ORIGINAL

IN THE SUPREME COURT OF OHIO

STATE OF OHIO, ex rel. TIMOTHY A. SWANSON 4500 Atlantic Boulevard, NE Canton, Ohio 44705 Relator, vs. GEORGE T. MAIER 4500 Atlantic Boulevard, NE Canton, Ohio 44705 Respondent.	)	CASE NO. 2013-0274 *ORIGINAL ACTION IN QUO WARRANTO*

REPLY BRIEF IN SUPPORT OF RELATOR'S CLAIM FOR A WRIT OF QUO WARRANTO

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RELATOR'S REPLY BRIEF

I. THE PEACE OFFICER APPOINTMENTS RELIED UPON BY THE RESPONDENT DO NOT QUALIFY AS "FULL TIME" EMPLOYMENT AS A PEACE OFFICER.

As anticipated in the Relator's Merit Brief, the Respondent contends that he qualifies for the Office of Stark County Sheriff, for purposes of R.C. 311.01(B)(8)(a), based upon 2 appointments as a "peace officer." The subject appointments identified by Respondent as the ones which he relies upon are: (1) his appointment as an enforcement agent with the Ohio Investigative Unit; and (2) his appointment through the Harrison County Sheriff's Office. R.C. 311.01(B)(8)(a) is not satisfied by merely possessing appointments as a peace officer. To the contrary, the statute requires employment as a full-time peace officer within the four-year period prior to the qualification date; the candidate or applicant must have "been employed . . . as a full-time peace officer as defined in section 109.71 of the Revised Code performing duties related to the enforcement of statutes, ordinances, or codes."

In his brief, the Respondent Maier does not contest the facts relating to his "full-time" employment during the time period relevant for consideration under R.C. 311.01(B)(8)(a). From May 21, 2007 to January 1, 2011, Respondent served as the Assistant Director of the Ohio Department of Public Safety ("Assistant Director"). (Maier Depo., p. 23; Exhibit 4, p. 77). Respondent served as Acting Director ("Director") from January 1, 2011 through January 11, 2011. (Maier Depo., p. 23; Exhibit 4, p. 81). Following a gap in employment, the Respondent was then employed with the City of Massillon, Ohio from January 1, 2012, as Safety Service Director, until he resigned from that position effective February 7, 2013. (Maier Depo., p. 40; Exhibit 6). While employed with the City of Massillon, through February 7, 2013, Respondent's job as Safety Service Director was his full-time employment. (Maier Depo., pp. 25-26, 40). Likewise, while serving as

Assistant Director (and briefly Director) with the Ohio Department of Public Safety, those positions were his full-time employment. (Maier Depo., pp. 17-18, 112).

Respondent, through his brief, does not dispute that the positions of City Safety Service Director, Assistant Director and Director of Public Safety do not qualify as "peace officer" positions, pursuant to R.C. 109.71. Thus, during the relevant time period of inquiry, the Respondent's employment in these positions was not employment as a full-time peace officer. Consequently, the Respondent attempts to bootstrap his ancillary work as an investigative agent with the Ohio Investigative Unit into "full-time" employment and, otherwise, he relies upon his two-day, weekend service with the Harrison County Sheriff's Office in January of 2013 as satisfactory "full-time" employment as a peace officer, for purposes of the Revised Code. Both propositions offered by the Respondent should be rejected by this Court.

The law regarding determination of "full-time" employment, developed in this context of R.C. 311.01, is set forth fully within the Relator's Merit Brief. Neither the Respondent nor the Amicus offer or propose any different legal principals. Further, both fail to recognize that neither Assistant Director nor Director of Public Safety represents "peace officer" employment.

II. BECAUSE THE POSITIONS OF ASSISTANT DIRECTOR AND DIRECTOR DO NOT QUALIFY AS "PEACE OFFICER" POSITIONS, ANY SUPERVISORY EXPERIENCE IN THOSE CAPACITIES IS IRRELEVANT FOR PURPOSES OF R.C. 311.01(B)(9)(a).

Respondent confines his argument for compliance with 9(a) to his "supervisory experience" in the positions of Assistant Director and Director of Public Service. (Respondent's Brief, p. 18). What the Respondent fails to address, however, is that the supervision of peace officers while serving in the civilian appointments as Assistant Director or Director does not transform those

position into "peace officer" status.

Peace officer appointments are premised upon R.C. 109.71. The positions of Assistant Director and Director are not set forth therein. Instead, the appointment to the position of Assistant Director is handled under R.C. 121.05, and the position of Director is pursuant to R.C. 121.02 and 121.03. These clear distinctions presumably account for why the Respondent does not advance any argument that either office of Assistant Director or Director is that of a "peace officer." The Amicus does not offer any argument to that effect either.

