

OHIO AUDITOR OF STATE KEITH FABER



Auditor of State
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TO: All Public Offices
Independent Public Accountants

FROM: Keith Faber
Ohio Auditor of State

SUBJECT: Amendment to Ohio Rev. Code § 9.03 – Eliminating Charter Entity
Exemption from Restrictions on Public Funds Expenditure to
Influence the Outcome of an Election

Ohio law prohibits governing bodies of a political subdivision from using public funds to support or oppose the outcome of a candidate's election or the results of an election for a bond or levy issue. Specifically, Ohio Rev. Code § 9.03(C)(1)(e) prohibits the use of public funds to support or oppose a candidate, the investigation, prosecution, or recall of a public official, or the passage of a levy, or bond issue, and (C)(2) prohibits compensating employees for time spent on any activity influencing the outcome of the election regarding a candidate, levy or bond issue. Further, Ohio Rev. Code § 9.03(D) prohibits persons—such as political subdivision officials and employees—from knowingly using public funds, either directly or indirectly, to benefit a candidate, campaign or political action committees, a political party, campaign fund, etc. Previously, charter municipalities and charter counties were not subject to the prohibitions in this statute.

However, the General Assembly amended Ohio Rev. Code § 9.03 in Am. Sub. H. B. No. 96 136th G.A., with an effective date of September 30, 2025, as follows:

(A) As used in this section:

(1) "Political subdivision" means any body corporate and politic, ~~except a municipal corporation that has adopted a charter under Section 7 of Article XVIII, Ohio Constitution, and except a county that has adopted a charter under Sections 3 and 4 of Article X, Ohio Constitution,~~ to which both of the following apply: (a) It is responsible for governmental activities only in a geographic area smaller than the state. (b) It is subject to the sovereign immunity of the state.

This amendment makes charter municipalities and charter counties subject to the same constraints as other political subdivisions when they have a levy or bond issue on the ballot. In the event an alleged violation is brought to AOS' attention, upon investigation, this could result in a Cease & Desist letter, as well as a non-compliance citation or Finding for Recovery in the political subdivision's next financial audit.

To facilitate political subdivisions' compliance with Ohio Rev. Code § 9.03, in August, 2023 the AOS issued Levy FAQs. The FAQs have been updated to reflect the change to the statute and can be located on the AOS website at:

https://www.ohioauditor.gov/publications/docs/Ohio_Auditor_of_State_Levy_FAQ.pdf

If you have any questions regarding the information presented in the Bulletin, please contact the Auditor of State's Office at 800-282-0370 or AOSlevyfaqs@ohioauditor.gov.

A handwritten signature in black ink that reads "Keith Faber". The signature is written in a cursive, flowing style.

Keith Faber
Ohio Auditor of State