansfield, Ohio 44902

and

**VILLAGE OF MARIEMONT**

6907 Wooster Pike  
Mariemont, Ohio 45227

and

**CITY OF MARIETTA**

301 West Putnam Street  
Marietta, Ohio 45750

and

**CITY OF MARYSVILLE**

209 South Main Street  
Marysville, Ohio 43040

and

**CITY OF MASON**

6000 Mason Montgomery Road  
Mason, Ohio 45040

and

**CITY OF MAUMEE**

400 Conant Street  
Maumee, Ohio 43537

and

**VILLAGE OF MCCONNELSVILLE**

9 West Main Street  
McConnelsville, Ohio 43756

and

**CITY OF MIAMISBURG**

10 North First Street  
Miamisburg, Ohio 45342

and

**VILLAGE OF MINERVA PARK**

2829 Minerva Lake Road  
Minerva Park, Ohio 43231

and

**VILLAGE OF MINSTER**

5 West Fourth Street  
P.O. Box 1  
Minster, Ohio 45865

and

**CITY OF MONROE**

233 South Main Street  
P.O. Box 330  
Monroe, Ohio 45050

and

**CITY OF MONTGOMERY**

10101 Montgomery Road  
Montgomery, Ohio 45242

and

**CITY OF MONTPELIER**

211 North Jonesville Street

Montpelier, Ohio 43543

and

**CITY OF MORAINE**

4200 Dryden Road  
Moraine, Ohio 45439

and

**CITY OF MOUNT VERNON**

40 Public Square, Number 206  
Mount Vernon, Ohio 43050

and

**CITY OF NAPOLEON**

255 West Riverview Avenue  
Napoleon, Ohio 43545

and

**CITY OF NELSONVILLE**

211 Lake Hope Drive  
Nelsonville, Ohio 45764

and

**CITY OF NEW ALBANY**

99 West Main Street  
New Albany, Ohio 43054

and

**VILLAGE OF NEW LEXINGTON**

125 South Main Street  
New Lexington, Ohio 43764

and

**CITY OF NEWARK**

40 West Main Street  
Newark, Ohio 43055

and

**VILLAGE OF NEWTOWN**

3537 Church Street  
Newtown, Ohio 45244

and

**VILLAGE OF OAK HARBOR**

146 Church Street  
P.O. Box 232  
Oak Harbor, Ohio 43449

and

**CITY OF OAKWOOD**

30 Park Avenue  
Oakwood, Ohio 45419

and

**VILLAGE OF OBETZ**

4175 Alum Creek Drive  
Obetz, Ohio 43207

and

**CITY OF ONTARIO**

555 Stumbo Road  
Ontario, Ohio 44906

and

**CITY OF ORRVILLE**

207 North Main Street  
Orrville, Ohio 44667

and

**CITY OF OXFORD**

101 East High Street  
Oxford, Ohio 45056

and

**CITY OF PARMA**

6611 Ridge Road  
Parma, Ohio 44129

and

**CITY OF PERRYSBURG**

201 West Indiana Avenue  
Perrysburg, Ohio 43551

and

**CITY OF PICKERINGTON**

100 Lockville Road  
Pickerington, Ohio 43147

and

**CITY OF PIQUA**

201 West Water Street  
Piqua, Ohio 45356

and

**CITY OF PORTSMOUTH**

728 Second Street  
Portsmouth, Ohio 45662

and

**CITY OF POWELL**

47 Hall Street  
Powell, Ohio 43065

and

**CITY OF READING**

1000 Market Street  
Reading, Ohio 45215

and

**CITY OF REYNOLDSBURG**

7232 East Main Street  
Reynoldsburg, Ohio 43068

and

**CITY OF RIVERSIDE**

5200 Springfield Street  
Suite 100  
Riverside, Ohio 45431

and

**CITY OF SHARONVILLE**  
10900 Reading Road  
Sharonville, Ohio 45241

and

**CITY OF SHELBY**  
43 West Main Street  
Shelby, Ohio 44875

and

**CITY OF ST. MARYS**  
101 East Spring Street  
St. Marys, Ohio 45885

and

**CITY OF SIDNEY**  
201 West Poplar Street  
Sidney, Ohio 45365

and

**CITY OF SOUTH ZANESVILLE**  
24 East Main Street  
South Zanesville, Ohio 43701

and

**CITY OF SPRINGBORO**  
320 West Central Avenue  
Springboro, Ohio 45066

and

**CITY OF SPRINGDALE**  
11700 Springfield Pike  
Springdale, Ohio 45246

and

**VILLAGE OF STRYKER**

204 North Defiance Street  
Stryker, Ohio 43557

and

**CITY OF TIFFIN**

51 East Market Street  
Tiffin, Ohio 44883

and

**CITY OF TROTWOOD**

3035 Olive Road, Number 2  
Trotwood, Ohio 45426

and

**CITY OF TROY**

100 South Market Street  
Troy, Ohio 45373

and

**CITY OF UNION**

118 North Main Street  
Union, Ohio 45322

and

**CITY OF UPPER ARLINGTON**

3600 Tremont Road  
Upper Arlington, Ohio 43221

and

**CITY OF UPPER SANDUSKY**

119 North Seventh Street  
Upper Sandusky, Ohio 43351

and

**CITY OF VAN WERT**

515 East Main Street



Van Wert, Ohio 45891

and

**CITY OF VANDALIA**  
333 James Bohanan Drive  
Vandalia, Ohio 45377

and

**CITY OF WADSWORTH**  
120 Maple Street  
Wadsworth, Ohio 44281

and

**CITY OF WARRENSVILLE HEIGHTS**  
4301 Warrensville Center Road  
Warrensville Heights, Ohio 44128

and

**CITY OF WASHINGTON COURT HOUSE**  
105 North Main Street  
Washington Court House, Ohio 43160

and

**CITY OF WEST CARROLTON**  
300 East Central Avenue  
West Carrolton, Ohio 45449

and

**VILLAGE OF WEST MILTON**  
701 South Miami Street  
West Milton, Ohio 45383

and

**VILLAGE OF WEST UNION**  
33 Logans Lane  
West Union, Ohio 45693

and

**VILLAGE OF WEST UNITY**

224 West Jackson Street  
West Unity, Ohio 43570

and

**CITY OF WESTERVILLE**

21 South State Street  
Westerville, Ohio 43081

and

**VILLAGE OF WESTFIELD CENTER**

6701 Greenwich Road  
Westfield Center, Ohio 44251

and

