



COUNTY ADVISORY BULLETIN

CAB

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BULLETIN 2012-06

April, 2012

LEGISLATURE AUTHORIZES PILOT JOINT JOB AND FAMILY SERVICE DEPARTMENT FOR ROSS, HOCKING AND VINTON COUNTIES

APPLICABLE LEGISLATION: Am. Sub. HB 225

REVISED CODE SECTIONS:

Amends ORC Sections 329.01, 330.04, and 5101.01

Enacts ORC Sections 329.40, 329.41, 329.42, 329.43, 329.44, 329.45, and 329.46

SPONSORS: Peterson and Landis

Reps. J. Adams, R. Adams, Amstutz, Anielski, Antonio, Baker, Balderson, Barnes, Batchelder, Beck, Blair, Blessing Boose, Brenner, Bubp, Buchy, Carey, Carney, Damschroder, DeGeeter, Derickson, Dovilla, Duffey, Foley, Goodwin, Grossman, Hackett, Hall, Hayes, Henne, Hollington, Huffman, Letson, Maag, Mallory, McClain, McKenney, Milkovich, Newbold, O'Brien, Pillich, Ramos, Ruhl, Schuring, Sears, Slaby, Sprague, Stebelton, Stinziano, Szollosi, Thompson, Uecker, Weddington, Yuko

Sens. Coley, Daniels, Eklund, Hite, LaRose, Lehner, Niehaus, Seitz

EFFECTIVE DATE: March 22, 2012

BULLETIN SUMMARY

Am. Sub. HB 225 authorizes Ross, Hocking and Vinton County to create a joint job and family services district.

BACKGROUND

Three counties – Ross, Hocking, and Vinton – had been exploring the idea of combining their respective county JFS departments under the leadership of one director to help increase efficiencies and service delivery while reducing administrative costs. Originally, the counties

were planning to do so through existing law by establishing a regional council of government (COG.)¹

In vetting the plan with other government officials, the county auditors – one of whom would have been tasked with serving as the joint county department’s fiscal officer under the proposal – expressed concern with the apparent lack of statutory controls over governance of the COG. The original proposal allowed for a revision of the by-laws governing the entity by a vote of the joint board of commissioners; given the large amount of federal funds running through the county JFS system, the auditors expressed a preference for statutory control over governance and other matters. CCAO and the JFS Directors Association agreed, and language was drafted.

Once statute was drafted and vetted with other county elected officer associations and the state, conflict arose during the amendment process with state labor organizations. The language does not address collective bargaining law, but under existing law, any unions in an existing CDJFS would be decertified as that county’s JFS department would cease to exist. However, employees of the new joint entity would have an opportunity to reorganize under existing law as well.

Hocking County does have an AFSCME local union and that local union was supportive of the merger plan. They acknowledged that while it would mean decertification, they were engaged in the development of the proposal, and that the merger of county departments would help prevent layoffs due to CDJFS funding cuts from the state.

However, the state AFSCME arm, Council 8, was vehemently opposed to the merger language without including language that would protect the union’s existence in the new combined entity and guarantee no layoffs.

Not wanting to set precedent in collective bargaining law in this statewide permissive language, CCAO did not agree to these suggested changes. As a compromise, the legislature adopted language without collective bargaining changes in H.B. 225, but limited its scope to a program specific to the three involved counties.

The terms used to reference this limited scope is “pilot program” and that is a bit of a misnomer; there is no time limit on the life of the three-county joint district, nor any requirement for a study or report to be completed. Rather, it simply means a limited scope.

SUMMARY

H.B. 225 includes language that permits, as a pilot program, Ross, Hocking and Vinton county commissioners to enter into an agreement to create a joint JFS department. Once the agreement is in place, each commissioner then becomes a member of the joint department’s Board of Directors. The agreement between the participating counties must address, per the new language:

1. The funds each county must contribute to the joint district and a schedule for their distribution;
2. How and which facilities, equipment and personnel will be shared;

¹ ORC Chapter 167

3. Procedures for the division of resources and obligations should a county withdraw or the joint district be dissolved;
4. Any contributions by participating counties and their correlating rights or interests regarding lands and personal property.

In addition, the language provides that the agreement between participating counties may include:

1. Quality, timeliness and other standards to be met by each county;
2. Which family service programs and functions are to be included by the joint department (i.e. a county with a separate Child Support Enforcement Agency or Children Services Board may choose to keep that entity separate with their single county operation ;)?
3. Procedures governing the board of directors (comprised of the board of commissioners of all the participating counties,) included setting a quorum; and
4. Any other procedures or standards for the joint department to perform its duties and operate efficiently.

