



**S.B. 325\***

123rd General Assembly  
(As Reported by H. Criminal Justice)

Sens. Oelslager, Herington, Hottinger

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**BILL SUMMARY**

- Permits the judge or judges of a municipal court with an elected clerk to appoint an administrative assistant for personnel matters.

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**CONTENT AND OPERATION**

**Operation of the bill**

The bill authorizes the judge or judges of a municipal court in which the clerk is elected as provided in R.C. 1901.31(A)(1)(a), (1)(d), or (2)(b), as described in **COMMENT 1**, to appoint an administrative assistant. The administrative assistant has charge of personnel related matters of the court and performs any other administrative duties assigned by the court. The administrative assistant receives the compensation out of the "city treasury" that the court prescribes, except that, in a "county-operated municipal court," (see **COMMENT 2** for definitions of the terms in quotes) the administrative assistant receives the compensation out of the treasury of the county in which the court is located that the court prescribes. (R.C. 1901.33(D).)

The bill modifies the existing hiring authority of municipal court housing divisions and environmental divisions in general, the Housing Division of the Toledo Municipal Court, and the Environmental Division of the Franklin County Municipal Court, described below in "**Appointment of court employees in general**," so that those divisions also have the authority to hire an administrative assistant as described in the preceding paragraph (R.C. 1901.331(A)(1) to (3)).

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\* *This analysis was prepared before the report of the House Criminal Justice Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

### **Existing law**

A number of provisions of existing law require or permit municipal court judges to appoint various officers or employees of the municipal court they serve. Among those provisions, are the provisions discussed below.

#### **Appointment of special deputy clerks**

Existing law permits a municipal court to establish one or more branch offices and to appoint a special deputy clerk to administer each branch office. All special deputy clerks are paid such compensation out of the "city treasury" that the court prescribes, except that in a "county-operated municipal court" they are paid the compensation out of the treasury of the county in which the court is located. (R.C. 1901.311.)

#### **Appointment of bailiffs and deputy bailiffs**

Existing law requires municipal courts, other than the Hamilton County Municipal Court, to appoint a bailiff and authorizes them to appoint deputy bailiffs. The bailiffs are paid the compensation that the court prescribes payable from the same sources and in the same manner as is the salary of municipal court judges, and the deputy bailiffs appointees are paid the compensation out of the city treasury that the court prescribes, except that in a county-operated municipal court they are paid the compensation out of the treasury of the county in which the court is located. In the Hamilton County Municipal Court, the bailiff and all deputy bailiffs are appointed by the clerk, and each judge of the Court may appoint a courtroom bailiff; the bailiff and deputy bailiffs are paid the compensation out of the Hamilton County Treasury that the clerk prescribes, and the courtroom bailiffs are paid the compensation out of the Hamilton County Treasury that the court prescribes. (R.C. 1901.32(A)(1) to (3).)

#### **Appointment of court employees in general**

Existing law permits the judge or judges of a municipal court to appoint one or more interpreters, one or more mental health professionals, one or more probation officers, an assignment commissioner, deputy assignment commissioners, and other court aides on a full-time, part-time, hourly, or other basis. The judge or judges also may appoint one or more typists, stenographers, statistical clerks, and official court reporters. All of the appointees are paid the compensation out of the city treasury that the "legislative authority" (see **COMMENT 2** for definition) prescribes, except that in a county-operated municipal court they are paid the compensation out of the treasury of the county in which the court is located that the board of county commissioners prescribes. (R.C. 1901.33(A).)

**Appointment of housing division and environmental division employees**

Existing law provides special appointment powers regarding those municipal courts in which a housing or environmental division is established. It provides that (R.C. 1901.331(A)(1) to (3)):

(1) In any municipal court in which either of those types of divisions has been established, the judge of the division must appoint a chief housing or environmental specialist, may appoint one or more housing or environmental specialists and housing or environmental division referees, and may appoint for the division any employee or officer whom the judges of a municipal court can appoint, as described above under "**Appointment of bailiffs and deputy bailiffs**" and "**Appointment of court employees in general.**"

(2) For the Housing Division of the Toledo Municipal Court, the judges of the Court must appoint a chief housing specialist, may appoint one or more housing specialists and Housing Division referees, and may appoint any employee or officer whom the judges can appoint, as described above under "**Appointment of bailiffs and deputy bailiffs**" and "**Appointment of court employees in general.**"