**CITY OF WHITEHALL**

360 South Yearling Road  
Whitehall, Ohio 43213

and

**CITY OF WILLARD**

61 South Myrtle Avenue  
Willard, Ohio 44890

and

**CITY OF WORTHINGTON**

6550 North High Street  
Worthington, Ohio 43085

and

**CITY OF WYOMING**

800 Oak Avenue  
Wyoming, Ohio 45215

and

**CITY OF XENIA**

107 East Main Street  
Xenia, Ohio 45385

and

**CITY OF ZANESVILLE**

401 Market Street  
Zanesville, Ohio 43701

Plaintiffs,

v.

**JOSEPH A. TESTA,  
TAX COMMISSIONER  
OF THE STATE OF OHIO,**  
c/o R. Michael DeWine  
Ohio Attorney General  
30 East Broad Street, 14<sup>th</sup> Floor  
Columbus, Ohio 43215,

*and*

**JOSHUA A. MANDEL, TREASURER  
OF THE STATE OF OHIO**  
c/o R. Michael DeWine  
Ohio Attorney General  
30 East Broad Street, 14<sup>th</sup> Floor  
Columbus, Ohio 43215,

*and*

**TIMOTHY S. KEEN, DIRECTOR  
OF THE OHIO OFFICE OF BUDGET AND MANAGEMENT**  
c/o R. Michael DeWine  
Ohio Attorney General  
30 East Broad Street, 14<sup>th</sup> Floor  
Columbus, Ohio 43215,

*and*

**THE STATE OF OHIO**  
c/o R. Michael DeWine  
Ohio Attorney General  
30 East Broad Street, 14<sup>th</sup> Floor  
Columbus, Ohio 43215,

Defendants.

## **COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

### **Parties**

1. Plaintiffs are Ohio municipal corporations, formed and governed pursuant to Article XVIII of the Ohio Constitution.
2. Plaintiffs collect and administer municipal income taxes, including net profits taxes, either through internal personnel or through contract with a collecting agency.
3. Defendant the State of Ohio is a State of the United States of America. This request for declaratory and injunctive relief does not seek monetary damages.
4. Defendant Joseph A. Testa is the duly appointed Tax Commissioner of the State of Ohio.
5. Defendant Joshua A. Mandel is the duly elected Treasurer of the State of Ohio.
6. Defendant Timothy S. Keen is the duly appointed director of the Office of Budget and Management for the State of Ohio.

### **Jurisdiction**

7. This action includes a request for declaratory relief under Chapter 2721 of the Ohio Revised Code, and therefore this court has jurisdiction as a court of record under R.C. §2721.02(A).
8. Plaintiffs have standing to bring the declaratory judgment action as legal persons the rights, status, or other legal relations of which are affected by a constitutional provision,

statute, or rule, to wit, the Ohio Constitution and H.B. 49 of the 132nd General Assembly of the State of Ohio.

9. Plaintiffs have standing to bring the declaratory judgment action as legal persons the rights, status, or other legal relations of which are affected by a constitutional provision, statute, or rule, to wit, the Ohio Constitution and H.B. 5 of the 130th General Assembly of the State of Ohio.
10. Plaintiffs have standing as legal persons that are injured by Defendants' performance of the functions assigned in H.B. 49 and by enforcement of H.B. 5, and such injuries are likely to be redressed by the relief requested herein.

### **Venue**

11. Venue is proper in this court under Civ.R. 3(B) and Civ.R. 3(E), in that various Plaintiffs are principally located in Franklin County; H.B. 49 and H.B. 5 were adopted by the General Assembly in Franklin County; and Defendants Testa, Mandel, Keen, and the State of Ohio have their principal places of business in Franklin County.

### **House Bill 49 of the 132<sup>nd</sup> Ohio General Assembly ("H.B. 49")**

12. H.B. 49 was introduced in the Ohio House of Representatives on February 8, 2017, and passed by the Ohio House on May 2, 2017; it was introduced in the Ohio Senate on May 3, 2017, and passed with amendment by the Ohio Senate on June 21, 2017; the Ohio House and Senate concurred in the conference report on H.B. 49 on June 28, 2017.
13. H.B. 49 is the State's omnibus biennial budget bill, totaling three thousand, three hundred eighty-four (3,384) pages as enrolled.

14. Section 101.01 of H.B. 49 amends Sections 718.01, 718.02, 718.06, 718.08, and 718.27, and enacts Sections 718.80, 718.81, 718.82, 718.83, 718.84, 718.85, 718.86, 718.87, 718.88, 718.89, 718.90, 718.91, 718.92, 718.93, 718.94, and 718.95 of the Ohio Revised Code.

15. Section 803.100 of H.B. 49 states:

(A) The amendment or enactment by this act of sections 113.061, 718.01, 718.02, 718.06, 718.60, 718.80, 718.81, 718.82, 718.83, 718.84, 718.85, 718.851, 718.86, 718.87, 718.88, 718.89, 718.90, 718.91, 718.92, 718.93, 718.94, 718.95, 5703.052, 5703.053, 5703.054, 5703.056, 5703.19, 5703.21, 5703.371, 5703.50, 5703.57, 5703.70, and 5703.75 of the Revised Code applies to taxable years beginning on or after January 1, 2018.

