As Passed by the House

133rd General Assembly
Regular Session  H. B. No. 85
2019-2020

Representatives Wilkin, Rogers


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A BILL

To amend section 127.19 and to enact sections 109.47, 120.56, 127.20, 307.451, 307.452, and 307.453 of the Revised Code to allow the Controlling Board to transfer money to the Attorney General and State Public Defender to defray county costs associated with certain capital cases and to declare an emergency.

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

Section 1. That section 127.19 be amended and sections 109.47, 120.56, 127.20, 307.451, 307.452, and 307.453 of the Revised Code be enacted to read as follows:

Sec. 109.47. (A) There is hereby created in the state treasury the capital case extraordinary prosecution cost fund. The fund shall consist of transfers under divisions (B)(2) and (3) of section 127.19 of the Revised Code and any other funds...
appropriated by the general assembly. The fund shall be administered by the attorney general.

(B) Following controlling board approval and transfer of funds pursuant to a joint request under division (B)(2) of section 127.19 of the Revised Code or a request under division (B)(3) of section 127.19 of the Revised Code, the attorney general shall distribute money in the fund to the county upon request for the prosecution costs.

(C)(1) If the prosecution costs incurred exceed the funds appropriated, the prosecuting attorney for the county that received the funds may submit a request for additional funds to the attorney general. If a request is submitted, the prosecuting attorney shall inform the board of county commissioners of the request. After receiving a request, the attorney general shall request additional funds under division (B)(2) or (3) of section 127.19 of the Revised Code by submitting a request that includes all of the following:

(a) Facts demonstrating the need for the additional funds;

(b) A statement explaining why the original funds were not sufficient for the prosecution;

(c) The amount of additional funds being requested.

(2) After receiving a request for additional funds, the controlling board shall add the request to the agenda of the board's next scheduled meeting.

(3) If no additional funds are appropriated, the county shall be responsible for all remaining prosecution costs as otherwise provided in the Revised Code.

Sec. 120.56. (A) There is hereby created in the state
treasury the capital case extraordinary defense cost fund. The fund shall consist of transfers under division (B)(2) of section 127.19 of the Revised Code and any other funds appropriated by the general assembly. The fund shall be administered by the state public defender.

(B) Following controlling board approval and transfer of funds pursuant to a joint request under division (B)(2) of section 127.19 of the Revised Code, the state public defender shall be responsible for all defense costs related to defendants determined to be indigent under the standards of indigency established by the Ohio public defender commission, and the county shall not be responsible for any defense costs related to such indigent defendants. The state public defender shall distribute money in the fund to pay bills as submitted for the defense costs after approval by the court.

(C)(1) If the defense costs exceed the funds appropriated, the state public defender may request additional funds under division (B)(2) of section 127.19 of the Revised Code by submitting a request that includes all of the following:

(a) Facts demonstrating the need for the additional funds;

(b) A statement explaining why the original funds were not sufficient for the defense;

(c) The amount of additional funds being requested.

(2) If the state public defender requests additional funds, the state public defender shall inform the board of county commissioners of the county in which the indigent defendants are being tried of the request.

(3) After receiving a request for additional funds, the controlling board shall add the request to the agenda of the
board's next scheduled meeting.

(4) If no additional funds are appropriated, the state public defender shall notify the board of county commissioners of the county in which the indigent defendants are being tried of the controlling board's determination. The county then shall be reimbursed in accordance with section 120.35 or 2941.51 of the Revised Code.

(D) The fund shall be used to provide funding for defense costs related to defendants determined to be indigent under the standards of indigency established by the Ohio public defender commission only.

(E) The state public defender shall return to the director of budget and management any unused money remaining upon the conclusion of the capital case for which funds have been requested. The director shall deposit the returned money into the state treasury to the credit of the controlling board emergency purposes/contingencies fund created under section 127.19 of the Revised Code.

Sec. 127.19. (A) There is hereby created in the state treasury the controlling board emergency purposes/contingencies fund, consisting of transfers from the general revenue fund and any other funds appropriated by the general assembly. Moneys in the fund may be used by the controlling board at as follows:

(1) At the request of a state agency or the director of budget and management for the purpose of providing disaster and emergency aid to state agencies and political subdivisions or for other purposes approved by the controlling board.

(2) At the joint request of the attorney general and state
public defender under division (A)(2) of section 127.20 of the Revised Code or at the request of the attorney general or state public defender for additional funds under section 109.47 or 120.56 of the Revised Code, for the purposes of defraying the county's prosecution or defense costs in capital cases if all of the following apply:

(a) The county's estimated prosecution and defense costs exceed five per cent of the county's general fund appropriations as specified under division (A)(2) of section 307.451 of the Revised Code;

(b) The case is a capital case in which there are multiple defendants or multiple victims;

(c) At least one of the defendants in the case is determined to be indigent under the standards of indigency established by the Ohio public defender commission.

(3) At the request of the attorney general under division (A)(3) of section 127.20 of the Revised Code, for the purposes of defraying the county's prosecution costs for capital cases if both of the following apply:

(a) The county's estimated prosecution costs exceed five per cent of the county's general fund appropriations as specified under division (A)(2) of section 307.452 of the Revised Code;

(b) The case is a capital case in which there are multiple defendants or multiple victims.

