



S.B. 268

124th General Assembly
(As Introduced)

Sen. Oelslager

BILL SUMMARY

- Permits a probate court to charge a filing fee, in addition to all other court costs, to acquire and pay for special projects of the court, including, but not limited to, the acquisition of additional facilities or the rehabilitation of existing facilities, the acquisition of equipment, the hiring and training of staff, community service programs, mediation or dispute resolution services, the employment of magistrates, the training and education of judges, acting judges, magistrates, and volunteers, and other related services.
- Permits a probate court that offers a special program or service in cases of a specific type to assess an additional charge in a case of that type, over and above court costs, to cover the cost of the special program or service.

CONTENT AND OPERATION

Operation of the bill

The bill authorizes a probate court to charge additional fees for special projects of the court and to assess additional charges to cover the cost of special programs or services offered in cases of a specific type.

The bill specifies that the probate court may determine that, for the efficient operation of the court, additional funds are necessary to acquire and pay for special projects of the court. Those special projects may include, but are not limited to, the acquisition of additional facilities or the rehabilitation of existing facilities, the acquisition of equipment, the hiring and training of staff, community service programs, mediation or dispute resolution services, the employment of magistrates, the training and education of judges, acting judges, magistrates, and volunteers, and other related services. Upon making that determination, the court

by rule may charge a fee, in addition to all other court costs, on the filing of each case or cause over which the court has jurisdiction.

The bill also provides that, if the probate court offers a special program or service in cases of a specific type, the court by rule may assess an additional charge in a case of that type, over and above court costs, to cover the cost of the special program or service.

All moneys collected under either provision described in the two preceding paragraphs must be paid to the county treasurer for deposit into either a general special projects fund or a fund established under this provision of the bill for a specific special project. Moneys from a fund of that nature must be disbursed upon an order of the probate court. If a specific fund established under this provision of the bill is terminated because of the discontinuance of a program or service established under either of the two preceding paragraphs, the court may order that moneys remaining in that fund be transferred to another fund established under this provision of the bill for a similar purpose.

Existing law does not contain any provisions that apply to probate courts and that are similar to the bill's provisions described above. However, existing law contains provisions similar, but not identical, to the bill's provisions described above that permit municipal courts, county courts, courts of common pleas, and courts of appeals to charge additional fees for special projects of the court and to assess additional charges to cover the cost of special programs or services offered in cases of a specific type (existing R.C. 1901.26(B), 1907.24(B), 2303.201(E), and 2501.16(B)--not in the bill). Existing law does permit a probate court to assess additional fees for computerization of the court or of the clerk's office and for computerized legal research services for the court (see "Existing law," below).

Existing law

Probate court fees in general

Existing law fees enumerates certain fees, requires the probate judge to charge and collect them, if possible, and specifies that they are in full for all services rendered in the respective proceedings. Existing law also contains separate fee provisions regarding applications for the appointment of a guardian or the review of a report of a guardian, the appointment or functioning of a guardian for a minor or the guardianship of a minor, advance deposits for costs regarding applications for an appointment as executor or administrator or at the time a will is presented for probate, and petitions for the release of information regarding an adopted person's name by birth and the identity of the adopted person's biological parents and biological siblings. (R.C. 2101.16--not in the bill; see **COMMENT**.)

Additional fees for computerization of the probate court or for computerized legal research services for the court

Existing law also provides that: (1) the probate judge may determine that, for the efficient operation of the probate court, additional funds are required to computerize the court, make available computerized legal research services, or to do both, and (2) upon making a determination that additional funds are required for either or both of those purposes, the judge must charge a fee not to exceed three dollars or authorize and direct a deputy clerk of his court to charge a fee not to exceed three dollars, in addition to the fees specified in existing R.C. 2101.16(A)(1), (3), (4), (6), (14) to (17), (20) to (25), (27), (30) to (32), (34), (35), (37) to (48), (50) to (55), (59) to (61), (63) to (66), (69), and (72), the fee adopted pursuant to R.C. 2101.16(F), and the fee charged in connection with the docketing and indexing of an appeal (see **COMMENT**, regarding the R.C. 2101.16 fees).

All moneys collected under the provision described in the preceding paragraph must be paid to the county treasurer. The treasurer must place those moneys in a separate fund to be disbursed, upon an order of the probate judge, in an amount no greater than the actual cost to the court of procuring and maintaining computerization of the court, computerized legal research services, or both. If the court determines that the funds in this fund are more than sufficient to satisfy the purpose for which the additional fee was imposed, the court may declare a surplus in the fund and expend those surplus funds for other appropriate technological expenses of the court. (R.C. 2101.162(A).)

