

**As Introduced**

**134th General Assembly  
Regular Session  
2021-2022**

**H. B. No. 531**

**Representative Ghanbari  
Cosponsor: Representative Smith, K.**



**A BILL**

To amend sections 167.05 and 309.09 of the Revised Code to allow a county prosecutor to provide legal services to a metropolitan planning organization, regional transportation planning organization, or regional council of governments.

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

**Section 1.** That sections 167.05 and 309.09 of the Revised Code be amended to read as follows:

**Sec. 167.05.** The council may employ such staff and contract for the services of such consultants and experts, and may purchase or lease or otherwise provide for such supplies, materials, equipment, and facilities as it deems necessary and appropriate in the manner and under procedures established in the by-laws of the council.

The council 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 19  
elections, all other county officers and boards, and all tax- 20  
supported public libraries, and any of them may require written 21  
opinions or instructions from the prosecuting attorney in 22  
matters connected with their official duties. The prosecuting 23  
attorney shall prosecute and defend all suits and actions that 24  
any such officer, board, or tax-supported public library directs 25  
or to which it is a party, and no county officer may employ any 26  
other counsel or attorney at the expense of the county, except 27  
as provided in section 305.14 of the Revised Code. 28

(B) (1) The prosecuting attorney shall be the legal adviser 29  
for all township officers, boards, and commissions, unless, 30  
subject to division (B) (2) of this section, the township has 31  
adopted a limited home rule government pursuant to Chapter 504. 32  
of the Revised Code and has not entered into a contract to have 33  
the prosecuting attorney serve as the township law director, in 34  
which case, subject to division (B) (2) of this section, the 35  
township law director, whether serving full-time or part-time, 36  
shall be the legal adviser for all township officers, boards, 37  
and commissions. When the board of township trustees finds it 38  
advisable or necessary to have additional legal counsel, it may 39  
employ an attorney other than the township law director or the 40  
prosecuting attorney of the county, either for a particular 41  
matter or on an annual basis, to represent the township and its 42  
officers, boards, and commissions in their official capacities 43  
and to advise them on legal matters. No such legal counsel may 44  
be employed, except on the order of the board of township 45  
trustees, duly entered upon its journal, in which the 46  
compensation to be paid for the legal services shall be fixed. 47  
The compensation shall be paid from the township fund. 48

Nothing in this division confers any of the powers or 49

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) Division (B) (2) (a) of this section 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, 110  
without the authorization of the court of common pleas as 111  
provided in section 305.14 of the Revised Code, either for a 112  
particular matter or on an annual basis, to represent the board 113  
in its official capacity and to advise it on legal matters, the 114  
board shall enter upon its journal an order of the board in 115  
which the compensation to be paid for the legal services shall 116  
be fixed. The compensation shall be paid from the county general 117  
fund. The total compensation paid, in any year, by the board for 118  
legal services under this division shall not exceed the total 119  
annual compensation of the prosecuting attorney for that county. 120

(D) The prosecuting attorney and the board of county 121  
commissioners jointly may contract with a board of park 122  
commissioners under section 1545.07 of the Revised Code for the 123  
prosecuting attorney to provide legal services to the park 124  
district the board of park commissioners operates. 125

(E) The prosecuting attorney may be, in the prosecuting 126  
attorney's discretion and with the approval of the board of 127  
county commissioners, the legal adviser of a joint fire district 128  
created under section 505.371 of the Revised Code at no cost to 129  
the district, or may be the legal adviser to the district under 130  
a contract that the prosecuting attorney and the district enter 131  
into, and that the board of county commissioners approves, to 132  
authorize the prosecuting attorney to provide legal services to 133  
the district. 134

(F) The prosecuting attorney may be, in the prosecuting 135  
attorney's discretion and with the approval of the board of 136  
county commissioners, the legal adviser of a joint ambulance 137  
district created under section 505.71 of the Revised Code at no 138  
cost to the district, or may be the legal adviser to the 139

district under a contract that the prosecuting attorney and the 140  
district enter into, and that the board of county commissioners 141  
approves, to authorize the prosecuting attorney to provide legal 142  
services to the district. 143

