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# COUNTY ADVISORY BULLETIN

**CAB**

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Bulletin 2025-01

February 2025

## COUNTY OMNIBUS BILL

**APPLICABLE LEGISLATION:** Substitute House Bill 497 (135<sup>th</sup> General Assembly)

**REVISED CODE SECTIONS AMENDED:** 7.10, 7.16, 125.182, 135.33, 149.38, 153.31, 153.35, 153.36, 153.37, 153.38, 153.39, 153.44, 301.02, 301.15, 301.28, 301.29, 303.06, 303.08, 303.09, 303.12, 303.15, 303.32, 303.58, 307.022, 307.041, 307.10, 307.12, 307.37, 307.39, 307.561, 307.676, 307.70, 307.79, 307.791, 307.81, 307.82, 307.83, 307.87, 307.88, 307.981, 309.09, 313.02, 313.10, 313.12, 313.14, 313.161, 317.20, 319.11, 321.18, 322.02, 322.021, 323.08, 323.122, 323.62, 323.73, 325.15, 331.06, 339.08, 345.03, 1901.023, 2151.271, 2335.061, 4723.431, 4730.19, 5153.112, and 5540.03.

**REVISED CODE SECTIONS ENACTED:** 307.901.

**LEAD SPONSORS:** Rep. Brian Stewart and Rep. Roy Klopfenstein

**HOUSE COSPONSORS:** Creech, Peterson, Seitz, Dean, Lorenz, Johnson, Hoops, Claggett, Barhorst, Wiggam, Brennan, Dell'Aquila, Dobos, Hillyer, John, Lampton, Mathews, McClain, Mohamed, Plummer, Robb Blasdel, Schmidt, Somani, Stein, Williams, Willis

**SENATE COSPONSORS:** Brenner, Cirino, DeMora, Gavarone, Hicks-Hudson, Landis, Reineke, Smith, Wilson

**EFFECTIVE DATE:** April 9, 2025

### BACKGROUND

The County Commissioners Association of Ohio worked with county commissioners, executives, council members, and county administrators and key staff throughout the state to identify numerous policy changes that would improve the efficiency of county government. The result was House Bill 497, our “county omnibus bill,” championed by Representative Brian Stewart, a former Pickaway County commissioner, and Representatives Roy Klopfenstein, a former Paulding County commissioner. Collectively, CCAO and the bill sponsors worked with other county official associations and interested parties to find agreement on the policies included in the bill, and keep the bill focused on only non-controversial changes.

Throughout the legislative process, other straightforward changes impacting county government were added to the bill. The provisions included are detailed in this Bulletin.

## APPROVAL OF PLANS FOR COURTHOUSE OR JAIL PROJECTS

### R.C. 153.36

Under R.C. 153.36, boards of commissioners are required to convene the clerk of the court of common pleas, the sheriff, the probate judge, and the appointee of the judge of the court of common pleas to consider any courthouse or jail renovation or repair projects. The board of commissioners must have the approval of a majority of this group prior to taking any action. CCAO members expressed difficulty with convening this group of county officials, especially when a smaller project or change order on a larger project is needed. It created barriers and made the process cumbersome.

HB 497 allows a board of commissioners to approve a courthouse or jail renovation or repair without the approval of the above committee if the expense is under \$75,000. The board is still permitted to seek the advice of the elected officials that serve on the committee for projects under \$75,000.

If the project exceeds \$75,000, the previous approval process remains in effect.

## DESIGN SERVICES FOR COUNTY IMPROVEMENTS

### R.C. 153.31

Prior to beginning a construction, renovation, or alteration project of a public building or substructure for a bridge, counties are required to obtain detailed plans, bills, specifications, and cost estimates from an architect or engineer. This broad requirement previously did not have any exceptions.

H.B. 497 allows a county to forego the professional design or engineering services on an improvement if the project constitutes a “minor repair.” The “minor repair” definition added to statute was borrowed from the Ohio Administrative Code.

A “minor repair” is defined as “the reconstruction or renewal of any part of an existing building for the purpose of its maintenance when the work has limited impact on access, safety, or health.”

