

As Reported by the Senate Local Government and Elections Committee

134th General Assembly

Regular Session

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Sub. 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, and to convey state-owned land in Lucas County.

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 17
obtain legal services from the prosecuting attorney. 18

Sec. 309.09. (A) The prosecuting attorney shall be the 19
legal adviser of the board of county commissioners, board of 20
elections, all other county officers and boards, and all tax- 21
supported public libraries, and any of them may require written 22
opinions or instructions from the prosecuting attorney in 23
matters connected with their official duties. The prosecuting 24
attorney shall prosecute and defend all suits and actions that 25
any such officer, board, or tax-supported public library directs 26
or to which it is a party, and no county officer may employ any 27
other counsel or attorney at the expense of the county, except 28
as provided in section 305.14 of the Revised Code. 29

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

compensation to be paid for the legal services shall be fixed. 48

The compensation shall be paid from the township fund. 49

Nothing in this division confers any of the powers or 50

duties of a prosecuting attorney under section 309.08 of the 51

Revised Code upon a township law director. 52

(2) (a) If any township in the county served by the 53

prosecuting attorney has adopted any resolution regarding the 54

operation of adult entertainment establishments pursuant to the 55

authority that is granted under section 503.52 of the Revised 56

Code, or if a resolution of that nature has been adopted under 57

section 503.53 of the Revised Code in a township in the county 58

served by the prosecuting attorney, all of the following apply: 59

(i) Upon the request of a township in the county that has 60

adopted, or in which has been adopted, a resolution of that 61

nature that is made pursuant to division (E) (1) (c) of section 62

503.52 of the Revised Code, the prosecuting attorney shall 63

prosecute and defend on behalf of the township in the trial and 64

argument in any court or tribunal of any challenge to the 65

validity of the resolution. If the challenge to the validity of 66

the resolution is before a federal court, the prosecuting 67

attorney may request the attorney general to assist the 68

prosecuting attorney in prosecuting and defending the challenge 69

and, upon the prosecuting attorney's making of such a request, 70

the attorney general shall assist the prosecuting attorney in 71

performing that service if the resolution was drafted in 72

accordance with legal guidance provided by the attorney general 73

as described in division (B) (2) of section 503.52 of the Revised 74

Code. The attorney general shall provide this assistance without 75

charge to the township for which the service is performed. If a 76

township adopts a resolution without the legal guidance of the 77

attorney general, the attorney general is not required to 78
provide assistance as described in this division to a 79
prosecuting attorney. 80

(ii) Upon the request of a township in the county that has 81
adopted, or in which has been adopted, a resolution of that 82
nature that is made pursuant to division (E) (1) (a) of section 83
503.52 of the Revised Code, the prosecuting attorney shall 84
prosecute and defend on behalf of the township a civil action to 85
enjoin the violation of the resolution in question. 86

(iii) Upon the request of a township in the county that 87
has adopted, or in which has been adopted, a resolution of that 88
nature that is made pursuant to division (E) (1) (b) of section 89
503.52 of the Revised Code, the prosecuting attorney shall 90
prosecute and defend on behalf of the township a civil action 91
under Chapter 3767. of the Revised Code to abate as a nuisance 92
the place in the unincorporated area of the township at which 93
the resolution is being or has been violated. Proceeds from the 94
sale of personal property or contents seized pursuant to the 95
action shall be applied and deposited in accordance with 96
division (E) (1) (b) of section 503.52 of the Revised Code. 97

(b) Division (B) (2) (a) of this section applies regarding 98
all townships, including townships that have adopted a limited 99
home rule government pursuant to Chapter 504. of the Revised 100
Code, and regardless of whether a township that has so adopted a 101
limited home rule government has entered into a contract with 102
the prosecuting attorney as described in division (B) of section 103
504.15 of the Revised Code or has appointed a law director as 104
described in division (A) of that section. 105

The prosecuting attorney shall prosecute and defend in the 106
actions and proceedings described in division (B) (2) (a) of this 107

section without charge to the township for which the services 108
are performed. 109

(C) Whenever the board of county commissioners employs an 110
attorney other than the prosecuting attorney of the county, 111
without the authorization of the court of common pleas as 112
provided in section 305.14 of the Revised Code, either for a 113
particular matter or on an annual basis, to represent the board 114
in its official capacity and to advise it on legal matters, the 115
board shall enter upon its journal an order of the board in 116
which the compensation to be paid for the legal services shall 117
be fixed. The compensation shall be paid from the county general 118
fund. The total compensation paid, in any year, by the board for 119
legal services under this division shall not exceed the total 120
annual compensation of the prosecuting attorney for that county. 121

(D) The prosecuting attorney and the board of county 122
commissioners jointly may contract with a board of park 123
commissioners under section 1545.07 of the Revised Code for the 124
prosecuting attorney to provide legal services to the park 125
district the board of park commissioners operates. 126