The agreement may be amended through a majority vote of the board of directors for the joint county department, but no amendment can divest a participating county of any right of interest in lands or personal property without its consent. The participating counties' commissioners must notify ODJFS of their intent to create a joint district, no later than 90 days before the agreement's effective date, and it may not take effect until the first day of the calendar quarter following this 90 day required notice period.

The language provides process for an appointment of an executive director of the joint department, up to three administrators, and employees. Employees of the joint department are considered county employees in terms of other statutes, including Chapter 124, which is applicable to county employees.

HB 225 speaks to the appointment of a county prosecutor to act as legal advisor and a county auditor to act as fiscal officer of the joint district. It also provides process for a county joining the joint district, requesting withdrawal from the joint district, or being asked from other participating counties to withdraw from the district.

PRACTICAL CONSIDERATIONS

The practical considerations of establishing such a joint district include workers' compensation costs, property/liability insurance costs, health insurance costs, and the impact of a county losing or gaining indirect/direct cost allocations from the county JFS departments.

For insurance purposes, a county's general risk could be lessened or heightened because of the loss of the CDJFS employees in their risk pool for both property/liability and health insurance. This could in turn have a negative or positive impact on the county's premiums.

The county whose auditor and prosecutor provide services to the joint district will see more indirect/direct cost allocations returned to the county's general fund, whereas the other counties will lose this revenue stream.

In addition, ownership of property and vehicles must be addressed between the participating counties and the joint JFS district.

Attached to this CAB as Exhibit 1 is a copy of ORC Sections 329.01, 330.04 and 5101.01 as amended, and 329.40 – 329.46, as enacted, by the Act.

EXHIBIT 1

OHIO REVISED CODE SECTIONS 329.01, 330.04 AND 5101.01 AS AMENDED, AND 329.40 – 329.46 AS ENACTED, BY SUB. H.B. 225 OF THE 129th GENERAL ASSEMBLY

Sec. 329.01. In each county, except as provided in section 329.40 of the Revised Code, there shall be a county department of job and family services which, when so established, shall be governed by this chapter. The department shall consist of a county director of job and family services appointed by the board of county commissioners, and such assistants and other employees as are necessary for the efficient performance of the functions of the county department. Before entering upon the discharge of the director's official duties, the director shall give a bond, conditioned for the faithful performance of those official duties, in such sum as fixed by the board. The director may require any assistant or employee under the director's jurisdiction to give a bond in such sum as determined by the board. All bonds given under this section shall be with a surety or bonding company authorized to do business in this state, conditioned for the faithful performance of the duties of such director, assistant, or employee. The expense or premium for any bond required by this section shall be paid from the appropriation for administrative expenses of the department. Such bond shall be deposited with the county treasurer and kept in the treasurer's office.

As used in the Revised Code:

(A) "County department of job and family services" means the county department of job and family services established under this section, including an entity designated a county department of job and family services under section 307.981 of the Revised Code, or the joint county department of job and family services established under section 329.40 of the Revised Code.

(B) "County director of job and family services" means the county director of job and family services appointed under this section or under section 329.41 of the Revised Code.

Sec. 329.40. (A)(1) The boards of county commissioners of the counties of Hocking, Ross, and Vinton, by entering into a written agreement, may form a joint county department of job and family services to perform the duties, provide the services, and operate the programs required under this chapter. The formation of this joint county department of job and family services is a pilot project. The agreement shall be ratified by resolution of the board of county commissioners of each county that entered into the agreement. Each board of county commissioners that enters into the agreement shall give notice of the agreement to the Ohio department of job and family services at least ninety days before the agreement's effective date. The agreement shall take effect not earlier than the first day of the calendar quarter following the ninety-day notice period. The director of job and family services shall adopt, as an internal management rule under section 111.15 of the Revised Code, the form in which the notice shall be given.

(2) The boards of county commissioners of the counties forming the joint county department shall constitute, collectively, the board of directors of the joint county department of job and family services. On the effective date of the agreement, the board of directors shall take control of and manage the joint county department subject to this chapter and all other sections

of the Revised Code that govern the authority and responsibilities of a single board of county commissioners in the operation of a single county department of job and family services.

