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# COUNTY ADVISORY BULLETIN

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*Published by: County Commissioners Association of Ohio*

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Bulletin 2002-05

August 2002

## LOCAL PERMISSIVE FILING FEES FOR COURTS

### Introduction

Over the years the General Assembly has authorized virtually all courts to enact local court filing fees on a permissive basis. Commissioners need to be aware of this authority and should be aware of the special revenue funds into which these fees are deposited and these funds' balances.

At the county level those courts which may impose a local permissive fee to help subsidize their operation and relieve some of the budgetary pressure from general fund revenues are the court of common pleas and its divisions and the county court or the municipal court with county-wide jurisdiction. Commissioners may want to discuss with the judges of the county's various courts how these local permissive filing fees could both improve court efficiency and or operations and help subsidize their court's administrative budget.

It is recommended that the existence of these funds should be considered during the county budget process as they might be used to reduce the court's reliance on county general funds or structured to help fund priorities that the court has identified. In those counties where permissive filing fees have yet to be adopted by a court, commissioners may want to encourage their judges to impose these various fees to help relieve the pressure upon and reduce the need for general fund support for the court budget.

### Local Permissive Filing Fees

Local permissive filing fees have been authorized by state law for four different purposes:

1. Court computerization and computerized legal research
2. Computerization of the clerk of court's office
3. Dispute resolution programs
4. "Special projects" of the court

These fees may be imposed by a court of common pleas and its various divisions [probate, juvenile and domestic relations], a county court, and a county-wide municipal court. To impose the fee the court adopts a court order establishing the fee, setting the amount of the fee, and stating the purpose for which the fee is being collected. Although the various divisions of the common pleas court have independent statutory authority to impose the two fees associated with computerization, if the common pleas court acts to impose these fees they are levied across all of its divisions and all of the judges of the common pleas court are responsible for making a determination as to any expenditure from those special funds [see OAG 2000-041, December 29, 2000]. Furthermore, the “Special projects” fee that the court of common pleas, county court, or county-wide municipal court is authorized to impose is extremely flexible in its application and makes it an extremely beneficial component in each of those court’s fee schedules.

Local permissive filing fees are paid to the court. In a civil case these fees are paid at the time of the filing of a case in court and are collected along with a deposit against which local court costs can be deducted as they are incurred. In a criminal case the fees are assessed at the time the defendant pleads guilty or is convicted of the criminal offense. In criminal actions the fees are included in the judgment entered against the defendant, which, if necessary, may be satisfied through legal debt collection, however, the recovery of these fees in a “traffic” case is usually obtained from the defendant’s waiver of the return of the posted bond.

### **Distinguishing Fees from Other Money Collected by the Courts**

Local permissive filing fees are not: “fines” [the monetary sanction imposed by the court for a criminal offense]; “court costs” [charged for the performance of specific administrative functions specified in statute or local court rule which are related to the case and recorded in the cost docket]; or “state court costs” [collected statewide and paid over to the state for indigent defense, legal aide societies, victims of crime reparations program, and domestic violence shelter funding].

Additionally mayors courts are not authorized to impose these fees and all “court costs” assessed in a mayor’s court either are imposed by a local court rule adopted by the mayor or are the state court costs. Also note that the mandated funding of the county law library association comes from the distribution of fine monies.

### **Specific Types of Local Permissive Filing Fees**

#### ***Court Computerization / Computerized Legal Research***

Statutory	Common Pleas Court.	ORC 2303.201(A).
Authority:	Probate division.	ORC 2101.162(A).
	Domestic Relations division.	ORC 2301.031(A).
	Juvenile division.	ORC 2151.541(A).
	Countywide Municipal Court.	ORC 1901.261(A).
	County Court.	ORC 1907.261(A).

Filing fee: Not to exceed \$3.00.  
 Purpose: "To computerize the court, to make available computerized legal research services or to do both."  
 Procedure: Court order establishes fee.  
 Funds collected are deposited by the county treasurer in a separate fund.  
 Funds are disbursed upon court order in the amount of the actual cost of the procuring or maintaining of the system or service.  
 Surplus: Court may declare a surplus.  
 Court may spend surplus on "other appropriate technological expenses of the court."

**Clerk of Courts Office Computerization**

Statutory	Common Pleas Court	ORC 2303.201(B).
Authority:	Probate division	ORC 2101.162(B).
	Domestic Relations division	ORC 2301.031(B).
	Juvenile division	ORC 2151.541(B).
	Countywide Municipal Court	ORC 1901.261(B).
	County Court	ORC 1907.261(B).

Filing fee: Not to exceed \$10.00.  
 Purpose: "To computerize the office of the clerk of the court."  
 Procedure: Court order establishes fee.  
 Funds collected are deposited by the county treasurer.  
 Funds are disbursed:  
     Upon court order.  
     By appropriation of the board of commissioners.  
     In the amount of the actual cost of procuring and maintaining the computer systems.  
 Board of commissioners may issue general obligation bonds for this purpose and the funds can be expended to pay off the bonds.  
 Surplus: No provision.

**Dispute Resolution Programs**

Statutory	Countywide Municipal Court.	ORC 1901.262.
Authority:	County Court.	ORC 1707.262.

Filing fee: Reasonable fee.  
 Purpose: To fund the implement the procedures adopted by rule for the resolution of disputes between parties including but not limited to mediation.  
 Procedure: Court includes fee in its schedule of fees and costs.  
 Funds are deposited by the county treasurer in a separate fund.  
 Funds are disbursed by court order .

Surplus: Court may declare a surplus.  
Surplus may be spent on other appropriate expenses of the court.

**Special Projects for the Efficient Operation of the Court**

Statutory Authority:	Common Pleas Court.	ORC 2303.201(E).
	Countywide Municipal Court.	ORC 1901.26(B).
	County Court.	ORC 1907.24(B).
	Court of Appeals.	ORC 2501.16(B).

Filing fee: Amount unspecified.

Purpose: “To acquire and pay for special projects of the court, including, but not limited to”:  
Additional facilities or rehabilitation of existing facilities.  
Equipment.  
Hiring and training of staff.  
Community service programs.  
Mediation or dispute resolution services.  
Magistrates.  
Training and education of judges, acting judges and magistrates.  
Other related services.

Procedure: Court adopts rule assessing additional fee.  
Fee may be for general purposes or for a specified purpose.  
Funds are deposited by the county treasurer into either:  
A general special projects fund, or  
A fund established for a specific special project.  
Regarding a specific fund:  
Assessment shall be adjusted periodically, but not retroactively, so that amount being collected does not exceed the actual cost for providing that specific project.  
May be terminated and the balance transferred into another existing special projects fund.

Surplus: Upon termination of the fund its balance may be transferred into another existing special fund.