



Ohio Prosecuting Attorneys Association

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Executive Director
House Bill 370
Opponent Testimony
December 10, 2019

Chair Hambley, Vice-Chair Patton, Ranking Member Brown and members of the House Civil Justice Committee, thank you for the opportunity to provide opponent testimony today on House Bill 370.

Importantly, our Association is opposed to House Bill 370 only as currently written. Our opposition can be relieved by what we believe is a simple and practical amendment that I have attached to this testimony. We do not oppose the concept of enabling the Attorney General to provide assistance to political subdivisions as they defend against certain actions related to historical symbols or monuments on public property. As the sponsor and proponents have correctly noted, such lawsuits can create an expense for which a subdivision is unprepared or even unable to meet. A subdivision may not have the resources or the relevant background to defend itself against such a suit. Allowing the Attorney General to become involved in these cases may be both necessary and wise.

That said, our Association is generally opposed to any law that grants the Attorney General the exclusive authority to represent the people of the State of Ohio while depriving the County Prosecutor, without the County Prosecutor's say, of the ability to do so. County prosecutors are elected to represent their community by serving as legal counsel to county and township authorities. As a duly elected official, the decision whether to give up representation of their client or to seek assistance in the representation of their client should be up to them. While some prosecutors may need or desire the assistance that the Attorney General can provide, others may wish to defend such a lawsuit themselves. As such, we recommend amending the bill to require the Attorney General to become involved in a case related to a historical symbol or monument only upon request of the prosecutor for the political subdivision. An amendment to this effect would be consistent with current practices for special prosecutions in criminal cases.

I thank you again for the opportunity to testify and would welcome any questions.

Sec. 109.141.

Notwithstanding any contrary provision of the Revised Code, with the consent of the legislative authority of a political subdivision, the attorney general, upon the request of a prosecutor for a political subdivision, shall ~~may~~ defend, or appoint and authorize special counsel to defend, the political subdivision in any action brought against the political subdivision for maintaining a historical symbol or monument on public property on the ground that maintaining the symbol or monument violates the establishment clause of the first amendment to the United States Constitution or an analogous provision of Section 7 of Article I, Ohio Constitution.

“Prosecutor” has the same meaning as in section 2935.01 of the Revised Code.