



H.B. 440

123rd General Assembly
(As Introduced)

Rep. Womer Benjamin

BILL SUMMARY

- Changes the amount of fines, penalties, and forfeited bail moneys distributed by courts to county law library associations.
- Sets maximum amounts of those moneys that must be paid annually to county law library associations, and provides for the adjustment of those amounts starting in 2002 to reflect changes in the Consumer Price Index.
- Makes other changes in the County Law Library Law and various court-related laws pertaining to fine, penalty, and forfeited bail disbursements to county law library associations.

CONTENT AND OPERATION

Existing law

Background--county law libraries

County law library associations are private, nonprofit corporations. They have public sources of funding, though--most notably, specified amounts of fines and forfeited bail collected in municipal and county courts, courts of common pleas, and probate courts. (Secs. 3375.50 to 3375.53.) The fines and forfeited bail received by an association must be expended only in the support and operation of the association and in the purchase, lease, or rental of lawbooks, a computer communications console that is a means of access to a system of computerized legal research, and microform, videotape, audio, visual, and other types of services, materials, and equipment that provide legal information or facilitate legal research (sec. 3375.54).

Various public officials must be granted free access to a county law library operated by an association that receives these public funds. Those officials are judges of municipal and county courts and of the court of common pleas in the

county, members of the General Assembly, county officers, and officers of townships and municipal corporations in the county (secs. 3375.48 and 3375.55). The board of county commissioners must provide, at county expense, suitable rooms with sufficient and suitable bookcases for the county law library in the county courthouse or elsewhere at the county seat (sec. 3375.49).

Funds for county law libraries

Currently, public funds for a county law library are derived from fines and penalties collected, and bail forfeited, in courts in the county, as follows:

(1) At least 25% but potentially more of those moneys collected or forfeited in a *municipal court* each month (a) for offenses and misdemeanors that are prosecuted in a municipal corporation's name under a municipal "penal" ordinance when there is a state statute under which the offense or misdemeanor could have been prosecuted, and (b) for offenses and misdemeanors prosecuted in the state's name under a state statute subject to *annual ceilings*, that vary with the population of the county, for all municipal courts in a county and for each particular municipal court in a county (see Tables 1 and 2, below) (sec. 3375.50);

(2) 50% of those moneys collected or forfeited in a county court each month unless the fines, penalties, and bail are otherwise distributed by law (sec. 3375.51);

(3) All of those moneys collected or forfeited in a court of common pleas and the probate court each month for offenses and misdemeanors prosecuted in the name of the state, *up to \$1,250 a year* (with exceptions for certain violations) (sec. 3375.52);

(4) 50% of those moneys collected or forfeited in any municipal or county court or the court of common pleas in the county each month for violations of the state liquor laws and the state traffic laws (except the Seat Belt Law), except that the amounts paid from fines, penalties, and forfeited bail associated with *liquor law violations cannot exceed \$1,200 per year* (sec. 3375.53).¹

Changes proposed by the bill

Funding formula and CPI adjustments

The bill changes the funding formula for county law libraries described above, setting or increasing maximum amounts to be paid to the law libraries and

¹ The bill outright repeals sections 3375.50 to 3375.53 that contain existing law's county law library--public funding provisions (Section 2).

adding an inflation adjustment for maximum amounts based on the Consumer Price Index (CPI). The new formula and adjustments are as follows:

Municipal courts and mayor's courts. The bill requires the clerk of a *municipal court* to generally pay each month to the board of trustees of the county law library association the greater of the following amounts (subject to the maximums described below): (a) 25% of the fines and penalties collected and moneys arising from forfeited bail in *state cases* (criminal actions prosecuted for Revised Code violations, other than violations of the Seat Belt Law) and equivalent municipal ordinance cases (criminal actions prosecuted for municipal ordinance violations substantively comparable to violations of a provision of the Revised Code under which the offense involved might have been prosecuted, other than the Seat Belt Law) or (b) the remainder of the fines, penalties, and forfeited bail after adding the court costs collected in state cases and equivalent municipal ordinance cases and subtracting the amount of the compensation of the clerk, the judges of the municipal court, and (if applicable) the county prosecuting attorney for prosecuting state cases in the municipal court for which the board of county commissioners is statutorily responsible during the month (new sec. 3375.50(A)(2) and (3) and (B)). Each month, the clerk of a *mayor's court* generally must pay to the board of trustees of the county law library association 25% of the fines and penalties collected and moneys arising from forfeited bail in the court in state cases and equivalent municipal ordinance cases (new sec. 3375.50(C)).² The amounts paid by municipal and mayor's courts are subject to the limitations and adjustments described below.

