



Bill Analysis

Wendy H. Gridley
Amber Hardesty

Legislative Service Commission

Sub. H.B. 525*

127th General Assembly

(As Reported by S. State and Local Government and Veterans Affairs)

Reps. Combs, J. McGregor, Peterson, Setzer, Harwood, Szollosi, Raussen, Chandler, Uecker, Adams, Batchelder, Blessing, Boyd, Brown, Ciafardini, Coley, Domenick, Dyer, Evans, Flowers, Gardner, Gerberry, Hite, Huffman, Letson, Lundy, Mecklenborg, Nero, Patton, Schneider, Stebelton

BILL SUMMARY

- Establishes standard format requirements for documents to be recorded by a county recorder.
- Specifies that a single instrument that combines separate instruments that convey or affect an interest in crude oil or natural gas is recordable.
- Generally increases the mileage reimbursement rate for witnesses in civil actions from 10¢ per mile to 50½¢ per mile, except in those cases where the board of county commissioners has set the rate lower than 50½¢ per mile for witnesses appearing in the court of common pleas and certain other courts.
- Authorizes the board of county commissioners in each county to set the mileage reimbursement rate for witnesses in civil cases in the common pleas court and certain other courts at a rate not to exceed 50½¢ per mile.
- Establishes a mileage reimbursement rate of 50½¢ per mile for witnesses at state adjudication hearings and in courts of record other than those for which the board of county commissioners may set a lower rate.

* This analysis was prepared before the report of the Senate State and Local Government and Veterans Affairs Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

- Authorizes the Chancellor of the Ohio Board of Regents to enter into an agreement with private entities to provide access to career information on the Board of Regents' web site.

CONTENT AND OPERATION

Requirements for instruments or documents recorded with county recorder

(R.C. 317.114(A))

Current law does not prescribe format requirements for instruments or documents recorded with the county recorder. However, format-type requirements do exist for certain instruments or documents. For example, an instrument conveying title to property must contain legible signatures or names and the name of the instrument's preparer and must be of a particular quality of paper and sufficiently legible to permit reproduction. (R.C. 317.11, 317.111, and 317.112, none in the bill.) Also, current law requires a deed or other instrument that is in a language other than English to be accompanied by a certified English translation (R.C. 317.113, not in the bill).

Under the bill, except for the exceptions described below, an instrument or document that is presented for recording must comply with the following standard format requirements:

- Print size not smaller than a computer font size of ten;
- Minimum paper size of 8½inches by 11 inches;
- Maximum paper size of 8½ inches by 14 inches;
- Black or blue ink only;
- No use of highlighting;
- Margins of one-inch width on each side of each page of the instrument or document;
- A margin of one-inch width across the bottom of each page of the instrument or document;
- A three-inch margin of blank space across the top of the first page of each instrument or document to accommodate any certification or indorsement of the county engineer, county auditor, or county recorder, with the right half of that margin being reserved for the county recorder

to indorse the date, the precise time of presentation, and a file number; and

- A one and one-half-inch margin across the top of each of the remaining pages of the instrument or document.

The bill requires the county recorder to accept for recording an instrument or document that does not conform to these requirements, but requires the recorder to charge and collect fees in addition to the regular recording fees.¹ The additional fees consist of a \$10 base fee for the recorder's services and a \$10 housing trust fund fee.

Exceptions to recording requirements

(R.C. 317.114(B))

The requirements described above do not apply to the following documents recorded with the county recorder:

- Any document that originates with any court or taxing authority;
- Any record of discharge of a discharged member of the United States armed forces or of any person who served during World War I or World War II as a member of any armed force of the government of Poland or Czechoslovakia, participated in armed conflict with a United States enemy, and has been a United States citizen for at least ten years;
- Any plat, which is a map of a tract or parcel of land, that is required or authorized by the Revised Code to be recorded;
- Any document authorized to be recorded that originates from any state or federal agency; and
- Any document executed before the bill's effective date.

¹ Current law requires, for each document or instrument recorded, the county recorder to charge and collect base fees for the recorder's services and also housing trust fund fees. The amount charged and collected depends on the document or instrument recorded. (R.C. 317.32, not in the bill.) The housing trust fund fee generally is equal to the amount of any base fee collected and is certified by the recorder into the county treasury as housing trust fund fees (R.C. 317.36).

Multiple transactions pertaining to oil and gas

(R.C. 317.37)

For purposes of county recording law for property interests, the bill defines "separate instrument" to mean either the recording of an entirely new instrument or a written and signed entry on the margin of the original instrument bearing proper endorsement that is recorded distinct and apart from the original instrument. The bill specifies that for instruments that convey or affect an interest in crude oil or natural gas, such as a lease, assignment, easement, lien, or right-of way, in a county in which the county recorder requires an assignment, release, partial release, satisfaction, cancellation, or waiver of priority to be made by separate instrument, that the county recorder cannot limit the number of assignments, releases, partial releases, satisfactions, cancellations, or waivers of priority that can be executed and recorded by means of a single instrument.