Additional fees for computerization of the office of the clerk of the probate court

Further, existing law provides that: (1) the probate judge may determine that, for the efficient operation of the probate court, additional funds are required to computerize the office of the clerk of the court, and (2) upon that determination, the judge may charge a fee, not to exceed \$10, or authorize and direct a deputy clerk of the probate court to charge a fee, not to exceed \$10, in addition to the fees specified in existing R.C. 2101.16(A)(1), (3), (4), (6), (14) to (17), (20) to (25), (27), (30) to (32), (34), (35), (37) to (48), (50) to (55), (59) to (61), (63) to (66), (69), and (72), the fee adopted pursuant to existing R.C. 2101.16(F), and the fee charged in connection with the docketing and indexing of an appeal (see **COMMENT**, regarding the R.C. 2101.16 fees).

Except as otherwise provided in the next paragraph, all moneys collected under the provision described in the preceding paragraph must be paid to the county treasurer to be disbursed, upon an order of the probate judge and subject to appropriation by the board of county commissioners, in an amount no greater than

the actual cost to the probate court of procuring and maintaining computer systems for the office of the clerk of the court.

If the probate judge makes the determination described in the second preceding paragraph, the board of county commissioners may issue one or more general obligation bonds for the purpose of procuring and maintaining the computer systems for the office of the clerk of the probate court. In addition to the purposes stated in the second preceding paragraph for which the moneys collected as described in that paragraph may be expended, the moneys additionally may be expended to pay debt charges on and financing costs related to any general obligation bonds issued pursuant to this division as they become due. General obligation bonds issued pursuant to this provision are R.C. Chapter 133. securities.

COMMENT

Existing law provides the fees that generally are to be charged in probate courts. It specifies that the following fees must be charged and collected, if possible, by the probate judge and are in full for all services rendered in the respective proceedings (R.C. 2101.16(A)--not in the bill):

(1) Account, in addition to advertising charges..... \$12

Waivers and proof of notice of hearing on account, per page, minimum one dollar..... \$1

(2) Account of distribution, in addition to advertising charges..... \$7

(3) Adoption of child, petition for..... \$50

(4) Alter or cancel contract for sale or purchase of real estate, petition to..... \$20

(5) Application and order not otherwise provided for in R.C. 2101.16 or by rule adopted pursuant to R.C. 2101.16(E)..... \$5

(6) Appropriation suit, per day, hearing in..... \$20

(7) Birth, application for registration of..... \$7

(8) Birth record, application to correct..... \$5

(9) Bond, application for new or additional..... \$5

(10) Bond, application for release of surety or reduction of..... \$5



- (11) Bond, receipt for securities deposited in lieu of..... \$5
- (12) Certified copy of journal entry, record, or proceeding, per page, minimum fee one dollar..... \$1
- (13) Citation and issuing citation, application for..... \$5
- (14) Change of name, petition for..... \$20
- (15) Claim, application of administrator or executor for allowance of administrator's or executor's own..... \$10
- (16) Claim, application to compromise or settle..... \$10
- (17) Claim, authority to present..... \$10
- (18) Commissioner, appointment of..... \$5
- (19) Compensation for extraordinary services and attorney's fees for fiduciary, application for..... \$5
- (20) Competency, application to procure adjudication of..... \$20
- (21) Complete contract, application to..... \$10
- (22) Concealment of assets, citation for..... \$10
- (23) Construction of will, petition for..... \$20
- (24) Continue decedent's business, application to..... \$10
- Monthly reports of operation..... \$5
- (25) Declaratory judgment, petition for..... \$20
- (26) Deposit of will..... \$5
- (27) Designation of heir..... \$20
- (28) Distribution in kind, application, assent, and order for..... \$5
- (29) Distribution under R.C. 2109.36, application for an order of.... \$7
- (30) Docketing and indexing proceedings, including the filing and noting of all necessary documents, maximum fee, fifteen dollars..... \$15

(31) Exceptions to any proceeding named in R.C. 2101.16, contest of appointment or..... \$10

(32) Election of surviving partner to purchase assets of partnership, proceedings relating to..... \$10

(33) Election of surviving spouse under will..... \$5

(34) Fiduciary, including an assignee or trustee of an insolvent debtor or any guardian or conservator accountable to the probate court, appointment of..... \$35

