

September 17, 2025

The Honorable J. Kevin Flanagan  
Belmont County Prosecuting Attorney  
52160 National Road  
St. Clairsville, OH 43950

SYLLABUS:

2025-019

The increase in salary for county officials provided by 2025 Am.Sub.H.B. No. 96 takes effect on September 30, 2025, which is after the start of the county treasurer's current term of office. By operation of Article II, Section 20 of the Ohio Constitution, the county treasurer's salary may only increase at the annual rate of one and three-quarters percent until another term commences.



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OPINION NO. 2025-019

The Honorable J. Kevin Flanagan  
Belmont County Prosecuting Attorney  
52160 National Road  
St. Clairsville, OH 43950

Dear Prosecutor Flanagan:

You have requested an opinion regarding a recent change in the law governing county officials' compensation. I have framed your question as follows:

Did the increase in salary provided by House Bill 96 to county treasurers take effect prior to the start of the county treasurer's current term of office, such that beginning in January 2026, the increased salary may be paid to the county treasurers?

For the reasons that follow, I find that the increase in salary provided by 2025 Am.Sub.H.B. No. 96 ("H.B. 96") takes effect on September 30, 2025, which is after the start of the county treasurer's current term. By operation of Article II, Section 20 of the Ohio Constitution, the county treasurer's salary may only increase at

the annual rate of one and three-quarters percent during the term of office that commenced on September 1, 2025. Consequently, the additional salary increases in H.B. 96 may not be paid to the county treasurer until another term of office commences.

## I

As a general rule, the effective date for legislation is the ninety-first day after an act is filed with the Secretary of State. *See* Ohio Const., art. II, § 1c. However, “[l]aws providing for tax levies, appropriations for the current expenses of the state government and state institutions, and emergency laws necessary for the immediate preservation of the public peace, health or safety, shall go into immediate effect.” Ohio Const., art. II, § 1d. In addition, the General Assembly may provide a delayed effective date for all or part of an act. *See, e.g.*, 2025 Am.Sub.H.B. No. 96, Sections 820.70 to 820.120.

To further complicate matters, “an Act *need not necessarily have a single effective date.*” (Emphasis in original.) *State ex rel. Ohio AFL-CIO v. Voinovich*, 69 Ohio St.3d 225, 236 (1994), quoting *State ex rel. Riffe v. Brown*, 51 Ohio St.2d 149, 163 (1977) (O’Neill, J., dissenting). Complex legislation like the state’s biennial budget will typically have multiple effective dates for different parts. Thus, it becomes necessary to determine which sections take effect on the ninety-first day after filing with the Secretary of State, which go into

immediate effect, and which have delayed effective dates.

All of the above bears on the threshold question: when H.B. 96's amendment to R.C. 325.18—the provision governing salary increases for county officials—goes into effect. Section 820.30 of H.B. 96 states the default rule for effective dates applicable to the act: “Except as otherwise provided in this act, the amendment, enactment, or repeal by this act of a section is subject to the referendum under Ohio Constitution, Article II, section 1c and therefore takes effect on the ninety-first day after this act is filed with the Secretary of State or, if a later effective date is specified below, on that date.” Section 820.20 of H.B. 96 specifies the amendments, enactments, and repeals that are exempt from the referendum and take immediate effect. Amended R.C. 325.18 is not listed there.

No exception to the default rule applies. The amendment, which changes the rate of salary increases for county officials, is not an appropriation for the current expenses of state government. The change in elected officials' salary schedule will require counties to expend additional funds, but H.B. 96 does not appropriate state funds for this purpose; rather, the salaries of county officials are paid “out of the general county fund.” R.C. 325.01; *see also* R.C. 1.471 and 131.01(F) (defining an “appropriation”); *State ex rel. LetOhioVote.org v. Brunner*, 2009-Ohio-4900, ¶ 28-30 (regarding the meaning of “appropriations” for purposes of Ohio Const., art. II, § 1d).