(B) In accordance with division (A) of section 718.04 of the Revised Code, each municipal corporation shall adopt, by ordinance or resolution, the provisions of sections 718.80, 718.81, 718.82, 718.83, 718.84, 718.85, 718.851, 718.86, 718.87, 718.88, 718.89, 718.90, 718.91, 718.92, 718.93, 718.94, and 718.95 of the Revised Code on or before January 31, 2018. Such resolution or ordinance shall specify that the enactment of those provisions applies to taxable years beginning on or after January 1, 2018.

(C) The amendment by this act of section 718.08 of the Revised Code Am. Sub. H. B. No. 49 132nd G.A. 3373 applies to taxable years beginning on or after January 1, 2018. (D) The amendment by this act of section 718.27 of the Revised Code applies on and after the effective date of this section.

16. The amendments and enactments of Section 101.01 of H.B. 49 referenced in Paragraph 14 of this Complaint, and the provisions of Section 803.100 of H.B. 49 referenced in Paragraph 15 of this Complaint, shall collectively be referred to as “H.B. 49 Municipal Income Tax Provisions” within this Complaint. These excerpted provisions are attached and labeled Exhibit A, and are hereby incorporated by reference in this Complaint.

17. The H.B. 49 Municipal Income Tax Provisions became effective September 29, 2017.

18. Among other items, the H.B. 49 Municipal Income Tax Provisions purport to:
- a. allow municipal net-profits tax filers (who are not individuals) to elect to file returns and remit payments with the State Department of Taxation for net-profits taxes for all municipalities in which the filer is liable for municipal income tax (the “Election”), *see* R.C. §718.80;
  - b. designate the Tax Commissioner as the administrator of all municipal net profits taxes for taxpayers making the Election, *see* R.C. §718.80(D);
  - c. require municipalities imposing a tax on income to certify the rate of said tax to the Tax Commissioner on an annual basis, *see* R.C. §718.80(C)(1)(a);
  - d. require municipalities whose electors have approved an increase in the rate of municipal taxation to certify said increased amount to the Tax Commissioner not less than sixty days prior to the effective date of the increased rate, *see* R.C. §718.80(C)(1)(b);
  - e. require municipalities, within ninety days of receiving a taxpayer’s notice of Election, to report to the Tax Commissioner the following information about the taxpayer:
    - i. the amount of any net operating loss that the taxpayer is entitled to carry forward to a future tax year;
    - ii. the amount of any net operating loss carryforward utilized by the taxpayer in prior years;
    - iii. any credits granted by the municipal corporation to which the taxpayer is entitled, the amount of such credits, whether the credits may be carried

forward to future tax years, and, if the credits may be carried forward, the duration of any such carryforward;

iv. any overpayments of tax that the taxpayer has elected to carry forward to a subsequent tax year;

v. any other information the municipal corporation deems relevant in order to effectuate the Tax Commissioner's efficient administration of the tax on the municipal corporation's behalf, *see* R.C. §718.80(C)(2);

f. penalize any municipality that fails to comply in a timely fashion with the purported requirement to report the taxpayer's net operating loss carryforward entitlement for future tax years and use in prior tax years, by requiring that the Tax Commissioner notify the Director of Budget and Management, who is required to withhold from the municipality fifty percent (50%) of the municipality's income tax revenue collected from taxpayers making the Election, *see* R.C. 718.80(C)(3);

g. place authority for alternative apportionment, for taxpayers making the Election, in the Tax Commissioner rather than the affected municipality or municipalities, *see* R.C. §718.82(B);

h. ration payment of municipal net profits tax revenues to municipalities on a monthly basis, *see* R.C. §718.83;

i. give the Tax Commissioner rulemaking authority to govern the terms and conditions under which municipal tax professionals may inspect tax records generated in the Tax Commissioner's administration of municipal net profit tax, *see* R.C. §718.84(E);



- j. deprive municipalities of the ability to audit the filings of taxpayers that have made the Election, and impose a system where municipalities can refer a taxpayer for non-mandatory audit by the Tax Commissioner, such that municipalities must resort to petition for a writ of mandamus against the Tax Commissioner to secure a mandatory audit, *see* R.C. §§718.84(E)–(F);
- k. require that taxpayers making the Election remit estimated municipal net profit taxes to the Treasurer of State rather than to the taxing municipalities, *see* R.C. §§718.85(A)(3), 718.88(C);
- l. confiscate 0.5% of all municipal net profit tax receipts from taxpayers making the Election for use by the State to administer municipal income tax, *see* R.C. §718.85(B);
- m. deprive the municipality that is owed municipal net profit tax of the ability to execute a judgment for the final assessment of the municipal net profit tax, *see* R.C. §718.90(C);
- n. deprive the municipality of the ability to evaluate and contest claims for refund of municipal net profit taxes for taxpayers making the Election, *see* R.C. §718.91;
- o. charge the municipalities for interest on refunds granted and paid late, through no fault of the municipality, by the tax commissioner, *see* R.C. §718.91(C);
- p. deprive municipalities of the ability to inspect the books and records of a taxpayer making the Election, *see* R.C. §718.93;
- q. eliminate the “throwback rule” (for all taxpayers, whether making the Election or not), which, for purposes of apportionment, refers to siting sales of tangible personal property in the municipality from which the property was shipped, when

the property is sent to another municipality and the taxpayer has not engaged in the solicitation or promotion of sales in the recipient municipality through its own employees, *see* R.C. §718.02(D); and

- r. make municipalities' exercise of the local self-government power of taxation conditional upon adoption of the centralized administration and collection provisions contained within H.B. 49, *see* H.B. 49 at Section 803.100.
19. The H.B. 49 Municipal Income Tax Provisions constitute approximately sixty (60) pages of the 3,384-page H.B. 49.
20. H.B. 49 funds the State's takeover of municipal net profits tax administration by skimming from the top of municipal net profits tax proceeds, and only appropriates additional funds to administer these taxes if the amount taken from municipalities' net profit tax revenues is insufficient to cover the State's administrative expenses. *See* H.B. 49 at p. 3253, attached and labeled Exhibit B.