Board of Regents' career information web site for students

The bill authorizes the Chancellor of the Ohio Board of Regents to enter into an agreement with private entities to provide log-in access or an internet link to free career information for students via the web site maintained by the Chancellor. The bill provides that a log-in access or internet link cannot be considered an advertisement, endorsement, or sponsorship for purposes of the regulation of state-controlled web sites under any section of the Revised Code, any rule of the Administrative Code, or any other policy or directive adopted or issued by the Office of Information Technology or any other state agency. (R.C. 3333.30.)

Mileage reimbursement for witnesses

Ohio law generally provides that witnesses in civil and criminal cases may be reimbursed for their travel expenses through a mileage reimbursement rate for every mile necessarily traveled to and from the person's residence to the proceeding at which the person may be called to give testimony. (R.C. 2335.06 and R.C. 2335.08.) Some provisions of Ohio law provide that the rate shall be the same as that for "witnesses in civil cases"; others use the rate allowed in the "court of common pleas"; and others use the rates for witnesses in "courts of record."

The bill increases the general 10¢ per mile reimbursement rate under current law for witnesses in civil actions and establishes a general mileage reimbursement rate of 50½¢ per mile except where the board of county commissioners has set a lower rate as authorized under the bill for county courts, county-operated municipal courts, the common pleas court, and any division of the common pleas court. (See R.C. 2335.06 and 1901.26.) (See **COMMENT 1** and

2). Accordingly, the rate is 50½¢ per mile for state administrative proceedings (both investigative and adjudicative), municipal courts that are not county-operated municipal courts, legislative proceedings, and courts martial.² (See R.C. 119.094, 1901.26, 101.45, and 5924.47.) (See **COMMENT** 2 and 3.)

Current law generally provides that witnesses in criminal cases in a court of record receive the same fees as allowed in civil cases. (See R.C. 2335.08 and 2335.06.) The bill specifies that the provision tying the criminal fees to those allowed for civil actions, R.C. 2335.08, will continue to confer equivalent fees to witnesses before the common pleas court, any division of the common pleas court, a county court, or a county-operated municipal court in order to be consistent with the bill's allowance of a 50½¢ per mile reimbursement in all cases other than those in which the board of county commissioners has set a lower reimbursement rate for those courts. Except for those courts, the bill specifies that for various proceedings the reimbursement will be conferred in accordance with either the provision in the Administrative Procedure Act it enacts, R.C. 119.094, or the provision it amends in the municipal court law, R.C. 1901.26. In either of these cases, the mileage reimbursement for witnesses is the same 50½¢ per mile rate, except when a board of county commissioners has set a lower rate for the court of common pleas, any division of a court of common pleas, a county court, or a county-operated municipal court.

Effective date

(Section 3)

The bill specifies that its provisions take effect on July 1, 2009, except for the career information provision, which takes effect at the earliest time permitted by law.

COMMENT

1. R.C. 2335.06 provides that the mileage reimbursement rate in civil cases in the court of common pleas, any division of the common pleas court, a county court, or a county-operated municipal court shall be set by the board of county commissioners. That rate cannot exceed 50½¢ per mile.

2. R.C. 1901.26 provides that in any civil or criminal action or proceeding in a municipal court each witness will receive \$12 for a full day's attendance, \$6

² The mileage rate for municipal annexation proceedings, for municipal investigations of allegedly delinquent officers, and for township investigations of allegedly delinquent police officers also is 50½¢ per mile. (See R.C. 1901.26, 709.032, and 733.39.)

for a half day's attendance, and if the municipal court is not a county-operated municipal court, 50½¢ per mile necessarily traveled to and from the witness's place of residence to the action or proceeding. If it is a county-operated municipal court, the amount will be what the board of county commissioners has set for the county under R.C. 2335.06.

3. R.C. 119.094 provides that unless the Revised Code provides otherwise, each witness subpoenaed to an adjudication hearing will receive \$12 for each full day's attendance, \$6 for each half day's attendance, and 50½¢ per mile necessarily traveled to and from the witness's place of residence to the adjudication hearing.

HISTORY

ACTION	DATE
Introduced	04-03-08
Reported, H. Local & Municipal Gov't & Urban Revitalization	05-19-08
Passed House (91-2)	11-13-08
Reported, S. State & Local Gov't & Veterans Affairs	---

h0525-rs-127.doc/kl