R.C. 311.01(B)(9)(a) must, of course, be applied in this case as written. This subsection is clear – it is only satisfied by way of two years of supervisory experience "as a peace officer." To qualify, the candidate or applicant must have "at least two years of supervisory experience as a peace officer at the rank of corporal or above . . . ." Respondent does not satisfy this requirement. This Court recognized this element of the Revised Code in the case of *State ex rel. Wolfe v. Delaware Cty. Bd. of Elections*, 88 Ohio St. 3d 182, 2000-Ohio-294:

> Under the language used in the pertinent portion of R.C. 311.01(B)(9)(a), in order to be eligible to be a candidate for sheriff, the person must, within the five-year period, have two years of supervisory experience and **that supervisory experience must have been earned when the person served as a peace officer** at the rank of corporal or above. (Emphasis added).

Id., p. 184. The code "expressly requires that the supervisory experience be 'as a peace officer at the rank of corporal or above.'" *Id.*, pp. 185-186. The Respondent's argument fails for these reasons.

Otherwise, the Respondent does not contend that he satisfies subsection 9(a) premised upon any appointment under R.C. 5503.01, within the five year period prior to the qualification date, for purposes of the balance of this code section.

III. THE EDUCATIONAL EQUIVALENCY CLAIMED BY THE RESPONDENT CANNOT BE RECOGNIZED AS COMPLIANCE WITH R.C. 311.01(B)(9)(b).

The Respondent claims that Stark State reviewed materials submitted by the Respondent and "concluded that . . . [the] materials and transcripts demonstrate[d] an equivalency of 67 college level semester hours . . . ." (Respondent's Brief, p. 18). For such an assertion, the Respondent relies upon the January 14, 2013 letter of Brenda Vogley contained in the record. The letter, however, does not remotely address the "equivalency" issue. Instead, the Vogley Affidavit, which has not been contested in any fashion, provides far more pertinent information regarding the review that was undertaken.

Through her Affidavit, Brenda Vogley establishes that: (1) "Maier has not earned any credit at Stark;" (2) "Completing a prior learning assessment does not mean the student has earned credits at Stark, but rather what will be considered valid transfer or work experience credits for a student's degree at Stark." (Vogley Affidavit, ¶¶ 4, 12). Thus, the cursory review of the Respondent's life experience does not support the Respondent's argument under R.C. 311.01(B)(9)(b). Moreover, the record demonstrates that the maximum credits that would have been available to Respondent, had he properly followed the protocol with Stark State, was 30 hours. (Vogley Affidavit, Exhibit 4, p. 3). The simple fact is that Respondent has earned no college credits, whatsoever, from Stark State. (Vogley Affidavit, Exhibit 4, p. 3).

Compliance with R.C. 311.01(B)(9)(b) can be demonstrated if a candidate or applicant has: (1) completed satisfactorily at least two years of post-secondary education; or (2) completed satisfactorily the equivalent in semester or quarter hours in a college or university authorized to confer degrees by the Ohio board of regents. Respondent satisfies neither component of this code

section. Respondent does not claim to have satisfactorily completed at least two years of post-secondary education. Otherwise, the Stark State evidence falls well short of demonstrating that the Respondent satisfactorily completed "the equivalent in semester or quarter hours," for Stark State's purposes.

IV. THE AFFIRMATIVE DEFENSES ASSERTED BY THE RESPONDENT ARE WITHOUT MERIT AND THEY CANNOT OPERATE TO CURE THE RESPONDENT'S LACK OF QUALIFICATIONS UNDER R.C. 311.01.

The standing and related "entitlement to office" issues were previously addressed by the Relator, in the briefing of Respondent's motion to dismiss. In any event, the Respondent has raised the issues once again.

Standing, generally, is satisfied when one has a "stake in the outcome" of litigation. *E.g.*, *State ex rel. E. Cleveland Fire Fighters v. Jenkins*, 96 Ohio St. 3d 68, 70, 2002-Ohio-3527; *Cleveland v. Shaker Heights* (1987), 30 Ohio St. 3d 49, 51. Because the appointment of Respondent was never valid, Relator maintains that the Respondent's appointment never properly supplanted the Relator's lawful appointment to the office of Stark County Sheriff by the County Commissioners. Relator's stake in the outcome of this quo warranto action is manifestly clear.