(E) The prosecuting attorney may be, in the prosecuting 127
attorney's discretion and with the approval of the board of 128
county commissioners, the legal adviser of a joint fire district 129
created under section 505.371 of the Revised Code at no cost to 130
the district, or may be the legal adviser to the district under 131
a contract that the prosecuting attorney and the district enter 132
into, and that the board of county commissioners approves, to 133
authorize the prosecuting attorney to provide legal services to 134
the district. 135

(F) The prosecuting attorney may be, in the prosecuting 136
attorney's discretion and with the approval of the board of 137

county commissioners, the legal adviser of a joint ambulance 138
district created under section 505.71 of the Revised Code at no 139
cost to the district, or may be the legal adviser to the 140
district under a contract that the prosecuting attorney and the 141
district enter into, and that the board of county commissioners 142
approves, to authorize the prosecuting attorney to provide legal 143
services to the district. 144

(G) The prosecuting attorney may be, in the prosecuting 145
attorney's discretion and with the approval of the board of 146
county commissioners, the legal adviser of a joint emergency 147
medical services district created under section 307.052 of the 148
Revised Code at no cost to the district, or may be the legal 149
adviser to the district under a contract that the prosecuting 150
attorney and the district enter into, and that the board of 151
county commissioners approves, to authorize the prosecuting 152
attorney to provide legal services to the district. 153

(H) The prosecuting attorney may be, in the prosecuting 154
attorney's discretion and with the approval of the board of 155
county commissioners, the legal adviser of a fire and ambulance 156
district created under section 505.375 of the Revised Code at no 157
cost to the district, or may be the legal adviser to the 158
district under a contract that the prosecuting attorney and the 159
district enter into, and that the board of county commissioners 160
approves, to authorize the prosecuting attorney to provide legal 161
services to the district. 162

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

created under Chapter 4582. of the Revised Code under a contract 168
that the prosecuting attorney and the board of trustees or board 169
of directors enter into. If the regional airport authority or 170
port authority covers territory in more than one county, the 171
board of trustees or board of directors may choose the 172
prosecuting attorney with whom it enters into such contract, 173
with the approval of the board of county commissioners of that 174
county. The contract may provide for the payment of a fee to the 175
prosecuting attorney for legal services agreed to under the 176
contract. 177

(J) The prosecuting attorney may be, in the prosecuting 178
attorney's discretion and with the approval of the board of 179
county commissioners, the legal adviser to a regional planning 180
commission created under section 713.21 of the Revised Code 181
under a contract that the prosecuting attorney and commission 182
enter into. If the regional planning commission covers a region 183
in more than one county, the commission may choose the 184
prosecuting attorney with whom it enters into such contract, 185
with the approval of the board of county commissioners of that 186
county. The contract may provide for the payment of a fee to the 187
prosecuting attorney for legal services agreed to under the 188
contract. 189

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

provide for the payment of a fee to the prosecuting attorney for 199
legal services agreed to under the contract. 200

(L) 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 metropolitan 203
planning organization or a regional transportation planning 204
organization under a contract that the prosecuting attorney and 205
organization enter into. If the organization covers a region in 206
more than one county, the organization may choose the 207
prosecuting attorney with whom it enters into such contract, 208
with the approval of the board of county commissioners of that 209
county. The contract may provide for the payment of a fee to the 210
prosecuting attorney for legal services agreed to under the 211
contract. 212

(M) All money received pursuant to a contract entered into 213
under division (D), (E), (F), (G), (H), (I), ~~or~~ (J), (K), or (L) 214
of this section shall be deposited into the prosecuting 215
attorney's legal services fund, which shall be established in 216
the county treasury of each county in which such a contract 217
exists. Moneys in that fund may be appropriated only to the 218
prosecuting attorney for the purpose of providing legal services 219
to a park district, joint fire district, joint ambulance 220
district, joint emergency medical services district, fire and 221
ambulance district, regional airport authority, port authority, 222
~~or~~ regional planning commission, regional council of 223
governments, metropolitan planning organization, or regional 224
transportation planning organization, as applicable, under a 225
contract entered into under the applicable division. 226

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

353.02 of the Revised Code.	229
Section 2. That existing sections 167.05 and 309.09 of the Revised Code are hereby repealed.	230 231
Section 3. (A) The Governor may execute a Governor's Deed in the name of the State conveying to the Lucas County Commissioners ("Grantee"), and its successors and assigns, to be determined in the manner provided in division (C) of this section, all of the State's right, title, and interest in the following described real estate:	232 233 234 235 236 237
All that part of Lot 13, Ellwood Farms Subdivision, Section 2 R9E, T7N, Monclova Township, Lucas County, Ohio, bounded and described as follows:	238 239 240
Commencing at the intersection of the easterly line of Lot 13, Ellwood Farms Subdivision, extended northwardly, and the centerline of Ohio Route 2, which point is designated as Station 266 plus 61.80 on the plans of Luc-2-3.02; thence southwardly along the easterly line of said Lot 13 extended, at an angle of 116 degrees 13 minutes measured from the centerline of Ohio Route 2 from East to Southwest for a distance of 33.44 feet to a point on a line which is 30 feet southeast of and parallel to the centerline of Ohio Route 2, which point is designated as 266 plus 47.10 on the plans of said Luc-2-3.02 and is the POINT OF BEGINNING; thence southwardly on the easterly line of said Lot 13 a distance of 304.79 feet; thence southwestwardly along a line parallel to the centerline of Ohio Route 2 and at an angle of 116 degrees 13 minutes measured counter-clockwise from the last described line, for a distance of 171.88 feet; thence northwardly along a line parallel to the easterly line of said Lot 13 and at an angle of 63 degrees and 47 minutes measured counter-clockwise from the last described line, for a distance	241 242 243 244 245 246 247 248 249 250 251 252 253 254 255 256 257 258

