

As Passed by the House

134th General Assembly

Regular Session

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H. B. No. 531

Representative Ghanbari

Cosponsors: Representatives Smith, K., Galonski, Leland, Abrams, Baldrige, Bird, Carruthers, Cutrona, Fraizer, Grendell, Hillyer, John, Lampton, Lanese, LaRe, Loychik, Miller, A., Miller, J., Patton, Russo, Schmidt, Seitz, Young, T.

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. 17

Sec. 309.09. (A) The prosecuting attorney shall be the 18
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 50
Revised Code upon a township law director. 51

(2) (a) If any township in the county served by the 52
prosecuting attorney has adopted any resolution regarding the 53
operation of adult entertainment establishments pursuant to the 54
authority that is granted under section 503.52 of the Revised 55
Code, or if a resolution of that nature has been adopted under 56
section 503.53 of the Revised Code in a township in the county 57
served by the prosecuting attorney, all of the following apply: 58

(i) Upon the request of a township in the county that has 59
adopted, or in which has been adopted, a resolution of that 60
nature that is made pursuant to division (E) (1) (c) of section 61
503.52 of the Revised Code, the prosecuting attorney shall 62
prosecute and defend on behalf of the township in the trial and 63
argument in any court or tribunal of any challenge to the 64
validity of the resolution. If the challenge to the validity of 65
the resolution is before a federal court, the prosecuting 66
attorney may request the attorney general to assist the 67
prosecuting attorney in prosecuting and defending the challenge 68
and, upon the prosecuting attorney's making of such a request, 69
the attorney general shall assist the prosecuting attorney in 70
performing that service if the resolution was drafted in 71
accordance with legal guidance provided by the attorney general 72
as described in division (B) (2) of section 503.52 of the Revised 73
Code. The attorney general shall provide this assistance without 74
charge to the township for which the service is performed. If a 75
township adopts a resolution without the legal guidance of the 76
attorney general, the attorney general is not required to 77

provide assistance as described in this division to a 78
prosecuting attorney. 79

(ii) Upon the request of a township in the county that has 80
adopted, or in which has been adopted, a resolution of that 81
nature that is made pursuant to division (E) (1) (a) of section 82
503.52 of the Revised Code, the prosecuting attorney shall 83
prosecute and defend on behalf of the township a civil action to 84
enjoin the violation of the resolution in question. 85

(iii) Upon the request of a township in the county that 86
has adopted, or in which has been adopted, a resolution of that 87
nature that is made pursuant to division (E) (1) (b) of section 88
503.52 of the Revised Code, the prosecuting attorney shall 89
prosecute and defend on behalf of the township a civil action 90
under Chapter 3767. of the Revised Code to abate as a nuisance 91
the place in the unincorporated area of the township at which 92
the resolution is being or has been violated. Proceeds from the 93
sale of personal property or contents seized pursuant to the 94
action shall be applied and deposited in accordance with 95
division (E) (1) (b) of section 503.52 of the Revised Code. 96

(b) Division (B) (2) (a) of this section applies regarding 97
all townships, including townships that have adopted a limited 98
home rule government pursuant to Chapter 504. of the Revised 99
Code, and regardless of whether a township that has so adopted a 100
limited home rule government has entered into a contract with 101
the prosecuting attorney as described in division (B) of section 102
504.15 of the Revised Code or has appointed a law director as 103
described in division (A) of that section. 104

The prosecuting attorney shall prosecute and defend in the 105
actions and proceedings described in division (B) (2) (a) of this 106
section without charge to the township for which the services 107

are performed. 108

(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. 109
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(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. 121
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(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. 126
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(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 135
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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 200
attorney's discretion and with the approval of the board of 201
county commissioners, the legal adviser to a metropolitan 202
planning organization or a regional transportation planning 203
organization under a contract that the prosecuting attorney and 204
organization enter into. If the organization covers a region in 205
more than one county, the organization may choose the 206
prosecuting attorney with whom it enters into such contract, 207
with the approval of the board of county commissioners of that 208
county. The contract may provide for the payment of a fee to the 209
prosecuting attorney for legal services agreed to under the 210
contract. 211

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

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

Section 2. That existing sections 167.05 and 309.09 of the Revised Code are hereby repealed.

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