



Feb 06, 2017

Categories:

[Publications](#)

Authors:

[Thaddeus M. Boggs](#)

State Cannot Use Funding Cut to Compel Municipalities to Follow State's Procedures for Red-Light Cameras

On January 20, 2017, the Sixth District Court of Appeals affirmed the Lucas County Common Pleas Court's enjoining the State of Ohio from taking any action to enforce a provision from the State's 2015 biennial budget that would penalize municipalities for refusing to comply with a "red-light camera" law the court of common pleas had previously found to be unconstitutional. The court of appeals also affirmed that the injunction is enforceable by the court of common pleas in contempt proceedings.

The Sixth District's decision is a victory for home rule and supports the argument that the state cannot coercively use its spending powers to circumvent municipalities' power of local self-government.

Toledo's underlying challenge to S.B. 342's restrictions on municipal authority over traffic enforcement using photo-monitoring devices

The Sixth District's January 20 decision arises from the General Assembly's efforts to thwart municipalities' use of photo-monitoring devices for traffic infractions such as red-light violations and speeding. The City of Toledo sued the state to enjoin enforcement of the 130th General Assembly's Am. Sub. S.B. 342 ("S.B. 342") as an unconstitutional infringement upon the city's powers local self-government under the Home Rule Amendment.

The Lucas County Court of Common Pleas found S.B. 342's provisions regulating municipalities' use of photo-monitoring systems in traffic enforcement to be unconstitutional, and enjoined their enforcement. While the state's appeal of that decision was pending before the Sixth District, the General Assembly passed Am.

Sub. H.B. 64 (“H.B. 64”), its biennial budget bill; H.B. 64 included a provision that would withhold state funds from municipalities that refused to comply with S.B. 342’s mandates—penalizing those municipalities even though the Lucas County Court of Common Pleas (and, ultimately, the Sixth District Court of Appeals) ruled that S.B. 342’s restrictions violated municipalities’ home-rule rights.

S.B. 342 was the state’s response to the Ohio Supreme Court’s decision in *Walker v. Toledo* (“*Walker*”), 143 Ohio St.3d 420, 2014–Ohio–5461, 39 N.E.3d 474, ¶121, which held that the Ohio Constitution’s Home Rule Amendments give municipalities authority to establish automated systems for imposing civil liability on traffic violators. Nevertheless, with S.B. 342 the General Assembly attempted to limit municipalities’ legislative ability to make the use of photo-monitoring devices for traffic enforcement infeasible.

Toledo sought injunctive and declaratory relief against S.B. 342 on the grounds that it violated the city’s home-rule authority to exercise all powers of local self-government. The common pleas court granted summary judgment to the city and enjoined enforcement of the following eight provisions of S.B. 342 for violating the city’s home-rule rights:

- By requiring a police officer to be present during the operation of photo-monitoring devices.
- By mandating completion of a safety study prior to implementing a photo-monitoring system.
- By imposing requirements on local law enforcement officers to review the images from the photo-monitoring device to identify mandated information before attempting to identify and ticket the offender.
- By specifying information that must be included on a civil violation ticket arising from a photo-monitoring device’s observations.
- By providing the mandatory method for a ticketed person to challenge the allegation contained in the ticket.
- By providing a mandatory administrative hearing process for challenging tickets derived from observations of a photo-monitoring system.

- By requiring manufacturers to provide maintenance records and a certificate attesting to their photo-monitoring devices' accuracy.
- By specifying that speed limit violations are only punishable for speeds six miles per hour or more over the speed limit in school zones, or ten miles per hour or more over the speed limit in other zones.

The state appealed, and the Sixth District Court of Appeals affirmed the trial court's decision on July 8, 2016, in *Toledo v. State* ("*Toledo I*"), 56 N.E.3d 997, 2016-Ohio-4906.