Otherwise, in a quo warranto action the relator "need not establish his right to title to the public office beyond all doubt, but rather need only establish his claim 'in good faith and upon reasonable grounds.'" *State ex rel. Powers v. Curtis*, 2003-Ohio-6104, ¶10; *State ex rel. Delph v. Barr* (1989), 44 Ohio St. 3d 77, 80 (Citations omitted). *Accord*, *State ex rel. Hanley v. Roberts* (1985), 17 Ohio St. 3d 1, 6. In this case, the Relator has set forth through the evidence his claim to the Office of Stark County Sheriff "in good faith and upon reasonable grounds."

The lawful appointment of the Relator, by the Stark County Commissioners, is not contested

in this case. Logic dictates that the resolution of the Stark County Commissioners appointing Relator as acting Sheriff remains valid, precisely because the Respondent was never qualified to assume the functions of that office. Consequently, upon the ouster of Respondent, the Relator Swanson will remain entitled to serve as Sheriff, until a duly-qualified successor is lawfully appointed. R.C. 2733.17. While the Relator intends to return to retirement, that will only transpire after a duly-qualified successor has been appointed.

Regardless, as this Court is well-aware, even if Court is not satisfied that the Relator remains entitled to the office, that does not somehow act as an affirmative defense entitling the Respondent to the office. This Court has recognized on numerous occasions that "[i]f a relator in a quo warranto proceeding fails to establish entitlement to the office, judgment may still be rendered on the issue of whether respondent lawfully holds the disputed office." *State ex rel. Deiter v. McQuire*, 119 Ohio St. 3d 384, 2008-Ohio-4536, ¶22; *State ex rel. Newell v. Jackson*, 118 Ohio St. 3d 138, 2008-Ohio-1965, ¶8; *State ex rel. Myers v. Brown*, 87 Ohio St. 3d 545, 547, 2000-Ohio-478; *State ex rel. Varnau v. Wenninger*, 131 Ohio St. 3d 169, 2012-Ohio-224, ¶12. *Accord, State ex rel. Powers v. Curtis*, supra at ¶11. Thus, regardless of Respondent's contention that the Relator is not entitled to the Office of Sheriff, such does not operate as an affirmative defense. "If [Swanson] established that [Maier] is unlawfully holding the office of [sheriff], []he would be entitled to the writ to oust him." *State ex rel. Newell v. Jackson*, supra, at ¶8.

This rule is premised upon R.C. 2733.08. R.C. 2733.08 states:

> When an action in quo warranto is brought against a person for usurping an office, the petition shall set forth the name of the person claiming to be entitled to the office, with an averment of his right thereto. Judgment may be rendered upon the right of the defendant, and also on the right of the person averred to be so entitled, or only upon the right of the defendant, as justice requires.

> All persons who claim to be entitled to the same office or franchise may be made defendants in one action, to try their respective rights to such office or franchise.

The Court in *State ex rel. Deiter v. McQuire*, supra, further observed:

> [I]t is apparent that Section 2733.08 recognizes that a relator's proof may fail in regard to one element and yet succeed with respect to the other, and provides that in such instance the court, as representative of the state, shall step in and render whatever decision is required by justice.

Id., 2008-Ohio-4536, ¶22. Therefore, Respondent's stated defense is without merit.

It is also immaterial that the DCC held its meeting within the time called for under R.C. 305.02. Proceeding with the merits of this case would not somehow result in a violation of R.C. 305.02, as Respondent suggests. (Respondent's Brief, p. 19). Not proceeding with the ouster of the Respondent on the merits of this case will result in a violation of R.C. 311.01(B). R.C. 311.01(B) has an "unequivocal and definite meaning," and the requirements for election or appointment as a County Sheriff are just that, requirements. *See*, *Wellington v. Mahoning County Bd. of Elections*, 117 Ohio St. 3d 143, 2008-Ohio-554, ¶48. R.C. 302.02 does not operate as an affirmative defense for the lack of credentials or qualifications. Regardless, it remains that any predicament that the Stark County Democratic Central Committee has placed itself in by the appointment of a person to hold the Office of Sheriff who does not possess the necessary legal qualifications is a predicament of its own creation. The DCC will have to deal with any consequences produced by the outcome of this case.

Finally, the action of the Stark County Democratic Central Committee is not entitled to any form of deference in this action, as Respondent suggests Pursuant to R.C. Chapter 3513, and as demonstrated by *State ex rel. Wolfe v. Delaware Cty. Bd. of Elections*, supra, cited by the Respondent, the County Boards of Elections employ a quasi-judicial process in determining whether