(B)(1) The agreement to establish the joint county department shall specify all of the following:

(a) The obligations of each board of county commissioners in operating the joint county department, including requiring each board to provide state, federal, and county funds to the operation of the joint county department and the schedule for provision of those funds;

(b) How and which facilities, equipment, and personnel will be shared;

(c) Procedures for the division of resources and obligations should a county or counties withdraw from the joint county department, or should the department cease to exist;

(d) Any contributions of participating counties establishing the joint county department and the rights of those counties in lands or personal property, or rights or interests therein, contributed to or otherwise acquired by the joint county department.

(2) The agreement to establish the joint county department may set forth any or all of the following:

(a) Quality, timeliness, and other standards to be met by each county;

(b) Which family service programs and functions are to be included in the joint county department;

(c) Procedures for the operation of the board of directors, including procedures governing the frequency of meetings and the number of members of the board required to constitute a quorum to take action;

(d) Any other procedures or standards necessary for the joint county department to perform its duties and operate efficiently.

(C) The agreement may be amended by a majority vote of the board of directors of the joint county department, but no amendment shall divest a participating county of any right or interest in lands or personal property without its consent.

(D) Costs incurred in operating the joint county department shall be paid from a joint general fund created by the board of directors, except as may be otherwise provided in the agreement.

Sec. 329.41. (A) The board of directors of the joint county department of job and family services formed under section 329.40 of the Revised Code shall appoint and fix the compensation of a director of the department. The director shall serve at the pleasure of the board of directors. Under the direction and control of the board, the director shall have full charge of the department as set forth in section 329.02 of the Revised Code for the director of a single county department of job and family services.

(B) The board of directors may appoint up to three administrators to oversee services provided by the joint county department. Administrators shall be in the unclassified service.

(C) Employees of the joint county department of job and family services shall be appointed by the director of the joint county department and, except as provided in this section, shall be in the classified service. The employees of the joint county department shall be considered county employees for the purposes of Chapter 124. of the Revised Code and other provisions of state law applicable to county employees. Instead of or in addition to appointing these employees, the board of directors may agree to use the employees of one or more of the counties that formed the joint county department in the service of the joint county department and to share in their compensation in any manner that may be agreed upon.

(D) Notwithstanding any other section of the Revised Code, if an employee's separation from county service occurs in connection with a county joining or withdrawing from the joint county department of job and family services, the board of county commissioners that initially appointed the employee shall have no obligation to pay any compensation with respect to unused vacation or sick leave accrued to the credit of the employee if the employee accepts employment with the joint county department or a withdrawing county. At the effective time of separation from county service, the joint county department or the withdrawing county, as the case may be, shall assume such unused vacation and sick leave accrued to the employee's credit.

Sec. 329.42. The county auditor of the county with the largest population that formed the joint county department of job and family services under section 329.40 of the Revised Code shall serve as the fiscal officer of the joint county department, and the county treasurer of that county shall serve as the treasurer of the joint county department, unless the counties that formed the joint county department agree to appoint the county auditor and county treasurer of another county that formed the department. In either case, these county officers shall perform any applicable duties for the joint county department as each typically performs for the county of which the individual is an officer. The board of directors of the joint county department may pay to that county any amount agreed upon by the board of directors and the board of county commissioners of that county to reimburse the county for the costs that are properly allocable to the service of its officers as fiscal officer and treasurer of the joint county department.

Sec. 329.43. (A) The prosecuting attorney of the county with the largest population that formed the joint county department of job and family services under section 329.40 of the Revised Code shall serve as the legal advisor of the board of directors of the joint county department, unless the counties that formed the joint county department agree to appoint the prosecuting attorney of another county that formed the joint county department as legal advisor of the board. The board of directors may pay to the county of the prosecuting attorney who is the legal advisor of the board any amount agreed upon by the board of directors and the board of county commissioners of that county to reimburse that county for the costs that are properly allocable to the service of its prosecuting attorney as the legal advisor of the board of directors.

(B) The prosecuting attorney shall provide such services to the board of directors as are required or authorized to be provided to other county boards under Chapter 309. of the Revised Code.

(C)(1) If the board of directors of the joint county department wishes to employ other legal counsel on an annual basis to serve as the board's legal advisor in place of the

prosecuting attorney, the board may do so with the agreement of the prosecuting attorney. If the prosecuting attorney does not agree, the board of directors may apply to the court of common pleas of the county with the largest population that formed the joint county department for authority to employ other legal counsel on an annual basis.

