

As Introduced

**122nd General Assembly
Regular Session
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H. B. No. 319

Representatives Kasputis, Boyd, Williams, Ford, Colonna

A B I L L

To amend sections 1901.261 and 1901.31 of the Revised Code to make each elected municipal court clerk responsible for the management, maintenance, operation, and modernization of the computer systems of the clerk's office.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 1901.261 and 1901.31 of the Revised Code be amended to read as follows:

Sec. 1901.261. (A)(1) A municipal court may determine that for the efficient operation of the court additional funds are required to computerize the court, to make available computerized legal research services, or to do both. Upon making a determination that additional funds are required for either or both of those purposes, the court shall include in its schedule of fees and costs under section 1901.26 of the Revised Code one additional fee not to exceed three dollars on the filing of each cause of action or appeal equivalent to one described in division (A), (Q), or (U) of section 2303.20 of the Revised Code and shall direct the clerk of the court to charge the fee.

(2) All fees collected under this section shall be paid to the county treasurer if the court is a county-operated municipal

court or to the city treasurer if the court is not a
county-operated municipal court. The treasurer shall ~~place~~ deposit
the ~~funds from the~~ fees in a separate fund to be disbursed upon an
order of the court in an amount not greater than the actual cost
to the court of ~~computerizing~~ procuring, managing, maintaining,
operating, and modernizing the computerization of the court,
~~procuring and maintaining~~ computerized legal research services, or
both.

(3) If the court determines that the ~~funds~~ moneys in the fund
described in division (A)(2) of this section are more than
sufficient to satisfy the purpose for which the additional fee
described in division (A)(1) of this section was imposed, the
court may declare a surplus in the fund and expend ~~those~~ the
surplus ~~funds~~ for other appropriate technological expenses of the
court.

(B)(1) A municipal court may determine that, for the
efficient operation of the court, additional funds are required to
computerize the office of the clerk of the court and, upon that
determination, may include in its schedule of fees and costs under
section 1901.26 of the Revised Code an additional fee not to
exceed ten dollars on the filing of each cause of action or
appeal, on the filing, docketing, and endorsing of each
certificate of judgment, or on the docketing and indexing of each
aid in execution or petition to vacate, revive, or modify a
judgment that is equivalent to one described in division (A), (P),
(Q), (T), or (U) of section 2303.20 of the Revised Code. Subject
to division (B)(2) of this section, all moneys collected under
division (B)(1) of this section shall be paid to the county
treasurer if the court is a county-operated municipal court or to
the city treasurer if the court is not a county-operated municipal
court. The treasurer shall ~~place~~ deposit the ~~funds from the~~ fees
in a separate fund to be disbursed, upon an order of the municipal

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court and subject to an appropriation by the board of county 53
commissioners if the court is a county-operated municipal court or 54
by the legislative authority of the municipal corporation if the 55
court is not a county-operated municipal court, in an amount no 56
greater than the actual cost to the court of procuring ~~and,~~ 57
managing, maintaining, operating, and modernizing the computer 58
systems ~~for~~ of the office of the clerk of the ~~municipal~~ court. 59

(2) If a municipal court makes the determination described in 60
division (B)(1) of this section, the board of county commissioners 61
of the county if the court is a county-operated municipal court or 62
the legislative authority of the municipal corporation in which 63
the court is located if the court is not a county-operated 64
municipal court, may issue one or more general obligation bonds 65
for the purpose of procuring ~~and,~~ managing, maintaining, 66
operating, and modernizing the computer systems ~~for~~ of the office 67
of the clerk of the ~~municipal~~ court. In addition to the purposes 68
stated in division (B)(1) of this section for which the moneys 69
collected under that division may be expended, the moneys 70
additionally may be expended to pay debt charges and financing 71
costs related to any general obligation bonds issued pursuant to 72
division (B)(2) of this section as they become due. General 73
obligation bonds issued pursuant to division (B)(2) of this 74
section are Chapter 133. securities. 75

Sec. 1901.31. The clerk and deputy clerks of a municipal 76
court shall be selected, be compensated, give bond, and have 77
powers and duties as follows: 78

(A) There shall be a clerk of the court who is appointed or 79
elected as follows: 80

(1)(a) Except in the Akron, Clermont county, Hamilton county, 81
Portage county, and Wayne county municipal courts, if the 82
population of the territory equals or exceeds one hundred thousand 83

at the regular municipal election immediately preceding the
expiration of the term of the present clerk, the clerk shall be
nominated and elected by the qualified electors of the territory
in the manner that is provided for the nomination and election of
judges in section 1901.07 of the Revised Code.

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The clerk so elected shall hold office for a term of six
years, which term shall commence on the first day of January
following the clerk's election and continue until the clerk's
successor is elected and qualified.