(G) The prosecuting attorney may be, in the prosecuting 144  
attorney's discretion and with the approval of the board of 145  
county commissioners, the legal adviser of a joint emergency 146  
medical services district created under section 307.052 of the 147  
Revised Code at no cost to the district, or may be the legal 148  
adviser to the district under a contract that the prosecuting 149  
attorney and the district enter into, and that the board of 150  
county commissioners approves, to authorize the prosecuting 151  
attorney to provide legal services to the district. 152

(H) The prosecuting attorney may be, in the prosecuting 153  
attorney's discretion and with the approval of the board of 154  
county commissioners, the legal adviser of a fire and ambulance 155  
district created under section 505.375 of the Revised Code at no 156  
cost to the district, or may be the legal adviser to the 157  
district under a contract that the prosecuting attorney and the 158  
district enter into, and that the board of county commissioners 159  
approves, to authorize the prosecuting attorney to provide legal 160  
services to the district. 161

(I) The prosecuting attorney may be, in the prosecuting 162  
attorney's discretion and with the approval of the board of 163  
county commissioners, the legal adviser to the board of trustees 164  
of a regional airport authority created under Chapter 308. of 165  
the Revised Code or the board of directors of a port authority 166  
created under Chapter 4582. of the Revised Code under a contract 167  
that the prosecuting attorney and the board of trustees or board 168  
of directors enter into. If the regional airport authority or 169

port authority covers territory in more than one county, the 170  
board of trustees or board of directors may choose the 171  
prosecuting attorney with whom it enters into such contract, 172  
with the approval of the board of county commissioners of that 173  
county. The contract may provide for the payment of a fee to the 174  
prosecuting attorney for legal services agreed to under the 175  
contract. 176

(J) The prosecuting attorney may be, in the prosecuting 177  
attorney's discretion and with the approval of the board of 178  
county commissioners, the legal adviser to a regional planning 179  
commission created under section 713.21 of the Revised Code 180  
under a contract that the prosecuting attorney and commission 181  
enter into. If the regional planning commission covers a region 182  
in more than one county, the commission may choose the 183  
prosecuting attorney with whom it enters into such contract, 184  
with the approval of the board of county commissioners of that 185  
county. The contract may provide for the payment of a fee to the 186  
prosecuting attorney for legal services agreed to under the 187  
contract. 188

(K) The prosecuting attorney may be, in the prosecuting 189  
attorney's discretion and with the approval of the board of 190  
county commissioners, the legal adviser to a regional council of 191  
governments created under Chapter 167. of the Revised Code under 192  
a contract that the prosecuting attorney and council enter into. 193  
If the regional council of governments covers a region in more 194  
than one county, the council may choose the prosecuting attorney 195  
with whom it enters into such contract, with the approval of the 196  
board of county commissioners of that county. The contract may 197  
provide for the payment of a fee to the prosecuting attorney for 198  
legal services agreed to under the contract. 199

(L) The prosecuting attorney may be, in the prosecuting attorney's discretion and with the approval of the board of county commissioners, the legal adviser to a metropolitan planning organization or a regional transportation planning organization under a contract that the prosecuting attorney and organization enter into. If the organization covers a region in more than one county, the organization may choose the prosecuting attorney with whom it enters into such contract, with the approval of the board of county commissioners of that county. The contract may provide for the payment of a fee to the prosecuting attorney for legal services agreed to under the contract. 200  
201  
202  
203  
204  
205  
206  
207  
208  
209  
210  
211

(M) All money received pursuant to a contract entered into under division (D), (E), (F), (G), (H), (I), ~~(J)~~, (K), or (L) of this section shall be deposited into the prosecuting attorney's legal services fund, which shall be established in the county treasury of each county in which such a contract exists. Moneys in that fund may be appropriated only to the prosecuting attorney for the purpose of providing legal services to a park district, joint fire district, joint ambulance district, joint emergency medical services district, fire and ambulance district, regional airport authority, port authority, ~~or~~ regional planning commission, regional council of governments, metropolitan planning organization, or regional transportation planning organization, as applicable, under a contract entered into under the applicable division. 212  
213  
214  
215  
216  
217  
218  
219  
220  
221  
222  
223  
224  
225

~~(L)~~ (N) The prosecuting attorney shall be the legal adviser of a lake facilities authority as provided in section 353.02 of the Revised Code. 226  
227  
228

**Section 2.** That existing sections 167.05 and 309.09 of the 229



Revised Code are hereby repealed.

230