(2) If the board of directors of the joint county department wishes to employ other legal counsel to represent or advise the board on a particular matter in place of the prosecuting attorney, the board may do so with the agreement of the prosecuting attorney. If the prosecuting attorney does not agree, the board of directors may apply to the court of common pleas of the county with the largest population that formed the joint county department for authority to employ other legal counsel for that particular matter.

(3) The prosecuting attorney who is the legal advisor of the board of directors shall be given notice of an application filed under division (C)(1) or (2) of this section and shall be afforded an opportunity to be heard. After the hearing, the court may authorize the board of directors to employ other legal counsel on an annual basis or for a particular matter only if it finds that the prosecuting attorney refuses or is unable to provide the legal services that the board requires. If the board of directors employs other legal counsel on an annual basis or for a particular matter, the board may not require the prosecuting attorney to provide legal advice, opinions, or other legal services during the period or to the extent that the board employs the other legal counsel.

Sec. 329.44. (A) A board of directors of the joint county department of job and family services formed under section 329.40 of the Revised Code may acquire, by purchase or lease, real property, equipment, and systems to improve, maintain, or operate family service programs within the territory served by the joint county department. A board of county commissioners may acquire, within its county, real property or any estate, interest, or right therein, by appropriation or any other method, for use by the joint county department in connection with its provision of services. Appropriation proceedings shall be conducted in accordance with Chapter 163. of the Revised Code.

(B) A board of county commissioners that formed the joint county department may contribute lands or rights or interests therein, money, other personal property or rights or interests therein, or services to the joint county department. The board of county commissioners may issue bonds or bond anticipation notes of the county to pay the cost of acquiring real property and of constructing, modifying, or upgrading a facility to house employees of the joint county department. The board of directors of the joint county department may reimburse the county for the use of such a facility if it is required to do so under the agreement entered into under section 329.40 of the Revised Code.

Sec. 329.45. (A)(1) A board of county commissioners may pass a resolution requesting to withdraw from the agreement establishing the joint county department of job and family services formed under section 329.40 of the Revised Code. Upon adopting such a resolution, the board of county commissioners shall deliver a copy of the resolution to the board of directors of the joint county department. Upon receiving the resolution, the board of directors shall deliver written notice of the requested withdrawal to the boards of county commissioners of the other county or counties that formed the joint county department. Within thirty days after receiving the notice, each of those boards of county commissioners shall adopt a resolution either accepting the withdrawal or objecting to the withdrawal, and shall deliver a copy of the resolution to the board of directors.

(2) If any of the boards of county commissioners that formed the joint county department adopts a resolution objecting to the requested withdrawal, the board of directors shall deliver written notice of the objection to each other board of county commissioners of the counties that formed the joint county department, including the board of county commissioners of the county proposing withdrawal, and shall schedule a meeting of the board of directors to be held within thirty days to discuss the objection. After the meeting, the board of directors shall determine whether the county requesting withdrawal desires to proceed with the withdrawal and, if the county does, the board of directors shall accept the withdrawal. Not later than thirty days after the determination was made, the board of directors shall deliver written notice of the withdrawal to the boards of county commissioners that formed the joint county department and to the board of county commissioners that requested withdrawal, and shall commence the withdrawal process under this section.

(3) If all of the boards of county commissioners that formed the joint county department, except for the board of county commissioners requesting the withdrawal, each adopt a resolution accepting the withdrawal, the board of directors shall declare the withdrawal to be accepted. Not later than thirty days after the declaration, the board of directors shall deliver written notice of the withdrawal to all of the boards of county commissioners that formed the joint county department, including the board of county commissioners of the county requesting withdrawal, and shall commence the withdrawal process under this section.

(4) The board of directors shall give notice to the Ohio department of job and family services of the withdrawal of a county under this section at least ninety days before the withdrawal becomes final. The director of job and family services shall adopt, as an internal management rule under section 111.15 of the Revised Code, the form in which the notice shall be given.

(5) If a county requesting to withdraw decides to remain as a party to the agreement establishing the joint county department, the board of county commissioners of that county shall rescind its original resolution requesting withdrawal and shall deliver a copy of the rescission to the board of directors of the joint county department within thirty days after adopting the rescission.

(B) If a county withdraws from the agreement under this section, the board of directors shall ascertain, apportion, and order a division of the funds on hand, credits, and real and personal property of the joint county department, either in money or in kind, on an equitable basis between the joint county department and the withdrawing county according to the agreement entered into under section 329.40 of the Revised Code and consistent with any prior contributions of the withdrawing county to the joint county department. Any debt incurred individually shall remain the responsibility of that county, unless otherwise specified in the agreement establishing the joint county department.