a candidate for sheriff meets the qualifications set forth in R.C. 311.01(B). Specifically, R.C. Chapter 3513 provides for a hearing on a candidate's qualifications should an elector protest the candidate's eligibility. *See, e.g.,* R.C. 3513.05, R.C. 3513.262, and R.C. 3513.263. If the County Board of Elections determines the candidate is eligible, then his name is placed on the election ballot. The Democratic Party Central Committee employed no such process in passively "determining" whether the Respondent was qualified under R.C. 311.01(B), prior to voting on his appointment. Pursuant to the meeting minutes, the DCC did not review or consider any of the candidates' qualifications prior to its vote. (Democratic Party Central Committee Meeting Minutes, contained within Respondent's submission of evidence). No witnesses were sworn, and no evidence was taken or subject to a deliberative process. Rather, the DCC simply voted to accept the candidates as qualified. *Id.* Accordingly, the deference given to the County Boards of Elections, following quasi-judicial process, is inapplicable in this case. Frankly, nothing set forth in R.C. 305.02 even suggests that a local political party has any authority to exercise quasi-judicial authority, akin to a Board of Elections.

Even if the Democratic Party Central Committee is entitled to the same deference as a County Board of Elections, this Court may nonetheless set aside the determination of eligibility if the Democratic Party Central Committee engaged in fraud, corruption, abuse of discretion, or clear disregard of applicable legal provisions in making its determination. *State el rel. Hazel v. Cuyahoga Cty. Bd. of Elections*, 80 Ohio St.3d 165, 167, 685 N.E.2d 224, 226 (1997). The Court has, on multiple occasions, allowed a writ in contravention of a County Board of Elections' determination of eligibility under R.C. 311.01(B). *See, e.g., Wellington v. Mahoning Cty Bd. of Elections*, 117 Ohio St. 3d 143, 150 (2008) (The Board of Elections abused its discretion and clearly disregarded

R.C. 311.01(B)(9) in denying a protest under R.C. 3513.05. As such, the Court issued a writ of prohibition to prevent the Board of Elections from placing a candidate on the ballot for County Sheriff.); *State ex rel. Craig v. Scioto Cty*, 117 Ohio St. 3d 158 (2008) (The Board of Elections abused its discretion by clearly disregarding R.C. 311.01(B) and a writ of prohibition was issued.) As such, the Court can allow the writ in this matter should it find, if necessary, that the Stark County Democratic Party Central Committee abused its discretion or clearly disregarded R.C. 311.01(B) in its proceedings.

There is absolutely no authority within R.C. 305.02 authorizing the Central Committee to appoint a person to the Office of Sheriff who does not qualify for that office under the strict provisions of R.C. 311.01. It simply does not matter that Respondent's purported appointment was within the time parameters of R.C. 305.02(C). The DCC had no authority to appoint an unqualified person to the Office of County Sheriff.

CONCLUSION

For all of these additional reasons, each proposition of the Respondent having been addressed and refuted, the Relator is entitled to a writ of quo warranto removing Respondent from the Office of Stark County Sheriff and declaring the Relator to be entitled to possession of that Office.

WHEREFORE, Relator, Timothy A. Swanson, respectfully requests:

a. That a peremptory writ in quo warranto be issued ousting Respondent, George T. Maier, from the Office of Stark County, Ohio Sheriff; and

b. An order declaring and determining that the Relator is entitled to possession of the Office of Stark County Sheriff.

Respectfully submitted,

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Copies of the foregoing reply brief in support of relator's claim for a writ of quo warranto were served regular U.S. mail this 13 day of May, 2013, to:

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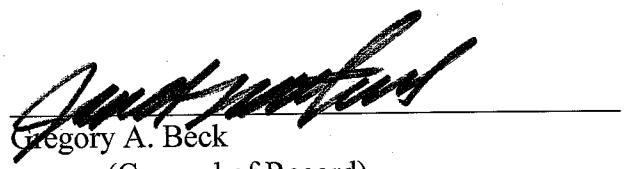

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Appendix A

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Page's Ohio Revised Code Annotated:
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Current through Legislation passed by the 130th Ohio General Assembly
and filed with the Secretary of State through File 6
*** Annotations current through November 9, 2012 ***

TITLE 1. STATE GOVERNMENT
CHAPTER 109. ATTORNEY GENERAL
OHIO PEACE OFFICER TRAINING COMMISSION

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ORC Ann. 109.71 (2013)

§ 109.71. Creation of peace officer training commission; definitions

There is hereby created in the office of the attorney general the Ohio peace officer training commission. The commission shall consist of nine members appointed by the governor with the advice and consent of the senate and selected as follows: one member representing the public; two members who are incumbent sheriffs; two members who are incumbent chiefs of police; one member from the bureau of criminal identification and investigation; one member from the state highway patrol; one member who is the special agent in charge of a field office of the federal bureau of investigation in this state; and one member from the department of education, trade and industrial education services, law enforcement training.

This section does not confer any arrest authority or any ability or authority to detain a person, write or issue any citation, or provide any disposition alternative, as granted under Chapter 2935. of the Revised Code.