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(b) In the Hamilton county municipal court, the clerk of
courts of Hamilton county shall be the clerk of the municipal
court and may appoint an assistant clerk who shall receive the
compensation, payable out of the treasury of Hamilton county in
semimonthly installments, that the board of county commissioners
prescribes. The clerk of courts of Hamilton county, acting as the
clerk of the Hamilton county municipal court and assuming the
duties of that office, shall receive compensation at one-fourth
the rate that is prescribed for the clerks of courts of common
pleas as determined in accordance with the population of the
county and the rates set forth in sections 325.08 and 325.18 of
the Revised Code. This compensation shall be paid from the county
treasury in semimonthly installments and is in addition to the
annual compensation that is received for the performance of the
duties of the clerk of courts of Hamilton county, as provided in
sections 325.08 and 325.18 of the Revised Code.

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(c) In the Portage county and Wayne county municipal courts,
the clerks of courts of Portage county and Wayne county shall be
the clerks, respectively, of the Portage county and Wayne county
municipal courts and may appoint a chief deputy clerk for each
branch that is established pursuant to section 1901.311 of the
Revised Code, and assistant clerks as the judges of the municipal
court determine are necessary, all of whom shall receive the

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compensation that the legislative authority prescribes. The clerks 116
of courts of Portage county and Wayne county, acting as the clerks 117
of the Portage county and Wayne county municipal courts and 118
assuming the duties of these offices, shall receive compensation 119
payable from the county treasury in semimonthly installments at 120
one-fourth the rate that is prescribed for the clerks of courts of 121
common pleas as determined in accordance with the population of 122
the county and the rates set forth in sections 325.08 and 325.18 123
of the Revised Code. 124

(d) Except as otherwise provided in division (A)(1)(d) of 125
this section, in the Akron municipal court, candidates for 126
election to the office of clerk of the court shall be nominated by 127
primary election. The primary election shall be held on the day 128
specified in the charter of the city of Akron for the nomination 129
of municipal officers. Notwithstanding section 3513.257 of the 130
Revised Code, the nominating petitions of independent candidates 131
shall be signed by at least two hundred fifty qualified electors 132
of the territory of the court. 133

The candidates shall file a declaration of candidacy and 134
petition, or a nominating petition, whichever is applicable, not 135
later than four p.m. of the seventy-fifth day before the day of 136
the primary election, in the form prescribed by section 3513.07 or 137
3513.261 of the Revised Code. The declaration of candidacy and 138
petition, or the nominating petition, shall conform to the 139
applicable requirements of section 3513.05 or 3513.257 of the 140
Revised Code. 141

If no valid declaration of candidacy and petition is filed by 142
any person for nomination as a candidate of a particular political 143
party for election to the office of clerk of the Akron municipal 144
court, a primary election shall not be held for the purpose of 145
nominating a candidate of that party for election to that office. 146
If only one person files a valid declaration of candidacy and 147

petition for nomination as a candidate of a particular political party for election to that office, a primary election shall not be held for the purpose of nominating a candidate of that party for election to that office, and the candidate shall be issued a certificate of nomination in the manner set forth in section 3513.02 of the Revised Code.

Declarations of candidacy and petitions, nominating petitions, and certificates of nomination for the office of clerk of the Akron municipal court shall contain a designation of the term for which the candidate seeks election. At the following regular municipal election, all candidates for the office shall be submitted to the qualified electors of the territory of the court in the manner that is provided in section 1901.07 of the Revised Code for the election of the judges of the court. The clerk so elected shall hold office for a term of six years, which term shall commence on the first day of January following the clerk's election, and continue until the clerk's successor is elected and qualified.

(e) In the Clermont county municipal court, the clerk of courts of Clermont county shall be the clerk of the municipal court. The clerk of courts of Clermont county, acting as the clerk of the Clermont county municipal court and assuming the duties of that office, shall receive compensation at one-fourth the rate that is prescribed for the clerks of courts of common pleas as determined in accordance with the population of the county and the rates set forth in sections 325.08 and 325.18 of the Revised Code. This compensation shall be paid from the county treasury in semimonthly installments and is in addition to the annual compensation that is received for the performance of the duties of the clerk of courts of Clermont county, as provided in sections 325.08 and 325.18 of the Revised Code.

