September 21, 2026

The Honorable Shayla D. Favor
Franklin County Prosecuting Attorney
373 South High Street
Columbus, Ohio 43215

SYLLABUS: 2026-011

1. Changes to county healthcare plans approved by the board of county commissioners constitute direct legislative action, even if a benefits department or joint committee negotiates or recommends particular terms. Because the board's resolutions and contracts establish healthcare benefits, such changes generally may not be applied to county officials mid-term under Article II, Section 20 of the Ohio Constitution.

2. An increase in an elected official's premium contribution, accompanied by additional benefits, constitutes a prohibited change in compensation when those additional benefits are added through direct legislative action, even if the premium contribution formula remains the same. (2005 Ohio Atty.Gen.Ops. No. 2005-031 followed).

3. An elected official's premium contribution may increase mid-term without violating Article II, Section 20 of the Ohio Constitution, if

the increase results from a pre-existing formula for premium contributions and the percentage attributable to each party remains the same. (1989 Ohio Atty.Gen.Ops. No. 89-003 followed).

4. An increase in the office-visit copay may constitute a prohibited change in compensation unless the increase results from a pre-existing formula rather than new legislative action.

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OPINION NO. 2026-011

The Honorable Shayla D. Favor
Franklin County Prosecuting Attorney
373 South High Street
Columbus, Ohio 43215

Dear Prosecutor Favor:

On behalf of the Franklin County Administrator and the Board of County Commissioners, your office requested an opinion regarding healthcare plans made available to the county's elected officials. I have been advised that the board sponsors the Franklin County Cooperative, the self-insured health insurance program available to county employees, including elected officials. The plan is subject to annual changes in both cost and benefits.

To avoid potential conflicts with Article II, Section 20 of the Ohio Constitution—which prohibits mid-term changes in a public officer's compensation—the administrator does not allow elected officials to move between plans during their term of

office. This has the effect of forcing the county to keep up to six insurance plans in force at a time. The county administrator and commissioners seek guidance on how to reduce the administrative hurdles and proposed several alternatives. Based on the scenarios presented in the request, I have framed the following questions for general application:

1. If changes in healthcare plans are determined by a county benefits department, joint benefits committee, or consultants, could those changes be considered "non-legislative" action even though the county commissioners ultimately approve the insurance contract?

2. Does an increase in an elected official's premium contribution, without additional benefits, constitute a prohibited change in compensation if the premium contribution formula between the official and the county remains the same?

3. Does an increase in an elected official's premium contribution, together with additional benefits, constitute a prohibited change in compensation if the premium contribution formula remains the same?

4. Does an increase in an elected official's healthcare office-visit copay constitute a

> prohibited change in compensation when the premium contribution formula remains the same?

For the reasons that follow, I determine that changes to county healthcare plans approved by a board of county commissioners constitute direct legislative action, even if a benefits department or joint committee negotiates or recommends particular terms. The board of county commissioners is the legislative authority that binds the county to healthcare plans for all county employees, including its elected officials.

An increase in an elected official's premium contribution, together with additional benefits, constitutes a prohibited change in compensation if those benefits were added through direct legislative action—even if the official's percentage share of the composite rate remains the same. The composite rate reflects the cost per employee. For example, currently in Franklin County, employees generally pay 12% of that rate and the county pays 88%.

By contrast, an elected official's premium contribution may increase mid-term without violating Article II, Section 20 when no new benefits are added and the existing formula—along with each party's percentage share—remains unchanged. For the same reason, an increase in an office-visit copay may

constitute a prohibited change in compensation unless it results from operation of a pre-existing formula rather than from direct legislative action.

I

A

Article II, Section 20 of the Ohio Constitution provides that the General Assembly must "fix the term of office and the compensation of all officers; *but no change therein* shall affect the salary of any officer during his existing term, unless the office be abolished." (Emphasis added.) This provision proscribes legislative changes in the compensation of public officers during their term of office, and it applies broadly to both elected and appointed officials.[1] *State ex rel. McNamara v. Campbell*, 94 Ohio St. 403 (1916), paragraph three of the syllabus.

Case law and prior opinions further clarify the reach of this constitutional limitation. Article II, Section 20 applies not only to the General Assembly, but also

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[1] A separate constitutional restriction governs judicial compensation. Article IV, Section 6 prevents legislative reductions (though not increases) in judges' compensation during a judicial term. Because the opinion request referred only to Article II, Section 20, the judicial provision is not addressed further here.

to "subordinate bodies to whom the General Assembly has delegated the authority to fix compensation." 2000 Ohio Atty.Gen.Ops. No. 2000-043, at 2-261. Thus, boards of county commissioners, township trustees, and other local legislative bodies are subject to the same prohibition. *Id.*; *see, e.g.*, *State ex rel. Holmes v. Thatcher*, 116 Ohio St. 113 (1927); *State ex rel. Parsons v. Ferguson*, 46 Ohio St.2d 389 (1976).