As used in *sections 109.71* to *109.801 of the Revised Code*:

(A) "Peace officer" means:

(1) A deputy sheriff, marshal, deputy marshal, member of the organized police department of a township or municipal corporation, member of a township police district or joint police district police force, member of a police force employed by a metropolitan housing authority under division (D) of *section 3735.31 of the Revised Code*, or township constable, who is commissioned and employed as a peace officer by a political subdivision of this state or by a metropolitan housing authority, and whose primary duties are to preserve the peace, to protect life and property, and to enforce the laws of this state, ordinances of a municipal corporation, resolutions of a township, or regulations of a board of county commissioners or board of township trustees, or any of those laws, ordinances, resolutions, or regulations;

(2) A police officer who is employed by a railroad company and appointed and commissioned by the secretary of state pursuant to *sections 4973.17* to *4973.22 of the Revised Code*;

(3) Employees of the department of taxation engaged in the enforcement of Chapter 5743. of the Revised Code and designated by the tax commissioner for peace officer training for purposes of the delegation of investigation powers under *section 5743.45 of the Revised Code*;

(4) An undercover drug agent;

(5) Enforcement agents of the department of public safety whom the director of public safety designates under *section 5502.14 of the Revised Code*;

(6) An employee of the department of natural resources who is a natural resources law enforcement staff officer designated pursuant to section 1501.013, a park officer designated pursuant to section 1541.10, a forest officer designated pursuant to section 1503.29, a preserve officer designated pursuant to section 1517.10, a wildlife officer designated pursuant to section 1531.13, or a state watercraft officer designated pursuant to *section 1547.521 of the Revised Code*;

(7) An employee of a park district who is designated pursuant to *section 511.232* or *1545.13 of the Revised Code*;

(8) An employee of a conservancy district who is designated pursuant to *section 6101.75 of the Revised Code*;

(9) A police officer who is employed by a hospital that employs and maintains its own proprietary police department or security department, and who is appointed and commissioned by the secretary of state pursuant to *sections 4973.17* to *4973.22 of the Revised Code*;

(10) Veterans' homes police officers designated under *section 5907.02 of the Revised Code*;

(11) A police officer who is employed by a qualified nonprofit corporation police department pursuant to *section 1702.80 of the Revised Code*;

(12) A state university law enforcement officer appointed under *section 3345.04 of the Revised Code* or a person serving as a state university law enforcement officer on a permanent basis on June 19, 1978, who has been awarded a certificate by the executive director of the Ohio peace officer training commission attesting to the person's satisfactory completion of an approved state, county, municipal, or department of natural resources peace officer basic training program;

(13) A special police officer employed by the department of mental health pursuant to *section 5119.14 of the Revised Code* or the department of developmental disabilities pursuant to *section 5123.13 of the Revised Code*;

(14) A member of a campus police department appointed under *section 1713.50 of the Revised Code*;

(15) A member of a police force employed by a regional transit authority under division (Y) of *section 306.35 of the Revised Code*;

(16) Investigators appointed by the auditor of state pursuant to *section 117.091 of the Revised Code* and engaged in the enforcement of Chapter 117. of the Revised Code;

(17) A special police officer designated by the superintendent of the state highway patrol pursuant to *section 5503.09 of the Revised Code* or a person who was serving as a special police officer pursuant to that section on a permanent basis on October 21, 1997, and who has been awarded a certificate by the executive director of the Ohio peace officer training commission attesting to the person's satisfactory completion of an approved state, county, municipal, or department of natural resources peace officer basic training program;

(18) A special police officer employed by a port authority under *section 4582.04* or *4582.28 of the Revised Code* or a person serving as a special police officer employed by a port authority on a permanent basis on May 17, 2000, who has been awarded a certificate by the executive director of the Ohio peace officer training commission attesting to the person's satisfactory completion of an approved state, county, municipal, or department of natural resources peace officer basic training program;

(19) A special police officer employed by a municipal corporation who has been awarded a certificate by the executive director of the Ohio peace officer training commission for satisfactory completion of an approved peace officer basic training program and who is employed on a permanent basis on or after March 19, 2003, at a municipal airport, or other municipal air navigation facility, that has scheduled operations, as defined in *section 119.3 of Title 14 of the Code of Federal* Regulations, *14 C.F.R. 119.3*, as amended, and that is required to be under a security program and is governed by aviation security rules of the transportation security administration of the United States department of transportation as provided in Parts 1542. and 1544. of Title 49 of the Code of Federal Regulations, as amended;