**House Bill 5 of the 130<sup>th</sup> General Assembly ("H.B. 5")**

21. H.B. 5 was introduced in the Ohio House of Representatives on January 30, 2013, and passed by the Ohio House on November 13, 2013; it was introduced in the Ohio Senate on November 14, 2013, and passed with amendment by the Ohio Senate on December 3, 2014; the Ohio House concurred with the Ohio Senate version December 9, 2014, and H.B. 5 became law effective March 23, 2015.
22. H.B. 5 amended Sections 128.46, 709.023, 715.013, 718.02, 718.03, 718.051, 718.07, 718.09, 718.10, 718.11, 718.121, 718.13, 5703.02, 5703.059, 5703.57, 5717.011, 5717.03, 5726.03, 5736.04, 5739.12, 5739.124, 5741.122, 5747.063, 5747.064, 5747.50, 5749.06, and 5751.07 of the Ohio Revised Code; enacted 718.01, 718.012, 718.011,

718.031, 718.04, 718.05, 718.052, 718.06, 718.08, 718.12, 718.18, 718.19, 718.23 to 718.28, 718.30, 718.31, 718.35 to 718.39, 718.41, and 718.99 of the Ohio Revised Code; repealed pre-existing 718.02, 718.011, 718.041, 718.05, 718.06, 718.08, 718.12, and 718.14 of the Ohio Revised Code; and re-numbered pre-existing Section 718.04 to Section 718.50 of the Ohio Revised Code.

23. Among other items, H.B. 5 purports to:

- a. make municipalities' exercise of the local self-government power of taxation conditional upon adoption of the provisions contained within H.B. 5, *see* H.B. 5 at Section 6; R.C. §718.04(A);
- b. dictates the composition, powers, and procedures of local boards of tax review, R.C. §718.11;
- c. establish the interest rate that municipalities may charge for municipal income taxes that are not timely and fully paid, R.C. §718.27;
- d. establish penalty amounts that municipalities may charge for municipal income taxes that are not timely and fully paid, and for returns that are not timely filed, R.C. §718.27;
- e. dictate municipal tax administrators' standards for ascertaining whether to compromise a claim or agree to a payment plan, R.C. §718.28(C);
- f. dictate the terms on which a municipality may retain a professional to examine or inspect a taxpayer's books, R.C. §718.31;
- g. require that rules and regulations adopted by municipalities to administer their municipal income taxes comply with Chapter 718 of the Revised Code, R.C. §718.30.

**FIRST CLAIM FOR RELIEF**  
**(Declaratory Judgment that the H.B. 49 Municipal Income Tax Provisions Violate the Ohio Constitution's Home Rule Amendment)**

24. Plaintiffs reallege and incorporate the allegations set forth in Paragraphs 1 through 23 as if fully restated herein.
25. Section 3, Article XVIII of the Ohio Constitution, referred to hereafter as “the Home Rule Amendment,” states:
- Municipalities shall have authority to exercise all powers of local self-government and to adopt and enforce within their limits such local police, sanitary, and other similar regulations, as are not in conflict with general laws.
26. Pursuant to the Home Rule Amendment, state law may not dictate the municipal exercise of the powers of local self-government.
27. The power of taxation is an inherent component of home rule and the power of local self-government.
28. The power of municipal corporations to administer, receive, and audit municipal taxes is an inherent power of local self-government.
29. The exercise of local self-government and home rule authority, as well as the enforcement within municipal limits of local police, sanitary, and other similar regulations, requires that the local municipality has the ability to raise, hold, and disburse revenues from taxes levied by the local municipality.
30. The H.B. 49 Municipal Income Tax Provisions do not prescribe a rule of conduct upon citizens generally, but instead impact matters of local concern by receiving net profits tax revenues owed to municipalities, diverting net profits tax revenues owed to municipalities

away from municipalities, requiring submission of reports by municipalities, and removing audit and refund review powers from municipalities.

31. Section 13, Article XVIII of the Ohio Constitution, states:

Laws may be passed to limit the power of municipalities to levy taxes and incur debts for local purposes, and may require reports from municipalities as to their financial condition and transactions, in such form as may be provided by law, and may provide for the examination of the vouchers, books and accounts of all municipal authorities, or of public undertakings conducted by such authorities.

32. The H.B. 49 Municipal Income Tax Provisions, rather than “limit[ing] the power of municipalities to levy taxes,” usurp for the State the local self-government power to administer, receive, and audit municipal net profits taxes that have been levied.

33. The H.B. 49 Municipal Income Tax Provisions, rather than “requir[ing] reports from municipalities as to their financial condition and transactions” or “provid[ing] for the examination of the vouchers, books and accounts of all municipal authorities, or of public undertakings conducted by such authorities,” require reports from municipalities as to the net operating loss carryforwards and other tax-return elections of *taxpayers*, not of the municipal authorities.

34. Section 6, Article XIII of the Ohio Constitution states:

The General Assembly shall provide for the organization of cities, and incorporated villages, by general laws, and restrict their power of taxation, assessment, borrowing money, contracting debts and loaning their credit, so as to prevent the abuse of such power.

35. Rather than restricting the Plaintiffs’ municipal power of taxation so as to prevent abuse of that power, the H.B. 49 Municipal Income Tax Provisions entirely usurp the local self-government power to administer, audit, and receive municipal net profit taxes.

36. The Ohio Constitution does not grant authority to the State to intercept, confiscate, or spend municipal tax revenues.
37. Plaintiffs are entitled to a judgment declaring that the H.B. 49 Municipal Income Tax Provisions are unconstitutional infringements upon the powers of local self-government conferred upon municipalities by the Home Rule Amendment.
38. Plaintiffs are entitled to a judgment that the H.B. 49 Municipal Income Tax Provisions exceed the State's authority under Section 13, Article XVIII of the Ohio Constitution to limit the power of municipalities to levy taxes.
39. Plaintiffs are entitled to a declaratory judgment that the H.B. 49 Municipal Income Tax Provisions exceed the State's authority under Section 6, Article XIII of the Ohio Constitution to restrict the Plaintiffs' municipal power of taxation so as to prevent the abuse of such power.

