

# **Bond Case Briefs**

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## **PUBLIC UTILITIES - OHIO**

### **Cleveland v. State**

**Supreme Court of Ohio - January 21, 2014 - 2014 WL 241956 - 2014 -Ohio- 86**

City brought action against state, seeking declaration that statute, granting Public Utilities Commission of Ohio (PUCO) authority to regulate towing companies as for-hire motor carriers, violated home rule amendment of state constitution. The Court of Common Pleas entered summary judgment in favor of state, and city appealed. The Court of Appeals reversed. State filed discretionary appeal.

The Supreme Court of Ohio held that:

- Statute was a general law;
- Portion of statute providing that towing companies were not subject to local ordinances violated home rule amendment; but
- Invalid portion of statute could be severed from remaining portion.

A state statute takes precedence over a local ordinance, such that the ordinance will be determined to exceed a municipality's powers under the home rule amendment to state constitution, when: (1) the ordinance is an exercise of the police power, rather than of local self-government, (2) the statute is a general law, and (3) the ordinance is in conflict with the statute.

To constitute a general law for purposes of home rule analysis under the state constitution, a statute must: (1) be part of a statewide and comprehensive legislative enactment, (2) apply to all parts of the state alike and operate uniformly throughout the state, (3) set forth police, sanitary, or similar regulations, rather than purport only to grant or limit legislative power of a municipal corporation to set forth police, sanitary, or similar regulations, and (4) prescribe a rule of conduct upon citizens generally.

Portion of statute granting PUCO authority to regulate towing companies as for-hire motor carriers, providing that towing entities were not subject to any ordinance, rule, or resolution of any local unit of government, violated home rule amendment of state constitution. Statute could not limit municipalities' right to enact ordinances that did not conflict with the general law.