The General Assembly's biennial budget penalizing municipalities that refused to comply with S.B. 342

On June 26, 2015, while the appeal from the trial court's first injunction was pending, the General Assembly passed H.B. 64, its biennial budget bill. The bill contained provisions "condition[ing] a municipality's receipt of certain state funds on compliance with the traffic-law monitoring provisions in S.B. 342." *Toledo v. State* ("*Toledo II*"), 6th Dist. Lucas Co. No. L-15-1286, ___ N.E.3d ____, 2017-Ohio-215, 2017 WL 275974, ¶14 (Jan. 20, 2017). Non-compliant cities' state funds would be reduced by an amount equal to the fines they had billed to drivers—even though the Lucas County Court of Common Pleas had found S.B. 342's mandates to municipalities were *unconstitutional*.

Toledo's motion to enforce the common pleas court's permanent injunction

Following H.B. 64's passage, Toledo filed a "Motion for Order to Enforce Permanent Injunction" with the Lucas County Court of Common Pleas. The city argued that H.B. 64's funding penalty provisions showed the state's "'blatant disregard for the concept of separation of powers' . . . in retaliation against the city for successfully challenging the constitutionality of S.B. 342." *Id.* at ¶15 (quoting Toledo's motion). The state argued that the city's challenge

to H.B. 64 required a new complaint, since the city's initial complaint had only challenged S.B. 342's constitutionality. The state went on to argue that the trial court's injunction against S.B. 342's provisions "did not preclude [the state] from 'distributing its money in a manner that incentivizes particular conduct on the part of local entities.'" *Id.* at ¶16 (quoting the state's memorandum contra).

The court of common pleas granted the city's motion, stating that S.B. 64's "threatened loss of funding is economic dragooning" and ordering that "the State is enjoined from taking any action that would result in a reduction of State funding to the City as a result of the City's noncompliance with the unconstitutional statutes." *Toledo v. State*, Lucas Cnty. Ct. of Common Pleas No. CI 0201501828, Opinion and Judgment Entry (Oct. 7, 2015). The court went on to rule that violation of its injunction would be punishable by contempt proceedings against the state.

The Sixth District's January 20, 2017, Decision Affirming the Injunction

The state appealed the common pleas court's October 7, 2015, decision by alleging four assignments of error:

- (1) That the trial court had no jurisdiction to enjoin enforcement of H.B. 64's funding penalty provisions because challenge to that law was not alleged in the original complaint.
- (2) That the trial court encroached upon the General Assembly's policymaking role in violation of the separation of powers doctrine.
- (3) That the trial court, assuming it had jurisdiction, abused its discretion in finding that H.B. 64's funding penalty provisions violated its previous injunction and that action to enforce the provisions would be contempt of court.
- (4) That the trial court abused its discretion because the city did not offer evidence demonstrating entitlement to an injunction. *Toledo II* at ¶19.

The Sixth District rejected all of the state's assignments of error. First, the Sixth District ruled that the trial court did not determine

the constitutionality of the H.B. 64's pertinent provisions—instead, the trial court exercised its continuing jurisdiction to stop the state from violating its previously issued injunction. *Id.* at ¶14. Next, the court of appeals found that the trial court did not violate the separation of powers doctrine by issuing the second injunction; the trial court had the inherent power to enforce compliance with its prior orders. *Id.* at ¶17. The Sixth District then rejected the state's third assignment of error, stating that H.B. 64's offending provisions were an attempted "end-run around the trial court's injunction in an effort to enforce S.B. 342;" thus it was proper for the court to enjoin enforcement of those H.B. 64 provisions and would be proper for the trial court to use its inherent contempt powers to enforce that injunction. *Id.* at ¶25–26. The Sixth District found no merit to the state's fourth assignment of error. *Id.* at ¶26.

Conclusion

The Sixth District's decision represents a victory for municipal home rule. It avoids setting a dangerous precedent that would allow the state to use its spending powers to coerce municipalities in their exercise of the power of local self-government.

For more information, please contact Thad Boggs or any attorney in Frost Brown Todd's [Government Services Practice Group](#).

© 2026 FBT Gibbons LLP. May be considered attorney advertising in some jurisdictions.