



Pamela Goshay

Final Analysis
Legislative Service Commission

Sub. H.B. 33

126th General Assembly
(As Passed by the General Assembly)

Reps. Wagner, Combs, Allen, Barrett, Hartnett, McGregor, Brown, Reidelbach, Wolpert, C. Evans, Harwood, Taylor, Flowers, Bulp, Carano, Cassell, Chandler, Collier, Daniels, Distel, Dolan, Dominick, D. Evans, Faber, Fende, Fessler, Gibbs, Hagan, Hughes, Kearns, Latta, Law, Reinhard, Schlichter, Schneider, Seaver, Setzer, D. Stewart, Wagoner, Walcher

Sens. Zurz, Fedor, Amstutz, Gardner, Grendell, Schuler

Effective date: *

ACT SUMMARY

- Permits the prosecuting attorney, with the board of county commissioners' approval, to be the legal adviser to a joint fire district, joint ambulance district, fire and ambulance district, or joint emergency medical services district either at no cost to the district or under a contract with the district.
- Authorizes an assistant prosecuting attorney to be a member of a board of education in any county other than the county in which the assistant prosecuting attorney is employed if the board of education's school district is not contiguous to the county in which the assistant prosecuting attorney is employed.

** The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared. Additionally, the analysis may not reflect action taken by the Governor.*

CONTENT AND OPERATION

Provision of legal services by prosecuting attorney to certain political subdivisions

Continuing and former law

Continuing law designates the prosecuting attorney of a county as the legal adviser of (1) the board of county commissioners, board of elections, and all other county officers and boards, including all tax-supported libraries, (2) all township officers, boards, and commissions in a township that has not adopted a limited home rule government, and (3) each township that has adopted a limited home rule government and that has entered into a contract to have the prosecuting attorney serve as the township law director (R.C. 309.09(A) and (B)). Continuing law also allows the prosecuting attorney, in the prosecuting attorney's discretion, to serve as the legal adviser to a joint fire district, but, under former law, the service had to be *at no cost* to the district (R.C. 309.09(E)).

Further, under continuing law, the prosecuting attorney, together with the board of county commissioners, may contract with the board of park commissioners of a metropolitan park district to provide the district with legal services. All moneys received pursuant to such a contract must be deposited in *the prosecuting attorney's legal services fund*, which must be established in the county treasury. Under former law, money in that fund could be appropriated only to the prosecuting attorney for the purpose of providing legal services under the contract to the metropolitan park district. The act expands, as explained below, the purposes for which that fund's money may be used. (R.C. 309.09(D) and (I).)

Changes proposed by the act

The act authorizes the prosecuting attorney, in the prosecuting attorney's discretion and with the approval of the board of county commissioners, to be the legal adviser to any or all of the following special districts *at no cost* to the district: (1) joint ambulance districts, (2) joint emergency medical services districts, (3) fire and ambulance districts, and (4) joint fire districts. It also authorizes the prosecuting attorney to be the legal adviser to any or all of those districts *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 (R.C. 309.09(E), (F), (G), and (H)).

The act also requires all money a prosecuting attorney receives under a contract entered into with a board of park commissioners of a metropolitan park district (continuing law) or with a joint fire district, joint ambulance district, joint emergency medical services district, or fire and ambulance district (added by the

act) to be paid into the prosecuting attorney's legal services fund that, if one does not exist under continuing law, must be established in the county treasury. Money in that fund may be appropriated only to the prosecuting attorney for the purpose of providing legal services to a metropolitan park district, joint fire district, joint ambulance district, joint emergency medical services district, or fire and ambulance district, as applicable, under a contract. (R.C. 309.09(D) and (I).)

Membership of assistant prosecuting attorney on certain boards of education

Continuing law prohibits a prosecuting attorney, city law director, or other official acting in a similar capacity from being a member of a board of education of a school district (R.C. 3313.13). The Attorney General has opined that this prohibition prevents an *assistant* prosecuting attorney from being the member of a board of education of a city school district. 2004 Op. Att'y. Gen. No. 2004-049.

The act authorizes an assistant prosecuting attorney to be a member of a board of education in any county other than the county in which the assistant prosecuting attorney is employed if the board of education's school district is not contiguous to the county in which the assistant prosecuting attorney is employed (R.C. 3313.13).

COMMENT

Continuing law authorizes specified combinations of counties, municipal corporations, townships, and special districts to form joint fire districts, joint ambulance districts, joint emergency medical services districts, and fire and ambulance districts to carry out the function or functions reflected in their title.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	02-03-05	p. 183
Reported, H. State Gov't	04-19-05	p. 675
Passed House (96-0)	05-03-05	pp. 737-738
Reported, S. State & Local Gov't & Veterans Affairs	06-21-05	p. 872
Passed Senate (32-0)	06-22-05	p. 1343
House concurred in Senate amendments (89-0)	08-02-05	pp. 1541-1542

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