



Legislation Text

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A RESOLUTION CONFIRMING THE INTENTION OF THE CITY OF GAHANNA TO JOIN THE CITY OF COLUMBUS AS A CO-PLAINTIFF IN LEGAL ACTION CHALLENGING SECTION 9.681 OF THE OHIO REVISED CODE PROHIBITING LOCAL ADMINISTRATIVE REGULATION OF TOBACCO PRODUCTS AND ALTERNATIVE NICOTINE PRODUCTS

WHEREAS, Article XVIII, Section 3, of the Ohio Constitution, known as the Home Rule Amendment, grants municipal corporations including the City of Gahanna all powers of local self-government and the power to adopt and enforce within their limits such local police, sanitary, and other regulations as are not in conflict with general laws; and

WHEREAS, the Ohio General Assembly, overriding the Governor's line-item veto, has adopted legislation to be codified in Section 9.681 of the Ohio Revised Code and purporting to prohibit municipal corporations from regulating tobacco and alternative nicotine products; and

WHEREAS, Section 9.681 is not a general law within the meaning established by the Ohio Supreme Court, as it purports only to limit the legislative and regulatory power of municipal corporations; and

WHEREAS, Section 9.681, in addition to purporting only to deprive municipal corporations of home rule power, chills the exercise of home rule powers by its inclusion of a provision shifting attorney fee liability to municipal corporations that do not prevail against legal challenges under the section; and

WHEREAS, the City of Gahanna has been a leader in the protection of public health, safety, and welfare regarding the sale of tobacco and alternative nicotine products, including with its adoption and enforcement of Tobacco 21 and alternative nicotine product regulations prior to action by the State; and

WHEREAS, the City of Columbus has announced that it will be filing a legal action to enjoin Section 9.681 of the Ohio Revised Code as a violation of the Home Rule Amendment; and

WHEREAS, the City of Gahanna is committed to preserving its constitutional powers of local self-governance and protection of the public health, safety, and welfare, both as to the specific topic of

tobacco and alternative nicotine products and generally, against further erosion and infringement;

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF GAHANNA,
COUNTY OF FRANKLIN, STATE OF OHIO:**

Section 1. That the Council of the City of Gahanna, Ohio, hereby confirms its intention to join the City of Columbus, as a party and co-plaintiff, in legal action to enjoin Section 9.681 of the Ohio Revised Code and seeking declaratory and other appropriate relief.

Section 2. That the City Attorney and other applicable officers and agents of the City are hereby authorized to execute such documents and take such further actions as are necessary, appropriate, and consistent with this Resolution.

Section 3. That this resolution shall be in full force and effect at the earliest period allowed by law.