



Sub. H.B. 336

126th General Assembly
(As Passed by the General Assembly)

Reps. Core, Willamowski, Harwood, Bubb, Coley, Schaffer, Barrett, Bocchieri, Combs, Daniels, DeBose, DeGeeter, Domenick, C. Evans, Fessler, Flowers, Hughes, Latta, Oelslager, T. Patton, Seaver, Seitz, J. Stewart, Wagoner, Wolpert

Sens. Dann, Amstutz, Austria, Coughlin, Harris, Mumper, Zurz

Effective date: January 18, 2007

ACT SUMMARY

- Changes the judgeship of the Marysville Municipal Court from a part-time position to a full-time position.
- Provides that the part-time judge of the Marysville Municipal Court elected in 2005 is to serve as the full-time judge of that court until the end of the judge's term.
- Abolishes the Holmes County County Court and replaces it with the Holmes County Municipal Court effective January 1, 2007, which will be a county operated municipal court.
- Creates a full-time municipal court judge for the Holmes County Municipal Court to be elected in 2007 for a term beginning on January 1, 2008, with the existing judge of the Holmes County County Court serving as the judge of the Holmes County Municipal Court during 2007.
- Designates the Holmes County Clerk of Courts as the clerk of the Holmes County Municipal Court.
- Requires the Holmes County Prosecuting Attorney to prosecute in the Holmes County Municipal Court all violations of state law arising in Holmes County and authorizes the Prosecuting Attorney to enter into agreements with municipal corporations in Holmes County to prosecute

- violations of municipal ordinances in the Holmes County Municipal Court.
- Transfers all proceedings in and employees of the Holmes County County Court to the Holmes County Municipal Court on January 1, 2007.
 - Adds one full-time judge to the Delaware Municipal Court to be elected in 2007.
 - Creates two additional General Division judgeships for the Summit County Court of Common Pleas to be filled at the 2008 general election.
 - Creates the Joint Committee to Study Court Costs and Filing Fees.
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CONTENT AND OPERATION

Status of judgeship of Marysville Municipal Court

Under former law, the sole judgeship of the Marysville Municipal Court was a part-time position. The act changes the judgeship to a full-time position beginning on the effective date of the act. The act provides that the part-time judge of the court who was elected in 2005 is to serve as a full-time judge of the court until the end of the judge's term on December 31, 2011. (R.C. 1901.08.)

The act further provides that on and after its effective date the full-time judge (the part-time judge prior to that date) is to perform the duties of a full-time judge, receive the salary specified in law for a full-time judge, and is subject to any restriction specified in law for a full-time judge of a municipal court (Section 4).

Creation of Holmes County Municipal Court

Under former law, Holmes County had a county court with a single part-time judge and no municipal courts. Effective January 1, 2007, the act replaces the county court with the Holmes County Municipal Court. The new municipal court will be located in Millersburg, will be styled and known as the "Holmes County Municipal Court," and will have county-wide jurisdiction. The county court had one part-time judge. The new municipal court will have one full-time judge to be first elected in 2007 for a six-year term; the judge's successors will be elected in 2013 and thereafter for terms of six years. During 2007, the existing part-time judge of the Holmes County County Court elected in 2006 will serve as the full-time judge of the Holmes County Municipal Court. (R.C. 1901.01(A), 1901.02(A)(25) and (B), 1901.08, and 1907.11, and Section 3.)

The act has the incidental effect of abolishing the Millersburg Mayor's Court (see **COMMENT 1**).

Under the former law, Holmes County bore the cost of operating the county court, expressly including that portion of the judge's compensation that was not paid by the state; the compensation of the clerk and other employees; and some or all of the premiums for health care coverage for the judge and the judge's spouse and dependents (R.C. 1907.16, 1907.161, 1907.17, 1907.20, 1907.201, and 1907.53). The act creates the Holmes County Municipal Court as a county-operated municipal court (R.C. 1901.03(F)). Under ongoing Revised Code sections that are unaffected by the act, Holmes County will be responsible for all the costs of operating the Holmes County Municipal Court, including but not limited to that portion of the judge's compensation that is not paid by the state; the compensation of the clerk and other employees; some or all of the premiums for health care coverage for the judge, clerk, and any deputy clerks and for their spouses and dependents; premiums for official surety bonds given by court employees; and suitable accommodations for the court and its employees (R.C. 1901.024, 1901.11, 1901.111, 1901.311, 1901.312, 1901.32, 1901.33, 1901.36, and 1901.37).