First, with respect to the limitations, each municipal court and each mayor's court located in a county with a population of less than 150,000 is not required to pay more than the following *annual "per court" maximum amounts* (new sec. 3375.50(D)(1)):

² *Mayor's courts are not subject to the existing county law library--public funding statutes.*

TABLE 1

COUNTY POPULATION	Less than 50,000	50,000 - 99,999	100,000 - 149,999
CURRENT MAXIMUM PAYMENT BY A MUNICIPAL COURT	\$4,000	\$5,500	\$7,000
MAXIMUM PAYMENT BY A MUNICIPAL COURT OR A MAYOR'S COURT UNDER THE BILL	\$22,000	\$27,700	\$38,800

Second, with respect to the limitations, an annual limit is prescribed for the *combined amount* paid by *all municipal courts and all mayor's courts* in a county, as follows (new sec. 3375.50(D)(2)):

TABLE 2

COUNTY POPULATION	Less than 50,000	50,000 - 99,999	100,000 - 149,999	150,000 or over
CURRENT MAXIMUM PAYMENT BY THE MUNICIPAL COURTS IN A COUNTY	\$7,500	\$8,000	\$10,000	\$15,000
MAXIMUM OVERALL PAYMENT BY ALL MUNICIPAL COURTS AND BY ALL MAYOR'S COURTS IN A COUNTY UNDER THE BILL	\$41,500	\$54,300	\$55,400	\$83,100

The bill requires the county auditor to determine in December of each year the maximum amount *each municipal or mayor's court* in the county is required to pay during the next calendar year to the county law library association, taking the latter different maximum payment limitations (or those limitations as adjusted--see below) into consideration and determining a single figure. In order to do this, the auditor must multiply the applicable maximum overall payment by all municipal and mayor's courts in the county by a *fraction* consisting of (1) the total of all fines, penalties, and forfeited bail collected in a particular municipal or mayor's court in the immediately preceding calendar year in state cases and equivalent municipal ordinance cases divided by (2) the total of all such moneys collected in all of the municipal and mayor's courts in the county in the immediately preceding calendar year in state cases and equivalent municipal ordinance cases. (New sec. 3375.50(E)(1).)

Lastly, starting in 2002, the bill requires an adjustment to each of the latter maximum payment limitations to reflect changes in the Consumer Price Index (CPI). It requires the Auditor of State to determine by April 15 of each year the average percentage increase or decrease in the CPI for the preceding calendar year over the second preceding calendar year and, within 14 days after making that determination, to notify each county auditor of this increase or decrease. Then, each county auditor commencing in December, 2002, must adjust the applicable maximum payment limitations to reflect this increase or decrease and must apply the CPI-adjusted maximum payment limitations in determining the maximum amount each municipal or mayor's court, is required to pay during the next calendar year to the county law library association. For each year after 2002, the county auditor must use the CPI-adjusted maximum payment limitations calculated the prior year as the base amounts to which current adjustments are made to reflect changes in the CPI. (New sec. 3375.50(A)(1) and (F).)³

County courts. Somewhat similar to current law, 50% of the fines and penalties collected, and of moneys arising from bail forfeited, in state cases and equivalent municipal ordinance cases in a county court generally must be paid each month to the board of trustees of the county law library association under the bill (new sec. 3375.51(B)). The bill adds the following maximum annual payment limitations, however, above which a county court is not required to make payments to the county law library association (new sec. 3375.51(C)):

³ See associated technical changes for mayor's courts in sections 733.40 and 1905.21 and for municipal courts in sections 1901.024 and 1901.31(F) in the bill.

