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March 26, 2008

Dennis J. Varnau, Esq.
7661 White Swan Road
Georgetown, OH 45121

Dear Mr. Varnau:

I have received your letter requesting information from the Legislative Service Commission (LSC) concerning the provision of Sub. H.B. 75 of the 125th General Assembly that addressed educational qualifications for county sheriffs.

Communications between LSC staff ("legislative staff") and members or staff of the General Assembly, and release of legislative documents by LSC, are governed by R.C. 101.30. Division (B) of that section reads as follows:

(B) Legislative staff shall maintain a confidential relationship with each member of the general assembly, and with each member of the general assembly staff, with respect to communications between the member of the general assembly or general assembly staff and legislative staff. Except as otherwise provided in this division and division (C) of this section, a legislative document arising out of this confidential relationship is not a public record for purposes of section 149.43 of the Revised Code. When it is in the public interest and with the consent of the [legislative service] commission, the director of the commission may release to the public any legislative document in the possession of the commission staff arising out of a confidential relationship with a former member of the general assembly or former member of the general assembly staff who is not available to

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make the legislative document a public record as provided in division (C) of this section because of death or disability, whom the director is unable to contact for that purpose, or who fails to respond to the director after the director has made a reasonable number of attempts to make such contact.

Division (C) then describes how a legislative document becomes a public record. A bill or resolution becomes a public record when a member of the General Assembly files it with the clerk of the House of Representatives or the Senate for introduction. An amendment, substitute bill, or substitute resolution becomes a public record when a member of the General Assembly presents it for consideration during a committee hearing or floor session. Other legislative documents become public records when a member of the General Assembly releases them to the public or authorizes General Assembly staff or LSC staff to release them. Bill analyses, fiscal notes, local impact statements, and synopses prepared by LSC staff become public records after they have been presented to the House, the Senate, or a legislative committee.

With these requirements in mind, I checked the LSC bill file for Sub. H.B. 75 of the 125th General Assembly for documents that are public records. I have enclosed copies of the public records in the file, which actually constitute all of the documents currently in the file. It is LSC's practice to eliminate most documents from the LSC bill files from prior General Assemblies, due to limitations on storage space, so that the files eventually contain copies of only the officially filed versions of the bills, the LSC analyses and fiscal notes, and written testimony presented to committees. That process has been completed for the LSC bill files from the 125th General Assembly, which convened in 2003-2004. If there were any amendments offered to H.B. 75, they would have been discarded from the file.

Based on the enclosed documents, the provision affecting educational requirements for county sheriffs was part of a substitute bill that was reported by the Senate Education Committee. But because any amendments would have been discarded from the file, it is not clear whether a discrete amendment containing the sheriff's provision was formally considered by the committee first and then incorporated into the substitute bill, or whether the provision might have appeared in the substitute bill first. This information should be contained in the Senate Education Committee's records,

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which are public records. It is my understanding that Senate committee records from the 125th General Assembly are now stored at the Ohio Historical Society and that the public may examine and copy them there.

Sincerely,



James W. Kelly
Division Chief

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Enclosures

cc: Mark C. Flanders, Director
Linda Gorry

Varnau.doc