**SECOND CLAIM FOR RELIEF**

**(Declaratory Judgment that H.B. 5 Provisions Violate the Ohio Constitution's Home Rule Amendment)**

40. Plaintiffs reallege and incorporate the allegations set forth in Paragraphs 1 through 39 as if fully restated herein.
41. The provisions of H.B. 5 listed in the preceding Paragraph 23 do not limit the power of municipalities to levy taxes under Section 13, Article XVIII of the Ohio Constitution, or restrict the municipal power of taxation so as to prevent the abuse of such power under Section 6, Article XIII of the Ohio Constitution.
42. The provisions of H.B. 5 listed in the preceding Paragraph 23 dictate the exercise of administrative, procedural, and enforcement powers rather than the power of taxation,

and therefore unconstitutionally infringe upon Plaintiffs' powers of local self-government in violation of the Home Rule Amendment.

43. R.C. §718.04(A), and Section 6 of H.B. 5, unconstitutionally infringe upon Plaintiffs' power of local self-government, and thus violate the Home Rule Amendment, by usurping the constitutionally granted municipal power of taxation as a conditional grant of authority bestowed by statutes of the General Assembly.

44. Plaintiffs are entitled to a declaratory judgment that the provisions of H.B. 5 listed in Paragraph 23 are unconstitutional, in that they infringe upon the power of local self-government in violation of the Home Rule Amendment.

45. Plaintiffs are entitled to a declaratory judgment that R.C. §718.04(A) and Section 6 of H.B. 5 are unconstitutional, in that they impose general limitations on the constitutionally granted municipal power of taxation and thus make it a conditional grant bestowed by statutes of the General Assembly.

### **THIRD CLAIM FOR RELIEF**

#### **(Declaratory Judgment of Violation of Single-Subject Rule as to H.B. 49 Municipal Income Tax Provisions)**

46. Plaintiffs reallege and incorporate the allegations set forth in Paragraphs 1 through 45 as if fully restated herein.

47. Section 15(D), Article II of the Ohio Constitution states:

No bill shall contain more than one subject, which shall be clearly expressed in its title. No law shall be revised or amended unless the new act contains the entire act revised, or the section or sections amended, and the section or sections amended shall be repealed.

48. The primary purpose of H.B. 49 set forth in its title is “to make operating appropriations for the biennium beginning July 1, 2017, and ending June 30, 2019, and to provide authorization and conditions for the operation of state programs.”
49. The administration and collection of net profits taxes levied under the home-rule taxing power of Ohio municipalities is not related to State operating appropriations or conditions of operation for state programs.
50. The H.B. 49 Municipal Income Tax Provisions constitute a substantive program created within the appropriations bill.
51. The H.B. 49 Municipal Income Tax Provisions are little more than riders attached to the appropriations bill.
52. A blatant disunity exists between the H.B. 49 Municipal Income Tax Provisions and the balance of the appropriations bill.
53. No rational reason for the combination of the H.B. 49 Municipal Income Tax Provisions and the balance of the appropriations bill exists.
54. The common thread of appropriations does not tie the H.B. 49 Municipal Income Tax Provisions to the balance of the bill.
55. Plaintiffs are entitled to a declaratory judgment that the H.B. 49 Municipal Income Tax Provisions are unconstitutional in that they were passed in violation of the single-subject rule established by Section 15(D), Article II of the Ohio Constitution.

**FOURTH CLAIM FOR RELIEF**

**(Declaratory Judgment that H.B. 49 Municipal Income Tax Provisions Impair the  
Obligation of Contracts)**

56. Plaintiffs reallege and incorporate the allegations set forth in Paragraphs 1 through 55 as if fully restated herein.



57. Section 28, Article II of the Ohio Constitution states:

The general assembly shall have no power to pass retroactive laws, or laws impairing the obligation of contracts; but may, by general laws, authorize courts to carry into effect, upon such terms as shall be just and equitable, the manifest intention of parties, and officers, by curing omissions, defects, and errors, in instruments and proceedings, arising out of their want of conformity with the laws of this state.

58. Plaintiffs have entered contracts with vendors and other agencies obligating such vendors and agencies to perform municipal net profits tax collection and audit activities.

59. The H.B. 49 Municipal Income Tax Provisions impairs the contractual relationships and obligations between Plaintiffs and said vendors and other agencies, by providing for centralized collection, disbursement, refund, and auditing of municipal net profits taxes.

60. The contractual impairments resulting from the H.B. 49 Municipal Income Tax Provisions are substantial.

61. The contractual impairments resulting from the H.B. 49 Municipal Income Tax Provisions are unnecessary and unreasonable.

62. Plaintiffs are entitled to a declaratory judgment that the H.B. 49 Municipal Income Tax Provisions are unconstitutional in that impair contractual obligations in violation of Section 28, Article II of the Ohio Constitution.

#### **FIFTH CLAIM FOR RELIEF**

**(Declaratory Judgment for Conversion as to H.B. 49 Municipal Income Tax Provisions)**

63. Plaintiffs reallege and incorporate the allegations set forth in Paragraphs 1 through 62 as if fully restated herein.

64. Conversion is defined as “the wrongful exercise of dominion over property to the exclusion of the rights of the owner, or withholding it from his possession under a claim

inconsistent with his rights.” See *RFC Capital Corp. v. EarthLink, Inc.*, 10th Dist.

Franklin No. 03AP-735, 2004-Ohio-7046, ¶61, citing *Joyce v. General Motors Corp.*, 49 Ohio St.3d 93, 96, 551 N.E.2d 172 (1990).

