

Fiscal Note & Local Impact Statement

127th General Assembly of Ohio

Ohio Legislative Service Commission
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BILL: **H.B. 564** DATE: **December 3, 2008**
STATUS: **As Introduced** SPONSOR: **Reps. Stebelton and Huffman**
LOCAL IMPACT STATEMENT REQUIRED: **No — No local cost**
CONTENTS: **Probate court fees**

State Fiscal Highlights

STATE FUND	FY 2009 – FUTURE YEARS
Legal Aid Fund (Fund 5740)	
Revenues	Estimated loss of approximately \$30,000 in FY 2009; Estimated loss of approximately \$60,000 annually thereafter
Expenditures	Likely annual decrease, mirroring magnitude of annual revenue loss
Civil Case Filing Fee Fund (Fund 5CX0)	
Revenues	Estimated loss of approximately \$700,000 in FY 2009; Estimated loss of approximately \$1.4 million annually thereafter
Expenditures	Likely annual decrease, mirroring magnitude of annual revenue loss

Note: The state fiscal year is July 1 through June 30. For example, FY 2009 is July 1, 2008 – June 30, 2009.

- **State revenues.** The bill's elimination of the \$26 additional filing fee currently applicable to decedents' estate proceedings will cost the state treasury an estimated \$1.5 million in annual revenues that would otherwise have been collected and credited to as follows: 96% to the Legal Aid Fund and 4% to the Civil Case Filing Fee Fund.



Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2009 – FUTURE YEARS
County General Fund	
Revenues	Gain from certain probate fee increases, annual magnitude uncertain
Expenditures	Potential annual increase, up to available revenue
Indigent Guardianship Fund	
Revenues	Gain from certain probate fee increases, annual magnitude uncertain
Expenditures	Potential annual increase, up to available revenue
Probate Court Computerization Fees	
Revenues	Potential gain for computerization projects, annual magnitude uncertain
Expenditures	Potential annual increase, up to available revenue

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- **County General Fund.** Because data on the current collection of probate court services fees is not readily available, the magnitude of the additional moneys that will be collected for deposit in any given county's General Fund annually is uncertain.

- **County Indigent Guardianship Fund.** Information on all of the fees currently being collected by the probate divisions of the state's 88 courts of common pleas is not stored in a readily available centralized database. This makes the task of calculating the magnitude of the bill's revenue effects on any given county Indigent Guardianship Fund problematic. It is highly certain that each such county fund will collect additional moneys, but the annual magnitude is uncertain.

- **Probate court computerization fees.** Because the authority of the probate judge to charge computerization fees is permissive, and data on the current collection of such fees is not readily available, the magnitude of the additional moneys that any given probate court might collect and expend annually for computerization purposes is uncertain.

Detailed Fiscal Analysis

Overview

For the purposes of this fiscal analysis, the bill most notably:

- Increases fees charged to private parties and a county for probate court services.
- Increases the maximum amount of the additional fees.
- Increases the amounts of selected probate fees that must be deposited into the county Indigent Guardianship Fund.
- Eliminates the \$26 additional filing fee for decedents' estate filings that is forwarded for deposited into the state treasury.

State fiscal effects

Civil case filing fee

Under current law, the court of common pleas collects an additional filing fee of \$26 on certain civil actions or proceedings, including decedents' estate proceedings in the probate division of the court of common pleas. Of such moneys collected, 96% is deposited in the state treasury to the credit of the Legal Aid Fund, for the charitable public purpose of providing financial assistance to legal aid societies, and 4% is deposited in the state treasury to the credit of the Civil Case Filing Fee Fund, for the purpose of supporting the state's Office of the State Public Defender.

The bill amends the current law noted in the immediately preceding paragraph so that the additional filing fee of \$26 does not apply to decedents' estate proceedings. Based on the Supreme Court of Ohio's *Ohio Courts Summary* reporting that there were a total of 56,479 decedents' estates cases filed statewide in calendar year 2007, and assuming that future annual filings will be of a similar annual magnitude, LSC fiscal staff estimates the likely revenue loss to the state treasury at \$1.5 million per year (\$26 x 56,479 filings). This estimated \$1.5 million annual loss in state revenue would be apportioned between the two previously mentioned state funds in the same manner that the \$26 additional filing fee is credited: 96%, or \$1.4 million, to the Legal Aid Fund, and 4%, or close to \$60,000, to the Civil Case Filing Fee Fund.

Local fiscal effects

The bill proposes to increase numerous fees that the probate court is currently required or permitted to charge for the provision of various services. As a result, all of the state's 88 counties are likely to collect additional moneys to be used for various general and specified purposes. As information on all of the fees currently being collected by the probate divisions of the state's 88 courts of common pleas is not stored in a readily available centralized database, the magnitude of the additional moneys that each county will most certainly collect annually is uncertain. That said, immediately below, we have traced out the three distinct county revenue streams enhanced by the bill, and then close this fiscal analysis with some examples of how a

few of the bill's probate services fee increases will likely affect six specific counties: Cuyahoga, Franklin, Butler, Lucas, Athens, and Fulton.