In this context, compensation also includes fringe benefits. As the Ohio Supreme Court has explained, fringe benefits—such as payments for group medical and hospital plans—are "as much a part of the compensations of office as a weekly pay check." *State ex rel. Parsons*, at 391; *see also Madden v. Bower*, 20 Ohio St.2d 135 (1969), paragraph one of the syllabus. With this backdrop in place, I turn to the questions presented.

B

The first question is whether changes in healthcare plans, if effectuated by a county benefits department, joint benefits committee, or consultants, may be considered "non-legislative" action. As will be explained, only county commissioners can approve the insurance contract, and they ultimately do so. For that reason, I conclude such changes constitute

direct legislative action and are subject to Article II, Section 20.

The General Assembly has empowered boards of county commissioners to contract for group medical insurance policies for county employees and officials, including through self-insurance arrangements. R.C. 305.171(E); *see also* R.C. 9.833. When a board adopts a resolution authorizing benefits under R.C. 305.171, that action—together with the statute itself—establishes the healthcare component of a county officer's compensation. *See* 2005 Ohio Atty.Gen.Ops. No. 2005-031, at 2-324. Because resolutions or contracts adopted under R.C. 305.171 affect the compensation provided to county officers, they trigger Article II, Section 20 considerations. *Id.* at 2-326.

Past precedent and prior attorneys general have used the phrase "direct legislative action" to describe the type of official action that may trigger Article II, Section 20. *Schultz v. Garrett*, 6 Ohio St.3d 132, 135 (1983); 2005 Ohio Atty.Gen.Ops. No. 2005-046, at paragraph three of the syllabus; 2005 Ohio Atty.Gen.Ops. No. 2005-031, at paragraph four of the syllabus. Those opinions explain that a board of county commissioners engages in legislative action whenever it adopts or amends a resolution or approves a contract that authorizes, modifies, or renews healthcare benefits. *See, e.g.*, 2005 Ohio

Atty.Gen.Ops. No. 2005-031, at 2-326; 1982 Ohio Atty.Gen.Ops. No. 82-006, at 2-19. Changes of that kind generally may not be applied to public officials mid-term. *See* 2017 Ohio Atty.Gen.Ops. No. 2017-026, Slip Op. at 12; 2-270.

Your office has advised me that the Franklin County Board of Commissioners sponsors a self-insured health-insurance program for county officers and employees. Although the county benefits department and a joint benefits committee develop the plan design and specific terms, the board ultimately approves the healthcare contract that establishes the benefits offered each year.

"Courts have consistently held that the board of county commissioners has general contracting authority for the county." 2024 Ohio Atty.Gen.Ops. No. 2024-006, Slip Op. at 8; 2-44, citing *Am. Fedn. of State, Cty. & Mun. Emps. v. Polta*, 59 Ohio App.2d 283, 284-285 (6th Dist. 1977). The Franklin County Board of Commissioners may rely on the county benefits department and joint committee to negotiate and recommend the terms of county healthcare plans, but the sole authority to bind the county to healthcare plans for its employees and elected officials lies with the Board. *See* R.C. 305.171; *see also* 2004 Ohio Atty.Gen.Ops. No. 2004-004, 2-30 to 2-33.

As prior opinions have noted, a board's action in designing healthcare options for county personnel "must be memorialized by a duly enacted ordinance or resolution" and may operate only prospectively. 1982 Ohio Atty.Gen.Ops. No. 82-006, at 2-19. Furthermore, the county commissioners' resolution is "the reference point for determining whether a midterm change in an officer's health care benefits has occurred, and whether such change is prohibited." 2005 Ohio Atty.Gen.Ops. No. 2005-031, at 2-326. Thus, I conclude that even when plan specifics are developed by the county benefits department, a joint committee, or consultants, a change that requires board approval—whether by resolution or contract—is legislative in nature.

II

A

Next, your office asked whether an increase in an elected official's premium contribution, without additional benefits, constitutes a prohibited change in compensation if the premium contribution formula between the official and the county does not change. You have also asked whether the answer would differ if the increase in premium contribution corresponds to an increase in benefits. To answer those questions, it is necessary to clarify first what Article II, Section 20 does *not* prohibit.

First, Article II, Section 20 does not prevent the county from offering a healthcare plan to officials who take office after the plan was adopted. 1978 Ohio Atty.Gen.Ops. No. 78-054, at 2-134 to 2-135. Similarly, if a county officer initially declined insurance benefits that were available at the start of a term, that official may opt to participate later. *Id.*, at paragraph one of the syllabus; *see also* 2005 Ohio Atty.Gen.Ops. No. 2005-031, at 2-327 to 2-328. The constitution restricts only *mid-term* legislative changes to public officials' compensation. *See, e.g.*, 2025 Ohio Atty.Gen.Ops. No. 2025-019.

