

**As Reported by the House Local Government and Townships
Committee**

**122nd General Assembly
Regular Session
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Am. 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
APPLICATION BY THE CLERK IF THE CLERK OF THE COURT IS ELECTED OR
UPON an order of the court IF THE CLERK OF THE COURT IS APPOINTED,
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~~, AND SHALL DISBURSE THE FUND
UPON APPLICATION BY THE CLERK IF THE CLERK OF THE COURT IS ELECTED
OR upon an order of the municipal court IF THE CLERK OF THE COURT
IS APPOINTED, and subject to an appropriation by the board of
county commissioners if the court is a county-operated municipal
court or by the legislative authority of the municipal corporation
if the court is not a county-operated municipal court, in an
amount no greater than the actual cost to the court of procuring
~~and, managing,~~ maintaining, operating, and modernizing the
computer systems ~~for~~ of the office of the clerk of the ~~municipal~~
court.

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

Sec. 1901.31. The clerk and deputy clerks of a municipal
court shall be selected, be compensated, give bond, and have

powers and duties as follows: 83

(A) There shall be a clerk of the court who is appointed or 84
elected as follows: 85

(1)(a) Except in the Akron, Clermont county, Hamilton county, 86
Portage county, and Wayne county municipal courts, if the 87
population of the territory equals or exceeds one hundred thousand 88
at the regular municipal election immediately preceding the 89
expiration of the term of the present clerk, the clerk shall be 90
nominated and elected by the qualified electors of the territory 91
in the manner that is provided for the nomination and election of 92
judges in section 1901.07 of the Revised Code. 93

The clerk so elected shall hold office for a term of six 94
years, which term shall commence on the first day of January 95
following the clerk's election and continue until the clerk's 96
successor is elected and qualified. 97

(b) In the Hamilton county municipal court, the clerk of 98
courts of Hamilton county shall be the clerk of the municipal 99
court and may appoint an assistant clerk who shall receive the 100
compensation, payable out of the treasury of Hamilton county in 101
semimonthly installments, that the board of county commissioners 102
prescribes. The clerk of courts of Hamilton county, acting as the 103
clerk of the Hamilton county municipal court and assuming the 104
duties of that office, shall receive compensation at one-fourth 105
the rate that is prescribed for the clerks of courts of common 106
pleas as determined in accordance with the population of the 107
county and the rates set forth in sections 325.08 and 325.18 of 108
the Revised Code. This compensation shall be paid from the county 109
treasury in semimonthly installments and is in addition to the 110
annual compensation that is received for the performance of the 111
duties of the clerk of courts of Hamilton county, as provided in 112
sections 325.08 and 325.18 of the Revised Code. 113

(c) In the Portage county and Wayne county municipal courts, 114
the clerks of courts of Portage county and Wayne county shall be 115
the clerks, respectively, of the Portage county and Wayne county 116
municipal courts and may appoint a chief deputy clerk for each 117
branch that is established pursuant to section 1901.311 of the 118
Revised Code, and assistant clerks as the judges of the municipal 119
court determine are necessary, all of whom shall receive the 120
compensation that the legislative authority prescribes. The clerks 121
of courts of Portage county and Wayne county, acting as the clerks 122
of the Portage county and Wayne county municipal courts and 123
assuming the duties of these offices, shall receive compensation 124
payable from the county treasury in semimonthly installments at 125
one-fourth the rate that is prescribed for the clerks of courts of 126
common pleas as determined in accordance with the population of 127
the county and the rates set forth in sections 325.08 and 325.18 128
of the Revised Code. 129

(d) Except as otherwise provided in division (A)(1)(d) of 130
this section, in the Akron municipal court, candidates for 131
election to the office of clerk of the court shall be nominated by 132
primary election. The primary election shall be held on the day 133
specified in the charter of the city of Akron for the nomination 134
of municipal officers. Notwithstanding section 3513.257 of the 135
Revised Code, the nominating petitions of independent candidates 136
shall be signed by at least two hundred fifty qualified electors 137
of the territory of the court. 138

The candidates shall file a declaration of candidacy and 139
petition, or a nominating petition, whichever is applicable, not 140
later than four p.m. of the seventy-fifth day before the day of 141
the primary election, in the form prescribed by section 3513.07 or 142
3513.261 of the Revised Code. The declaration of candidacy and 143
petition, or the nominating petition, shall conform to the 144
applicable requirements of section 3513.05 or 3513.257 of the 145