TABLE 3

COUNTY POPULATION	Less than 50,000	50,000 - 99,999	100,000 - 299,999	300,000 - 599,999	600,000 or more
MAXIMUM PAYMENT	\$200,000	\$400,000	\$600,000	\$800,000	\$1,000,000

In December of each calendar year, the county auditor in each county in which a county court is located must determine the maximum amount that the county court must pay to the county law library association during the next calendar year, taking the relevant latter maximum payment limitation (or that limitation as adjusted--see below) into consideration. Then, the clerk of the court must pay the requisite monthly amount to the association until that annual maximum amount is reached. (New sec. 3375.51(D).)

Starting in December, 2002, the county auditor must use the increase or decrease in the CPI as determined by the Auditor of State to adjust the relevant maximum amount set forth in Table 3 above. Then, in each year after 2002, the county auditor must use the CPI-adjusted maximum amount calculated for the prior calendar year as the base amount to which the current adjustment is made to reflect the increase or decrease in the CPI. (New sec. 3375.51(E).)⁴

Courts of common pleas and probate courts. The bill increases the maximum amount clerks of the courts of common pleas and of the probate courts generally must pay annually to the board of trustees of a county law library association from \$1,250 to \$14,500. Again, as described under "**County courts,**" above, this maximum amount must be adjusted to reflect increases and decreases in the CPI starting in the year 2002 and each year thereafter. (New sec. 3375.52.)⁵

Liquor and traffic law violations. The bill requires that, in addition to the 50% of fines, penalties, and forfeited bail collected for violations of the state liquor laws and state traffic laws (except the Seat Belt Law) and currently generally required to be paid each month by any municipal or county court or the court of common pleas in the county, 50% of fines, penalties, and forfeited bail for violations of *equivalent municipal ordinances* also generally must be paid each month to the board of trustees of the county law library association by the clerks

⁴ See associated technical changes for county courts in section 1907.20(C) in the bill.

⁵ See associated technical changes for courts of common pleas and probate courts in section 2335.37 in the bill.

of those courts as well as *the clerks of mayor's courts* in the county.⁶ The bill also raises the annual limitation on the amount paid by any of these courts (except mayor's courts, which do not have subject matter jurisdiction in state liquor law cases and equivalent municipal ordinance cases) from \$1,200 to \$13,900. The bill further establishes an annual limitation on the amount each of the courts must pay to the board of trustees of the county law library association from the fines, penalties, and forfeited bail collected for liquor law and traffic law violations, as follows:

TABLE 4

COUNTY POPULATION	Less than 50,000	50,000 - 99,999	100,000 - 299,999	300,000 - 599,999	600,000 or more
MAXIMUM PAYMENT	\$200,000	\$400,000	\$600,000	\$800,000	\$1,000,000

As noted above regarding the other maximum amounts, these maximum amounts must be adjusted to reflect increases and decreases in the CPI starting in the year 2002 and each year thereafter. (New sec. 3375.53.)

Report of the board of trustees

Current law requires the board of trustees of a county law library association to make a detailed statement on the first Monday of each year to the county auditor, verifying the amount of fines and penalties the association received and the amount of those moneys it expended during the preceding calendar year. If the amounts received exceed the expenditures, the association must refund at least 90% of any unencumbered balance on hand from the preceding year, proportionately to the appropriate political subdivisions. The bill requires a "report" instead of a "statement" to be made annually and requires that the report include the amount of forfeited bail received, as well as the amount of fines and penalties received. (Sec. 3375.56.)

⁶ *The bill adds a definition of "state traffic laws case" in new section 3375.53(A)(4); existing law does not specifically define the phrase "the state traffic laws." Under the bill, the defined type of case means a criminal action prosecuted for violations of various chapters in the Traffic Code (Chapters 4503., 4505., 4506., 4507., 4509., 4511., 4513., 4519., and 4549.), two chapters in the Roads, Highways, & Bridges Code (Chapters 5577., and 5589.), the Criminal Code's sections that create the offenses of aggravated vehicular homicide, vehicular homicide, and aggravated vehicular assault (secs. 2903.06, 2903.07, and 2903.08), and the Taxation Code's section that pertains to certain operation of a commercial car or tractor (sec. 5728.04)*

HISTORY

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