OCG Bill Review — S.B. 278 (Punitive Damages Against Local Governments Under the Firearm Preemption Law)

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Bill Review No. 013 · RL-2026-054 · 11/17/26 · Version 1.0

Bottom line: S.B. 278 adds five words to Ohio's firearm preemption law, R.C. 9.68: "including punitive or exemplary damages." Since 2019, a person or group harmed by a local gun rule that conflicts with state law has been able to sue the local government for damages and recover attorney's fees and costs. S.B. 278 would let the plaintiff also seek punitive damages, which punish rather than compensate, paid by the local government. Winning a case would not by itself entitle a plaintiff to punitive damages; a court would still decide whether an award is authorized and justified.

The bill's title and the state's own analysis describe it as applying to "municipal corporations." The text applies to any "political subdivision," which also includes counties, townships and other local bodies. Ohio law generally bars punitive damages against political subdivisions "notwithstanding" other statutes (R.C. 2744.05), and the bill does not mention that statute or set any standard of proof or limit on the amount. S.B. 278 passed the Senate 24-9 on a party-line vote in April. House Judiciary heard ten witnesses on November 17, three in support and seven opposed, and has a third hearing with a possible vote the next morning. Section 7 identifies six drafting issues; three are rated Medium.

Item	Detail
Bill	S.B. 278, 136th General Assembly — "to amend section 9.68 of the Revised Code to permit individuals to seek punitive or exemplary damages against municipal corporations that pass gun control measures"
Sponsor	Sen. Terry Johnson (R-14th District)
Cosponsors	Sens. O'Brien, Koehler, Manchester, Brenner, Chavez, Cutrona, Gavarone, Huffman, Landis, Lang, Patton, Schaffer, Timken, Wilkin, Wilson
Status	Passed Senate 24-9 (Apr. 15, 2026). House Judiciary: 2nd hearing Nov. 17, 2026; 3rd hearing and possible vote Wednesday, Nov. 18, 2026, 9:00 a.m., Room 017
Version reviewed	As Passed by the Senate (4 pages), with LSC bill analysis (May 22, 2026) and fiscal note (Apr. 15, 2026)
Lame-duck flag	Yes. The General Assembly ends Dec. 31, 2026
Catalog no.	Bill Review No. 013 · RL-2026-054

1. What the bill does, in plain language

R.C. 9.68 says the state alone regulates firearms, ammunition and knives, and voids any local ordinance, rule, regulation, resolution, practice or other action that adds a license, restriction, delay or other process. Anyone "adversely affected" by a local action that conflicts with the law can sue the political subdivision for damages, a declaration, an injunction or all three. If the plaintiff wins, or the local government repeals the measure after the suit is filed, the court must award "reasonable expenses": attorney's fees, court costs, expert witness fees and lost income.

S.B. 278 changes one sentence. The plaintiff may seek "damages, *including punitive or exemplary damages*." Any award is paid by the political subdivision. Nothing else in R.C. 9.68 changes.

The bill does not define punitive damages, set a standard of conduct (such as knowing or intentional violation), set a burden of proof, or cap the amount. Establishing a violation of R.C. 9.68 would not automatically establish entitlement to punitive damages.

2. Provision by provision

Statute	Topic	Current law	S.B. 278
9.68(A)	Preemption	State preempts local firearm, ammunition and knife regulation; voids conflicting local measures	Unchanged
9.68(B)	Civil action	Person, group or entity adversely affected may sue the political subdivision for damages, declaratory relief, injunctive relief or a combination	Adds "including punitive or exemplary damages"
9.68(B)(1), (2)	Expenses	Court must award reasonable expenses if the plaintiff prevails or the measure is repealed after suit is filed	Unchanged
9.68(C), (D)	Definitions; zoning exceptions	Defines firearm, knife, reasonable expenses and related terms; exempts certain commercial zoning	Unchanged

The only change between the Senate committee version and the Senate-passed version was the addition of twelve cosponsors.

