

As Introduced

136th General Assembly

Regular Session

2025-2026

H. B. No. 412

Representative Swearingen

To amend sections 309.09 and 733.48 of the Revised 1
Code to allow a village to contract with the 2
county prosecutor for legal services. 3

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

Section 1. That sections 309.09 and 733.48 of the Revised 4
Code be amended to read as follows: 5

Sec. 309.09. (A) The prosecuting attorney shall be the 6
legal adviser of the board of county commissioners, board of 7
elections, all other county officers and boards, and all tax- 8
supported public libraries, and any of them may require written 9
opinions or instructions from the prosecuting attorney in 10
matters connected with their official duties. The prosecuting 11
attorney shall prosecute and defend all suits and actions that 12
any such officer, board, or tax-supported public library directs 13
or to which it is a party, and no county officer may employ any 14
other counsel or attorney at the expense of the county, except 15
as provided in section 305.14 of the Revised Code. 16

(B) (1) The prosecuting attorney shall be the legal adviser 17
for all township officers, boards, and commissions, unless, 18
subject to division (B) (2) of this section, the township has 19
adopted a limited home rule government pursuant to Chapter 504. 20

of the Revised Code and has not entered into a contract to have 21
the prosecuting attorney serve as the township law director, in 22
which case, subject to division (B) (2) of this section, the 23
township law director, whether serving full-time or part-time, 24
shall be the legal adviser for all township officers, boards, 25
and commissions. When the board of township trustees finds it 26
advisable or necessary to have additional legal counsel, it may 27
employ an attorney other than the township law director or the 28
prosecuting attorney of the county, either for a particular 29
matter or on an annual basis, to represent the township and its 30
officers, boards, and commissions in their official capacities 31
and to advise them on legal matters. No such legal counsel may 32
be employed, except on the order of the board of township 33
trustees, duly entered upon its journal, in which the 34
compensation to be paid for the legal services shall be fixed. 35
The compensation shall be paid from the township fund. 36

Nothing in this division confers any of the powers or 37
duties of a prosecuting attorney under section 309.08 of the 38
Revised Code upon a township law director. 39

(2) (a) If any township in the county served by the 40
prosecuting attorney has adopted any resolution regarding the 41
operation of adult entertainment establishments pursuant to the 42
authority that is granted under section 503.52 of the Revised 43
Code, or if a resolution of that nature has been adopted under 44
section 503.53 of the Revised Code in a township in the county 45
served by the prosecuting attorney, all of the following apply: 46

(i) Upon the request of a township in the county that has 47
adopted, or in which has been adopted, a resolution of that 48
nature that is made pursuant to division (E) (1) (c) of section 49
503.52 of the Revised Code, the prosecuting attorney shall 50

prosecute and defend on behalf of the township in the trial and 51
argument in any court or tribunal of any challenge to the 52
validity of the resolution. If the challenge to the validity of 53
the resolution is before a federal court, the prosecuting 54
attorney may request the attorney general to assist the 55
prosecuting attorney in prosecuting and defending the challenge 56
and, upon the prosecuting attorney's making of such a request, 57
the attorney general shall assist the prosecuting attorney in 58
performing that service if the resolution was drafted in 59
accordance with legal guidance provided by the attorney general 60
as described in division (B) (2) of section 503.52 of the Revised 61
Code. The attorney general shall provide this assistance without 62
charge to the township for which the service is performed. If a 63
township adopts a resolution without the legal guidance of the 64
attorney general, the attorney general is not required to 65
provide assistance as described in this division to a 66
prosecuting attorney. 67

(ii) Upon the request of a township in the county that has 68
adopted, or in which has been adopted, a resolution of that 69
nature that is made pursuant to division (E) (1) (a) of section 70
503.52 of the Revised Code, the prosecuting attorney shall 71
prosecute and defend on behalf of the township a civil action to 72
enjoin the violation of the resolution in question. 73

(iii) Upon the request of a township in the county that 74
has adopted, or in which has been adopted, a resolution of that 75
nature that is made pursuant to division (E) (1) (b) of section 76
503.52 of the Revised Code, the prosecuting attorney shall 77
prosecute and defend on behalf of the township a civil action 78
under Chapter 3767. of the Revised Code to abate as a nuisance 79
the place in the unincorporated area of the township at which 80
the resolution is being or has been violated. Proceeds from the 81

sale of personal property or contents seized pursuant to the 82
action shall be applied and deposited in accordance with 83
division (E) (1) (b) of section 503.52 of the Revised Code. 84