Second, the Ohio Supreme Court has held that "[w]hen a statute setting forth the formula for the compensation of an officer is effective before the commencement of the officer's term," the officer may receive "any salary increase which results from a change in one of the factors used by the statute to calculate the compensation." *Schultz v. Garrett*, 6 Ohio St.3d 132, 135 (1983); *see also State ex rel. Mack v. Guckenberger*, 139 Ohio St. 273, 283 (1942). More recent attorney general opinions have applied this principle to healthcare plans. *See* 2012 Ohio Atty.Gen.Ops. No. 2012-024, at 2-201 to 2-205; 2005 Ohio Atty.Gen.Ops. No. 2005-046; 2005 Ohio Atty.Gen.Ops. No. 2005-031. Those opinions conclude that Article II, Section 20 does not prohibit changes in healthcare plans that occur under a

formula or cost-sharing structure established before the official's term began. *Id.*

Two examples from prior opinions help illustrate what qualifies as a preset "formula" for healthcare plans. First, an elected official's premium contribution may be tied to the percentage the county pays for its employees under a collective-bargaining agreement. When that agreement later changes, the official's contribution adjusts automatically—not because the county altered the formula but because one of the formula's pre-established variables changed. 2005 Ohio Atty.Gen.Ops. No. 2005-031, at 2-329. Such changes do not violate Article II, Section 20. *Id.* Second, a county may adopt a "standing resolution requiring elected officials and employees to participate in a high deductible, fully funded HSA Plan." 2012 Ohio Atty.Gen.Ops. No. 2012-024, at 2-203. If the resolution does not specify "the amount of the fully funded deductible, then a mid-term change in the deductible is permissible." *Id.* at 205.

B

Applying the principles above, if benefits remain unchanged and the elected official's premium contribution remains at the same percentage of the total cost, an increase in the total premium amount caused only by "some external factor affecting the formula" does not constitute a change in compensation. *See*

2012 Ohio Atty.Gen.Ops. No. 2012-024, at 2-204 to 2-205. The premium may therefore increase mid-term without violating Article II, Section 20 if the premium contribution formula remains unchanged and the percentage attributable to each party is consistent. *See* 1989 Ohio Atty.Gen.Ops. No. 89-003, at paragraph two of the syllabus.

By contrast, if increased premiums resulted from direct legislative action increasing benefits, coverage, etc., that change in benefits and coverage could not apply to elected officials during their term of office. As one opinion explains, "if the original formula for county health care benefits listed specific plans, levels of coverage, or other aspects of its insurance coverage under R.C. 305.171, the county commissioners' change in any of those specifics works a legislative change upon the formula." 2005 Ohio Atty.Gen.Ops. No. 2005-031, at 2-331. Similarly, when benefits are added to an existing healthcare plan or policy, and those benefits increase the county's premium for the plan, the elected official may not receive the additional benefit mid-term, unless the added cost is paid personally, without any county contribution. 2004 Ohio Atty.Gen.Ops. No. 2004-004, at 2-39 to 2-40.

In short, the critical test under Article II, Section 20 is whether the change stems from an established formula or from new legislative action. *See* 2005 Ohio

Atty.Gen.Ops. No. 2005-031, at 2-326 to 2-327; *accord* 2012 Ohio Atty.Gen.Ops. No. 2012-024, at 2-204 to 2-205. Resolving that issue, however, requires a case-by-case factual assessment, which is beyond the scope of an attorney general opinion. *Id.* at 2-204.

III

The last question concerns the effect of an increase in copays for medical-office visits. The financial impact of a higher copay depends on many variables, such as an individual's healthcare needs, whether the person's appointments are in-network or out-of-network, and the plan's maximum out-of-pocket amount. In some circumstances, an elected official's overall compensation could decrease as a result. Yet it would be impractical for the county to conduct individualized assessments before applying such policy changes. Accordingly, if it is assumed that an increase in the office-visit copay affects overall compensation for at least some elected officials, then the same legal standard discussed above applies.

If direct legislative action causes a mid-term increase in a cost-sharing component such as the copay, the change would likely violate Article II, Section 20 as applied to elected officials. If, instead, the change results from an external factor affecting a pre-existing premium contribution formula, then

the change would be permissible. Determining which category a particular change falls into depends on the details of Franklin County's contracting and approval process and presents factual questions the Attorney General cannot resolve in a legal opinion. 2005 Ohio Atty.Gen.Ops. No. 2005-031, at 2-326 to 2-327; *accord* 2012 Ohio Atty.Gen.Ops. No. 2012-024, at 2-204.

Conclusion

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

1. Changes to county healthcare plans approved by the board of county commissioners constitute direct legislative action, even if a benefits department or joint committee negotiates or recommends particular terms. Because the board's resolutions and contracts establish healthcare benefits, such changes generally may not be applied to county officials mid-term under Article II, Section 20 of the Ohio Constitution.

2. An increase in an elected official's premium contribution, accompanied by additional benefits, constitutes a prohibited change in compensation when those additional benefits are added through direct legislative action, even if the premium contribution formula remains

the same. (2005 Ohio Atty.Gen.Ops. No. 2005-031 followed).

3. An elected official's premium contribution may increase mid-term without violating Article II, Section 20 of the Ohio Constitution, if the increase results from a pre-existing formula for premium contributions and the percentage attributable to each party remains the same. (1989 Ohio Atty.Gen.Ops. No. 89-003 followed).

4. An increase in the office-visit copay may constitute a prohibited change in compensation unless the increase results from a pre-existing formula rather than new legislative action.

Respectfully,

D. ANDREW WILSON
Ohio Attorney General