



Am. H.B. 455

126th General Assembly
(As Passed by the General Assembly)

Reps. Kilbane, Wolpert, Yuko, Fende, Domenick, Combs, Walcher, Williams, Collier, Chandler, McGregor, J., Fessler, Daniels, Wagner, Cassell, Distel, Flowers, Martin, Patton, T., Seitz, Taylor

Sens. Spada, Amstutz, Armbruster

Effective date: Emergency, February 2, 2006

ACT 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.

CONTENT AND OPERATION

Membership of legal officers on school boards

(R.C. 3313.13)

As a general rule under continuing 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. The act makes a new exception to this 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. Continuing law already specified the following three exceptions, which the act does not affect:

(1) 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.

(2) A city director of law who was appointed to that position under a city charter, a village solicitor, or any other chief legal officer of a municipal corporation may serve as a member of a board of education for which that individual *is not* the legal adviser.

(3) 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 but only if (a) the board uses no legal services of the city director of law's office or (b) 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.

Background

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

--As a general rule, except in city school districts, the county prosecuting attorney must serve as the legal adviser of all boards of education and the governing board of the 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.

--As a general rule, in city school districts, the city director of law must be the legal adviser 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. However, this rule would not apply if a city charter states that the city director of law is not the legal adviser for the board.¹

HISTORY

ACTION	DATE
Introduced	12-20-05
Reported, H. Local and Municipal Gov't & Urban Revitalization	01-24-06
Passed House (94-1)	01-25-06
Reported, S. Education	02-01-06
Passed Senate (29-4)	02-01-06

06-hb455-126.doc/kl

¹ See *Ohio Constitution, Art. XVIII, Sec. 7 regarding the home rule powers of municipal corporations.*