(20) A police officer who is employed by an owner or operator of an amusement park that has an average yearly attendance in excess of six hundred thousand guests and that employs and maintains its own proprietary police

department or security department, and who is appointed and commissioned by a judge of the appropriate municipal court or county court pursuant to *section 4973.17 of the Revised Code*;

(21) A police officer who is employed by a bank, savings and loan association, savings bank, credit union, or association of banks, savings and loan associations, savings banks, or credit unions, who has been appointed and commissioned by the secretary of state pursuant to *sections 4973.17* to *4973.22 of the Revised Code*, and who has been awarded a certificate by the executive director of the Ohio peace officer training commission attesting to the person's satisfactory completion of a state, county, municipal, or department of natural resources peace officer basic training program;

(22) An investigator, as defined in *section 109.541 of the Revised Code*, of the bureau of criminal identification and investigation who is commissioned by the superintendent of the bureau as a special agent for the purpose of assisting law enforcement officers or providing emergency assistance to peace officers pursuant to authority granted under that section;

(23) A state fire marshal law enforcement officer appointed under *section 3737.22 of the Revised Code* or a person serving as a state fire marshal law enforcement officer on a permanent basis on or after July 1, 1982, who has been awarded a certificate by the executive director of the Ohio peace officer training commission attesting to the person's satisfactory completion of an approved state, county, municipal, or department of natural resources peace officer basic training program;

(24) A gaming agent employed under *section 3772.03 of the Revised Code*.

(B) "Undercover drug agent" has the same meaning as in division (B)(2) of *section 109.79 of the Revised Code*.

(C) "Crisis intervention training" means training in the use of interpersonal and communication skills to most effectively and sensitively interview victims of rape.

(D) "Missing children" has the same meaning as in *section 2901.30 of the Revised Code*.

HISTORY:

142 v H 708 (Eff 4-19-88); 143 v H 110 (Eff 5-31-90); 143 v H 271 (Eff 4-10-91); 143 v H 669 (Eff 1-10-91); 144 v H 77 (Eff 9-17-91); 144 v S 49 (Eff 7-21-92); 144 v H 758 (Eff 1-15-93); 145 v S 182 (Eff 10-20-94); 146 v S 162 (Eff 10-29-95); 146 v S 2 (Eff 7-1-96); 146 v H 445 (Eff 9-3-96); 146 v H 670 (Eff 12-2-96); 146 v H 351 (Eff 1-14-97); 146 v S 285 (Eff 3-13-97); 147 v S 60 (Eff 10-21-97); 147 v S 213 (Eff 7-29-98); 147 v S 187 (Eff 3-18-99); 148 v H 163 (Eff 6-30-99); 148 v S 137 (Eff 5-17-2000); 149 v H 675 (Eff 3-14-2003); 149 v H 545. Eff 3-19-2003; 151 v H 58, § 1, eff. 5-3-05; 151 v H 81, § 1, eff. 4-14-06; 151 v H 347, § 1, eff. 3-14-07; 151 v H 454, § 1, eff. 4-6-07; 152 v H 562, § 101.01, eff. 9-23-08; 153 v S 79, § 1, eff. 10-6-09; 153 v H 519, § 1, eff. 9-10-10; 2011 HB 153, § 101.01, eff. Sept. 29, 2011.

Appendix B

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Current through Legislation passed by the 130th Ohio General Assembly
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*** Annotations current through November 9, 2012 ***

TITLE 1. STATE GOVERNMENT
CHAPTER 121. STATE DEPARTMENTS

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ORC Ann. 121.02 (2013)

§ 121.02. Administrative departments created

The following administrative departments and their respective directors are hereby created:

(A) The office of budget and management, which shall be administered by the director of budget and management;

(B) The department of commerce, which shall be administered by the director of commerce;

(C) The department of administrative services, which shall be administered by the director of administrative services;

(D) The department of transportation, which shall be administered by the director of transportation;

(E) The department of agriculture, which shall be administered by the director of agriculture;

(F) The department of natural resources, which shall be administered by the director of natural resources;

(G) The department of health, which shall be administered by the director of health;

(H) The department of job and family services, which shall be administered by the director of job and family services;

(I) Until July 1, 1997, the department of liquor control, which shall be administered by the director of liquor control;

(J) The department of public safety, which shall be administered by the director of public safety;

(K) The department of mental health, which shall be administered by the director of mental health;

(L) The department of developmental disabilities, which shall be administered by the director of developmental disabilities;

(M) The department of insurance, which shall be administered by the superintendent of insurance as director thereof;

(N) The development services agency, which shall be administered by the director of development services;

(O) The department of youth services, which shall be administered by the director of youth services;

(P) The department of rehabilitation and correction, which shall be administered by the director of rehabilitation and correction;

(Q) The environmental protection agency, which shall be administered by the director of environmental protection;

(R) The department of aging, which shall be administered by the director of aging;

(S) The department of alcohol and drug addiction services, which shall be administered by the director of alcohol and drug addiction services;

(T) The department of veterans services, which shall be administered by the director of veterans services.

