

Ohio House of Representatives



State Representative Brian Lampton District 73

HB 275 – Sponsor Testimony
House Commerce & Labor Committee
12 May 2021

Chair Stein, Vice Chair Johnson, Ranking Member Lepore-Hagan, and members of the House Commerce and Labor Committee, thank you for the opportunity to testify on House Bill 275. This legislation clarifies the ability of political subdivisions to procure construction services within the scope of the joint purchasing law, ORC 9.48. Currently, political subdivisions may utilize joint purchasing contracts held by other governments to buy equipment, materials, supplies or services. Many political subdivisions utilize joint purchasing agreements for construction services for local projects. Construction services includes the physical construction work undertaken by a contractor to construct a project. However, a recent Attorney General Opinion (2019-28) has concluded that this section of the Ohio Revised Code does not expressly include “construction” services. The Ohio Attorney General Opinion 2019-28 states:

R.C. 9.48(B) does not authorize a political subdivision to acquire construction services through participation in a contract entered into by another political subdivision.

The General Assembly authorized joint purchasing for counties and townships in 1997, and for all political subdivisions in 2008. This attorney general opinion has created ambiguity for our local governments that utilize Ohio’s joint purchasing law to procure construction services. While an attorney general opinion is not law, it calls into question the ability of local governments to procure construction services for local projects. Specifically, it has created fear of legal action against the political subdivisions by the state for procuring construction services with joint purchasing agreements.

Joint purchasing promotes local control and allows local governments flexibility to make purchasing decisions in the best interest of taxpayers and the community. Joint and cooperative purchasing is an established procurement tool allowing local governments to use competitively awarded contracts established by other governments. Using these contracts allows local governments to maximize staff resources and leverage pooled buying power to attain lower prices on goods and services.

Joint and cooperative contracts directly benefit taxpayers by streamlining the procurement process, resulting in administrative time and cost savings, along with lower prices. Contracts are awarded based on a full, open, and transparent competitive public procurement process conducted by a government agency.

In recent years, Greene County has utilized joint and cooperative purchasing to procure construction services. Despite the Ohio Attorney General's opinion, Greene County continues to utilize this process for construction services for approximately \$8 million in local construction projects. Many local governments continue to utilize joint and cooperative purchasing; however, many worry that the state will go after them with a "finding for recovery" based on the Attorney General's opinion. This ambiguity is not only bad for local governments, but it negatively affects the local contractors and construction companies hired to complete these projects. This opinion calls into question their ability to provide their services to political subdivisions that utilize this efficient and transparent process.

HB 275 does not seek to change the current joint and cooperative purchasing process nor does this bill require political subdivisions to utilize joint purchasing contracts. This legislation simply seeks to clarify that political subdivisions may utilize the established process for procuring construction services.

Chair Stein, Vice Chair Johnson, Ranking Member Lepore-Hagan, and members of the House Commerce and Labor Committee, thank you for the opportunity to present testimony on HB 275. I would be happy to answer questions from committee members at this time.