

**As Passed by the House**

**126th General Assembly  
Regular Session  
2005-2006**

**Sub. H. B. No. 33**

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

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**A B I L L**

To amend section 309.09 of the Revised Code to permit 1  
the prosecuting attorney to be the legal adviser 2  
to a joint fire district, to a joint ambulance 3  
district, to a fire and ambulance district, and to 4  
a joint emergency medical services district either 5  
at no cost to the district or under a contract 6  
with the district. 7

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That section 309.09 of the Revised Code be amended 8  
to read as follows: 9

**Sec. 309.09.** (A) The prosecuting attorney shall be the legal 10  
adviser of the board of county commissioners, board of elections, 11  
and all other county officers and boards, including all 12  
tax-supported public libraries, and any of them may require 13  
written opinions or instructions from the prosecuting attorney in 14  
matters connected with their official duties. The prosecuting 15  
attorney shall prosecute and defend all suits and actions which 16

any such officer or board directs or to which it is a party, and 17  
no county officer may employ any other counsel or attorney at the 18  
expense of the county, except as provided in section 305.14 of the 19  
Revised Code. 20

(B) The prosecuting attorney shall be the legal adviser for 21  
all township officers, boards, and commissions, unless the 22  
township has adopted a limited home rule government pursuant to 23  
Chapter 504. of the Revised Code and has not entered into a 24  
contract to have the prosecuting attorney serve as the township 25  
law director, in which case the township law director, whether 26  
serving full-time or part-time, shall be the legal adviser for all 27  
township officers, boards, and commissions. When the board of 28  
township trustees finds it advisable or necessary to have 29  
additional legal counsel, it may employ an attorney other than the 30  
township law director or the prosecuting attorney of the county, 31  
either for a particular matter or on an annual basis, to represent 32  
the township and its officers, boards, and commissions in their 33  
official capacities and to advise them on legal matters. No such 34  
legal counsel may be employed, except on the order of the board of 35  
township trustees, duly entered upon its journal, in which the 36  
compensation to be paid for the legal services shall be fixed. The 37  
compensation shall be paid from the township fund. 38

Nothing in this division confers any of the powers or duties 39  
of a prosecuting attorney under section 309.08 of the Revised Code 40  
upon a township law director. 41

(C) Whenever the board of county commissioners employs an 42  
attorney other than the prosecuting attorney of the county, 43  
without the authorization of the court of common pleas as provided 44  
in section 305.14 of the Revised Code, either for a particular 45  
matter or on an annual basis, to represent the board in its 46  
official capacity and to advise it on legal matters, the board 47  
shall enter upon its journal an order of the board in which the 48

compensation to be paid for the legal services shall be fixed. The  
compensation shall be paid from the county general fund. The total  
compensation paid, in any year, by the board for legal services  
under this division shall not exceed the total annual compensation  
of the prosecuting attorney for that county.

(D) The prosecuting attorney and the board of county  
commissioners jointly may contract with a board of park  
commissioners under section 1545.07 of the Revised Code for the  
prosecuting attorney to provide legal services to the park  
district the board of park commissioners operates. ~~All moneys  
received pursuant to the contract shall be deposited into the  
prosecuting attorney's legal services fund, which shall be  
established in the county treasury of each county in which the  
contract exists. Moneys in that fund may be appropriated only to  
the prosecuting attorney for the purpose of providing legal  
services under a contract entered into under this division.~~

(E) The prosecuting attorney may be, in the prosecuting  
attorney's discretion, the legal adviser of a joint fire district  
created under section 505.371 of the Revised Code, at no cost to  
the district or may be the legal adviser to the district under a  
contract the prosecuting attorney and the district enter into to  
authorize the prosecuting attorney to provide legal services to  
the district.

(F) The prosecuting attorney may be, in the prosecuting  
attorney's discretion, the legal adviser of a joint ambulance  
district created under section 505.71 of the Revised Code at no  
cost to the district or may be the legal adviser to the district  
under a contract the prosecuting attorney and the district enter  
into to authorize the prosecuting attorney to provide legal  
services to the district.

(G) The prosecuting attorney may be, in the prosecuting

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attorney's discretion, the legal adviser of a joint emergency  
medical services district created under section 307.052 of the  
Revised Code at no cost to the district or may be the legal  
adviser to the district under a contract the prosecuting attorney  
and the district enter into to authorize the prosecuting attorney  
to provide legal services to the district.

(H) The prosecuting attorney may be, in the prosecuting  
attorney's discretion, the legal adviser of a fire and ambulance  
district created under section 505.375 of the Revised Code at no  
cost to the district or may be the legal adviser to the district  
under a contract the prosecuting attorney and the district enter  
into to authorize the prosecuting attorney to provide legal  
services to the district.

(I) All money received pursuant to a contract entered into  
under division (D), (E), (F), (G), or (H) of this section shall be  
deposited into the prosecuting attorney's legal services fund,  
which shall be established in the county treasury of each county  
in which such a contract exists. Moneys in that fund may be  
appropriated only to the prosecuting attorney for the purpose of  
providing legal services to a park district, joint fire district,  
joint ambulance district, joint emergency medical services  
district, or a fire and ambulance district, as applicable, under a  
contract entered into under the applicable division.

**Section 2.** That existing section 309.09 of the Revised Code  
is hereby repealed.