“Minor repair” specifically **does not** include any of the following:

- The cutting away of any wall, partition, or portions of walls;
- The removal or cutting of any structural beam or load bearing support;
- The removal or change of any required element of accessibility, means of egress, or rearrangement of parts of a structure affecting the egress requirements;
- The addition to, alteration of, replacement of, or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring, mechanical work, or other work affecting public health or general safety.

As such, all items in the bulleted list above would still require professional design or engineer services prior to the start of the project.

## CONTRACTS SUBMITTED TO THE PROSECUTING ATTORNEY

R.C. 153.44

Under current law, a board of county commissioners is required to submit all contracts for county improvements over \$1,000 to the county prosecutor for review. HB 497 increases the threshold to \$20,000. All contracts under \$20,000 are not required to be reviewed by the county prosecutor, but a board may still permissively seek the review.

## PROHIBITED CONTRACT TERMS

R.C. 307.901

HB 497 creates a list of prohibited terms that are unenforceable in any new county contract for goods or services that is signed after the effective date of the bill. This list of terms is similar to the list of prohibited terms for state contracts, except that it does not include a prohibition against automatic renewals (R.C. 9.27). The provisions apply to any agency, department, authority, commission, office, or board of a county, except as they may be otherwise required or permitted by state or federal law.

The prohibited terms are :

- A provision that requires the county to indemnify or hold harmless another person;
- A provision by which the county agrees to binding arbitration or any other binding extrajudicial dispute resolution process;
- A provision that names a venue for any action or dispute against the county other than a court of proper jurisdiction in the county;
- A provision that requires the county to agree to limit the liability for any direct loss to the county for bodily injury, death, or damage to property of the county caused by the negligence, intentional or willful misconduct, fraudulent act, recklessness, or other tortious conduct of a person or a person's employees or agents, or a provision that otherwise imposes an indemnification obligation on the county;
- A provision that requires the county to be bound by a term or condition that is unknown to the county at the time of signing a contract, that is not specifically negotiated with the county, that may be unilaterally changed by the other party, or that is electronically accepted by a county employee;
- A provision that provides for a person other than the prosecuting attorney, or an attorney employed by the county pursuant to R.C. 305.14 or 309.09, to serve as legal counsel for the county;
- A provision that is inconsistent with the county's obligations under state public records law (R.C. 149.43);
- A provision that limits the county's ability to recover the cost for a replacement contractor.

If the contract contains one of these terms or conditions, the term or condition is void *ab initio*, and the contract containing that term or condition otherwise is enforceable as if it did not contain such term or condition. The law also specifies that a contract that contains a prohibited term or condition will be governed by and construed in accordance with Ohio law notwithstanding any term or condition to the contrary in the contract.

It should be noted that these provisions do not apply to a contract already in place before the effective date of the section or to the renewal or extension of a contract that first came into effect before the effective date.

## **DISPOSING OF UNNEEDED PERSONAL PROPERTY**

### **R.C. 307.12**

When a county passes a resolution to dispose of unneeded property, including vehicles, road machinery, equipment, tools, and supplies, the required process is determined by the value of the item.

Following the passage of HB 497, any property valued at or greater than \$5,000 must be sold by public auction or sealed bid to the highest bidder. The previous threshold was \$2,500. Notice of the time, place, and manner of the sale shall be published following the new electronic notice requirements (see section below).

Any property valued below \$5,000 may be sold directly without a public process or donated to an eligible nonprofit. If a county is donating to a nonprofit, the nonprofit must be a 501(a) or 501(c)(3) organization located in Ohio, and the nonprofit must submit evidence of its eligibility. The determination of eligibility through these criteria is the only process required to donate unneeded property following the passage of HB 497.

Previously, if a board of commissioners chose to donate unneeded property to a nonprofit, the board was required to pass a resolution stating the board intended to make the property available to nonprofits. Nonprofits were then required to submit interest to the board or its representative in writing. The board was required to publicly notice the intent to donate to a nonprofit organization. The board was required to maintain a continually posted list of all county unneeded, obsolete, or unfit personal property available for donation. The first eligible nonprofit to declare to the board received the item, unless the board previously maintained a list, by resolution, of nonprofits that had priority to receive the item. This entire process was repealed by HB 497.