3. Context

How the law got here. R.C. 9.68 was enacted in 2007. The Ohio Supreme Court upheld it in *Cleveland v. State* (2010) as a general law that does not unconstitutionally infringe on municipal home rule.[1] In late 2018 the General Assembly passed H.B. 228 over Gov. John Kasich's veto. Its amendments to R.C. 9.68, including the civil action and fee-shifting now in division (B), took effect Dec. 28, 2019.[2] S.B. 58 (2025) added firearm liability insurance and possession fees to the list of prohibited local requirements.[3] A Democratic bill, S.B. 237, would repeal R.C. 9.68 entirely.[4]

Punitive damages and local governments. The Ohio Supreme Court held in *Spires v. Lancaster* (1986) that punitive damages cannot be assessed against a municipality in the absence of a statute specifically authorizing them. R.C. 2744.05 goes further: "notwithstanding any other provisions of the Revised Code," in an action

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[1] *Cleveland v. State*, 128 Ohio St.3d 135, 2010-Ohio-6318.

[2] Ohio Legislative Service Commission, *Final Analysis, Am. Sub. H.B. 228* (132nd G.A.) (effective Mar. 28, 2019; certain provisions effective Dec. 28, 2019), https://legislature.ohio.gov/download?key=11480; Ohio Rev. Code § 9.68, version history (amended by H.B. 228, effective Dec. 28, 2019), https://codes.ohio.gov/ohio-revised-code/section-9.68.

[3] Ohio Rev. Code § 9.68 (effective Apr. 9, 2025, as amended by S.B. 58, 135th G.A.), https://codes.ohio.gov/ohio-revised-code/section-9.68.

[4] Ohio Legislative Service Commission, *S.B. 237 Bill Analysis* (136th G.A., Mar. 27, 2026).

against a political subdivision for injury, death or loss to person or property connected with a governmental or proprietary function, "punitive or exemplary damages shall not be awarded."[5] Two readings of S.B. 278 follow. Under one, it is the specific, later statutory authorization *Spires* contemplates. Under the other, R.C. 2744.05's "notwithstanding" clause continues to control any R.C. 9.68 claim that falls within its scope. A threshold question is whether a 9.68 claim is an action for "injury, death, or loss to person or property" at all.

For private defendants, R.C. 2315.21 requires proof of malice or aggravated fraud by clear and convincing evidence and generally caps punitive awards at twice compensatory damages. Division (E) of that section says it does not apply to tort actions against political subdivisions commenced under or subject to Chapter 2744.[6] So the private-defendant standards and cap do not apply directly to local governments, and S.B. 278 supplies none of its own. Any award would remain subject to constitutional limits on punitive damages. Both the NRA (a proponent) and the Ohio Mayors Alliance (an opponent) told the committee that without S.B. 278's express language, punitive damages are not available against local governments under current law.

The Columbus case. The sponsor's testimony cites two Columbus ordinances: No. 3176-2022, which banned possession of magazines holding 30 or more rounds and added storage rules, and a follow-on ordinance, No. 0680-2023; the plaintiffs challenge both. Residents represented by the Buckeye Institute sued in Delaware County under R.C. 9.68 and Article I, Section 4 of the Ohio Constitution and won a preliminary injunction. On April 1, 2026, the Ohio Supreme Court held that Columbus could appeal the injunction immediately, without ruling on the merits.[7] The Fifth District Court of Appeals then took up the appeal on the merits (2026-Ohio-3991). The case has not reached final judgment.

What the fiscal note says. LSC's fiscal note says the bill is "not expected to have beyond an indirect fiscal effect" on political subdivisions and no local impact statement was required. It also says entities found in violation "could be subjected to punitive or exemplary damages."[8] It gives no estimate of the number of cases, award sizes or total exposure. Calling the effect indirect is not the same as finding the potential liability small.

When	Event
Mar 14, 2007	R.C. 9.68 takes effect
Dec 2010	*Cleveland v. State* upholds R.C. 9.68
Dec 27, 2018	H.B. 228 enacted over veto
Dec 28, 2019	H.B. 228's amendments to R.C. 9.68 (civil action, fee-shifting) take effect
Dec 5, 2022	Columbus passes Ordinance 3176-2022
Oct 7, 2025	S.B. 278 introduced
Mar 11, 2026	Reported by Senate Local Government, 5-2
Apr 1, 2026	Ohio Supreme Court decides *Doe v. Columbus* (appealability)
Apr 15, 2026	Passes Senate, 24-9
Jun 3, 2026	House Judiciary, 1st hearing (sponsor)
Nov 17, 2026	House Judiciary, 2nd hearing: 3 proponents, 7 opponents
Nov 18, 2026	House Judiciary, 3rd hearing, possible vote (scheduled)

[5] Ohio Rev. Code § 2744.05(A), https://codes.ohio.gov/ohio-revised-code/section-2744.05; *Spires v. Lancaster*, 28 Ohio St.3d 76 (1986).