of 304.79 feet, more or less, to a point on a line 30 feet 259
southeast of and parallel to the centerline of Ohio Route 2; 260
thence northeastwardly along a line 30 feet southeast of and 261
parallel to the centerline of Ohio Route 2 for a distance of 262
171.88 feet, more or less, to the POINT OF BEGINNING; containing 263
1.079 acres of land, more or less, of which the present roadway 264
occupies 0.079 acres, more or less. 265

Lucas County Parcel No. 38-46134 266

Prior Instrument Reference: Deed Volume 1764, Page 84. 267

The foregoing legal description may be corrected or 268
modified by the Department of Administrative Services to a final 269
form if such corrections or modifications are needed to 270
facilitate recordation of the deed. 271

(B) (1) The conveyance includes improvements and chattels 272
situated on the real estate, and is subject to all easements, 273
covenants, conditions, leases, and restrictions of record: all 274
legal highways and public rights-of-way; zoning, building, and 275
other laws, ordinances, restrictions, and regulations; and real 276
estate taxes and assessments not yet due and payable. The real 277
estate shall be conveyed in an "as-is, where-is, with all 278
faults" condition. 279

(2) The deed for conveyance of the real estate may contain 280
restrictions, exceptions, reservations, reversionary interests, 281
and other terms and conditions the Director of Administrative 282
Services determines to be in the best interest of the State. 283

(3) Subsequent to the conveyance, any restrictions, 284
exceptions, reservations, reversionary interests, or other terms 285
and conditions contained in the deed may be released by the 286
State or the Department of Public Safety without the necessity 287

of further legislation. 288

(C) Notwithstanding section 22 of H.B. 377 of the 134th 289
General Assembly, the Director of Administrative Services shall 290
offer the real estate to the Lucas County Commissioners through 291
a real estate purchase agreement. Consideration for the 292
conveyance of the real estate described in division (A) of this 293
section shall be \$1.00. If the Lucas County Commissioners do not 294
complete the purchase of the real estate within the time period 295
provided in the real estate purchase agreement, the Director of 296
Administrative Services may use any reasonable method of sale 297
considered acceptable by the Department of Public Safety to 298
determine an alternate grantee willing to complete the purchase 299
for a consideration acceptable to the Department of Public 300
Safety within three years after the effective date of this 301
section. The Department of Public Safety shall pay all 302
advertising costs, additional fees, and other costs incident to 303
the sale of the real estate to an alternate grantee. 304

(D) The real estate described in division (A) of this 305
section shall be sold as an entire tract and not in parcels. 306

(E) Except as otherwise specified above, the Grantee shall 307
pay all costs associated with the purchase, closing and 308
conveyance, including surveys, title evidence, title insurance, 309
transfer costs and fees, recording costs and fees, taxes, and 310
any other fees, assessments, and costs that may be imposed. 311

The proceeds of the sale shall be deposited into the state 312
treasury to the credit of the Public Safety - Highway Purposes 313
fund (Fund 5TM0) under section 4501.06 of the Revised Code. 314

(F) (1) Upon execution of the real estate purchase 315
agreement, the Director of the Department of Administrative 316

Services, with the assistance of the Attorney General, shall 317
prepare a Governor's Deed to the real estate described in 318
division (A) of this section. The Governor's Deed shall state 319
the consideration and shall be executed by the Governor in the 320
name of the State, countersigned by the Secretary of State, 321
sealed with the Great Seal of the State, presented in the 322
Department of Administrative Services for recording, and 323
delivered to the Grantee. The Grantee shall present the 324
Governor's Deed for recording in the Office of the Lucas County 325
Recorder. 326

(2) The Governor's Deed shall contain a restriction 327
stating that prior to any subsequent sale or transfer of the 328
real estate described in division (A), the purchaser or 329
purchasers shall offer the real estate described in division (A) 330
to the State of Ohio at the same purchase price provided in 331
division (C) and at the sole option and discretion of the 332
Director of Administrative Services and Director of Public 333
Safety. 334

(3) The Governor's Deed may contain a restriction 335
prohibiting the lease of the real estate or any portion thereof 336
by the Grantee for purposes other than a proper public purpose 337
and may contain reversion to the state for violation of the 338
restriction. 339

(G) This section expires three years after its effective 340
date. 341