

**As Reported by the House Judiciary Committee**

**126th General Assembly**

**Regular Session**

**2005-2006**

**Am. H. B. No. 226**

**Representatives Hoops, C. Evans, Flowers, Kearns, Martin, McGregor, Seitz,  
Setzer, Wagoner, Brown, Hartnett, Koziura, Willamowski**

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**A B I L L**

To amend section 1901.26 of the Revised Code to 1  
authorize the legislative authority of a municipal 2  
corporation to establish a schedule of fees to be 3  
taxed as costs in a civil, criminal, or traffic 4  
proceeding in a municipal court for services 5  
performed by officers or employees of the 6  
municipal corporation's police department or 7  
marshal's office. 8

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

**Section 1.** That section 1901.26 of the Revised Code be 9  
amended to read as follows: 10

**Sec. 1901.26.** (A) Subject to division (E) of this section, 11  
costs in a municipal court shall be fixed and taxed as follows: 12

(1)(a) The municipal court shall require an advance deposit 13  
for the filing of any new civil action or proceeding when required 14  
by division ~~(A)(9)~~(C) of this section, and in all other cases, by 15  
rule, shall establish a schedule of fees and costs to be taxed in 16  
any civil or criminal action or proceeding. 17

(b)(i) The legislative authority of a municipal corporation 18  
may by ordinance establish a schedule of fees to be taxed as costs 19

in any civil, criminal, or traffic action or proceeding in a  
municipal court for the performance by officers or other employees  
of the municipal corporation's police department or marshal's  
office of any of the services specified in sections 311.17 and  
509.15 of the Revised Code. No fee in the schedule shall be higher  
than the fee specified in section 311.17 of the Revised Code for  
the performance of the same service by the sheriff. If a fee  
established in the schedule conflicts with a fee for the same  
service established in another section of the Revised Code or a  
rule of court, the fee established in the other section of the  
Revised Code or the rule of court shall apply.

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(ii) When an officer or employee of a municipal police  
department or marshal's office performs in a civil, criminal, or  
traffic action or proceeding in a municipal court a service  
specified in section 311.17 or 509.15 of the Revised Code for  
which a taxable fee has been established under this or any other  
section of the Revised Code, the applicable legal fees and any  
other extraordinary expenses, including overtime, provided for the  
service shall be taxed as costs in the case. The clerk of the  
court shall pay those legal fees and other expenses, when  
collected, into the general fund of the municipal corporation that  
employs the officer or employee.

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(iii) If a bailiff of a municipal court performs in a civil,  
criminal, or traffic action or proceeding in that court a service  
specified in section 311.17 or 509.15 of the Revised Code for  
which a taxable fee has been established under this section or any  
other section of the Revised Code, the fee for the service is the  
same and is taxable to the same extent as if the service had been  
performed by an officer or employee of the police department or  
marshal's office of the municipal corporation in which the court  
is located. The clerk of that court shall pay the fee, when  
collected, into the general fund of the entity or entities that

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fund the bailiff's salary, in the same pro-rated amount as the 52  
salary is funded. 53

(iv) Division (A)(1)(b) of this section does not authorize or 54  
require any officer or employee of a police department or 55  
marshal's office of a municipal corporation or any bailiff of a 56  
municipal court to perform any service not otherwise authorized by 57  
law. 58

(2) The municipal court, by rule, may require an advance 59  
deposit for the filing of any civil action or proceeding and 60  
publication fees as provided in section 2701.09 of the Revised 61  
Code. The court may waive the requirement for advance deposit upon 62  
affidavit or other evidence that a party is unable to make the 63  
required deposit. 64

(3) When a jury trial is demanded in any civil action or 65  
proceeding, the party making the demand may be required to make an 66  
advance deposit as fixed by rule of court, unless, upon affidavit 67  
or other evidence, the court concludes that the party is unable to 68  
make the required deposit. If a jury is called, the fees of a jury 69  
shall be taxed as costs. 70

(4) In any civil or criminal action or proceeding, witnesses' 71  
fees shall be fixed in accordance with sections 2335.06 and 72  
2335.08 of the Revised Code. 73

(5) A reasonable charge for driving, towing, carting, 74  
storing, keeping, and preserving motor vehicles and other personal 75  
property recovered or seized in any proceeding may be taxed as 76  
part of the costs in a trial of the cause, in an amount that shall 77  
be fixed by rule of court. 78

(6) Chattel property seized under any writ or process issued 79  
by the court shall be preserved pending final disposition for the 80  
benefit of all persons interested and may be placed in storage 81  
when necessary or proper for that preservation. The custodian of 82

any chattel property so stored shall not be required to part with 83  
the possession of the property until a reasonable charge, to be 84  
fixed by the court, is paid. 85