Designation of Holmes County Clerk of Courts as clerk of the Holmes County Municipal Court

In most municipal courts for which the population of the territory within the court's jurisdiction is less than 100,000, the court appoints the court clerk; depending on the revenue of the court for the preceding calendar year, either the court or the legislative authority prescribes the clerk's annual compensation. The act designates the Holmes County Clerk of Courts, who serves as the clerk for the Court of Common Pleas, as the clerk of the Holmes County Municipal Court. The act sets the clerk's additional compensation for serving as the municipal court clerk at one-fourth the statutory rate prescribed for the clerk's compensation as clerk of the Court of Common Pleas. (R.C. 1901.31(A)(2)(a) and (c) and (C)(1).)

Authority of Holmes County Prosecuting Attorney

The act requires the Holmes County Prosecuting Attorney to prosecute in the Holmes County Municipal Court all violations of state law arising in Holmes County. It authorizes the Prosecuting Attorney to enter into an agreement with any municipal corporation in the county pursuant to which the Prosecuting Attorney prosecutes all cases brought before the Holmes County Municipal Court for violations of the ordinances of the municipal corporation or for criminal offenses other than violations of state law occurring within the municipal corporation. The agreement may include a fee to be paid by the municipal corporation for the prosecution of the cases. The fee would be paid into the

county treasury and used to cover expenses of the Prosecuting Attorney's office. (R.C. 1901.34(B) and (D).)

Transfer of cases and employees from county court to municipal court

Under the act, all proceedings pending in the Holmes County County Court at the close of business on December 31, 2006, will be transferred to and proceed in the Holmes County Municipal Court on January 1, 2007, as if originally instituted in the Holmes County Municipal Court. The act authorizes the parties to those proceedings to make any amendments to their pleadings that are required to conform them to the rules of the Holmes County Municipal Court. The clerk of the county court or other custodian must transfer to the Holmes County Municipal Court all pleadings, orders, entries, dockets, bonds, papers, records, books, exhibits, files, moneys, property, and persons that belong to, are in the possession of, or are subject to the jurisdiction of the Holmes County County Court, or any officer of that court, at the close of business on December 31, 2006, and that pertain to those proceedings. All employees of the Holmes County County Court will be transferred to and become employees of the Holmes County Municipal Court on January 1, 2007. (Section 3.)

Additional judge for Delaware Municipal Court

Under former law, the Delaware Municipal Court had one full-time judge. The act adds a second full-time judge to be elected in 2007 for a term beginning on January 2, 2008 (see **COMMENT 2**). (R.C. 1901.08.)

Summit County Court of Common Pleas

Former law

Under former law, the Summit County Court of Common Pleas had 12 judges: one judge of the Probate Division (under R.C. 2101.01) and 11 other judges (under R.C. 2301.02). Under Revised Code sections unaffected by the act, two of the Court's judges are specifically designated as judges of the Domestic Relations Division (under R.C. 2301.03(I)(1)), and one is specifically designated as the judge of the Juvenile Division (under R.C. 2301.03(I)(2)). The remaining judges are judges of the General Division.

Operation of the act

The act creates two new judgeships for the Summit County Court of Common Pleas. Because the act does not designate the new judges as judges of a particular division, the judges will be judges of the General Division. The new judgeships initially will be filled at the 2008 general election, and the judges' new terms will begin January 5, 2009, and January 6, 2009. (R.C. 2301.02(A).)

