

As Introduced

CORRECTED VERSION

132nd General Assembly

Regular Session

2017-2018

H. B. No. 543

Representatives Perales, Hambley

**Cosponsors: Representatives Arndt, Becker, Butler, Carfagna, Holmes, Miller,
O'Brien, Patterson, Riedel, Seitz, Thompson**

A BILL

To amend sections 309.09 and 713.21 and to enact
sections 308.061, 4582.021, and 4582.23 of the
Revised Code to allow a county prosecuting
attorney to enter into a contract with a
regional airport authority, port authority, or
regional planning commission to be its legal
adviser.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 309.09 and 713.21 be amended and
sections 308.061, 4582.021, and 4582.23 of the Revised Code be
enacted to read as follows:

Sec. 308.061. The board of trustees of a regional airport
authority may contract with the prosecuting attorney of a
county, as provided in section 309.09 of the Revised Code, to
obtain legal services from the prosecuting attorney.

Sec. 309.09. (A) The prosecuting attorney shall be the

legal adviser of the board of county commissioners, board of 16
elections, all other county officers and boards, and all tax- 17
supported public libraries, and any of them may require written 18
opinions or instructions from the prosecuting attorney in 19
matters connected with their official duties. The prosecuting 20
attorney shall prosecute and defend all suits and actions that 21
any such officer, board, or tax-supported public library directs 22
or to which it is a party, and no county officer may employ any 23
other counsel or attorney at the expense of the county, except 24
as provided in section 305.14 of the Revised Code. 25

(B) (1) The prosecuting attorney shall be the legal adviser 26
for all township officers, boards, and commissions, unless, 27
subject to division (B) (2) of this section, the township has 28
adopted a limited home rule government pursuant to Chapter 504. 29
of the Revised Code and has not entered into a contract to have 30
the prosecuting attorney serve as the township law director, in 31
which case, subject to division (B) (2) of this section, the 32
township law director, whether serving full-time or part-time, 33
shall be the legal adviser for all township officers, boards, 34
and commissions. When the board of township trustees finds it 35
advisable or necessary to have additional legal counsel, it may 36
employ an attorney other than the township law director or the 37
prosecuting attorney of the county, either for a particular 38
matter or on an annual basis, to represent the township and its 39
officers, boards, and commissions in their official capacities 40
and to advise them on legal matters. No such legal counsel may 41
be employed, except on the order of the board of township 42
trustees, duly entered upon its journal, in which the 43
compensation to be paid for the legal services shall be fixed. 44
The compensation shall be paid from the township fund. 45

Nothing in this division confers any of the powers or 46

duties of a prosecuting attorney under section 309.08 of the Revised Code upon a township law director.

(2) (a) If any township in the county served by the prosecuting attorney has adopted any resolution regarding the operation of adult entertainment establishments pursuant to the authority that is granted under section 503.52 of the Revised Code, or if a resolution of that nature has been adopted under section 503.53 of the Revised Code in a township in the county served by the prosecuting attorney, all of the following apply:

(i) Upon the request of a township in the county that has adopted, or in which has been adopted, a resolution of that nature that is made pursuant to division (E)(1)(c) of section 503.52 of the Revised Code, the prosecuting attorney shall prosecute and defend on behalf of the township in the trial and argument in any court or tribunal of any challenge to the validity of the resolution. If the challenge to the validity of the resolution is before a federal court, the prosecuting attorney may request the attorney general to assist the prosecuting attorney in prosecuting and defending the challenge and, upon the prosecuting attorney's making of such a request, the attorney general shall assist the prosecuting attorney in performing that service if the resolution was drafted in accordance with legal guidance provided by the attorney general as described in division (B)(2) of section 503.52 of the Revised Code. The attorney general shall provide this assistance without charge to the township for which the service is performed. If a township adopts a resolution without the legal guidance of the attorney general, the attorney general is not required to provide assistance as described in this division to a prosecuting attorney.

(ii) Upon the request of a township in the county that has adopted, or in which has been adopted, a resolution of that nature that is made pursuant to division (E)(1)(a) of section 503.52 of the Revised Code, the prosecuting attorney shall prosecute and defend on behalf of the township a civil action to enjoin the violation of the resolution in question.

(iii) Upon the request of a township in the county that has adopted, or in which has been adopted, a resolution of that nature that is made pursuant to division (E)(1)(b) of section 503.52 of the Revised Code, the prosecuting attorney shall prosecute and defend on behalf of the township a civil action under Chapter 3767. of the Revised Code to abate as a nuisance the place in the unincorporated area of the township at which the resolution is being or has been violated. Proceeds from the sale of personal property or contents seized pursuant to the action shall be applied and deposited in accordance with division (E)(1)(b) of section 503.52 of the Revised Code.