## **ELECTRONIC NOTICE REQUIREMENTS**

R.C. 7.10, 7.16, 125.182, 301.02, 301.15, 301.28, 301.29, 303.06, 303.08, 303.09, 303.12, 303.15, 303.32, 303.58, 307.022, 307.041, 307.10, 307.12, 307.37, 307.39, 307.561, 307.676, 307.70, 307.79, 307.791, 307.81, 307.82, 307.83, 307.87, 307.88, 307.981, 313.14, 317.20, 319.11, 321.18, 322.02, 322.021, 323.08, 323.122, 323.62, 323.73, 331.06, 339.08, and 345.03.

Prior to HB 497, counties were required to publish public notices via a newspaper of general circulation. The bill changes the statute to allow for one of three methods of publication:

1. The print or digital edition of a newspaper of general circulation within the county;

2. The official public notice website (described below); or
3. The county's website and social media account.

Counties are permitted to publish through all three methods if they choose, but it is no longer required to use a newspaper of general circulation. For an in depth listing of public notices permitted through this new method, please see County Advisory Bulletin 2025-02.

The Ohio News Media Association (in statute defined as “an Ohio trade association that represents the majority of newspapers of general circulation”) is required by statute to operate the official public notice website (R.C. 125.182). The statute specifies that, in any case where a notice or advertisement is required to be published in a newspaper of general circulation, the notice or advertisement must also be posted on the official public notice website. In order to be posted on the official public notice website, a document must first be published via the print or digital edition of a newspaper. The publisher is responsible for posting to the official public notice website. Therefore, any county choosing to publish notices via a newspaper of general circulation will be required to publish via both options 1 and 2, even though the statute appears to allow for only or the other.

Prior to HB 497, a publisher could only charge a government rate for posting legal advertisements, notices, or proclamations in the print edition of a newspaper. HB 497 allows a publisher to establish a government rate for these items for the digital edition on the newspaper's website. The rate may not exceed the lowest classified advertising rate and lowest insert rate paid by other advertisers. (R.C. 7.10, 7.16, and 125.182)

## **LOCATIONS OF CONSTRUCTION PLANS**

R.C. 153.35, 153.36, 153.37, 153.38 and 153.39

The bill changes which county official keeps the construction plans for certain types of projects. Before the bill, all these plans were kept by the county auditor. Once the new law is effective, such materials are to be held as provided below.

### **Held by the Board of County Commissioners**

**Public improvements:** Construction plans, drawings, representations, bills of material, specifications of work, and estimates for public improvements. (R.C. 153.35)

**Courthouse or jail renovation or repair projects:** Plans, drawings, representations, bills of material, and specifications of work, and estimates of the cost for courthouse or jail renovation or repair projects. (R.C. 153.36)

**County homes:** Plans, drawings, representations, bills of material, and specifications of work, and estimates of the cost for the building or alteration of a county home. (R.C. 153.37)

**Children's homes:** Plans, drawings, representations, bill of material, and specifications of work, and estimates of the cost of the building of a children's home. (R.C. 153.39)

### **Held by the County Engineer**

**Bridges:** Plans, drawings, representations, bills of material, specifications of work, and estimates related to the building of a bridge. (R.C. 153.38)

## **TRANSPORTATION IMPROVEMENT DISTRICT LEGAL SERVICES**

R.C. 309.09 and 5540.03

The bill allows a county prosecutor to contract with a transportation improvement district (TID) to provide legal services to the TID. The county prosecutor has discretion of whether to contract, and the board of county commissioners must approve the contract.

Revenue received from providing legal services under the contract with the TID may only be appropriated to the county prosecutor for providing those services.

## **COUNTY RECORDS COMMISSION**

R.C. 149.38

Continuing state law requires each county to have a county records commission. The commission members include: a county commissioner, the county prosecutor, the county auditor, the county recorder, and the clerk of the court of common pleas. The county commissioner serves as the chair of the commission. The commission provides rules for retention and disposal of records of the county, and reviews applications for one-time disposal of obsolete records and schedules of records retention and disposition submitted by county offices.