Sec. 127.20. (A)(1) If the attorney general receives a request from a county under section 307.451 or the state public defender receives a request from a county under section 307.452 of the Revised Code for extraordinary capital case cost funding
and one or more defendants in the case is indigent, the attorney general and state public defender jointly shall estimate the county prosecution and defense costs. If the attorney general receives a request under section 307.451 of the Revised Code and no defendant in the case is indigent, the attorney general shall estimate the county's prosecution costs.

(2) If the county's estimated prosecution and defense costs exceed five per cent of the county's general fund appropriations as specified under division (A)(2) of sections 307.451 and 307.452 of the Revised Code, the attorney general and state public defender shall submit a joint request to the controlling board to transfer funds from the controlling board emergency purposes/contingencies fund created under section 127.19 of the Revised Code to the capital case extraordinary prosecution cost fund created under section 109.47 of the Revised Code and the capital case extraordinary defense cost fund created under section 120.56 of the Revised Code.

(3) If the county's estimated prosecution and defense costs exceed five per cent of the county's general fund appropriations as specified under division (A)(2) of section 307.451 of the Revised Code and none of the defendants in the case are determined to be indigent under the standards of indigency established by the Ohio public defender commission, the attorney general shall submit a request to the controlling board to transfer funds from the controlling board emergency purposes/contingencies fund created under section 127.19 of the Revised Code to the capital case extraordinary prosecution cost fund created under section 109.47 of the Revised Code.

(B) If a joint request is submitted under division (A)(2) of this section, the attorney general and state public defender
shall specify the following in the joint request:

(1) An aggregate estimate of prosecution and defense costs;

(2) The amount of money the attorney general is requesting be transferred to the capital case extraordinary prosecution cost fund;

(3) The amount of money the state public defender is requesting be transferred to the capital case extraordinary defense cost fund;

(4) The county's general fund appropriations as specified under division (B) of section 307.451 of the Revised Code;

(5) The necessity for extraordinary funding in the capital case for which the joint request is submitted;

(6) Facts of the case demonstrating both of the following:

(a) The case is a capital case in which there are multiple defendants or multiple victims.

(b) At least one of the defendants is determined to be indigent under the standards of indigency established by the Ohio public defender commission.

(C) If a request is submitted under division (A)(3) of this section, the attorney general shall specify the following in the request:

(1) An estimate of the county's prosecution costs incurred;

(2) The amount of money the attorney general is requesting be transferred to the capital case extraordinary prosecution cost fund;
(3) The county's general fund appropriations as specified under division (B) of section 307.451 of the Revised Code;

(4) The necessity for extraordinary funding in the capital case for which the request is submitted;

(5) Facts of the case demonstrating the case is a capital case in which there are multiple defendants or multiple victims.

(D) After the attorney general and state public defender under division (A)(2) of this section or the attorney general under division (A)(3) of this section submits a request, the controlling board shall add the request to the agenda of the board's next scheduled meeting.

Sec. 307.451. (A) A board of county commissioners that wishes to receive money from the attorney general under section 109.47 of the Revised Code shall submit a request in writing to the attorney general that specifies the following:

(1) The facts of the case for which the county wishes to receive the money demonstrating the case is a capital case in which there are multiple defendants or multiple victims.

(2) The county's general fund appropriations for the calendar year in which the defendants are arrested;

(3) A detailed explanation of the county's need for extraordinary funding including the county's financial hardship in funding prosecution for the capital case.

(B) After the attorney general receives a request, the attorney general shall proceed in accordance with section 127.20 of the Revised Code.

Sec. 307.452. (A) A board of county commissioners that wishes to receive money from the state public defender under
section 120.56 of the Revised Code shall submit a request in writing to the state public defender that specifies the following:

(1) The facts of the case for which the county wishes to receive the money demonstrating both of the following:

(a) The case is a capital case in which there are multiple defendants or multiple victims.

(b) At least one of the defendants is determined to be indigent under the standards of indigency established by the Ohio public defender commission.

(2) The county's general fund appropriations for the calendar year in which the defendants are arrested;

(3) A detailed explanation of the county's need for extraordinary funding including the county's financial hardship in funding defense for the capital case.

(B) After the state public defender receives a request, the state public defender shall proceed in accordance with section 127.20 of the Revised Code.

Sec. 307.453. A board of county commissioners that receives money from the attorney general under section 109.47 of the Revised Code shall:

(A) Establish a capital case extraordinary cost special fund in the county treasury to consist of money received under section 109.47 of the Revised Code;

(B) Adopt a resolution authorizing use of the money to defray the prosecution costs specified, and for the capital case identified, in the joint request submitted under division (A)(2) of section 127.20 of the Revised Code or the request submitted
under division (A)(3) of that section;

(C) Return to the director of budget and management any unused money remaining upon the conclusion of the capital case identified in the joint request or request. The director shall deposit the returned money into the state treasury to the credit of the controlling board emergency purposes/contingencies fund created under section 127.19 of the Revised Code.

Section 2. That existing section 127.19 of the Revised Code is hereby repealed.

Section 3. On the effective date of this act, or as soon as possible thereafter, the Director of Budget and Management shall transfer $4,000,000 cash from the General Revenue Fund to the Controlling Board Emergency Purposes/Contingencies Fund (Fund 5KM0).

Section 4. This act is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety. The reason for such necessity is the effective prosecution and defense of capital cases. Therefore, this act shall go into immediate effect.