



Phil Mullin

*Bill Analysis*  
*Legislative Service Commission*

## **Sub. H.B. 33\***

126th General Assembly

(As Reported by S. State and Local Government and Veterans Affairs)

**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**

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### **BILL 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.

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### **CONTENT AND OPERATION**

#### **Provision of legal services by prosecuting attorney to certain political subdivisions**

##### **Current law**

Current 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

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\* *This analysis was prepared before the report of the Senate State and Local Government and Veterans Affairs Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

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)).

Current law also allows the prosecuting attorney, in the prosecuting attorney's discretion, to serve as the legal adviser to a joint fire district, *at no cost* to the district (R.C. 309.09(E)). And, together with the board of county commissioners, the prosecuting attorney 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. Money in that fund may be appropriated only to the prosecuting attorney for the purpose of providing legal services under the contract to the metropolitan park district. (R.C. 309.09(D).)

#### **Changes proposed by the bill**

The bill 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 bill also requires all money a prosecuting attorney receives under a contract entered into with a board of park commissioners of a metropolitan park district (existing law) or with a joint fire district, joint ambulance district, joint emergency medical services district, or fire and ambulance district (added by the bill) to be paid into the prosecuting attorney's legal services fund that, if one does not exist under existing 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**

Current 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 bill 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).

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## COMMENT

Current 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.

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## 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	---	---

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