(b) Division (B) (2) (a) of this section applies regarding 85
all townships, including townships that have adopted a limited 86
home rule government pursuant to Chapter 504. of the Revised 87
Code, and regardless of whether a township that has so adopted a 88
limited home rule government has entered into a contract with 89
the prosecuting attorney as described in division (B) of section 90
504.15 of the Revised Code or has appointed a law director as 91
described in division (A) of that section. 92

The prosecuting attorney shall prosecute and defend in the 93
actions and proceedings described in division (B) (2) (a) of this 94
section without charge to the township for which the services 95
are performed. 96

(C) Whenever the board of county commissioners employs an 97
attorney other than the prosecuting attorney of the county, 98
without the authorization of the court of common pleas as 99
provided in section 305.14 of the Revised Code, either for a 100
particular matter or on an annual basis, to represent the board 101
in its official capacity and to advise it on legal matters, the 102
board shall enter upon its journal an order of the board in 103
which the compensation to be paid for the legal services shall 104
be fixed. The compensation shall be paid from the county general 105
fund. The total compensation paid, in any year, by the board for 106
legal services under this division shall not exceed the total 107
annual compensation of the prosecuting attorney for that county. 108

(D) The prosecuting attorney and the board of county 109
commissioners jointly may contract with a board of park 110
commissioners under section 1545.07 of the Revised Code for the 111

prosecuting attorney to provide legal services to the park 112
district the board of park commissioners operates. 113

(E) The prosecuting attorney may be, in the prosecuting 114
attorney's discretion and with the approval of the board of 115
county commissioners, the legal adviser of a joint fire district 116
created under section 505.371 of the Revised Code at no cost to 117
the district, or may be the legal adviser to the district under 118
a contract that the prosecuting attorney and the district enter 119
into, and that the board of county commissioners approves, to 120
authorize the prosecuting attorney to provide legal services to 121
the district. 122

(F) The prosecuting attorney may be, in the prosecuting 123
attorney's discretion and with the approval of the board of 124
county commissioners, the legal adviser of a joint ambulance 125
district created under section 505.71 of the Revised Code at no 126
cost to the district, or may be the legal adviser to the 127
district under a contract that the prosecuting attorney and the 128
district enter into, and that the board of county commissioners 129
approves, to authorize the prosecuting attorney to provide legal 130
services to the district. 131

(G) The prosecuting attorney may be, in the prosecuting 132
attorney's discretion and with the approval of the board of 133
county commissioners, the legal adviser of a joint emergency 134
medical services district created under section 307.052 of the 135
Revised Code at no cost to the district, or may be the legal 136
adviser to the district under a contract that the prosecuting 137
attorney and the district enter into, and that the board of 138
county commissioners approves, to authorize the prosecuting 139
attorney to provide legal services to the district. 140

(H) The prosecuting attorney may be, in the prosecuting 141

attorney's discretion and with the approval of the board of 142
county commissioners, the legal adviser of a fire and ambulance 143
district created under section 505.375 of the Revised Code at no 144
cost to the district, or may be the legal adviser to the 145
district under a contract that the prosecuting attorney and the 146
district enter into, and that the board of county commissioners 147
approves, to authorize the prosecuting attorney to provide legal 148
services to the district. 149

(I) The prosecuting attorney may be, in the prosecuting 150
attorney's discretion and with the approval of the board of 151
county commissioners, the legal adviser to the board of trustees 152
of a regional airport authority created under Chapter 308. of 153
the Revised Code or the board of directors of a port authority 154
created under Chapter 4582. of the Revised Code under a contract 155
that the prosecuting attorney and the board of trustees or board 156
of directors enter into. If the regional airport authority or 157
port authority covers territory in more than one county, the 158
board of trustees or board of directors may choose the 159
prosecuting attorney with whom it enters into such contract, 160
with the approval of the board of county commissioners of that 161
county. The contract may provide for the payment of a fee to the 162
prosecuting attorney for legal services agreed to under the 163
contract. 164

(J) The prosecuting attorney may be, in the prosecuting 165
attorney's discretion and with the approval of the board of 166
county commissioners, the legal adviser to a regional planning 167
commission created under section 713.21 of the Revised Code 168
under a contract that the prosecuting attorney and commission 169
enter into. If the regional planning commission covers a region 170
in more than one county, the commission 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

(K) 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 council of 179
governments created under Chapter 167. of the Revised Code under 180
a contract that the prosecuting attorney and council enter into. 181
If the regional council of governments covers a region in more 182
than one county, the council may choose the prosecuting attorney 183
with whom it enters into such contract, with the approval of the 184
board of county commissioners of that county. The contract may 185
provide for the payment of a fee to the prosecuting attorney for 186
legal services agreed to under the contract. 187

