



**Am. H.B. 455\***

126th General Assembly

(As Reported by H. Local and Municipal Government and Urban Revitalization)

**Reps. Kilbane, Wolpert, Yuko, Fende, Domenick, Combs, Walcher, Williams, Collier, Chandler, J. McGregor, Fessler, Daniels, Wagner**

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**BILL SUMMARY**

- Allows an employee of an appointed or elected city director of law to serve as a member of a board of education for which the city director of law is not the legal adviser and attorney under statutory law.
- Declares an emergency.

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**CONTENT AND OPERATION**

**Prohibition and current exceptions**

As a general rule under current law, a prosecuting attorney, city director of law, or other official acting in a similar capacity cannot be a member of a board of education (R.C. 3313.13, first paragraph).

One recently enacted exception to this prohibition is that an assistant prosecuting attorney may serve as a member of a board of education of a school district in any county other than the county in which that individual is employed if the board's district is not contiguous to the county in which that individual is employed (R.C. 3313.13, second paragraph).<sup>1</sup>

The second current exception to the prohibition is that (1) a city director of law who was appointed to that position under a city charter, (2) a village solicitor, or (3) any other chief legal officer of a municipal corporation may serve as a

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\* *This analysis was prepared before the report of the House Local and Municipal Government and Urban Revitalization Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

<sup>1</sup> *Enacted by Sub. H.B. 33 of the 126th General Assembly (effective December 20, 2005).*

member of a board of education for which that individual *is not* the legal adviser and attorney (R.C. 3313.13, third paragraph). (See **COMMENT**.)

The third current exception to the prohibition is that a city director of law who was appointed to that position under a city charter may serve as a member of a board of education for which he or she *is* the legal adviser and attorney but only if (1) the board uses no legal services of the city director of law's office or (2) the legal services of the city director of law's office that the board uses are performed under contract by persons who are not employed by that office (R.C. 3313.13, third paragraph).

### **Change proposed by the bill**

The bill adds a fourth exception to the prohibition. An employee of an appointed or elected city director of law may serve as a member of a board of education for which the city director of law *is not* the legal adviser and attorney (R.C. 3313.13, third paragraph).

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## **COMMENT**

R.C. 3313.35 (not in the bill) prescribes legal adviser and representation duties for certain officials in connection with boards of education:

--As a general rule, except in city, joint vocational, and cooperative education school districts, the county prosecuting attorney must serve as the legal adviser of all boards of education and the governing board of an educational service center in the county in which the prosecuting attorney serves, must prosecute all actions against a board member or officer for malfeasance or misfeasance in office, must be the legal counsel of the boards or their officers in all civil actions brought by or against them, and must conduct those actions in his or her official capacity. Special provisions specify certain prosecuting attorneys as having these duties for certain educational service centers and for joint vocational and cooperative education school districts.

--As a general rule, in city school districts, the city director of law must be the legal adviser and attorney for the board of education and must perform the same services for that board as are required of the prosecuting attorney for other boards of the county.

--The duties mentioned above devolve upon any official serving in a capacity similar to that of a prosecuting attorney or city director of law for the territory in which a school district is situated, regardless of his or her official designation.

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## HISTORY

ACTION	DATE
Introduced	12-20-05
Reported, H. Local and Municipal Gov't & Urban Revitalization	---

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