(2)(a) Except in the Alliance, Auglaize county, Lorain,

Massillon, and Youngstown municipal courts, if the population of 180
the territory is less than one hundred thousand, the clerk shall 181
be appointed by the court, and the clerk shall hold office until 182
the clerk's successor is appointed and qualified. 183

(b) In the Alliance, Lorain, Massillon, and Youngstown 184
municipal courts, the clerk shall be elected for a term of office 185
as described in division (A)(1)(a) of this section. 186

(c) In the Auglaize county municipal court, the clerk of 187
courts of Auglaize county shall be the clerk of the municipal 188
court and may appoint a chief deputy clerk for each branch that is 189
established pursuant to section 1901.311 of the Revised Code, and 190
assistant clerks as the judge of the court determines are 191
necessary, all of whom shall receive the compensation that the 192
legislative authority prescribes. The clerk of courts of Auglaize 193
county, acting as the clerk of the Auglaize county municipal court 194
and assuming the duties of that office, shall receive compensation 195
payable from the county treasury in semimonthly installments at 196
one-fourth the rate that is prescribed for the clerks of courts of 197
common pleas as determined in accordance with the population of 198
the county and the rates set forth in sections 325.08 and 325.18 199
of the Revised Code. 200

(3) During the temporary absence of the clerk due to illness, 201
vacation, or other proper cause, the court may appoint a temporary 202
clerk, who shall be paid the same compensation and have the same 203
authority and perform the same duties, as the clerk. 204

(B) Except in the Clermont county, Hamilton county, Portage 205
county, and Wayne county municipal courts, if a vacancy occurs in 206
the office of the clerk of the Alliance, Lorain, Massillon, or 207
Youngstown municipal court or occurs in the office of the clerk of 208
a municipal court for which the population of the territory equals 209
or exceeds one hundred thousand because the clerk ceases to hold 210

the office before the end of the clerk's term or because a
clerk-elect fails to take office, the vacancy shall be filled,
until a successor is elected and qualified, by a person chosen by
the residents of the territory of the court who are members of the
county central committee of the political party by which the last
occupant of that office or the clerk-elect was nominated. Not less
than five nor more than fifteen days after a vacancy occurs, those
members of that county central committee shall meet to make an
appointment to fill the vacancy. At least four days before the
date of the meeting, the chairperson or a secretary of the county
central committee shall notify each such committee member by first
class mail of the date, time, and place of the meeting and its
purpose. A majority of all such committee members constitutes a
quorum, and a majority of the quorum is required to make the
appointment. If the office so vacated was occupied or was to be
occupied by a person not nominated at a primary election, or if
the appointment was not made by the committee members in
accordance with this division, the court shall make an appointment
to fill the vacancy. A successor shall be elected to fill the
office for the unexpired term at the first municipal election that
is held more than one hundred twenty days after the vacancy
occurred.

(C) In a municipal court, other than the Auglaize county
municipal court, for which the population of the territory is less
than one hundred thousand, the clerk of a municipal court shall
receive the annual compensation that the legislative authority
prescribes. In a municipal court other than the Clermont county,
Hamilton county, Portage county, and Wayne county municipal courts
for which the population of the territory is one hundred thousand
or more, the clerk of a municipal court shall receive annual
compensation in a sum equal to eighty-five per cent of the salary
of a judge of the court. The compensation is payable in

semimonthly installments from the same sources and in the same 243
manner as provided in section 1901.11 of the Revised Code. 244

(D) Before entering upon the duties of the clerk's office, 245
the clerk of a municipal court shall give bond of not less than 246
six thousand dollars to be determined by the judges of the court, 247
conditioned upon the faithful performance of the clerk's duties as 248
clerk. 249

(E) The clerk of a municipal court may do all of the 250
following: administer oaths, take affidavits, and issue executions 251
upon any judgment rendered in the court, including a judgment for 252
unpaid costs; issue, sign, and attach the seal of the court to all 253
writs, process, subpoenas, and papers issuing out of the court; 254
and approve all bonds, sureties, recognizances, and undertakings 255
fixed by any judge of the court or by law. The clerk shall do all 256
of the following: file and safely keep all journals, records, 257
books, and papers belonging or appertaining to the court; record 258
the proceedings of the court; perform all other duties that the 259
judges of the court may prescribe; and keep a book showing all 260
receipts and disbursements, which book shall be open for public 261
inspection at all times. 262

The clerk shall prepare and maintain a general index, a 263
docket, and other records that the court, by rule, requires, all 264
of which shall be the public records of the court. In the docket, 265
the clerk shall enter, at the time of the commencement of an 266
action, the names of the parties in full, the names of the 267
counsel, and the nature of the proceedings. Under proper dates, 268
the clerk shall note the filing of the complaint, issuing of 269
summons or other process, returns, and any subsequent pleadings. 270
The clerk shall also enter all reports, verdicts, orders, 271
judgments, and proceedings of the court, clearly specifying the 272
relief granted or orders made in each action. The court may order 273
an extended record of any of the above to be made and entered, 274

under the proper action heading, upon the docket at the request of
any party to the case, the expense of which record may be taxed as
costs in the case or may be required to be prepaid by the party
demanding the record, upon order of the court.