(35) Foreign will, application to record..... \$10

Record of foreign will, additional, per page..... \$1

(36) Forms when supplied by the probate court, not to exceed..... \$10

(37) Heirship, petition to determine..... \$20

(38) Injunction proceedings..... \$20

(39) Improve real estate, petition to..... \$20

(40) Inventory with appraisal..... \$10

(41) Inventory without appraisal..... \$7

(42) Investment or expenditure of funds, application for..... \$10

(43) Invest in real estate, application to..... \$10

(44) Lease for oil, gas, coal, or other mineral, petition to..... \$20

(45) Lease or lease and improve real estate, petition to..... \$20

(46) Marriage license..... \$10

Certified abstract of each marriage..... \$2

(47) Minor or mentally ill person, etc., disposal of estate under \$10,000 of..... \$10

(48) Mortgage or mortgage and repair or improve real estate, petition to..... \$20

(49) Newly discovered assets, report of..... \$7



- (50) Nonresident executor or administrator to bar creditors' claims, proceedings by..... \$20
- (51) Power of attorney or revocation of power, bonding company..... \$10
- (52) Presumption of death, petition to establish..... \$20
- (53) Probating will..... \$15
 - Proof of notice to beneficiaries..... \$5
- (54) Purchase personal property, application of surviving spouse to..... \$10
- (55) Purchase real estate at appraised value, petition of surviving spouse to..... \$20
- (56) Receipts in addition to advertising charges, application and order to record..... \$5
 - Record of those receipts, additional, per page..... \$1
- (57) Record in excess of 1,500 words in any proceeding in the probate court, per page..... \$1
- (58) Release of estate by mortgagee or other lienholder..... \$5
- (59) Relieving an estate from administration under R.C. 2113.03 or granting an order for a summary release from administration under R.C. 2113.031..... \$60
- (60) Removal of fiduciary, application for..... \$10
- (61) Requalification of executor or administrator..... \$10
- (62) Resignation of fiduciary..... \$5
- (63) Sale bill, public sale of personal property..... \$10
- (64) Sale of personal property and report, application for..... \$10
- (65) Sale of real estate, petition for..... \$25
- (66) Terminate guardianship, petition to..... \$10
- (67) Transfer of real estate, application, entry, and certificate for..... \$7
- (68) Unclaimed money, application to invest..... \$7



- (69) Vacate approval of account or order of distribution, motion to..... \$10
- (70) Writ of execution..... \$5
- (71) Writ of possession..... \$5
- (72) Wrongful death, application and settlement of claim for..... \$20
- (73) Year's allowance, petition to review..... \$7
- (74) Guardian's report, filing and review of..... \$5

Existing law also provides that, in relation to an application for the appointment of a guardian or the review of a report of a guardian under R.C. 2111.49, the probate court, pursuant to court order or in accordance with a court rule, may direct that the applicant or the estate pay any or all of the expenses of an investigation conducted pursuant to R.C. 2111.041 (R.C. 2111.49(A)(2)). If the investigation is conducted by a public employee or investigator who is paid by the county, the fees for the investigation are paid into the county treasury. If the court finds that an alleged incompetent or a ward is indigent, the court may waive the costs, fees, and expenses of an investigation. (R.C. 2101.16(B)(1)--not in the bill.)

In relation to the appointment or functioning of a guardian for a minor or the guardianship of a minor, the probate court may direct that the applicant or the estate pay any or all of the expenses of an investigation conducted pursuant to R.C. 2111.042. If the investigation is conducted by a public employee or investigator who is paid by the county, the fees for the investigation are paid into the county treasury. If the court finds that the guardian or applicant is indigent, the court may waive the costs, fees, and expenses of an investigation. (R.C. 2101.16(B)(2)--not in the bill.)

Existing law provides that the fees of witnesses, jurors, sheriffs, coroners, and constables for services rendered in the probate court or by order of the probate judge are to be the same as provided for like services in the court of common pleas. It permits the probate court, by rule, to require an advance deposit for costs, not to exceed \$125, at the time application is made for an appointment as executor or administrator or at the time a will is presented for probate. (R.C. 2101.16(D) and (E)--not in the bill.)

And existing law requires the probate court, by rule, to establish a reasonable fee, not to exceed \$50, for the filing of a petition for the release of information regarding an adopted person's name by birth and the identity of the adopted person's biological parents and biological siblings pursuant to R.C. 3107.41, all proceedings relative to the petition, the entry of an order relative to

the petition, and all services required to be performed in connection with the petition. The probate court may use a reasonable portion of a fee charged under authority of this provision to reimburse any agency for any services it renders in performing a task described in R.C. 3107.41 relative to or in connection with the petition for which the fee was charged. (R.C. 2101.16(F)--not in the bill.)

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	05-15-02	p. 1776

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