County General Fund

The bill increases numerous fees that the probate court charges for services that, under current law and unchanged by the bill, are directed for deposit into the county's General Fund. Because data on the current collection of such fees is not readily available, the magnitude of the additional moneys that will be collected for deposit in any given county's General Fund annually is uncertain.

County Indigent Guardianship Fund

The bill will generate additional moneys for deposit into each county's existing Indigent Guardianship Fund from a proposed increase in four probate fees as follows:

- Increases the fee charged for the appointment of a fiduciary by \$20, from \$35 to \$55, and directs the additional \$20 for deposit into the county Indigent Guardianship Fund.
- Leaves unchanged the current \$60 fee charged for relieving an estate from administration or granting a summary release from administration, but increases the portion of that fee directed for deposit into the county Indigent Guardianship Fund by \$10, from \$20 to \$30, and decreases the portion of that fee directed for deposit in the county General Fund by \$10, from \$40 to \$30.
- Increases the fee charged for docketing and indexing proceedings by \$15, from \$15 to \$30, and directs the additional \$15 for deposit into the county Indigent Guardianship Fund.
- Increases the fee charged for a marriage license by \$10, from \$10 to \$20, and directs the additional \$10 for deposit into the county Indigent Guardianship Fund.

Information on all of the fees currently being collected by the probate divisions of the state's 88 courts of common pleas is not stored in a readily available centralized database. This makes the task of calculating the magnitude of the bill's revenue effects on any given county Indigent Guardianship Fund problematic. It is highly certain that each such county fund will collect additional moneys, but the annual magnitude is uncertain.

Current law generally limits expenditures from the county Indigent Guardianship Fund for payment of any cost, fee, charge, or expense associated with the establishment, opening, maintenance, or termination of a guardianship for an indigent ward. If the amount of moneys credited to the fund annually in any given county rise, as expected, then the amount expended from that fund may increase as well, but the likelihood of an expenditure increase and its magnitude are uncertain.

County computerization fees

The bill increases to \$15 the maximum amount of the additional fees that the probate judge may charge to computerize the court, make available computerized legal research services, or computerize the office of the probate clerk. Because the authority to charge such fees is permissive, and data on the current collection of such fees is not readily available, the magnitude

of the additional moneys that any given probate court might collect and expend annually for computerization purposes is uncertain.

Partial revenue generating scenario for six selected counties

For purposes of illustration, LSC fiscal staff extracted data from the Supreme Court of Ohio's *Ohio Courts Summary* for 2007 to examine the likely impact of four of the bill's proposed fee increases on six counties of varying population sizes. Those counties and the resulting gain in annual moneys from these fees are summarized in the table below. It is important to read the table below in its proper context; it only captures four fee increases from a bill that proposes to increase over 70 fees that a probate court is required to, or is permitted to, collect in providing certain services.

Methodology. The four fees illustrated in the table below were selected simply because of data availability, i.e., information on the annual number of applications or filings for a specific service being provided in a given probate court were collected and reported by the Supreme Court of Ohio. The fees illustrated in the table below should not be used to extrapolate the likely or potential revenue gain generated by increasing any of the other probate-related fees amended by the bill. Given that, the four fees selected for inclusion in the table break down as follows:

- *Petition for adoption* – proposed increase of \$10 (from \$50 to \$60).
- *Application to correct birth record* – proposed increase of \$5 (from \$5 to \$10).
- *Petition for change of name* – proposed increase of \$15 (from \$20 to \$35).
- *Marriage license* – proposed increase of \$10 (from \$10 to \$20).

The formula used to determine the additional revenue that presumably would be generated by the fee increases cited above is as follows:

(Number of applications/filings) x (Amount of proposed fee increase) = Additional revenue.

The six counties were selected with the intention of reasonably providing an accurate representation of differently sized counties in Ohio and were categorized as follows: "large counties" (Cuyahoga and Franklin), "medium-sized counties" (Butler and Lucas), and "small counties" (Athens and Fulton). LSC fiscal staff also applied simple geographical considerations when selecting the six counties and, as such, reasonably attempted to cull counties from different regions of the state.

Estimated Additional Revenue Generated by Certain Probate Court Fee Increase						
County	Population	Adoption	Birth Correction	Name Change	Marriage License	Total Annual Revenue Gain
Cuyahoga	1,314,241	\$4,230	\$690	\$12,180	\$72,270	\$89,370
Franklin	1,095,662	\$7,090	\$1,005	\$10,470	\$84,390	\$102,955
Butler	354,992	\$1,300	\$85	\$1,680	\$14,920	\$17,895
Lucas	452,814	\$2,700	\$240	\$3,135	\$55,750	\$61,825
Athens	61,860	\$360	\$80	\$435	\$3,810	\$4,685
Fulton	42,900	\$220	\$10	\$225	\$3,300	\$3,755