The amendment to R.C. 325.18 is not an emergency measure either. As noted earlier, “emergency laws necessary for the immediate preservation of the public peace, health or safety, shall go into immediate effect.” Ohio Const., art. II, § 1d. According to the same section of the constitution, “Such emergency laws upon a ye and nay vote must receive the vote of two-thirds of all the members elected to each branch of the general assembly, and the reasons for such necessity shall be set forth in one section of the law, which section shall be passed only upon a ye and nay vote, upon a separate roll call thereon.” *Id.* The section of an act declaring an emergency is commonly known as an emergency clause. *See, e.g.*, 1934 Ohio Atty.Gen.Ops. No. 2309. In surveying the uncodified sections of H.B. 96, I find that no emergency clause provides for amended R.C. 325.18 to take immediate effect.

You suggested that I consider Section 820.10 of H.B. 96, which provides that “[s]ections of this act prefixed with numbers in the 200s, 300s, 400s, and 500s of this act are exempt from the referendum . . . and therefore take immediate effect when this act becomes law.” In context, however, “sections of this act” refers to uncodified sections that appropriate state funds and not the Revised Code section numbers. The Ohio Revised Code is organized in odd-numbered titles; no section of the Revised Code begins with numbers in the 200s or 400s. Thus, Section 820.10 of H.B. 96 does not give immediate effect to amended R.C. 325.18.

In summary, on the threshold question, I conclude that the amendment to R.C. 325.18 takes effect on September 30, 2025.

## II

Next, consider how this effective date affects the county treasurer's salary during the current term of office, which commenced on September 1, 2025.

According to R.C. 321.01, a county treasurer's four-year term begins on the first Monday of September. R.C. 325.04 sets a baseline for the treasurer's compensation based on the population of the county, while R.C. 325.18 allows for an increase in subsequent years. Under current law, preceding the amendment's effective date, R.C. 325.18 provides for county officials' salaries to increase by one and three-quarters percent in each calendar year through 2028. H.B. 96 raises the annual rate of increase to five percent "beginning in calendar year 2026 and in each calendar year thereafter through calendar year 2029." R.C. 325.18(B)(2) (eff. Sept. 30, 2025).

Article II, Section 20 of the Ohio Constitution provides that "no change [to compensation] shall affect the salary of any officer during his existing term, unless the office be abolished." The Ohio Supreme Court and prior attorneys general have concluded that this restriction "does not prohibit increases which occur automatically by application of a statutory formula established prior to the commencement of the term of the

public officer involved.” 1989 Ohio Atty.Gen.Ops. No. 89-087, at 2-411, citing *State ex rel. Mack v. Guckenberg*, 139 Ohio St. 273 (1942) (syllabus, paragraph three); accord *Schultz v. Garrett*, 6 Ohio St.3d 132 (1983), at syllabus; see also 1975 Ohio Atty.Gen.Ops. No. 75-054, at 2-213. For that reason, the amendment to R.C. 325.18 does not violate Article II, Section 20, when applied to county officials whose terms commence after September 30, 2025.

A change in the percentage rates of salary increases, however, may not apply to county officials whose terms start before the effective date of the statutory change—here, September 30, 2025. H.B. 96 includes an uncodified section that directly addresses this situation:

SECTION 701.70. All public officers whose compensation cannot be changed during the officer’s term under Ohio Constitution, Article II, Section 20, shall continue receiving for the remainder of the officer’s term the amount the official is entitled to under section 325.18, 505.24, or 507.09 of the Revised Code before the effective date of the amendments to those sections made by this act until the officer begins a new term and may constitutionally receive the changed compensation amount.

The application of the law is clear. Because the county treasurer’s current term of office began before

September 30, 2025, the effective date of amended R.C. 325.18, the county treasurer's annual salary may only increase at the annual rate of one and three-quarters percent until another term commences.

Conclusion

Accordingly, it is my opinion, and you are hereby advised that:

The increase in salary for county officials provided by 2025 Am.Sub.H.B. No. 96 takes effect on September 30, 2025, which is after the start of the county treasurer's current term of office. By operation of Article II, Section 20 of the Ohio Constitution, the county treasurer's salary may only increase at the annual rate of one and three-quarters percent until another term commences.

Respectfully,



DAVE YOST  
Ohio Attorney General