65. To prove conversion, a plaintiff must show (a) defendant’s exercise of dominion or control (b) over a plaintiff’s property (c) in a manner inconsistent with the plaintiff’s rights of ownership. *Id.*
66. Plaintiffs have a right to possession of payments remitted for their respective municipal net profits taxes.
67. Defendants, by acting pursuant to H.B. 49’s Municipal Income Tax Provisions, will exercise dominion or control over Plaintiffs’ property, i.e., remittances of municipal income tax payments.
68. Defendants’ exercise of control over Plaintiffs’ property will be in a manner inconsistent with Plaintiffs’ rights of ownership.
69. The conversion of Plaintiffs’ property by Defendants as provided in H.B. 49’s Municipal Income Tax Provisions, presents a justiciable controversy because the imminent performance of H.B. 49 Municipal Income Tax Provisions presents “a genuine dispute between parties having adverse legal interests of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.” See *Waldman v. Pitcher*, 70 N.E.3d 1025, 2016-Ohio-5909 (1st Dist.), ¶21, citing *Burger Brewing Co. v. Liquor Control Comm.*, 34 Ohio St.2d 93, 97, 296 N.E.2d 261 (1973).
70. Plaintiffs are entitled to a declaratory judgment that the H.B. 49 Municipal Income Tax Provisions effect a conversion of Plaintiffs’ property.

**SIXTH CLAIM FOR RELIEF**

**(Declaratory Judgment for Taking Without Just Compensation as to H.B. 49 Municipal Income Tax Provisions)**

71. Plaintiffs reallege and incorporate the allegations set forth in Paragraphs 1 through 70 as if fully restated herein.
72. Plaintiffs have a property interest in revenues owed to them under their municipal net profits tax ordinances, and in the funds remitted pursuant to Plaintiffs' municipal net profits tax ordinances.
73. Residents of the Plaintiff municipalities receive direct benefits from Plaintiffs' use of revenues from municipal net profits taxes for provision of municipal services, such as police, fire, EMS, recreation, and public works.
74. Plaintiffs will suffer direct injuries to their respective treasuries by enforcement and performance of the H.B. 49 Municipal Income Tax Provisions.
75. Plaintiffs' residents have an interest in the treasuries of their resident municipalities, in that if Plaintiffs' treasuries are injured on account of H.B. 49's Municipal Income Tax Provisions, the Plaintiffs' residents will be injured by the consequent diminishment of money to provide municipal services. *See E. Liverpool v. Columbiana Cty. Budget Comm.*, 114 Ohio St.3d 133, 2007-Ohio-3759, 870 N.E.2d 705, ¶23.
76. A close relationship exists between Plaintiffs and their respective residents, such that they have an interdependent interest in the Plaintiffs' treasuries. *See id.* at ¶24.
77. Because the injury suffered by residents is not unique to any single resident, but shared by all of them, Plaintiffs' residents are hindered in seeking relief on their own behalf.
78. Section 19, Article I of the Ohio Constitution requires payment of compensation for takings of property.

79. The confiscation of Plaintiffs' tax revenues under the H.B. 49 Municipal Income Tax Provisions effects a taking of Plaintiffs' property, and property of Plaintiffs' residents, without just compensation, and is prohibited by Section 19, Article I of the Ohio Constitution.
80. The taking of property under the H.B. 49 Municipal Income Tax Provisions presents a justiciable controversy for purposes of declaratory judgment because the imminent performance of H.B. 49 Municipal Income Tax Provisions presents "a genuine dispute between parties having adverse legal interests of sufficient immediacy and reality to warrant the issuance of a declaratory judgment." *See Waldman* at ¶21.
81. Plaintiffs are entitled to a declaratory judgment that the H.B. 49 Municipal Income Tax Provisions effect a taking of property without just compensation in violation of Section 19, Article I of the Ohio Constitution.

**SEVENTH CLAIM FOR RELIEF**

**(Declaratory Judgment that H.B. 49 Municipal Income Tax Provisions Deprive Plaintiffs of Property without Remedy by Due Course of Law)**

82. Plaintiffs reallege and incorporate the allegations set forth in Paragraphs 1 through 81 as if fully restated herein.
83. Plaintiffs have a property interest in revenues owed to them under their municipal net profits tax ordinances, and in the funds remitted pursuant to Plaintiffs' municipal net profits tax ordinances.
84. Residents of the Plaintiff municipalities receive direct benefits from Plaintiffs' use of revenues from municipal net profits taxes for provision of municipal services, such as police, fire, EMS, recreation, and public works.

85. Plaintiffs will directly suffer injury through deprivation of property, through confiscation and loss of tax revenue, by the enforcement and performance of the H.B. 49 Municipal Income Tax Provisions.
86. Plaintiffs' residents have an interest in the confiscated and forgone tax revenues of which their respective municipalities would be deprived, in that if Plaintiff are deprived of property on account of H.B. 49's Municipal Income Tax Provisions, the Plaintiffs' residents will be injured by the consequent diminishment of resources to provide municipal services. *See E. Liverpool* at ¶23.
87. A close relationship exists between Plaintiffs and their respective residents, such that they have an interdependent interest in the Plaintiffs' property. *See id.* at ¶24.
88. Because the injury suffered by residents is not unique to any single resident, but shared by all of them, Plaintiffs' residents are hindered in seeking relief on their own behalf.
89. Section 16, Article I, of the Ohio Constitution provides that persons suffering injury to property "shall have remedy by due course of law."
90. The H.B. 49 Municipal Income Tax Provisions deprive Plaintiffs of their property, and property of Plaintiffs' residents, without remedy by due course of law, in that it mandates direct confiscation of tax revenues (*see, e.g.*, R.C. §§718.80(C)(3), R.C. §718.85(B)) without providing remedy for Plaintiffs.
91. The H.B. 49 Municipal Income Tax Provisions deprive Plaintiffs of their property, and the property of Plaintiffs' residents, without remedy by due course of law by, for example, depriving Plaintiffs of the ability to evaluate and contest claims for refund of municipal income taxes for taxpayers making the Election, *see* R.C. §718.91; charging Plaintiffs for interest on refunds granted and paid late, through no fault of the

municipality, by the tax commissioner, *see* R.C. §718.91(C); and depriving municipalities of the ability to inspect the books and records of a taxpayer making the Election, *see* R.C. §718.93.

