
Detailed Fiscal Analysis

The bill permits boards of library trustees (board) to employ legal counsel from a non-governmental source and to pay for such counsel with library funds. Current law, Ohio Revised Code (ORC) section 309.09, requires a board to seek legal counsel from the office of the county prosecuting attorney. Only if such attorney is unable to serve, adversely interested, or when legal action is between two or more boards in the same county is a board permitted to seek counsel from an outside source. The board is not charged for services rendered when legal counsel is provided by the county prosecutor's office.

The bill is permissive and any monetary effects are self-imposed by boards. The bill does not limit the scope of "legal advisor" county prosecutors currently enjoy, but it does permit boards to seek outside legal counsel at its discretion. There are approximately 250 public library systems dispersed among the state's 88 counties for which county prosecutors are mandated by ORC Section 309.09, to act as "legal advisor." In most cases, legal counsel is sought for non-criminal issues such as matters regarding real estate law, business law and contract law. These areas of legal edification regard civil issues currently litigated through civil law divisions within county prosecutor offices.

Given the expertise generally available from county prosecutor offices, it would seem that outside counsel would be sought only for instances involving very specific issues that require some sort of high level expertise. If a board determines that advice given by a lawyer who specializes in such matters would serve the interest of the board better than that from the civil law division, then the board will likely commission such lawyer to act as legal advisor. Boards will more than likely continue to use the services of the county prosecutor for general civil matters.

A lawyer considers various factors before setting the fee schedule for a potential client. Consideration is given to the experience level of the presiding lawyer, the subject area counsel is sought and even notoriety the lawyer may have among constituents and courts. For the purpose of this analysis, LBO considers rates between \$100 to \$200 per hour typical of what a board may pay for outside legal counsel. Again, there are numerous factors for a client to consider before accepting or declining to contract for legal services. The bill will allow boards the option of weighing the costs and benefits derived for outside counsel and then pay accordingly, yet prudently, attorney fees with library funds.

The interests of the State Library of Ohio are represented by the State Attorney General. Therefore, the operation of the bill does not have a fiscal nor procedural effect on the state.

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