(3) For the Environmental Division of the Franklin County Municipal Court, the judges of the Court must appoint a chief environmental specialist, may appoint one or more environmental specialists and environmental division referees, and may appoint any employee or officer whom the judges can appoint, as described above under "**Appointment of bailiffs and deputy bailiffs**" and "**Appointment of court employees in general.**" In lieu of, or in addition to, appointing environmental specialists, Environmental Division referees, and other Environmental Division employees or officers to perform duties only for that Division, the judges of the Court may appoint environmental specialists, referees, and other employees and officers to perform duties for the Environmental Division and the other divisions of the Court, and the Court's administrative judge may assign other referees, employees, and officers of the court to perform functions for the Environmental Division.

The law specifies that, in general, the chief housing or environmental specialist, housing or environmental specialists, housing or environmental division referees, and other employees and officers of the housing or environmental division of a municipal court receive the compensation that the legislative authority prescribes and are under the control of the judge of the division (R.C. 1901.331(A)(4)(a)).

### *Appointment of clerk*

In most municipal courts in which the population of the court's territory is less than 100,000 and in the Medina Municipal Court, the court must appoint the clerk of the municipal court. This provision does not apply to the Alliance, Auglaize County, Lorain, Massillon, and Youngstown Municipal Courts--in those courts and in all other municipal courts, as specified by statute, the clerk is elected, or the clerk of courts of the county in which the court is located serves as the municipal court clerk (see **COMMENT 1**). (R.C. 1901.31.)

### *Additional employees*

Existing law generally requires the legislative authority of a municipal court to provide any other employees that are necessary. The employees so provided are paid such compensation out of the city treasury as the legislative authority prescribes, except that in a county-operated municipal court, they are paid such compensation out of the treasury of the county in which the court is located as the board of county commissioners prescribes. (R.C. 1901.36(A).)

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## **COMMENT**

1. Existing R.C. 1901.31, not in the bill, prescribes the manner in which the clerk and deputy clerk of a municipal court are to be selected. In some courts, the clerks are elected, in others, the clerk of courts of the county in which the court is located serves as the clerk, and in still others, generally the courts that serve the smallest population, the clerk is appointed by the court. The bill's provisions authorizing a municipal court's judges to appoint an administrative assistant apply only to municipal courts in which the clerk of the court is elected as provided in existing R.C. 1901.31(A)(1)(a), (1)(d), or (2)(b). Those provisions provide as follows:

(a) R.C. 1901.31(A)(1)(a) provides that, except in the Akron, Medina, Clermont County, Hamilton County, Portage County, and Wayne County Municipal Courts, if the population of the territory equals or exceeds 100,000 at the regular municipal election immediately preceding the expiration of the term of the present clerk, the clerk must be nominated and elected by the qualified electors of the territory in the manner that is provided for the nomination and election of judges. The clerk so elected holds office for a term of six years, which term commences on the first day of January following the clerk's election and continue until the clerk's successor is elected and qualified.

(b) R.C. 1901.31(A)(1)(d) provides that in the Akron Municipal Court candidates for election to the office of clerk of the court generally must be nominated by primary 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 provided for the election of the judges of the court. The clerk so elected holds office for a term of six years, which term commences on the first day of January following the clerk's election and continues until the clerk's successor is elected and qualified.

(c) R.C. 1901.31(A)(2)(b) provides that, in the Alliance, Lorain, Massillon, and Youngstown Municipal Courts, the clerk is elected for a term of office as described above in **COMMENT 1(a)**.

2. Existing R.C. 1901.03, not in the bill, defines the following terms for use in the Municipal Court Law that are relevant to the bill:

(a) "Legislative authority" means the legislative authority of the municipal corporation in which a municipal court, other than a county-operated municipal court, is located, and means the respective board of county commissioners of the county in which a county-operated municipal court is located.

(b) "City treasury" means the treasury of the municipal corporation in which a municipal court, other than a county-operated municipal court, is located.

(c) "County-operated municipal court" means the Auglaize County, Clermont County, Crawford County, Hamilton County, Hocking County, Jackson County, Lawrence County, Madison County, Miami County, Ottawa County, Portage County, or Wayne County Municipal Court.

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## HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	08-10-00	p. 2002
Reported by S. Judiciary	11-16-00	pp. 2250-2251
Passed Senate (33-0)	11-16-00	p. 2263
Reported, H. Criminal Justice	---	---

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