



Sub. H.B. 559

123rd General Assembly
(As Passed by the General Assembly)

Reps. Coughlin, Williams, Callender, Tiberi, Trakas

Sen. Ray

Effective date: September 21, 2000

ACT SUMMARY

- Revises the manner in which the clerks of the Barberton, Cuyahoga Falls, and Toledo Municipal Courts are elected.
- Provides that the clerk of the "Lorain County Municipal Court" is to receive annual compensation in a sum equal to 85% of the salary of a judge of the Court.

CONTENT AND OPERATION

Election of clerk of Barberton, Cuyahoga Falls, and Toledo Municipal Courts

Preexisting law

Preexisting law, unchanged by the act except as described below in "Operation of the act," specifies the manner of determination of the clerks of the municipal courts. Under that law, generally, if the population of a municipal court's territory equals or exceeds 100,000 at the regular municipal election immediately preceding the term of the present clerk, the court's clerk is nominated and elected in the manner that is provided for the nomination and election of judges (see **COMMENT 1**). The clerk holds office for a term of six years, commencing on the first day of January following the clerk's election and continuing until the clerk's successor is elected and qualified. (R.C. 1901.31(A)(1)(a).) For the purposes of this section, the populations of the territories of the Barberton and Cuyahoga Falls Municipal Courts and of the Toledo Municipal Court all exceed 100,000.¹

¹ According to figures supplied by the Ohio Supreme Court.

Other provisions of preexisting law govern the manner of determination of the clerks of other municipal courts, as follows: (1) in the Hamilton County, Portage County, Wayne County, Clermont County, and Auglaize County Municipal Courts, the clerk of courts of Hamilton County, Portage County, Wayne County, Clermont County, or Auglaize County is the clerk, respectively, of the Hamilton County, Portage County, Wayne County, Clermont County, and Auglaize County Municipal Courts, (2) generally, in the Akron Municipal Court, candidates for election to the office of clerk of the court are nominated by primary election and are elected in accordance with a procedure specified by statute, (3) irrespective of the population of the territory of the Medina Municipal Court, the clerk of that Court is appointed by the judges of that Court, (4) except for the Alliance, Auglaize County, Lorain, Massillon, and Youngstown Municipal Courts, in a municipal court for which the population of the territory is less than 100,000 and in the Medina Municipal Court, the clerk is appointed by the court, and (5) in the Alliance, Lorain, Massillon, and Youngstown Municipal Courts, the clerk is elected for a term of office in accordance with a procedure specified by statute (R.C. 1901.31(A)(1)(b) to (2)(c)).

Operation of the act

The act provides that, regardless of whether the populations of the territory of the Barberton, Cuyahoga Falls, and Toledo Municipal Courts equal or exceed 100,000, the clerks must be elected according to the process described below (R.C. 1901.31(A)(1)(a), (g), (h), and (i)). The procedures for these three provisions are parallel and also parallel the preexisting procedure for the clerk of the Akron Municipal Court. The most significant deviations from the preexisting procedures (described in **COMMENT 1**) appear to be the existence of a primary election, a reduction in the number of signatures required for independent candidates' nominating petitions, the date on which declarations of candidacy and petitions or nominating petitions must be filed, and the date on which the primary must be held.

Generally, under the act, in the Barberton, Cuyahoga Falls, or Toledo Municipal Court, candidates for election to the office of clerk of the court must be nominated by primary election. The primary election must be held on the day specified in the charter of the City of Barberton, City of Cuyahoga Falls, or City of Toledo, as appropriate, for the nomination of municipal officers. Notwithstanding the provisions in the Elections Law in R.C. 3513.257 regarding statements of candidacy and nominating petitions for independent candidates, the nominating petitions of independent candidates must be signed by at least 250 qualified electors of the territory of the court.²

² R.C. 3513.257(C) provides that if the candidacy is to be voted on by electors in a district in which 5,000 or more electors voted for the office of Governor in the most

The candidates must file a declaration of candidacy and petition (for party candidates), or a nominating petition (for independent candidates), whichever is applicable, not later than 4 p.m. of the 75th day before the day of the primary election, in the form prescribed by the Elections Law. The declaration of candidacy and petition, or the nominating petition, must conform to the applicable requirements of the Elections Law regarding the declaration of candidacy and petition or the nominating petition, as appropriate.

If no person files a valid declaration of candidacy and petition for nomination as a candidate of a particular political party for election to the office of clerk, no primary election will be held for the purpose of nominating a candidate of that party for election to that office. If only one person files a valid declaration of candidacy and petition for nomination as a candidate of a particular political party for election to the office of clerk, no primary election will be held for the purpose of nominating a candidate of that party for election to that office, and the candidate must be issued a certificate of nomination as specified in a provision of the Elections Law.

Declarations of candidacy and petitions, nominating petitions, and certificates of nomination for the office of clerk of the Barberton, Cuyahoga Falls, or Toledo Municipal Court must designate the term for which the candidate seeks election. At the following regular municipal election, all candidates for the office must be submitted to the qualified electors of the territory of the court in the manner that the Revised Code provides for the election of the judges of the court (see **COMMENT 1**). The clerk so elected holds office for a term of six years, commencing on the first day of January following the clerk's election and continuing until the clerk's successor is elected and qualified. (R.C. 1901.31(A)(1)(a), (g), (h), and (i).)