The director of each department shall exercise the powers and perform the duties vested by law in such department.

HISTORY:

GC § 154-3; 109 v 105; 112 v 430(478), § 89; 116 v 511; 123 v 84(162), § 2; Bureau of Code Revision, 10-1-53; 125 v 127 (Eff 10-2-53); 126 v 655; 127 v 653; 128 v 876 (Eff 11-4-59); 130 v 18 (Eff 6-11-63); 130 v 19 (Eff 10-7-63); 132 v H 495 (Eff 10-24-67); 132 v S 235 (Eff 11-14-67); 134 v H 494 (Eff 7-12-72); 134 v H 1064 (Eff 9-29-72); 134 v S 485 (Eff 10-18-72); 134 v S 397 (Eff 10-23-72); 135 v H 200 (Eff 9-28-73); 135 v S 174 (Eff 12-4-73); 136 v H 920 (Eff 10-11-76); 137 v H 415 (Eff 12-14-77); 138 v H 900 (Eff 7-1-80); 139 v H 440 (Eff 11-23-81); 139 v H 536 (Eff 8-12-82); 140 v H 100 (Eff 2-24-83); 140 v H 401 (Eff 7-20-84); 140 v H 660 (Eff 7-26-84); 140 v H 37 (Eff 6-22-84); 143 v H 317 (Eff 10-10-89); 144 v S 98 (Eff 11-12-92); 146 v S 162 (Eff 10-29-95); 148 v H 470. Eff 7-1-2000; 152 v S 289, § 1, eff. 8-22-08; 153 v S 79, § 1, eff. 10-6-09; 2012 SB 314, § 1, eff. Sept. 28, 2012.

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TITLE 1. STATE GOVERNMENT
CHAPTER 121. STATE DEPARTMENTS

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ORC Ann. 121.03 (2013)

§ 121.03. Appointment of administrative department heads

The following administrative department heads shall be appointed by the governor, with the advice and consent of the senate, and shall hold their offices during the term of the appointing governor, and are subject to removal at the pleasure of the governor.

(A) The director of budget and management;

(B) The director of commerce;

(C) The director of transportation;

(D) The director of agriculture;

(E) The director of job and family services;

(F) Until July 1, 1997, the director of liquor control;

(G) The director of public safety;

(H) The superintendent of insurance;

(I) The director of development services;

(J) The tax commissioner;

(K) The director of administrative services;

(L) The director of natural resources;

(M) The director of mental health;

(N) The director of developmental disabilities;

(O) The director of health;

(P) The director of youth services;

(Q) The director of rehabilitation and correction;

(R) The director of environmental protection;

(S) The director of aging;

(T) The director of alcohol and drug addiction services;

(U) The administrator of workers' compensation who meets the qualifications required under division (A) of *section 4121.121 of the Revised Code*;

(V) The director of veterans services who meets the qualifications required under *section 5902.01 of the Revised Code*;

(W) The chancellor of the Ohio board of regents.

HISTORY:

GC § 154-4, 109 v 105; 118 v 387; Bureau of Code Revision, 10-1-53; 125 v 128; 125 v 824 (Eff 7-1-54); 126 v 655; 127 v 7; 127 v 653; 128 v 876 (Eff 11-4-59); 130 v 21 (Eff 6-11-63); 130 v 20 (Eff 9-25-63); 130 v 22 (Eff 10-7-63) 132 v H 495 (Eff 10-24-67); 132 v S 235 (Eff 11-14-67); 133 v H 1 (Eff 3-18-69); 134 v H 494 (Eff 7-12-72); 134 v H 1064 (Eff 9-29-72); 134 v S 485 (Eff 10-18-72); 134 v S 397 (Eff 10-23-72); 135 v S 174 (Eff 12-4-73); 136 v H 920 (Eff 10-11-76); 137 v H 415 (Eff 12-14-77); 138 v H 900 (Eff 7-1-80); 138 v H 736 (Eff 10-16-80); 139 v H 440 (Eff 11-23-81); 139 v H 536 (Eff 8-12-82); 140 v H 100 (Eff 2-24-83); 140 v H 401 (Eff 7-20-84); 140 v H 660 (Eff 7-26-84); 140 v H 37 (Eff 6-22-84); 143 v H 317 (Eff 10-10-89); 144 v S 98 (Eff 11-12-92); 146 v H 7 (Eff 9-1-95); 146 v S 162 (Eff 10-29-95); 148 v H 180 (Eff 8-6-99); 148 v H 470. Eff 7-1-2000; 152 v S 289, § 1, eff. 8-22-08; 153 v S 79, § 1, eff. 10-6-09; 2011 HB 153, § 101.01, eff. Sept. 29, 2011; 2012 SB 314, § 1, eff. Sept. 28, 2012.