92. The deprivation of Plaintiffs' property without remedy by due course of law under the H.B. 49 Municipal Income Tax Provisions presents a justiciable controversy for purposes of declaratory judgment because the imminent performance of H.B. 49 Municipal Income Tax Provisions presents "a genuine dispute between parties having adverse legal interests of sufficient immediacy and reality to warrant the issuance of a declaratory judgment." *See Waldman* at ¶21.

93. Plaintiffs are entitled to a declaratory judgment that the H.B. 49 Municipal Income Tax Provisions effect a deprivation of property without remedy by due course of law in violation of Section 16, Article I of the Ohio Constitution.

**EIGHTH CLAIM FOR RELIEF**  
**(Preliminary and Permanent Injunction as to Defendant Testa's Execution of H.B. 49 Municipal Income Tax Provisions)**

94. Plaintiffs reallege and incorporate the allegations set forth in Paragraphs 1 through 93 as if fully restated herein.

95. Plaintiffs request a preliminary injunction pursuant to Civ.R. 65(B).

96. Defendant Testa's administration of municipal net profits taxes as provided by the H.B. 49 Municipal Income Tax Provisions is a violation of Plaintiffs' power of local self-government under the Home Rule Amendment to the Ohio Constitution.

97. Defendant Testa's administration of municipal net profits taxes as provided by the H.B. 49 Municipal Income Tax Provision is a taking of municipal property without just compensation.

98. Defendant Testa's administration of municipal net profits taxes as provided by the H.B. 49 Municipal Income Tax Provisions is a deprivation of municipal property without remedy by due course of law.
99. Defendant Testa's administration of municipal net profits taxes as provided by the H.B. 49 Municipal Income Tax Provisions effects a conversion of municipal property.
100. There is a substantial likelihood that Plaintiffs will prevail on the merits.
101. Defendant Testa's administration of municipal net profits taxes as provided by the H.B. 49 Municipal Income Tax Provisions causes injury to the Plaintiffs for which they do not have adequate remedy at law.
102. The issuance of a preliminary injunction would prevent an irreparable harm caused by Defendant Testa's confiscation of municipal net profit tax revenues mandated by the H.B. 49 Municipal Income Tax Provisions.
103. No third parties will be unjustifiably harmed if the requested injunction is granted.
104. The public interest will be served by granting the requested injunction.
105. Defendant Testa should be preliminarily and permanently enjoined from performing any of the duties placed upon him by the H.B. 49 Municipal Income Tax Provisions.

**NINTH CLAIM FOR RELIEF**  
**(Preliminary and Permanent Injunction as to Defendant Mandel's Execution of H.B. 49 Municipal Income Tax Provisions)**

106. Plaintiffs reallege and incorporate the allegations set forth in Paragraphs 1 through 105 as if fully restated herein.
107. Plaintiffs request a preliminary injunction pursuant to Civ.R. 65(B).

108. Defendant Mandel's confiscation of municipal income tax revenues as mandated by the H.B. 49 Municipal Income Tax Provisions is a violation of Plaintiffs' power of local self-government under the Home Rule Amendment to the Ohio Constitution.
109. Defendant Mandel's confiscation of municipal income tax revenues as mandated by the H.B. 49 Municipal Income Tax Provision is a taking of municipal property without just compensation.
110. Defendant Mandel's confiscation of municipal income tax revenues as mandated by the H.B. 49 Municipal Income Tax Provisions is a deprivation of municipal property without remedy by due course of law.
111. Defendant Mandel's confiscation of municipal income tax revenues as mandated by the H.B. 49 Municipal Income Tax Provisions effects a conversion of municipal property.
112. There is a substantial likelihood that Plaintiffs will prevail on the merits.
113. Defendant Mandel's confiscation of municipal net profits tax revenues as mandated by the H.B. 49 Municipal Income Tax Provisions causes injury to the Plaintiffs for which they do not have adequate remedy at law.
114. The issuance of a preliminary injunction would prevent an irreparable harm caused by Defendant Mandel's confiscation of municipal net profits tax revenues mandated by the H.B. 49 Municipal Income Tax Provisions.
115. No third parties will be unjustifiably harmed if the requested injunction is granted.
116. The public interest will be served by granting the requested injunction.



117. Defendant Mandel should be preliminarily and permanently enjoined from performing any of the duties placed upon him by the H.B. 49 Municipal Income Tax Provisions.

**TENTH CLAIM FOR RELIEF**  
**(Preliminary and Permanent Injunction as to Defendant Keen’s Execution of H.B. 49 Municipal Income Tax Provisions)**

118. Plaintiffs reallege and incorporate the allegations set forth in Paragraphs 1 through 117 as if fully restated herein.

119. Plaintiffs request a preliminary injunction pursuant to Civ.R. 65(B).

120. Defendant Keen’s confiscation of municipal net profits tax revenues as mandated by the H.B. 49 Municipal Income Tax Provisions is a violation of Plaintiffs’ power of local self-government under the Home Rule Amendment to the Ohio Constitution.

121. Defendant Keen’s confiscation of municipal net profits tax revenues as mandated by the H.B. 49 Municipal Income Tax Provision is a taking of municipal property without just compensation.

122. Defendant Keen’s confiscation of municipal net profits tax revenues as mandated by the H.B. 49 Municipal Income Tax Provisions is a deprivation of municipal property without remedy by due course of law.

123. Defendant Keen’s confiscation of municipal net profits tax revenues as mandated by the H.B. 49 Municipal Income Tax Provisions effects a conversion of municipal property.