Joint Committee to Study Court Costs and Filing Fees

The act creates the Joint Committee to Study Court Costs and Filing Fees. The Committee will consist of the following 17 members:

(1) Three members of the House of Representatives appointed by the Speaker of the House of Representatives, two of the members representing the House Majority Caucus and one member representing the House Minority Caucus;

(2) Three members of the Senate appointed by the President of the Senate, two members representing the Senate Majority Caucus and one member representing the Senate Minority Caucus;

(3) One judge of a court of common pleas and one municipal court judge, each appointed by the Chief Justice of the Ohio Supreme Court;

(4) Two clerks of court appointed by the Chief Justice;

(5) Two court administrators appointed by the Chief Justice;

(6) The Administrative Director of the Ohio Supreme Court;

(7) One member of a state or county bar association appointed by the Chief Justice;

(8) One county commissioner and one member of the Ohio Municipal League, each jointly appointed by the Speaker of the House of Representatives and the President of the Senate;

(9) One individual to represent the public jointly appointed by the Speaker of the House and the President of the Senate.

The appointments to the Committee must be made not later than 90 days after the effective date of the act. Vacancies on the Committee must be filled in the manner provided for the original appointments. Two members of the Committee will be designated to serve as co-chairpersons. The Speaker of the House of Representatives and the President of the Senate will jointly designate one co-chairperson and the Chief Justice of the Ohio Supreme Court will designate one co-chairperson. The Committee will meet as often as necessary to carry out the Committee's official duties. The members of the Committee will serve without compensation. The Legislative Service Commission staff and the Ohio Supreme Court employees must provide staff support for the Committee.

The Committee must study the determination, assessment, collection, and allocation of court costs and filing fees in criminal actions and in civil actions and

proceedings in this state, including the amount of court costs and filing fees paid by the parties to civil actions and proceedings or by defendants in criminal actions. The Committee also must review and study where the money collected is deposited. Based on the Committee's findings, the Committee must prepare recommendations for any changes that the Committee believes need to be made to the current system for court costs and filing fees.

The Committee must submit written findings and recommendations not later than one year after the effective date of the act to the justices and Chief Justice of the Ohio Supreme Court, the General Assembly, and the Governor. On the Committee's submission of its written findings and recommendations, the Committee will cease to exist.

All meetings of the Committee are public meetings and must be open to the public at all times. A member of the Committee must be present in person at a meeting that is open to the public in order to be considered present or to vote at the meeting and for the purposes of determining whether a quorum is present. The chairs of the Committee must promptly prepare and maintain the minutes of the meetings, and the meetings are public records pursuant to R.C. 149.43. The Committee must give reasonable notice of the Committee's meetings so that any person may determine the time and place of all scheduled meetings. The Committee cannot hold a meeting unless the Committee gives at least 24 hours advance notice to the news media organizations that have requested notification of the Committee's meetings. (Section 6.)

COMMENT

1. R.C. 1905.01(A), not in the act, provides that in a municipal corporation that has a population of more than 100 and that is not the site of a municipal court, the mayor has jurisdiction over certain types of actions. Millersburg currently has a mayor's court. Because the act locates the Holmes County Municipal Court in Millersburg, the mayor will no longer have jurisdiction over any actions once the act goes into effect.

2. The term of the current judge of the Delaware Municipal Court expires on December 31, 2007. That judge or that judge's successor will be elected in 2007 for a term beginning on January 1, 2008. Under R.C. 1901.07(A), not in the act, when two or more judges of a municipal court are elected in the same year, their terms commence on successive days beginning on the following January 1, unless R.C. 1901.08 provides otherwise. Because the act does not provide otherwise, the additional judge's term will begin on January 2, 2008.

HISTORY

| ACTION | DATE |
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| Introduced | 09-01-05 |
| Reported, H. Judiciary | 11-01-05 |
| Passed House (91-0) | 11-16-05 |
| Reported, S. Judiciary – Civil Justice | 05-17-06 |
| Passed Senate (33-0) | 05-23-06 |
| House concurred in Senate amendments (90-0) | 09-12-06 |

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