(C) A withdrawal becomes final not earlier than the first day of the calendar quarter following the ninety-day notice period required by division (A)(4) of this section. On and after that day, the withdrawing county ceases to be a part of the joint county department, and its members of the board of directors shall cease to be members of that board.

(D) If the withdrawal of one or more counties would leave only one county participating in the joint county department, the board of directors shall ascertain, apportion, and order a final division of the funds on hand, credits, and real and personal property of the joint county

department. On and after the day on which the latest withdrawal of a county becomes final, the joint county department is dissolved. When the joint county department is dissolved and any indebtedness remains unpaid, the boards of county commissioners that formed the joint county department shall pay the indebtedness of the joint county department in the amounts established by the agreement at the time the indebtedness was incurred.

Sec. 329.46. (A) A board of county commissioners that formed the joint county department of job and family services under section 329.40 of the Revised Code, by adopting a resolution, may propose the removal of another county that formed the joint county department. The board of county commissioners shall send a copy of such a resolution to the board of directors of the joint county department. Within ten days after receiving the copy of the resolution, the board of directors shall send a copy of the resolution to each board of county commissioners that formed the joint county department, except the board of county commissioners proposing removal. Within thirty days after sending a copy of the resolution, the board of directors shall hold a hearing at which any county commissioner whose county formed the joint county department may present arguments for or against the removal. At the hearing, approval or disapproval of the removal shall be determined by a two-thirds vote of the county commissioners of the counties that formed the joint county department, with the exception of the county commissioners of the county proposed for removal.

(B) The board of directors of the joint county department of job and family services, by adopting a resolution by a majority vote of the members of the board, may propose removal of a county that formed the joint county department. Within ten days after adopting such a resolution, the board of directors shall send a copy of the resolution to the board of county commissioners of each county that formed the joint county department, including the board of county commissioners of the county proposed for removal. Within thirty days after sending the copy of the resolution, the board of directors shall hold a hearing at which any member of the board may present arguments for or against the removal. At this hearing, approval or disapproval of the resolution proposing removal shall be determined by a two-thirds vote of the members of the board of directors, with the exception of the board members who represent the county proposed for removal.

(C) If removal of a county is approved under this section, the board of directors shall give written notice of the approval to the Ohio department of job and family services at least ninety days before the removal takes effect. The director of job and family services shall adopt, as an internal management rule under section 111.15 of the Revised Code, the form in which the notice shall be given.

(D) Removal of a county under this section shall take effect not earlier than the first day of the calendar quarter following the ninety-day notice period required by division (C) of this section.

(E) If, at any time, the county proposed for removal under division (A) or (B) of this section notifies the board of directors, by a majority vote of that county's board of county commissioners, that it chooses to withdraw from the joint county department, the withdrawal procedure established under section 329.45 of the Revised Code shall be put immediately into motion.

Sec. 330.04. If, for the purpose of Chapter 6301. of the Revised Code, a county is the type of local area defined in division (A)(2) of section 6301.01 of the Revised Code, the board of

county commissioners serving the county shall adopt a resolution establishing or designating a workforce development agency to provide workforce development activities for the county. The board shall adopt the resolution not later than July 1, 2000.

The board may establish or designate any of the following as the workforce development agency:

(A) The county department of job and family services;

(B) A separate agency under the direct control of the board and administered by an official appointed by the board;

(C) An entity serving the county on the effective date of this section in a capacity similar to the capacity in which a workforce development agency is to serve the county on and after the effective date of this section;

(D) An entity located in or outside the county that provides workforce development activities in the county on the effective date of this section;

(E) Any private or government entity designated under section 307.981 of the Revised Code;

(F) The joint county department of job and family services established under section 329.40 of the Revised Code.

Sec. 5101.01. (A) As used in the Revised Code, the "department of public welfare" and the "department of human services" mean the department of job and family services and the "director of public welfare" and the "director of human services" mean the director of job and family services. Whenever the department or director of public welfare or the department or director of human services is referred to or designated in any statute, rule, contract, grant, or other document, the reference or designation shall be deemed to refer to the department or director of job and family services, as the case may be.

(B) As used in this chapter of the Revised Code:

(1) References to counties or to county departments of job and family services include the joint county department of job and family services established under section 329.40 of the Revised Code.

(2) References to boards of county commissioners include boards of directors of the joint department of job and family services established under section 329.40 of the Revised Code.