[6] Ohio Rev. Code § 2315.21(E) (as enacted by S.B. 80, 125th G.A., effective Apr. 7, 2005), https://codes.ohio.gov/ohio-revised-code/section-2315.21.

[7] *Doe v. Columbus*, Slip Opinion No. 2026-Ohio-1095 (Apr. 1, 2026); *Doe v. Columbus*, 2026-Ohio-3991 (5th Dist.).

[8] Ohio Legislative Budget Office, *S.B. 278 Fiscal Note & Local Impact Statement*, As Passed by the Senate, Apr. 15, 2026.

4. Who is for and against, and why

Affected parties were not contacted for comment before this release. Positions reflect committee testimony on file as of November 17, 2026. Responses received later will be added in a revised version.

On the record

Witness	Hearing	Position	Stated reasons
Sen. Terry Johnson, sponsor	Senate LG Oct 15, 2025; House Jud. Jun 3, 2026	Sponsor	Citizens bear the cost of challenging unlawful local gun rules; Columbus ordinances remain in litigation; seeks "financial repercussions" for cities that violate the law
Jim Samuel, Buckeye Firearms Association	Senate LG Feb 10, 2026; House Jud. Nov 17, 2026	Proponent	Cities continue violating R.C. 9.68 despite losing in court; current fee awards are not a deterrent
National Rifle Association (John Weber)	House Jud. Nov 17, 2026	Proponent	Ohio law otherwise bars punitive damages against political subdivisions; exposure is within each city's control; awards are not automatic
Ohio Gun Owners (committee page lists witness Robert Kinsley; written testimony signed by Chris Dorr, director, and Rob Knisley, political director)	House Jud. Nov 17, 2026	Proponent, with amendments	Supports the bill; asks the committee to add two provisions of H.B. 495: permitless carry for ages 18-20 and conversion of the concealed handgun license to a concealed weapons license
Ohio Mayors Alliance (Sarah Biehl, written testimony dated Feb. 9; Niki Clum)	Senate LG Feb 10, 2026; House Jud. Nov 17, 2026	Opponent	Overrides R.C. 2744.05's taxpayer protection; no standard, burden of proof or cap; taxpayers, not officials, pay; current remedies already compensate; home rule
Ohio Municipal League (Kent Scarrett)	Senate LG Feb 10, 2026; House Jud. Nov 17, 2026	Opponent	Existing remedies suffice; exposes cities acting in good faith to financial risk; "not about guns or gun control policy"
Ohio Council of Churches (Deacon Nick Bates)	House Jud. Nov 17, 2026	Opponent	Chills local action on suicide, mass shootings and domestic violence
Rep. Darnell Brewer (D-22)	House Jud. Nov 17, 2026	Opponent, with amendments	Taxpayers bear the burden; proposes amendments for voluntary safety programs, notice and opportunity to cure plus clear-and-convincing evidence of knowing misconduct, and an LSC study of standards and limits
Andrea Kovesdi; Ann Shroyer; Michelle Heym	House Jud. Nov 17, 2026	Opponents (individuals)	Taxpayer cost; limits on local gun-violence measures

Affected interests with no public position found

Interest	Provision affecting them
County commissioners (CCAO) and township trustees (Ohio Township Association)	Counties and townships are political subdivisions covered by the text, though not named in the title
School districts, park districts, port authorities and other political subdivisions	Same
Local police chiefs and sheriffs	A department "practice" can be challenged under R.C. 9.68
Local government risk pools and insurers	Whether coverage extends to punitive awards

5. Pros and cons by lens

These are the arguments each camp would likely make, not documented positions and not OCG positions.

	Conservative lens	Liberal lens
Pros	Enforces a law the Supreme Court has upheld; gives repeat violators a reason to stop. Protects a constitutional right uniformly statewide. Shifts cost from citizens who sue to governments that broke the law.	Local governments, like anyone else, should face consequences for knowingly violating state law.
Cons	Punitive damages are paid by taxpayers, not the officials who acted. Ohio capped punitive damages for private defendants in 2005 tort reform (S.B. 80); this bill sets no standard or cap for public ones. Expands state control over local government.	Deters local efforts on gun violence, suicide and domestic violence. Creates a windfall for advocacy groups on top of fee awards. Awards come from the same general funds that pay for local services.
Likely split	Gun-rights conservatives vs. local-control and tort-reform conservatives	Generally opposed; split possible among those who prioritize rule of law

Common ground in the record: both a proponent (NRA) and an opponent (Ohio Mayors Alliance) agree that current law does not allow punitive damages against local governments. **Points either lens could raise:** whether a standard such as knowing or repeated violation, or a cap, would address the opponents' concern without removing the deterrent the proponents want. Rep. Brewer's proposed amendments go to that question.