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TITLE 1. STATE GOVERNMENT
CHAPTER 121. STATE DEPARTMENTS

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ORC Ann. 121.05 (2013)

§ 121.05. Assistant directors; representation of director by designee on boards, etc.

Except as otherwise provided in this section, in each department, there shall be an assistant director designated by the director of that department. In the department of health, there shall be two assistant directors, each of whom shall be designated by the director of health. In the department of transportation, there shall be an assistant director for business management, an assistant director for field operations, and an assistant director for transportation policy, each of whom shall be designated by the director of transportation. In the department of insurance, the deputy superintendent of insurance shall be the assistant director. In the department of administrative services, there shall be two assistant directors, each of whom shall be designated by the director of administrative services. In the department of commerce, there shall be two assistant directors, each of whom shall be designated by the director of commerce. In the department of job and family services, there may be up to two assistant directors, each of whom shall be designated by the director of job and family services. In each department with an assistant director, the assistant director shall act as director in the absence or disability of the director and also shall act as director when the position of director is vacant, except that in the department of transportation, the department of health, the department of commerce, the department of administrative services, and the department of job and family services, the director shall designate which assistant director shall act as director in the director's absence. In each department without an assistant director, the director shall designate a deputy director to act as director in the absence or disability of the director.

A director may designate any of the director's assistant directors or a deputy director to serve in the director's place as a member of any board, committee, authority, or commission of which the director is, by law, a member. The designee, when present, shall be counted in determining whether a quorum is present at any meeting. The designee may vote and participate in all proceedings and actions of the board, committee, authority, or commission, provided that the designee shall not execute or cause a facsimile of the designee's signature to be placed on any obligation, or execute any trust agreement or indenture. The designation shall be in writing, executed by the designating director, filed with the secretary of the board, committee, authority, or commission, and shall be in effect until withdrawn or superseded by a new designation.

HISTORY:

GC § 154-5; 109 v 106; 109 v 133, § 5; Bureau of Code Revision, 10-1-53; 132 v S 97 (Eff 1-1-68); 133 v H 87 (Eff 8-4-69); 133 v H 533 (Eff 8-27-70); 140 v H 714 (Eff 3-28-85); 143 v H 552 (Eff 7-14-89); 146 v S 162 (Eff 10-29-95); 146 v H 572 (Eff 9-17-96); 146 v S 293 (Eff 9-26-96); 147 v H 210 (Eff 6-30-97); 148 v H 283. Eff 6-30-99; 152 v H 130, § 1, eff. 4-7-09.

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TITLE 27. COURTS -- GENERAL PROVISIONS -- SPECIAL REMEDIES
CHAPTER 2733. QUO WARRANTO
USURPATION OF OFFICE

Go to the Ohio Code Archive Directory

ORC Ann. 2733.08 (2013)

§ 2733.08. Petition against person for usurpation of office

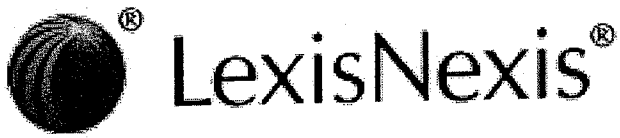
When an action in quo warranto is brought against a person for usurping an office, the petition shall set forth the name of the person claiming to be entitled to the office, with an averment of his right thereto. Judgment may be rendered upon the right of the defendant, and also on the right of the person averred to be so entitled, or only upon the right of the defendant, as justice requires.

All persons who claim to be entitled to the same office or franchise may be made defendants in one action, to try their respective rights to such office or franchise.

HISTORY:

RS §§ 6766, 6767; S&C 1265, 1266; 36 v 68, §§ 3, 7; GC §§ 12309, 12310; Bureau of Code Revision. Eff 10-1-53.

Appendix F



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ORC Ann. 2733.17 (2013)

§ 2733.17. Rights of person adjudged entitled to an office

If judgment in an action in quo warranto is rendered in favor of the person averred to be entitled to an office, after taking the oath of office and executing any official bond required by law, he may take upon him the execution of the office. Immediately thereafter such person shall demand of the defendant all books and papers in his custody or within his power appertaining to the office from which the defendant has been ousted.

HISTORY:

RS § 6777; S&C 1265; 36 v 68, § 4; GC § 12320; Bureau of Code Revision. Eff 10-1-53.