(b) ~~The provisions of division~~ Division (B)(2)(a) of this section ~~apply~~ applies regarding all townships, including townships that have adopted a limited home rule government pursuant to Chapter 504. of the Revised Code, and regardless of whether a township that has so adopted a limited home rule government has entered into a contract with the prosecuting attorney as described in division (B) of section 504.15 of the Revised Code or has appointed a law director as described in division (A) of that section.

The prosecuting attorney shall prosecute and defend in the actions and proceedings described in division (B)(2)(a) of this section without charge to the township for which the services are performed.

(C) Whenever the board of county commissioners employs an attorney other than the prosecuting attorney of the county, without the authorization of the court of common pleas as provided in section 305.14 of the Revised Code, either for a particular matter or on an annual basis, to represent the board in its official capacity and to advise it on legal matters, the board shall enter upon its journal an order of the board in which the compensation to be paid for the legal services shall be fixed. The compensation shall be paid from the county general fund. The total compensation paid, in any year, by the board for legal services under this division shall not exceed the total annual compensation of the prosecuting attorney for that county.

(D) The prosecuting attorney and the board of county commissioners jointly may contract with a board of park commissioners under section 1545.07 of the Revised Code for the prosecuting attorney to provide legal services to the park district the board of park commissioners operates.

(E) The prosecuting attorney may be, in the prosecuting attorney's discretion and with the approval of the board of county commissioners, the legal adviser of a joint fire district created under section 505.371 of the Revised Code at no cost to the district, or may be the legal adviser to the district under a contract that the prosecuting attorney and the district enter into, and that the board of county commissioners approves, to authorize the prosecuting attorney to provide legal services to the district.

(F) The prosecuting attorney may be, in the prosecuting attorney's discretion and with the approval of the board of county commissioners, the legal adviser of a joint ambulance district created under section 505.71 of the Revised Code at no

cost to the district, or may be the legal adviser to the 137
district under a contract that the prosecuting attorney and the 138
district enter into, and that the board of county commissioners 139
approves, to authorize the prosecuting attorney to provide legal 140
services to the district. 141

(G) The prosecuting attorney may be, in the prosecuting 142
attorney's discretion and with the approval of the board of 143
county commissioners, the legal adviser of a joint emergency 144
medical services district created under section 307.052 of the 145
Revised Code at no cost to the district, or may be the legal 146
adviser to the district under a contract that the prosecuting 147
attorney and the district enter into, and that the board of 148
county commissioners approves, to authorize the prosecuting 149
attorney to provide legal services to the district. 150

(H) The prosecuting attorney may be, in the prosecuting 151
attorney's discretion and with the approval of the board of 152
county commissioners, the legal adviser of a fire and ambulance 153
district created under section 505.375 of the Revised Code at no 154
cost to the district, or may be the legal adviser to the 155
district under a contract that the prosecuting attorney and the 156
district enter into, and that the board of county commissioners 157
approves, to authorize the prosecuting attorney to provide legal 158
services to the district. 159

(I) The prosecuting attorney may be, in the prosecuting 160
attorney's discretion and with the approval of the board of 161
county commissioners, the legal adviser to the board of trustees 162
of a regional airport authority created under Chapter 308. of 163
the Revised Code or the board of directors of a port authority 164
created under Chapter 4582. of the Revised Code under a contract 165
that the prosecuting attorney and the board of trustees or board 166

of directors enter into. If the regional airport authority or 167
port authority covers territory in more than one county, the 168
board of trustees or board of directors may choose the 169
prosecuting attorney with whom it enters into such contract, 170
with the approval of the board of county commissioners of that 171
county. The contract may provide for the payment of a fee to the 172
prosecuting attorney for legal services agreed to under the 173
contract. 174

(J) The prosecuting attorney may be, in the prosecuting 175
attorney's discretion and with the approval of the board of 176
county commissioners, the legal adviser to a regional planning 177
commission created under section 713.21 of the Revised Code 178
under a contract that the prosecuting attorney and commission 179
enter into. If the regional planning commission covers a region 180
in more than one county, the commission may choose the 181
prosecuting attorney with whom it enters into such contract, 182
with the approval of the board of county commissioners of that 183
county. The contract may provide for the payment of a fee to the 184
prosecuting attorney for legal services agreed to under the 185
contract. 186

(K) All money received pursuant to a contract entered into 187
under division (D), (E), (F), (G), ~~or~~ (H), (I), or (J) of this 188
section shall be deposited into the prosecuting attorney's legal 189
services fund, which shall be established in the county treasury 190
of each county in which such a contract exists. Moneys in that 191
fund may be appropriated only to the prosecuting attorney for 192
the purpose of providing legal services to a park district, 193
joint fire district, joint ambulance district, joint emergency 194
medical services district, ~~or a~~ fire and ambulance district, 195
regional airport authority, port authority, or regional planning 196
commission, as applicable, under a contract entered into under 197

the applicable division. 198

~~(J)~~ (L) The prosecuting attorney shall be the legal 199
~~advisor~~ adviser of a lake facilities authority as provided in 200
section 353.02 of the Revised Code. 201