(L) The prosecuting attorney may be, in the prosecuting 188
attorney's discretion and with the approval of the board of 189
county commissioners, the legal adviser to a metropolitan 190
planning organization, or to a regional transportation planning 191
organization that has been designated by the governor under 23 192
U.S.C. 135, under a contract that the prosecuting attorney and 193
organization enter into. If the organization covers a region in 194
more than one county, the organization may choose the 195
prosecuting attorney with whom it enters into such contract, 196
with the approval of the board of county commissioners of that 197
county. The contract may provide for the payment of a fee to the 198
prosecuting attorney for legal services agreed to under the 199
contract. 200

(M) The prosecuting attorney may be, in the prosecuting 201
attorney's discretion and with the approval of the board of 202

county commissioners, the legal adviser to a transportation 203
improvement district created under Chapter 5540. of the Revised 204
Code under a contract between the prosecuting attorney and the 205
transportation improvement district. The contract may provide 206
for the payment of a fee to the prosecuting attorney for legal 207
services agreed to under the contract. 208

(N) The prosecuting attorney may be, in the prosecuting 209
attorney's discretion and with the approval of the board of 210
county commissioners, the legal adviser to a village under 211
section 733.48 of the Revised Code under a contract that the 212
prosecuting attorney and village enter into. If the village is 213
located in more than one county, the village may contract with 214
the prosecuting attorney of the county wherein the majority of 215
the village's territory is located, with the approval of the 216
board of county commissioners of that county. The contract may 217
provide for the payment of a fee to the prosecuting attorney for 218
legal services agreed to under the contract. 219

(O) All money received pursuant to a contract entered into 220
under division (D), (E), (F), (G), (H), (I), (J), (K), (L), ~~or~~ 221
(M), or (N) of this section shall be deposited into the 222
prosecuting attorney's legal services fund, which shall be 223
established in the county treasury of each county in which such 224
a contract exists. Moneys in that fund may be appropriated only 225
to the prosecuting attorney for the purpose of providing legal 226
services to a park district, joint fire district, joint 227
ambulance district, joint emergency medical services district, 228
fire and ambulance district, regional airport authority, port 229
authority, regional planning commission, regional council of 230
governments, metropolitan planning organization, regional 231
transportation planning organization, or transportation 232
improvement district as applicable, under a contract entered 233

into under the applicable division. 234

~~(O)~~(P) The prosecuting attorney shall be the legal adviser 235
of a lake facilities authority as provided in section 353.02 of 236
the Revised Code. 237

Sec. 733.48. (A) Except as provided in division (B) of 238
this section, when it considers it necessary, the legislative 239
authority of a village may provide legal counsel for the 240
village, or for any department or official of the village, for a 241
period not to exceed two years and shall provide compensation 242
for the legal counsel. 243

(B) A petition may be filed with the village clerk, signed 244
by registered electors residing in the village equal in number 245
to not less than ten per cent of the total vote cast for all 246
candidates for governor in the village at the most recent 247
general election at which a governor was elected, requesting 248
that the question be placed before the electors whether, instead 249
of the legislative authority appointing legal counsel for the 250
village or for any department or official of the village, the 251
mayor shall appoint an attorney or law firm as the legal counsel 252
with the advice and consent of the legislative authority. Within 253
two weeks after receipt of the petition, the clerk shall certify 254
it to the board of elections, which shall determine its 255
sufficiency and validity. The petition shall be certified to the 256
board not less than ninety days prior to the election at which 257
the question is to be voted upon. 258

At the election, if a majority of the electors of the 259
village approves the question, then effective immediately when 260
the mayor considers it necessary, the mayor shall appoint, with 261
the advice and consent of the legislative authority, an attorney 262
or law firm as legal counsel for the village, or for any 263

department or official of the village, for a period not to 264
exceed two years. The appointment of legal counsel under this 265
division shall be pursuant to a contract approved by the mayor 266
and a majority vote of the legislative authority. The contract 267
shall provide for the compensation and other terms of the 268
engagement of the legal counsel, and the legislative authority 269
shall provide that compensation for the legal counsel. 270

(C) When acting under this section, the legislative 271
authority acts in its administrative capacity. 272

(D) The legislative authority or mayor may provide legal 273
counsel under this section by contracting with the county 274
prosecutor as provided in section 309.09 of the Revised Code. 275

Section 2. That existing sections 309.09 and 733.48 of the 276
Revised Code are hereby repealed. 277