6. Process record

Metric	S.B. 278
Senate hearings	4 (Local Government, Oct 2025 to Mar 2026)
Senate committee vote	5-2, party line (Mar 11, 2026)
Senate floor vote	24-9, party line: all Republicans yes, all Democrats no (Apr 15, 2026)
House hearings	1st Jun 3, 2026; 2nd Nov 17, 2026, 3:00 p.m.; 3rd Nov 18, 2026, 9:00 a.m., possible vote
Time between 2nd and 3rd House hearings	About 18 hours
Testimony	Senate: sponsor plus 1 proponent and 2 opponents (3rd hearing, Feb. 10, 2026). House: sponsor (Jun. 3); 3 proponents and 7 opponents listed for the Nov. 17 hearing on the committee activity page
Amendment requests on record	Ohio Gun Owners (add H.B. 495 carry provisions); Rep. Brewer (three amendments)
Bill analysis and fiscal note	Posted; fiscal note gives no estimate; no local impact statement required
Length	4 pages; one phrase added
Lame-duck or omnibus	Lame duck: yes. Omnibus: no
Comment requests	None sent before release (2026 lame-duck reviews; see section 4)

7. Drafting issues and implementation risks

Sections 3 and 7 reflect OCG's reading of the bill text and current law. They have not been reviewed by an attorney and are not legal advice.

The text raises six drafting questions: three rated Medium and three Low–Medium. Section 8 adds policy questions that are not drafting defects. An issue describes what the text does or leaves open, not anyone's intent.

#	Issue (R.C.)	Type	What the text does	Interests affected	Severity
1	**Title says cities; text says all local governments.** Title; 9.68(B)	Textual	The title, the LSC analysis and the fiscal note all describe the bill as applying to "municipal corporations." The amended sentence applies to any "political subdivision," which includes counties, townships and other local bodies.	Counties; townships; other subdivisions; legislators voting on the title	Medium
2	**No reference to the general bar on punitive damages.** 9.68(B); 2744.05	Legal question	R.C. 2744.05 bars punitive damages in actions against political subdivisions for injury or loss to person or property "notwithstanding any other provisions of the Revised Code." S.B. 278 does not reference or override that section. Whether a court treats 9.68 as a specific exception, applies 2744.05 to some 9.68 claims, or finds 9.68 claims outside 2744.05's scope is not settled by the text. If 2744.05 controls, the bill may not accomplish its stated purpose.	Plaintiffs; political subdivisions	Medium
3	**No standard, burden or cap.** 9.68(B)	Textual	Does not define punitive damages or require any level of fault, set a burden of proof, or limit the amount. R.C. 2315.21's standards and cap expressly do not apply to tort actions against political subdivisions under Chapter 2744 (division (E)). Courts would have to supply a standard; constitutional limits on punitive awards would still apply.	Political subdivisions; taxpayers	Medium
4	**Breadth of what can trigger an award.** 9.68(A), (B)	Legal question	Punitive damages would attach to any conflicting "ordinance, rule, regulation, resolution, practice, or other action," including an internal department practice, not only to ordinances enacted after a court ruling.	Local police; political subdivisions	Low–Medium
5	**Pending cases.** Bill as a whole	Legal question	The bill does not say whether punitive damages are available in suits already filed, such as *Doe v. Columbus*, or only for conduct after the effective date. Ohio statutes are presumed prospective unless expressly made retroactive (R.C. 1.48), and Article II, Section 28 of the Ohio Constitution bars retroactive laws.	Pending litigants; Columbus	Low–Medium
6	**Who collects.** 9.68(B)	Implementation	Any "person, group, or entity adversely affected" may seek punitive damages in addition to full expenses. The bill does not address whether multiple plaintiffs or organizations may each recover punitive damages for the same measure.	Political subdivisions; advocacy organizations	Low–Medium

Type: *Textual* = confirmed in the bill's text or official documents. *Implementation* = depends on rules or practice not yet written. *Legal question* = depends on how a court would apply other law. **Severity:** *High* = a demonstrated conflict affecting public property, statutory rights or public money at scale. *Medium* = fraud, accountability, liability or coordination exposure the text leaves open. *Low* = administrative.

