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OHIO LEGISLATIVE SERVICE COMMISSION

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H.B. 497
135th General Assembly

Bill Analysis

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Version: As Passed by the House

Primary Sponsors: Reps. Stewart and Klopfenstein

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SUMMARY

- Allows counties to designate additional public depositories of active moneys during the four-year designation period.
- Exempts county improvement projects for minor repairs from the requirement to obtain detailed plans, bills, specifications, and cost estimates from an architect or engineer.
- Modifies the approval process for county courthouse and jail projects with an estimated cost of \$25,000 or less.
- Increases, from \$1,000 to \$20,000, the threshold at which a county prosecutor is required to approve contracts related to county improvements.
- Requires plans and specifications related to county improvements, county homes, and county children's homes to be kept on file with the county commissioners instead of the county auditor.
- Requires plans and specifications related to county bridges to be kept by the county engineer instead of the county auditor.
- Simplifies the process a county must follow to donate unneeded property.
- Increases threshold amounts, from \$50,000 to \$75,000, related to the county notice requirement for purchases, leases, and construction contracts, and related to guaranty and bonding requirements for county contracts.
- Prohibits a contract entered into by a county for the procurement of goods or services from including certain terms and conditions.
- Allows a county prosecutor to provide legal services to a transportation improvement district.
- Specifies that a county coroner performing an autopsy at the request of another coroner does not constitute the private practice of medicine for purposes of determining the coroner's compensation.

- Sets the county coroner's deposition fee and testimonial fee at \$350 per hour.
- 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.

DETAILED ANALYSIS

County depository designation

Under continuing law, each board of county commissioners must meet every four years to designate its public depositories of active moneys, with the designation lasting four years. The bill allows the county, during that time, to designate additional public depositories for the remainder of that four-year period. The board may do this only once during the four-year period, and the additional designation must take effect at least 180 days before the current four-year period expires.¹

County improvements

Current law requires a county to obtain detailed plans, bills, specifications, and cost estimates from an architect or engineer before constructing, adding to, or altering a public building or the substructure for a bridge. The bill creates an exception – under which the requirement will not apply for “minor repairs,” which the bill defines 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.” The bill specifically excludes the following from the definition of “minor repair:”

- 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.²

When a project involves a county courthouse or jail, current law requires the plans, bills, specifications, and cost estimates to be approved by a majority of the following: the board of county commissioners (each has one vote³), the sheriff, the probate judge, the clerk of the court of common pleas, and an individual appointed by the judge of the court of common pleas. Under the bill, the board of county commissioners can approve a project that has a total

¹ R.C. 135.33.

² R.C. 153.31. See also R.C. 153.68 and 153.69, not in the bill.

³ 1973 Ohio Op.Att’y.Gen. No. 059 (1973).

estimated cost of \$25,000 or less, while projects exceeding \$25,000 must be approved by a majority of the others listed above – the sheriff, the probate judge, the clerk of the court of common pleas, and an individual appointed by the judge of the court of common pleas.⁴

The bill increases, from \$1,000 to \$20,000, the threshold related to the requirement that the county prosecutor approve contracts for county improvements.⁵

Finally, the bill requires plans and specifications related to county improvements, county homes, county children’s homes, and county courthouses and jails to be kept on file with the county commissioners, instead of the county auditor as under current law.⁶ And, plans and specifications related to county bridges must be kept by the county engineer instead of the county auditor.⁷

County donations

The bill modifies the method a county follows to donate unneeded property, including vehicles, road machinery, equipment, tools, and supplies. Continuing law provides that any property exceeding \$2,500 in value must be sold by public auction or sealed bid to the highest bidder. Property valued at or below \$2,500 may either be sold directly (without a public process) or donated to an eligible nonprofit. First, the bill increases the threshold to \$5,000. Second, the bill modifies the process for donating property valued at or below that threshold to a nonprofit organization by eliminating all previous requirements, except two: (1) the nonprofit organization still must be a 501(a) or 501(c)(3) organization located in Ohio, and (2) the nonprofit must submit evidence of its eligibility. The bill retains the option to directly sell the property.⁸

County purchases

In light of a recent change to the competitive bidding threshold applicable to county purchases,⁹ the bill likewise increases threshold amounts, from \$50,000 to \$75,000, related to the county notice requirement for purchases, leases, and construction contracts, and related to guaranty and bonding requirements for county contracts.¹⁰

County contract terms and conditions

The bill prohibits a contract entered into by the county for the procurement of goods or services from including any of the following, unless otherwise required or permitted by state or federal law:

⁴ R.C. 153.36.

⁵ R.C. 153.44.

⁶ R.C. 153.35, 153.36, 153.37, and 153.39.

⁷ R.C. 153.38.

⁸ R.C. 307.12.

⁹ R.C. 307.86, not in the bill.

¹⁰ R.C. 307.87 and 307.88.

- 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 extra-judicial 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 otherwise employed by the county, to serve as legal counsel for the county;
- A provision that is inconsistent with the county's obligations under Ohio's Public Records Act;¹¹
- A provision that limits the county's ability to recover the cost for a replacement contractor.

If a contract contains one of these terms or conditions, the term or condition is void *ab initio* (invalid from the outset), and the contract otherwise is enforceable as if it did not contain the invalid term or condition. The bill specifies that a contract containing an invalid term or condition is governed by and must be construed in accordance with Ohio law notwithstanding any term or condition to the contrary in the contract. Finally, this provision of the bill does not apply to a contract in effect before the provision's effective date, or to the renewal or extension of a contract in effect before that date.¹²

County prosecuting attorney

The bill allows a county prosecutor, in the prosecutor's discretion and with the approval of the board of county commissioners, to provide legal services to a transportation improvement district via a contract that may provide for the payment of a fee to the prosecutor for legal services agreed to under the contract. All money received under the contract must be

¹¹ R.C. 149.43, not in the bill.

¹² R.C. 307.901.

deposited into the prosecutor’s legal services fund. Moneys in that fund may be appropriated only to the county prosecutor for providing legal services under the contract with the district.¹³

County coroner

Continuing law sets forth the annual compensation of county coroners based on two factors: the county’s population and whether a coroner engages in the private practice of medicine in addition to serving as coroner. The bill specifies that a coroner performing an autopsy at the request of another coroner does not constitute the private practice of medicine for purposes of determining the coroner’s compensation.¹⁴

Finally, coroners and deputy coroners currently receive a fee for giving testimony at a deposition (“deposition fee”) or a trial or hearing (“testimonial fee”), based on an hourly rate. The bill instead sets both fees at a blanket rate of \$350 per hour.¹⁵

Juvenile court transfer

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.¹⁶

HISTORY

Action	Date
Introduced	04-22-24
Reported, H. State & Local Gov’t	06-25-24
Passed House (96-0)	06-26-24

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¹³ R.C. 309.09 and 5540.03.

¹⁴ R.C. 325.15.

¹⁵ R.C. 2335.061.

¹⁶ R.C. 2151.271.