

**As Reported by the Senate State and Local Government and
Veterans Affairs Committee**

**129th General Assembly
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S. B. No. 120

Senator Beagle

Cosponsors: Senators Seitz, Schaffer, Wagoner, Tavares

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A B I L L

To amend section 309.09 of the Revised Code to make 1
clear that the prosecuting attorney of a county is 2
the legal adviser of all tax-supported public 3
libraries. 4

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

Section 1. That section 309.09 of the Revised Code be amended 5
to read as follows: 6

Sec. 309.09. (A) The prosecuting attorney shall be the legal 7
adviser of the board of county commissioners, board of elections, 8
~~and~~ all other county officers and boards, ~~including~~ and all 9
tax-supported public libraries, and any of them may require 10
written opinions or instructions from the prosecuting attorney in 11
matters connected with their official duties. The prosecuting 12
attorney shall prosecute and defend all suits and actions ~~which~~ 13
that any such officer or, board, or tax-supported public library 14
directs or to which it is a party, and no county officer may 15
employ any other counsel or attorney at the expense of the county, 16
except as provided in section 305.14 of the Revised Code. 17

(B)(1) The prosecuting attorney shall be the legal adviser 18

for all township officers, boards, and commissions, unless, 19
subject to division (B)(2) of this section, the township has 20
adopted a limited home rule government pursuant to Chapter 504. of 21
the Revised Code and has not entered into a contract to have the 22
prosecuting attorney serve as the township law director, in which 23
case, subject to division (B)(2) of this section, the township law 24
director, whether serving full-time or part-time, shall be the 25
legal adviser for all township officers, boards, and commissions. 26
When the board of township trustees finds it advisable or 27
necessary to have additional legal counsel, it may employ an 28
attorney other than the township law director or the prosecuting 29
attorney of the county, either for a particular matter or on an 30
annual basis, to represent the township and its officers, boards, 31
and commissions in their official capacities and to advise them on 32
legal matters. No such legal counsel may be employed, except on 33
the order of the board of township trustees, duly entered upon its 34
journal, in which the compensation to be paid for the legal 35
services shall be fixed. The compensation shall be paid from the 36
township fund. 37

Nothing in this division confers any of the powers or duties 38
of a prosecuting attorney under section 309.08 of the Revised Code 39
upon a township law director. 40

(2)(a) If any township in the county served by the 41
prosecuting attorney has adopted any resolution regarding the 42
operation of adult entertainment establishments pursuant to the 43
authority that is granted under section 503.52 of the Revised Code 44
or if a resolution of that nature has been adopted under section 45
503.53 of the Revised Code in a township in the county served by 46
the prosecuting attorney, all of the following apply: 47

(i) Upon the request of a township in the county that has 48
adopted, or in which has been adopted, a resolution of that nature 49
that is made pursuant to division (E)(1)(c) of section 503.52 of 50

the Revised Code, the prosecuting attorney shall prosecute and 51
defend on behalf of the township in the trial and argument in any 52
court or tribunal of any challenge to the validity of the 53
resolution. If the challenge to the validity of the resolution is 54
before a federal court, the prosecuting attorney may request the 55
attorney general to assist the prosecuting attorney in prosecuting 56
and defending the challenge and, upon the prosecuting attorney's 57
making of such a request, the attorney general shall assist the 58
prosecuting attorney in performing that service if the resolution 59
was drafted in accordance with legal guidance provided by the 60
attorney general as described in division (B)(2) of section 503.52 61
of the Revised Code. The attorney general shall provide this 62
assistance without charge to the township for which the service is 63
performed. If a township adopts a resolution without the legal 64
guidance of the attorney general, the attorney general is not 65
required to provide assistance as described in this division to a 66
prosecuting attorney. 67

(ii) Upon the request of a township in the county that has 68
adopted, or in which has been adopted, a resolution of that nature 69
that is made pursuant to division (E)(1)(a) of section 503.52 of 70
the Revised Code, the prosecuting attorney shall prosecute and 71
defend on behalf of the township a civil action to enjoin the 72
violation of the resolution in question. 73

(iii) Upon the request of a township in the county that has 74
adopted, or in which has been adopted, a resolution of that nature 75
that is made pursuant to division (E)(1)(b) of section 503.52 of 76
the Revised Code, the prosecuting attorney shall prosecute and 77
defend on behalf of the township a civil action under Chapter 78
3767. of the Revised Code to abate as a nuisance the place in the 79
unincorporated area of the township at which the resolution is 80
being or has been violated. Proceeds from the sale of personal 81
property or contents seized pursuant to the action shall be 82

applied and deposited in accordance with division (E)(1)(b) of 83
section 503.52 of the Revised Code. 84

(b) The provisions of division (B)(2)(a) of this section 85
apply regarding all townships, including townships that have 86
adopted a limited home rule government pursuant to Chapter 504. of 87
the Revised Code, and regardless of whether a township that has so 88
adopted a limited home rule government has entered into a contract 89
with the prosecuting attorney as described in division (B) of 90
section 504.15 of the Revised Code or has appointed a law director 91
as described in division (A) of that section. 92

The prosecuting attorney shall prosecute and defend in the 93
actions and proceedings described in division (B)(2)(a) of this 94
section without charge to the township for which the services are 95
performed. 96

(C) Whenever the board of county commissioners employs an 97
attorney other than the prosecuting attorney of the county, 98
without the authorization of the court of common pleas as provided 99
in section 305.14 of the Revised Code, either for a particular 100
matter or on an annual basis, to represent the board in its 101
official capacity and to advise it on legal matters, the board 102
shall enter upon its journal an order of the board in which the 103
compensation to be paid for the legal services shall be fixed. The 104
compensation shall be paid from the county general fund. The total 105
compensation paid, in any year, by the board for legal services 106
under this division shall not exceed the total annual compensation 107
of the prosecuting attorney for that county. 108

(D) The prosecuting attorney and the board of county 109
commissioners jointly may contract with a board of park 110
commissioners under section 1545.07 of the Revised Code for the 111
prosecuting attorney to provide legal services to the park 112
district the board of park commissioners operates. 113

(E) The prosecuting attorney may be, in the prosecuting attorney's discretion and with the approval of the board of county commissioners, 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 that the prosecuting attorney and the district enter into, and that the board of county commissioner approves, to authorize the prosecuting attorney to provide legal services to the district.

(F) The prosecuting attorney may be, in the prosecuting attorney's discretion and with the approval of the board of county commissioners, 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 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.

(G) The prosecuting attorney may be, in the prosecuting attorney's discretion and with the approval of the board of county commissioners, 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 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.

(H) The prosecuting attorney may be, in the prosecuting attorney's discretion and with the approval of the board of county commissioners, 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 that the prosecuting attorney and the district enter 146
into, and that the board of county commissioners approves, to 147
authorize the prosecuting attorney to provide legal services to 148
the district. 149

(I) All money received pursuant to a contract entered into 150
under division (D), (E), (F), (G), or (H) of this section shall be 151
deposited into the prosecuting attorney's legal services fund, 152
which shall be established in the county treasury of each county 153
in which such a contract exists. Moneys in that fund may be 154
appropriated only to the prosecuting attorney for the purpose of 155
providing legal services to a park district, joint fire district, 156
joint ambulance district, joint emergency medical services 157
district, or a fire and ambulance district, as applicable, under a 158
contract entered into under the applicable division. 159

Section 2. That existing section 309.09 of the Revised Code 160
is hereby repealed. 161