8. Open questions

1. **Is the broader scope intended?** The title names municipal corporations; the text reaches all political subdivisions.
2. **Will the committee adopt any amendments?** Two sets were requested on Nov. 17. The Ohio Gun Owners request would add unrelated carry-law provisions.
3. **How often have local governments lost R.C. 9.68 cases since 2019, and what have fee awards cost?** That record would show the size of the deterrence gap proponents describe and the exposure opponents describe. Neither the fiscal note nor the testimony provides it.
4. **Do local government insurance pools cover punitive awards?** If not, awards come directly from general funds.
5. **Would the bill apply to the Columbus litigation?**
6. **Do existing remedies deter?** The proponents' case rests on fee awards not deterring repeat violations. A record of local governments continuing enforcement after losing would test that; none was offered.
7. **Who does a punitive award reach?** Awards are paid by the political subdivision, not the officials who adopted or enforced the measure. Whether that creates the intended incentive is a policy question the bill does not address.

About this review

What this is. OCG Bill Reviews are Research Center publications. They describe what a bill does, who has taken a position on it, and how it has moved through the General Assembly. Ohio Common Ground does not endorse or oppose legislation, candidates or parties. Nothing in this review is a recommendation to vote for or against this bill.

Version and date. This review covers S.B. 278 As Passed by the Senate, as of November 17, 2026. Bills change through substitutes and amendments, so a later version may differ. Updates are posted at ohiocommonground.com.

Sources. Figures and statements of law come from primary government sources: bill text, analyses from LSC's Office of Research and Drafting, Legislative Budget Office fiscal notes, committee records, notices and votes, the Revised Code and court decisions. Statements in testimony are reported as the witness's statement. A figure that cannot be traced to a primary source is left out.

Method. Each review follows the OCG Legislative Review Standard:

1. Plain-language summary and provision-by-provision comparison against current law.
2. Context: earlier versions, related bills, recent law and litigation.
3. Positions on the record, from committee testimony and public statements. Interests affected by a provision are listed separately; being affected is not treated as support or opposition.
4. Lens analysis: the arguments conservative and liberal observers would likely make. These are hypothetical, attributed arguments, not documented positions and not OCG positions.
5. Process record: measurable facts about hearings, testimony, timing and sponsorship.
6. Drafting issues: places where the text is ambiguous, incomplete or leaves discretion unchecked, each tied to a section of the Revised Code and labeled by type. An issue describes what the text does or leaves open, not anyone's intent.
7. Open questions the public record does not yet answer.

Not legal advice. This review is not legal advice. Anyone with a legal question should contact an attorney.

Corrections. Report errors through ohiocommonground.com. Corrections made before release are logged in the working draft. Substantive changes after release are issued as a new version.

Sources

Primary

- S.B. 278, 136th General Assembly, As Reported by Senate Local Government and As Passed by the Senate; LSC bill analysis (May 22, 2026) and fiscal note (Apr. 15, 2026)
- legislature.ohio.gov S.B. 278 status, votes and committee activity pages, accessed Nov. 17, 2026
- House Judiciary Committee notices for Nov. 17, 2026 (1st revision) and Nov. 18, 2026; minutes of Nov. 10, 2026
- Committee testimony: Sen. Johnson (Oct. 15, 2025; Jun. 3, 2026); Buckeye Firearms Association (Feb. 10 and Nov. 17, 2026); NRA-ILA; Ohio Gun Owners; Ohio Mayors Alliance (written testimony dated Feb. 9 for the Feb. 10 hearing, and Nov. 17, 2026); Ohio Municipal League (Feb. 10 and Nov. 17, 2026); Ohio Council of Churches; Rep. Darnell Brewer; Andrea Kovesdi; Ann Shroyer; Michelle Heym
- R.C. 1.48, 9.68, 2315.21, 2744.05; *Spires v. Lancaster* (1986); *Cleveland v. State* (2010); *Doe v. Columbus* (2026)

Revision history

Version	Date	Change
1.0	11/17/26	Initial release.