

As Reported by the Senate Judiciary--Civil Justice 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, Barrett, Coley,
Combs, Daniels, Domenick, Harwood, Otterman**

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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
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

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collected, into the general fund of the entity or entities that 51
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
any chattel property so stored shall not be required to part with
the possession of the property until a reasonable charge, to be
fixed by the court, is paid.

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

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

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

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

All moneys collected under division (B) of this section shall

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 114
county-operated municipal court for deposit into either a general 115
special projects fund or a fund established for a specific special 116
project. Moneys from a fund of that nature shall be disbursed upon 117
an order of the court in an amount no greater than the actual cost 118
to the court of a project. If a specific fund is terminated 119
because of the discontinuance of a program or service established 120
under division (B) of this section, the municipal court may order 121
that moneys remaining in the fund be transferred to an account 122
established under this division for a similar purpose. 123

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

(a) "Criminal cause" means a charge alleging the violation of 125
a statute or ordinance, or subsection of a statute or ordinance, 126
that requires a separate finding of fact or a separate plea before 127
disposition and of which the defendant may be found guilty, 128
whether filed as part of a multiple charge on a single summons, 129
citation, or complaint or as a separate charge on a single 130
summons, citation, or complaint. "Criminal cause" does not include 131
separate violations of the same statute or ordinance, or 132
subsection of the same statute or ordinance, unless each charge is 133
filed on a separate summons, citation, or complaint. 134

(b) "Civil action or proceeding" means any civil litigation 135
that must be determined by judgment entry. 136

(c) The municipal court shall collect in all its divisions 137
except the small claims division the sum of fifteen dollars as 138
additional filing fees in each new civil action or proceeding for 139
the charitable public purpose of providing financial assistance to 140
legal aid societies that operate within the state. The municipal 141
court shall collect in its small claims division the sum of seven 142
dollars as additional filing fees in each new civil action or 143

proceeding for the charitable public purpose of providing 144
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