124. There is a substantial likelihood that Plaintiffs will prevail on the merits.

125. Defendant Keen's confiscation of municipal net profits tax revenues as mandated by the H.B. 49 Municipal Income Tax Provisions causes injury to the Plaintiffs for which they do not have adequate remedy at law.
126. The issuance of a preliminary injunction would prevent an irreparable harm caused by Defendant Keen's confiscation of municipal net profits tax revenues mandated by the H.B. 49 Municipal Income Tax Provisions.
127. No third parties will be unjustifiably harmed if the requested injunction is granted.
128. The public interest will be served by granting the requested injunction.
129. Defendant Keen should be preliminarily and permanently enjoined from performing any of the duties placed upon him by the H.B. 49 Municipal Income Tax Provisions.

**ELEVENTH CLAIM FOR RELIEF**  
**(Preliminary and Permanent Injunction as to H.B. 5)**

130. Plaintiffs reallege and incorporate the allegations set forth in Paragraphs 1 through 129 as if fully restated herein.
131. Plaintiffs request a preliminary injunction pursuant to Civ.R. 65(B).
132. R.C. 718.04(A) unconstitutionally infringes upon Plaintiffs' powers of local self-government in violation of the Home Rule Amendment to the Ohio Constitution.
133. Section 6 of H.B. 5 unconstitutionally infringes upon Plaintiffs' powers of local self-government in violation of the Home Rule Amendment to the Ohio Constitution.
134. R.C. §§718.11, 718.27, 718.28(C), 718.30, and 718.31 unconstitutionally infringe upon Plaintiffs' powers of local self-government in violation of the Home Rule Amendment to the Ohio Constitution.

135. R.C. §718.04(A), Section 6 of H.B. 5, or R.C. §§718.11, 718.27, 718.28(C), 718.30, and 718.31 cause irreparable harm to Plaintiffs.
136. Plaintiffs' injury does not have adequate remedy at law.
137. There is a substantial likelihood that Plaintiffs will prevail on the merits.
138. The issuance of a preliminary injunction would prevent further irreparable harm caused by the violation of the Home Rule Amendment by R.C. §718.04(A), Section 6 of H.B. 5, or R.C. §§718.11, 718.27, 718.28(C), 718.30, and 718.31.
139. No third parties will be unjustifiably harmed if the requested injunction is granted.
140. The public interest will be served by granting the requested injunction.
141. Defendant the State of Ohio should be preliminarily and permanently enjoined from taking any actions to enforce R.C. §718.04(A), Section 6 of H.B. 5, or R.C. §§718.11, 718.27, 718.28(C), 718.30, and 718.31.

**WHEREFORE**, Plaintiffs pray for the following relief:

- A. For a declaratory judgment that the H.B. 49 Municipal Income Tax Provisions violate the Home Rule Amendment by infringing upon Ohio municipalities' power of local self-government.
- B. For a declaratory judgment that Section 718.04(A) of the Ohio Revised Code violates the Home Rule Amendment by infringing upon Ohio municipalities' power of local self-government.
- C. For a declaratory judgment that uncodified Section 6 of H.B. 5 violates the Home Rule Amendment by infringing upon Ohio municipalities' power of local self-government.

- D. For a declaratory judgment that Section 718.11 of the Ohio Revised Code violates the Home Rule Amendment by infringing upon Ohio municipalities' power of local self-government.
- E. For a declaratory judgment that Section 718.27 of the Ohio Revised Code violates the Home Rule Amendment by infringing upon Ohio municipalities power of local self-government.
- F. For a declaratory judgment that Section 718.28(C) of the Ohio Revised Code violates the Home Rule Amendment by infringing upon Ohio municipalities power of local self-government.
- G. For a declaratory judgment that Section 718.30 of the Ohio Revised Code infringes upon Ohio municipalities' power of local self-government.
- H. For a declaratory judgment that Section 718.31 of the Ohio Revised Code infringes upon Ohio municipalities' power of local self-government.
- I. For a declaratory judgment that the H.B. 49 Municipal Income Tax Provisions are void as violative of the Single-Subject Rule.
- J. For a declaratory judgment that the H.B. 49 Municipal Income Tax Provisions constitute a conversion of municipal net profits tax revenues.
- K. For a declaratory judgment that the H.B. 49 Municipal Income Tax Provisions constitute a taking of property without just compensation.
- L. For a declaratory judgment that the H.B. 49 Municipal Income Tax Provisions constitute a deprivation of property without remedy by due course of law.

- M. For preliminary and permanent injunction against Defendant Testa's enforcement or execution of the duties assigned to the Tax Commissioner by the H.B. 49 Municipal Income Tax Provisions.
- N. For preliminary and permanent injunction against Defendant Mandel's enforcement or execution of the duties assigned to the Treasurer by the H.B. 49 Municipal Income Tax Provisions.
- O. For preliminary and permanent injunction against Defendant Keen's enforcement or execution of the duties assigned to the Director of the Office of Budget and Management by the H.B. 49 Municipal Income Tax Provisions.
- P. For preliminary and permanent injunction against Defendant the State of Ohio's enforcement of Sections 718.04(A), 718.11, 718.27, 718.28(C), 718.30, and 718.31 of the Ohio Revised Code, and uncodified Section 6 of H.B. 5.
- Q. For any other or further relief that the Court may deem proper.

Respectfully submitted,

/s/ Eugene L. Hollins  
Eugene L. Hollins (0040355)  
Frank J. Reed, Jr. (0055234)  
Yazan S. Ashrawi (0089565)  
Thaddeus M. Boggs (0089231)  
Michelle Y. Harrison (0093814)  
FROST BROWN TODD LLC  
10 West Broad Street, Suite 2300  
Columbus, Ohio 43215  
Phone: (614) 464-1211  
Facsimile: (614) 464-1737  
ghollins@fbtlaw.com  
freed@fbtlaw.com  
yashrawi@fbtlaw.com  
tboggs@fbtlaw.com

myharrison@fbtlaw.com

*Attorneys for Plaintiffs*

0137438.0653794 4824-3830-9461v1