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In a municipal court in which the clerk has been elected as
provided in division (A)(1)(a) or (2)(b) of this section, the
clerk shall be responsible for the management, maintenance,
operation, and modernization of the computerization of the office
of the clerk, including, but not limited to, computerization
procured with fees deposited in and disbursed from the separate
funds described in division (B)(1) of section 1901.261 Of the
Revised Code.

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(F) The clerk of a municipal court shall receive, collect,
and issue receipts for all costs, fees, fines, bail, and other
moneys payable to the office or to any officer of the court. The
clerk shall each month disburse to the proper persons or officers,
and take receipts for, all costs, fees, fines, bail, and other
moneys that ~~he~~ the clerk collects. Subject to sections 3375.50 and
4511.193 of the Revised Code and to any other section of the
Revised Code that requires a specific manner of disbursement of
any moneys received by a municipal court and except for the
Hamilton county, Lawrence county, and Ottawa county municipal
courts, the clerk shall pay all fines received for violation of
municipal ordinances into the treasury of the municipal
corporation the ordinance of which was violated and shall pay all
fines received for violation of township resolutions adopted
pursuant to Chapter 504. of the Revised Code into the treasury of
the township the resolution of which was violated. Subject to
sections 1901.024 and 4511.193 of the Revised Code, in the
Hamilton county, Lawrence county, and Ottawa county municipal
courts, the clerk shall pay fifty per cent of the fines received
for violation of municipal ordinances and fifty per cent of the

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finer received for violation of township resolutions adopted 307
pursuant to Chapter 504. of the Revised Code into the treasury of 308
the county. Subject to sections 3375.50, 3375.53, 4511.99, and 309
5503.04 of the Revised Code and to any other section of the 310
Revised Code that requires a specific manner of disbursement of 311
any moneys received by a municipal court, the clerk shall pay all 312
finer collected for the violation of state laws into the county 313
treasury. Except in a county-operated municipal court, the clerk 314
shall pay all costs and fees the disbursement of which is not 315
otherwise provided for in the Revised Code into the city treasury. 316
The clerk of a county-operated municipal court shall pay the costs 317
and fees the disbursement of which is not otherwise provided for 318
in the Revised Code into the county treasury. Moneys deposited as 319
security for costs shall be retained pending the litigation. The 320
clerk shall keep a separate account of all receipts and 321
disbursements in civil and criminal cases, which shall be a 322
permanent public record of the office. On the expiration of the 323
term of the clerk, the clerk shall deliver the records to the 324
clerk's successor. The clerk shall have other powers and duties as 325
are prescribed by rule or order of the court. 326

(G) All moneys paid into a municipal court shall be noted on 327
the record of the case in which they are paid and shall be 328
deposited in a state or national bank, or a domestic savings and 329
loan association, as defined in section 1151.01 of the Revised 330
Code, that is selected by the clerk. Any interest received upon 331
the deposits shall be paid into the city treasury, except that in 332
a county-operated municipal court, the interest shall be paid into 333
the treasury of the county in which the court is located. 334

On the first Monday in January of each year, the clerk shall 335
make a list of the titles of all cases in the court that were 336
finally determined more than one year past in which there remains 337
unclaimed in the possession of the clerk any funds, or any part of 338

a deposit for security of costs not consumed by the costs in the case. The clerk shall give notice of the moneys to the parties who are entitled to the moneys or to their attorneys of record. All the moneys remaining unclaimed on the first day of April of each year shall be paid by the clerk to the city treasurer, except that in a county-operated municipal court, the moneys shall be paid to the treasurer of the county in which the court is located. Any part of the moneys shall be paid by the treasurer at any time to the person who has the right to the moneys, upon proper certification of the clerk.

(H) Deputy clerks may be appointed by the clerk and shall receive the compensation, payable in semimonthly installments out of the city treasury, that the clerk may prescribe, except that the compensation of any deputy clerk of a county-operated municipal court shall be paid out of the treasury of the county in which the court is located. Each deputy clerk shall take an oath of office before entering upon the duties of the deputy clerk's office and, when so qualified, may perform the duties appertaining to the office of the clerk. The clerk may require any of the deputy clerks to give bond of not less than three thousand dollars, conditioned for the faithful performance of the deputy clerk's duties.

(I) For the purposes of this section, whenever the population of the territory of a municipal court falls below one hundred thousand but not below ninety thousand, and the population of the territory prior to the most recent regular federal census exceeded one hundred thousand, the legislative authority of the municipal corporation may declare, by resolution, that the territory shall be considered to have a population of at least one hundred thousand.

(J) The clerk or a deputy clerk shall be in attendance at all sessions of the municipal court, although not necessarily in the

courtroom, and may administer oaths to witnesses and jurors and 371
receive verdicts. 372

Section 2. That existing sections 1901.261 and 1901.31 of the 373
Revised Code are hereby repealed. 374