



# Ohio Prosecuting Attorneys Association

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House Bill 96 – As Passed by the House  
Interested Party Testimony  
Senate Finance Committee

Chairman Cirino, Vice-Chair Chavez, Ranking Member Hicks-Hudson and members of the Senate Finance Committee, thank you for the opportunity to address several matters in House Bill 96 that are of importance to our Association

## **R.C. 109.39 (Attorney General Special Prosecutor – Prison Offenses)**

The bill authorizes the Attorney General to appoint a special prosecutor to prosecute offenses committed in ODRC facilities. Ohio county prosecutors already have authority to prosecute these cases and authority to request a special prosecutor when needed. The authority to prosecute felony offenses in Ohio has always resided at the local level with the county prosecutor who is closer to the voters and more accountable to the community in which the crime occurs. Removing authority from the county prosecutor and placing it in the hands of a statewide official reduces accountability and reduces the incentives to see that the community's safety is promoted and that justice is done. This change will result in greater delay in getting cases resolved, worse outcomes for victims and for the community, and all without increasing accountability for offenders.

There are also practical problems with this provision. It gives the attorney general authority to prosecute cases that county prosecutors already have authority to prosecute. This concurrent authority between the county prosecutor and that attorney general creates serious conflicts between the two as to who has what authority and when.

We request that this provision be removed from the bill.

## **R.C. 5705.27 (County Budget Commission)**

The bill removes the county prosecutor from the county budget commission. Our Association opposes this outright removal of the prosecutor and believe the change is misguided.

Having the prosecutor on the budget commission is a benefit to the budget commission itself. The other members of the budget commission and the entities who are subject to the budget commission's authority value the perspective of the prosecutor, their knowledge of the law and what the law requires, and the stability and institutional knowledge that the prosecutor provides. We have heard that the justification for this change in the makeup of the commission is that prosecutors often have conflicts of interest that require their recusal from budget commission matters. Conflicts are something that prosecutors deal with every day and budget commission conflicts are no different. Commissioner irresolvable conflicts of their own since they are required to approve all levies and are the funding authority for county government. Finally, while

prosecutors do occasionally have conflicts on budget commission matters, it is our view that it is more prudent to have the prosecutor involved on the front end of budget commission decisions, where they may occasionally have to deal with a conflict of interest, than to take them off of the budget commission and have them involved only on the back end of decisions that have resulted in litigation that could have been avoided. The current makeup of the commission provides necessary checks and balances with the county commissioners.

We request that the prosecutor be kept on the budget commission or be allowed to opt out of membership on the budget commission, in favor of another county official, at their own discretion.

#### **R.C. 2921.36 (Illegal Conveyance)**

The bill increases penalties for illegal conveyance into a detention facility and certain other governmental facilities. Current law provides for mandatory time when the offender is an employee of ODRC. The bill adds employees of ODYS and contractors of ODRC and ODYS to the list of offenders for whom the court must impose mandatory time. We support these changes but request that employees of local detention facilities who are guilty of illegal conveyance also be required to serve mandatory time. Our local detention facilities have many of the same issues and ODRC and ODYS in terms of combatting illegal conveyance. The employees of these local facilities should be treated no differently than employees of state facilities who violate this law.

We request that the same penalties be applied to local correctional facilities as are being applied to state facilities.

#### **Ohio Elections Commission – Transfer of Authority to Boards of Elections**

The bill abolishes the Ohio Elections Commission and transfer some of the responsibilities of the commission to our local boards of elections.

Our Association shares the concerns of the Ohio Association of Elections Officials regarding the impact of this legislation on our boards of elections and county prosecutor offices. One of the complaints that we heard expressed by some members of the House expressed about the Ohio Elections Commission was that the commission is comprised of non-lawyers who are tasked with making legal decisions about elections law violations. Transferring the responsibilities of the Elections Commission to local boards of elections will not change this dynamic since most members of the boards are also non-lawyers. Because of this, county prosecutors, as legal counsel for the boards, are likely to end up playing a large role advising the boards about and during proceedings.

In addition, we believe transferring this authority to local boards of elections will result in an increased number of complaints compared to the Elections Commission since people are likely to feel more comfortable filing a complaint with a local board than they are with a state entity. All of this will create new responsibilities and new workload for the boards of elections and our county prosecutors that will take time and resources away from prosecuting current criminal matters and from providing legal counsel to our county and township officials and county boards.

We request that, if the Elections Commission is abolished, its responsibilities be transferred to the another state entity that the General Assembly can provide appropriate resources to.