Revised Code. 146

If no valid declaration of candidacy and petition is filed by 147
any person for nomination as a candidate of a particular political 148
party for election to the office of clerk of the Akron municipal 149
court, a primary election shall not be held for the purpose of 150
nominating a candidate of that party for election to that office. 151
If only one person files a valid declaration of candidacy and 152
petition for nomination as a candidate of a particular political 153
party for election to that office, a primary election shall not be 154
held for the purpose of nominating a candidate of that party for 155
election to that office, and the candidate shall be issued a 156
certificate of nomination in the manner set forth in section 157
3513.02 of the Revised Code. 158

Declarations of candidacy and petitions, nominating 159
petitions, and certificates of nomination for the office of clerk 160
of the Akron municipal court shall contain a designation of the 161
term for which the candidate seeks election. At the following 162
regular municipal election, all candidates for the office shall be 163
submitted to the qualified electors of the territory of the court 164
in the manner that is provided in section 1901.07 of the Revised 165
Code for the election of the judges of the court. The clerk so 166
elected shall hold office for a term of six years, which term 167
shall commence on the first day of January following the clerk's 168
election, and continue until the clerk's successor is elected and 169
qualified. 170

(e) In the Clermont county municipal court, the clerk of 171
courts of Clermont county shall be the clerk of the municipal 172
court. The clerk of courts of Clermont county, acting as the clerk 173
of the Clermont county municipal court and assuming the duties of 174
that office, shall receive compensation at one-fourth the rate 175
that is prescribed for the clerks of courts of common pleas as 176
determined in accordance with the population of the county and the 177

rates set forth in sections 325.08 and 325.18 of the Revised Code. 178
This compensation shall be paid from the county treasury in 179
semimonthly installments and is in addition to the annual 180
compensation that is received for the performance of the duties of 181
the clerk of courts of Clermont county, as provided in sections 182
325.08 and 325.18 of the Revised Code. 183

(2)(a) Except in the Alliance, Auglaize county, Lorain, 184
Massillon, and Youngstown municipal courts, if the population of 185
the territory is less than one hundred thousand, the clerk shall 186
be appointed by the court, and the clerk shall hold office until 187
the clerk's successor is appointed and qualified. 188

(b) In the Alliance, Lorain, Massillon, and Youngstown 189
municipal courts, the clerk shall be elected for a term of office 190
as described in division (A)(1)(a) of this section. 191

(c) In the Auglaize county municipal court, the clerk of 192
courts of Auglaize county shall be the clerk of the municipal 193
court and may appoint a chief deputy clerk for each branch that is 194
established pursuant to section 1901.311 of the Revised Code, and 195
assistant clerks as the judge of the court determines are 196
necessary, all of whom shall receive the compensation that the 197
legislative authority prescribes. The clerk of courts of Auglaize 198
county, acting as the clerk of the Auglaize county municipal court 199
and assuming the duties of that office, shall receive compensation 200
payable from the county treasury in semimonthly installments at 201
one-fourth the rate that is prescribed for the clerks of courts of 202
common pleas as determined in accordance with the population of 203
the county and the rates set forth in sections 325.08 and 325.18 204
of the Revised Code. 205

(3) During the temporary absence of the clerk due to illness, 206
vacation, or other proper cause, the court may appoint a temporary 207
clerk, who shall be paid the same compensation and have the same 208

authority and perform the same duties, as the clerk.

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

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(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

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receive the annual compensation that the legislative authority 241
prescribes. In a municipal court other than the Clermont county, 242
Hamilton county, Portage county, and Wayne county municipal courts 243
for which the population of the territory is one hundred thousand 244
or more, the clerk of a municipal court shall receive annual 245
compensation in a sum equal to eighty-five per cent of the salary 246
of a judge of the court. The compensation is payable in 247
semimonthly installments from the same sources and in the same 248
manner as provided in section 1901.11 of the Revised Code. 249

(D) Before entering upon the duties of the clerk's office, 250
the clerk of a municipal court shall give bond of not less than 251
six thousand dollars to be determined by the judges of the court, 252
conditioned upon the faithful performance of the clerk's duties as 253
clerk. 254