Sec. 713.21. (A) The planning commission of any municipal 202
corporation or group of municipal corporations, any board of 203
township trustees, and the board of county commissioners of any 204
county in which the municipal corporation or group of municipal 205
corporations is located or of any adjoining county may cooperate 206
in the creation of a regional planning commission, for any 207
region defined as agreed upon by the planning commissions and 208
boards, exclusive of any territory within the limits of a 209
municipal corporation not having a planning commission. After 210
creation of a regional planning commission, school districts, 211
special districts, authorities, and any other units of local 212
government may participate in the regional planning commission, 213
upon terms agreed upon by the planning commissions and boards. 214

The number of members of a regional planning commission, 215
their method of appointment, and the proportion of the costs of 216
regional planning to be borne respectively by the various 217
municipal corporations, townships, and counties in the region 218
and by other participating units of local government shall be 219
determined by a majority of the planning commissions and boards. 220
Costs may include, but are not limited to, compensation and 221
actual and necessary expenses for appointive members of a 222
regional planning commission who are not also holding another 223
public office to which they were elected. Any member of a 224
regional planning commission may hold any other public office 225
and may serve as a member of a city, village, or county planning 226
commission, except as otherwise provided in the charter of any 227

city or village.	228
Boards of township trustees, boards of county	229
commissioners, and legislative authorities of municipal	230
corporations, and the governing bodies of other participating	231
units of local government, may appropriate their respective	232
shares of the costs of regional planning. Those sums shall be	233
paid into the treasury of the county in which the greater	234
portion of the population of the region is located, and shall be	235
paid out on the certificate of the regional planning commission	236
and the warrant of the county auditor of that county for the	237
purposes authorized by sections 713.21 to 713.27 of the Revised	238
Code.	239
(B) The regional planning commission may accept, receive,	240
and expend funds, grants, and services from the federal	241
government or its agencies; from departments, agencies, and	242
instrumentalities of this state or any adjoining state; from one	243
or more counties of this state or any adjoining state; from any	244
municipal corporation or political subdivision of this or any	245
adjoining state, including county, regional, and municipal	246
planning commissions of this or any adjoining state; or from	247
civic sources. The regional planning commission may contract	248
with respect to those funds, grants, and services, either	249
separately, jointly, or cooperatively, and may provide the	250
information and reports necessary to secure those funds, grants,	251
and services. Within the amounts agreed upon and appropriated or	252
otherwise received, the regional planning commission may employ	253
necessary engineers, accountants, consultants, and employees and	254
may rent or lease space, purchase, lease, and lease with option	255
to purchase equipment, and make other purchases it considers	256
necessary to its use. The regional planning commission may	257
purchase, lease with option to purchase, or receive as a gift	258

property and buildings within which it is housed and carries out 259
its responsibilities, provided that the rules of the commission 260
provide for the disposition of the property and buildings if the 261
commission is dissolved or otherwise terminated. 262

(C) The regional planning commission may establish 263
committees with the powers it finds necessary to carry on its 264
work, including an executive committee to make final 265
determinations, decisions, findings, recommendations, and orders 266
as provided in the commission's rules. All actions of these 267
committees shall be reported in writing to the members of the 268
regional planning commission no later than its next meeting or 269
within thirty days from the date of the action, whichever is 270
earlier. The regional planning commission may provide a 271
procedure to ratify committee actions by a vote of the members. 272

(D) The regional planning commission may make agreements 273
with other public or private agencies for the temporary transfer 274
or joint use of staff employees, and may contract for 275
professional or consultant services for or from other 276
governmental and private agencies and persons. 277

(E) A regional planning commission may contract with the 278
prosecuting attorney of a county, as provided in section 309.09 279
of the Revised Code, to obtain legal services from the 280
prosecuting attorney. 281

Sec. 4582.021. The board of directors of a port authority 282
created under section 4582.02 of the Revised Code may contract 283
with the prosecuting attorney of a county, as provided in 284
section 309.09 of the Revised Code, to obtain legal services 285
from the prosecuting attorney. 286

Sec. 4582.23. The board of directors of a port authority 287

<u>created under section 4582.22 of the Revised Code may contract</u>	288
<u>with the prosecuting attorney of a county, as provided in</u>	289
<u>section 309.09 of the Revised Code, to obtain legal services</u>	290
<u>from the prosecuting attorney.</u>	291
Section 2. That existing sections 309.09 and 713.21 of the	292
Revised Code are hereby repealed.	293