Previously, the commission was required to meet at least once every 6 months, and discretionarily at the call of the chair. HB 497 changes the meeting requirement to only at the call of the chair, rather than at least every six months.

## **DESIGNATING COUNTY DEPOSITORIES**

R.C. 135.33

Each board of county commissioners is required to meet once every four years to designate its public depositories of active moneys. Those designations last four years.

HB 497 allows the board to designate additional public depositories one additional time during that four-year period. If a new public depository is designated during the four-year period, the designation must take effect at least 180 days before the current period expires.

A designation made mid-period is only effective until the end of the four-year period and would need to be re-designated at the start of the next period.

## **COMPETITIVE BIDDING NOTIFICATION REQUIREMENTS**

R.C. 307.87 and 307.88

State law establishes a cost threshold that triggers the mandatory use of competitive bidding procedures. HB 33 of the 135<sup>th</sup> General Assembly raised this threshold from \$50,000 to \$75,000, starting October 3, 2023. This new threshold is subject to an annual adjustment of 3%, which started January 1, 2025, when it increased to \$77,250. The 3% adjustment applies automatically on January 1 each year thereafter pursuant to R.C. 9.17.

HB 497 updates the county notice requirement for purchases, leases, and construction contracts, and related to guaranty and bonding requirements for county contracts to align with the changes made in HB 33, aligning the threshold at the amount consistent with R.C. 9.17.

## **CHILDREN SERVICES CASEWORKER EDUCATIONAL REQUIREMENTS**

R.C. 5153.112

HB 497 provides a public children services agency (PCSA) more flexibility in the educational requirements for hiring and retaining a children services caseworker.

First, the bill allows the director of a PCSA to hire a person who has completed at least 60 credit hours or the equivalent towards a degree in human services related studies from an accredited institution of higher education. Previously, a PCSA director was permitted to hire only the following (all of the below is still permissible for hiring following the passage of HB 497):

- A person with a bachelor's degree in human services-related studies;
- A person who has a bachelor's degree in any field and has been employed for at least two years in a human services-related occupation;
- A person who has an associate's degree in human services-related studies;
- A person who has been employed for at least five years in a human services-related occupation.

Under continuing law, if a person hired as a PCSA caseworker does not hold a bachelor's degree in a human-services related field, he or she must obtain a job-related bachelor's degree within five years of the employee's start date with the PCSA. HB 497 gives a PCSA director the permissive ability to waive this requirement to obtain a bachelor's degree if the following conditions are met:

- The employee is in good standing; and
- The employee demonstrates the inability to meet the requirement due to hardship.

"Good standing" is defined as an employee who:

- Is in compliance with training requirements;
- Has not received any formal discipline during the twelve months preceding the employee's five-year anniversary date; and
- Is not the subject of any investigation into allegations of professional misconduct.

## **JUVENILE COURT TRANSFER**

R.C. 2151.271

The bill specifies that any court cost, fine, restitution, or other monetary penalty imposed at the time of a transfer to the juvenile court of the child's residence is not a final, appealable order.

## **ERIE COUNTY MUNICIPAL COURTS JURISDICTION – LAKE ERIE**

R.C. 1901.023

HB 497 adds the Erie County municipal court to the list of courts with territorial jurisdiction of the international boundary on Lake Erie between the U.S. and Canada. Erie County was previously the only county that borders Lake Erie to be excluded from this list, likely because the court was not created when the statute was last updated.

## **LAND CONVEYANCES**

Uncodified Sections 3 and 4

The bill authorizes the Governor and DAS to extinguish a use restriction encumbering certain land in Dayton formerly under the jurisdiction of the Department of Developmental Disabilities. Furthermore, the bill authorizes the release of an easement in that land. (Section 3)

The bill authorizes the Governor and the Department of Administrative Services (DAS) to convey all the state's interest in certain real property located in Monroe Township to the Knox County Park District for \$1. (Section 4)

## **CORONER PROVISIONS**

For a detailed explanation of provisions relating to county coroners in HB 497, please see County Advisory Bulletin 2025-03.