

ORDINANCE NO. 7957

AN ORDINANCE AUTHORIZING THE CITY LAW DIRECTOR TO JOIN A COALITION OF MUNICIPALITIES RETAINING SPECIAL COUNSEL TO INITIATE LITIGATION CHALLENGING THE CONSTITUTIONALITY OF AMENDMENTS TO CHAPTER 718 OF THE OHIO REVISED CODE AND DECLARING AN EMERGENCY

WHEREAS, the City of Defiance relies on revenues generated by municipal income taxes to provide services that are essential to the health, safety and welfare of the community; and,

WHEREAS, effective and cost efficient collection of municipal income taxes is vital to the health, safety and welfare of the municipality; and,

WHEREAS, the State of Ohio enacted House Bill 5 which required the City to amend the Municipal Income Tax Ordinance in conformity with State requirements enunciated in that Bill; and,

WHEREAS, the State of Ohio subsequently enacted H.B. 49 as a budgetary measure that is not subject to Referendum and can, therefore, only be challenged by the commencement of litigation contesting the Constitutionality of doubtful provisions contained within the Bill; and,

WHEREAS, House Bill 49 contains provisions that purport to prohibit municipal collection of taxes levied on the net profits of business entities which elect to pay such taxes through a centralized collection service operated by the State of Ohio; and,

WHEREAS, House Bill 49 contains provisions that require the City to divert municipal taxes collected through the centralized collection service to payment of statutory fees imposed by the State to defray the operational costs of the centralized collection service, thereby endangering the City's capacity to finance services essential to the health, safety and welfare of the community; and,

WHEREAS, Council finds that the aforesaid provisions of H.B. 5 and H.B. 49 infringe on the municipality's powers of local self-government as guaranteed by Article XVIII of the Ohio Constitution; and,

WHEREAS, Council further finds the aforesaid provisions of H.B. 49 were improperly enacted in violation of Article II, §15 of the Ohio Constitution;

Now therefore, be it enacted by the Council of the Municipality of Defiance, Ohio, that:

Section 1: The City Law Director is directed to join a coalition of municipalities being formed to initiate litigation challenging the constitutionality of amendments to Chapter 718 of the Ohio Revised Code enacted by House Bills 5 and 49. The Law Director is further authorized to engage Frost Brown Todd, LLC as special counsel to represent the City in such litigation and to approve payments from the General Fund as necessary to satisfy the City's obligation to make proportional contributions to the payment of legal fees and expenses incurred to Frost Brown Todd, LLC as special counsel for the coalition of municipalities. The Law Director is further authorized to participate in the preparation and presentation of arguments to the Ohio Courts to the extent such participation may be requested by Frost Brown Todd, LLC.

Section 2: The Finance Director is authorized to pay the initial contribution to litigation expenses in the amount of \$4,000 from lawfully available General Funds.

Section 3: It is found and determined that all legislative actions pertaining to the adoption of this Ordinance were taken in Public Session and that all deliberations that affected or influenced any such legislative act, including all deliberations in Committee, were conducted in Public Session duly convened in accordance with law.

Section 4: This Ordinance is declared to be an emergency measure necessary to preserve the health, safety or welfare of the community for the reason that provisions in H.B. 49 purport to require the City to amend the Municipal Tax Ordinance before January 1, 2018. Immediate commencement of the authorized litigation is necessary to obtain an injunction against enforcement of that requirement before December 31, 2017. As such, this Ordinance shall be effective immediately upon passage by an affirmative vote of not less than 5 Members of Council and approval of the Mayor.

Passed: October 24, 2017

Michael Ketcham
President of Council

Votes in Favor of Adoption: 7

Votes Opposed to Adoption: 0

Attest: Lisa Elders, Clerk

Approved: October 24, 2017

Michael McCann
Mayor