Compensation of clerk of "Lorain County Municipal Court"

Preexisting law

Under preexisting law, unchanged by the act except as described below in "**Operation of the act**," in a municipal court, other than the Auglaize County Municipal Court, for which the population of the territory is less than 100,000 and in the Medina Municipal Court, the clerk of the municipal court receives the annual compensation that the Court's legislative authority prescribes. In a municipal court, other than the Clermont County, Hamilton County, Medina County, Portage County, and Wayne County Municipal Courts, for which the population of the territory is 100,000 or more, the clerk of the municipal court receives annual compensation in a

recent gubernatorial election, the nominating petition must contain a number of signatures equal to at least 1% of those electors.

sum equal to 85% of the salary of a judge of the court. The compensation is payable in semimonthly installments from the same sources and in the same manner as is provided in R.C. 1901.11 regarding the payment of compensation of municipal court judges. (R.C. 1901.31(C).)

Operation of the act

The act provides that, regardless of the population of the territory of the "Lorain County Municipal Court" (see below), the clerk of the Court is to receive annual compensation in a sum equal to 85% of the salary of a judge of the Court. The compensation is payable as under preexisting law, as described above. (R.C. 1901.31(C).)

Ohio law does not provide for a municipal court named the "Lorain County Municipal Court." The law does establish five separate municipal courts that have jurisdiction within specified portions of Lorain County--the Lorain Municipal Court, the Avon Lake Municipal Court, the Elyria Municipal Court, the Oberlin Municipal Court, and the Vermilion Municipal Court. (R.C. 1901.01 and 1901.02--not in the act.) The act's reference to the "Lorain County Municipal Court" is erroneous and probably should be a reference to the Lorain Municipal Court.

COMMENT

1. R.C. 1901.07, not in the act, generally provides that all municipal court judges must be elected on the nonpartisan ballot for terms of six years. All candidates for municipal judge may be nominated either by nominating petition or by primary election, except that if the jurisdiction of a municipal court extends only to the corporate limits of the municipal corporation in which the court is located and that municipal corporation operates under a charter, all candidates must be nominated in the same manner provided in the charter for the office of municipal judge, or if no specific provisions are made in the charter for the office of municipal judge, in the same manner as the charter prescribes for the nomination and election of the legislative authority of the municipal corporation.

If a municipal corporation that has a municipal court has a charter that specifies a primary date other than the date specified in the Elections Law, and if the jurisdiction of the court extends beyond the corporate limits of the municipal corporation, all candidates for the office of municipal judge of that court must be nominated only by petition.

If no charter provisions apply, all candidates for party nomination to the office of municipal judge must file a declaration of candidacy and petition not later than 4 p.m. of the 75th day before the day of the primary election, or if the primary

election is a presidential primary election, not later than 4 p.m. of the 60th day before the day of the presidential primary election. The petition must be in a statutorily prescribed form and must conform to the requirements for petitions of candidacy. If no person files a valid declaration of candidacy for nomination as a candidate of a political party for election to the office of municipal judge, or if the number of persons filing the declarations of candidacy for nominations as candidates of one political party for election to the office does not exceed the number of candidates that that party is entitled to nominate as its candidates for election to the office, no primary election will be held for the purpose of nominating candidates of that party for election to the office, and the candidates must be issued certificates of nomination.

If no charter provisions apply, nonpartisan candidates filing nominating petitions for the office of municipal judge must file them not later than 4 p.m. of the day before the day of the primary election. The petition must conform to the requirements provided for such petitions of candidacy.

The nominating petition or declaration of candidacy for a municipal judge must contain a designation of the term for which the candidate seeks election. At the following regular municipal election, the candidacies of the judges nominated must be submitted to the electors of the territory on a nonpartisan, judicial ballot in the same manner as provided for judges of the court of common pleas, except that, in a municipal corporation operating under a charter, all candidates for municipal judge must be elected in conformity with the charter if provisions are made in the charter for the election of municipal judges.

2. The Barberton Municipal Court has jurisdiction in Barberton, and within Coventry, Franklin, and Green Townships, within all of Copley Township except within the municipal corporation of Fairlawn, and within the municipal corporations of Clinton and Norton, in Summit County (R.C. 1901.02(A) and (B)--not in the act).

3. The Cuyahoga Falls Municipal Court has jurisdiction in Cuyahoga Falls, and within Boston, Hudson, Northfield Center, Sagamore Hills, and Twinsburg Townships, and within the municipal corporations of Boston Heights, Hudson, Munroe Falls, Northfield, Peninsula, Reminderville, Silver Lake, Stow, Tallmadge, Twinsburg, and Macedonia, in Summit County (R.C. 1901.02(A) and (B)--not in the act).

4. The Toledo Municipal Court has jurisdiction in Toledo, and within Washington Township, and within the municipal corporation of Ottawa Hills, in Lucas County (R.C. 1901.02(A) and (B)--not in the act).

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	01-26-00	p. 1575
Reported, H. Criminal Justice	04-12-00	p. 1823
Passed by House (64-33)	05-10-00	pp. 1926-1927
Reported, S. Judiciary	05-24-00	p. 1815
Passed Senate (33-0)	05-24-00	pp. 1833-1843
House concurred in Senate amendments (82-12)	05-25-00	pp. 2134-2135

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