(E) The clerk of a municipal court may do all of the 255
following: administer oaths, take affidavits, and issue executions 256
upon any judgment rendered in the court, including a judgment for 257
unpaid costs; issue, sign, and attach the seal of the court to all 258
writs, process, subpoenas, and papers issuing out of the court; 259
and approve all bonds, sureties, recognizances, and undertakings 260
fixed by any judge of the court or by law. The clerk shall do all 261
of the following: file and safely keep all journals, records, 262
books, and papers belonging or appertaining to the court; record 263
the proceedings of the court; perform all other duties that the 264
judges of the court may prescribe; and keep a book showing all 265
receipts and disbursements, which book shall be open for public 266
inspection at all times. 267

The clerk shall prepare and maintain a general index, a 268
docket, and other records that the court, by rule, requires, all 269
of which shall be the public records of the court. In the docket, 270
the clerk shall enter, at the time of the commencement of an 271
action, the names of the parties in full, the names of the 272

counsel, and the nature of the proceedings. Under proper dates, 273
the clerk shall note the filing of the complaint, issuing of 274
summons or other process, returns, and any subsequent pleadings. 275
The clerk shall also enter all reports, verdicts, orders, 276
judgments, and proceedings of the court, clearly specifying the 277
relief granted or orders made in each action. The court may order 278
an extended record of any of the above to be made and entered, 279
under the proper action heading, upon the docket at the request of 280
any party to the case, the expense of which record may be taxed as 281
costs in the case or may be required to be prepaid by the party 282
demanding the record, upon order of the court. 283

In a municipal court in which the clerk has been elected as 284
provided in division (A)(1)(a) or (2)(b) of this section, the 285
clerk shall be responsible for the management, maintenance, 286
operation, and modernization of the computerization of the office 287
of the clerk, including, but not limited to, computerization 288
procured with fees deposited in and disbursed from the separate 289
funds described in division (B)(1) of section 1901.261 Of the 290
Revised Code. 291

(F) The clerk of a municipal court shall receive, collect, 292
and issue receipts for all costs, fees, fines, bail, and other 293
moneys payable to the office or to any officer of the court. The 294
clerk shall each month disburse to the proper persons or officers, 295
and take receipts for, all costs, fees, fines, bail, and other 296
moneys that ~~he~~ the clerk collects. Subject to sections 3375.50 and 297
4511.193 of the Revised Code and to any other section of the 298
Revised Code that requires a specific manner of disbursement of 299
any moneys received by a municipal court and except for the 300
Hamilton county, Lawrence county, and Ottawa county municipal 301
courts, the clerk shall pay all fines received for violation of 302
municipal ordinances into the treasury of the municipal 303
corporation the ordinance of which was violated and shall pay all 304

finer received for violation of township resolutions adopted 305
pursuant to Chapter 504. of the Revised Code into the treasury of 306
the township the resolution of which was violated. Subject to 307
sections 1901.024 and 4511.193 of the Revised Code, in the 308
Hamilton county, Lawrence county, and Ottawa county municipal 309
courts, the clerk shall pay fifty per cent of the fines received 310
for violation of municipal ordinances and fifty per cent of the 311
fines received for violation of township resolutions adopted 312
pursuant to Chapter 504. of the Revised Code into the treasury of 313
the county. Subject to sections 3375.50, 3375.53, 4511.99, and 314
5503.04 of the Revised Code and to any other section of the 315
Revised Code that requires a specific manner of disbursement of 316
any moneys received by a municipal court, the clerk shall pay all 317
fines collected for the violation of state laws into the county 318
treasury. Except in a county-operated municipal court, the clerk 319
shall pay all costs and fees the disbursement of which is not 320
otherwise provided for in the Revised Code into the city treasury. 321
The clerk of a county-operated municipal court shall pay the costs 322
and fees the disbursement of which is not otherwise provided for 323
in the Revised Code into the county treasury. Moneys deposited as 324
security for costs shall be retained pending the litigation. The 325
clerk shall keep a separate account of all receipts and 326
disbursements in civil and criminal cases, which shall be a 327
permanent public record of the office. On the expiration of the 328
term of the clerk, the clerk shall deliver the records to the 329
clerk's successor. The clerk shall have other powers and duties as 330
are prescribed by rule or order of the court. 331

(G) All moneys paid into a municipal court shall be noted on 332
the record of the case in which they are paid and shall be 333
deposited in a state or national bank, or a domestic savings and 334
loan association, as defined in section 1151.01 of the Revised 335
Code, that is selected by the clerk. Any interest received upon 336
the deposits shall be paid into the city treasury, except that in 337

a county-operated municipal court, the interest shall be paid into
the treasury of the county in which the court is located.

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

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(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.

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(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

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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.

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(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
receive verdicts.

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

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