(7) The municipal court, as it determines, may refund all 86  
deposits and advance payments of fees and costs, including those 87  
for jurors and summoning jurors, when they have been paid by the 88  
losing party. 89

(8) Charges for the publication of legal notices required by 90  
statute or order of court may be taxed as part of the costs, as 91  
provided by section 7.13 of the Revised Code. 92

(B)(1) The municipal court may determine that, for the 93  
efficient operation of the court, additional funds are necessary 94  
to acquire and pay for special projects of the court including, 95  
but not limited to, the acquisition of additional facilities or 96  
the rehabilitation of existing facilities, the acquisition of 97  
equipment, the hiring and training of staff, community service 98  
programs, mediation or dispute resolution services, the employment 99  
of magistrates, the training and education of judges, acting 100  
judges, and magistrates, and other related services. Upon that 101  
determination, the court by rule may charge a fee, in addition to 102  
all other court costs, on the filing of each criminal cause, civil 103  
action or proceeding, or judgment by confession. 104

If the municipal court offers a special program or service in 105  
cases of a specific type, the municipal court by rule may assess 106  
an additional charge in a case of that type, over and above court 107  
costs, to cover the special program or service. The municipal 108  
court shall adjust the special assessment periodically, but not 109  
retroactively, so that the amount assessed in those cases does not 110  
exceed the actual cost of providing the service or program. 111

All moneys collected under division (B) of this section shall 112  
be paid to the county treasurer if the court is a county-operated 113

municipal court or to the city treasurer if the court is not a  
county-operated municipal court for deposit into either a general  
special projects fund or a fund established for a specific special  
project. Moneys from a fund of that nature shall be disbursed upon  
an order of the court in an amount no greater than the actual cost  
to the court of a project. If a specific fund is terminated  
because of the discontinuance of a program or service established  
under division (B) of this section, the municipal court may order  
that moneys remaining in the fund be transferred to an account  
established under this division for a similar purpose.

(2) As used in division (B) of this section: 124

(a) "Criminal cause" means a charge alleging the violation of  
a statute or ordinance, or subsection of a statute or ordinance,  
that requires a separate finding of fact or a separate plea before  
disposition and of which the defendant may be found guilty,  
whether filed as part of a multiple charge on a single summons,  
citation, or complaint or as a separate charge on a single  
summons, citation, or complaint. "Criminal cause" does not include  
separate violations of the same statute or ordinance, or  
subsection of the same statute or ordinance, unless each charge is  
filed on a separate summons, citation, or complaint.

(b) "Civil action or proceeding" means any civil litigation  
that must be determined by judgment entry.

(c) The municipal court shall collect in all its divisions  
except the small claims division the sum of fifteen dollars as  
additional filing fees in each new civil action or proceeding for  
the charitable public purpose of providing financial assistance to  
legal aid societies that operate within the state. The municipal  
court shall collect in its small claims division the sum of seven  
dollars as additional filing fees in each new civil action or  
proceeding for the charitable public purpose of providing

financial assistance to legal aid societies that operate within 145  
the state. This division does not apply to any execution on a 146  
judgment, proceeding in aid of execution, or other post-judgment 147  
proceeding arising out of a civil action. The filing fees required 148  
to be collected under this division shall be in addition to any 149  
other court costs imposed in the action or proceeding and shall be 150  
collected at the time of the filing of the action or proceeding. 151  
The court shall not waive the payment of the additional filing 152  
fees in a new civil action or proceeding unless the court waives 153  
the advanced payment of all filing fees in the action or 154  
proceeding. All such moneys shall be transmitted on the first 155  
business day of each month by the clerk of the court to the 156  
treasurer of state. The moneys then shall be deposited by the 157  
treasurer of state to the credit of the legal aid fund established 158  
under section 120.52 of the Revised Code. 159

The court may retain up to one per cent of the moneys it 160  
collects under this division to cover administrative costs, 161  
including the hiring of any additional personnel necessary to 162  
implement this division. 163

(D) In the Cleveland municipal court, reasonable charges for 164  
investigating titles of real estate to be sold or disposed of 165  
under any writ or process of the court may be taxed as part of the 166  
costs. 167

(E) Under the circumstances described in sections 2969.21 to 168  
2969.27 of the Revised Code, the clerk of the municipal court 169  
shall charge the fees and perform the other duties specified in 170  
those sections. 171

**Section 2.** That existing section 1901.26 of the Revised Code 172  
is hereby repealed. 173