



COUNTY ADVISORY BULLETIN

CAB

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ELECTED OFFICIALS COMPENSATION LEGISLATION

INTRODUCTION

On February 7, 1996 Governor Voinovich signed Am. Sub. HB 408. This legislation culminates over two years of work by county elected officials and judges in obtaining compensation increases. The last increase for most officials occurred in 1992. County commissioners and county auditors received increases in 1993 and 1994. The legislation was sponsored by Rep. Robert Corbin (R-Dayton) who shepherded the legislation through the Ohio General Assembly with the help of Rep. Darrell Opfer (D-Oak Harbor), a former Ottawa County Commissioner.

The bill grants three percent annual increases to most officials. Judges receive three percent increases for a six year period, while other positions will receive the increases for four years. The legislation also included similar increases for elected state office holders, members of county board of elections, and township trustees and clerks. The Act does not provide for compensation increases for legislators.

For most elected officials the increases will take effect in 1997 when a new term of office begins. Judges will receive their increases effective March 1, 1996. Judges, unlike most other elected officials, are not constitutionally prohibited from receiving in-term increases.

County sheriffs will receive supplemental compensation paid by the state for new duties imposed on them for new duties that result from the enactment of the so called Truth-In-Sentencing Legislation, SB 2. The legislation provides that the sheriffs may receive this state paid compensation during 1996. This supplemental compensation is equal to one-eighth of their county paid compensation. The full one-eighth will be paid to the sheriffs beginning March 1, but they will receive the full amount of the supplement during the remaining ten months of 1996.

County Advisory Bulletin 96-1, February, 1996 discussed the compensation increases that

became effective during 1996 for the Sheriff and various Judges. This CAB is a comprehensive summary of the provisions of Am. Sub. HB 408, and includes tables showing the actual amount of compensation officials are entitled to receive during the period covered by the bill. This CAB does not include detailed information on the compensation of judges in subsequent years. Legislation is now pending that may make additional changes in judicial compensation. A subsequent CAB will deal with the issue of judicial compensation in detail, or CCAO may publish an Elected Officials Compensation Manual later this year.

The Act also allows county coroners to hire persons with whom they are associated or whom they employ (other than relatives) in private medical practice. Finally, the Act established the Elected Officials Compensation Commission that will be responsible to make recommendations for compensation adjustments in subsequent years.

COUNTY COMMISSIONERS

County commissioners will receive three percent annual compensation increases from 1997-2000. The two commissioners elected in 1996 will receive this increase each year of the next term. The commissioner elected in 1994 will continue to receive the current salary in 1997 and 1998, and will be entitled to the same amount as the other two commissioners if re-elected in 1998 during 1999 and 2000.

During the years 2001 and 2002, however, this commissioner will receive no increase unless legislation allows an increase in these years and becomes effective prior to the commencement of the new term of office in 1999. County commissioner salaries are shown in Tables 1 and 1A at the end of this CAB.

COUNTY AUDITOR

County auditors will receive three percent annual increases during their next term of office, from 1999-2002. They are not, however, entitled to the new 1999 salary until March 12, 1999, when their new term of office begins. Like the off-year commissioner, the auditor will receive no increases in 1997 and 1998. County auditors compensation is shown in Table 2 at the end of this CAB.

CLERK OF COURT OF COMMON PLEAS

The clerk of courts will also receive three percent annual increases from 1997-2000. In addition, certain clerks who also serve as the clerk of a municipal or county court are authorized to receive additional compensation for their duties.

Under current law the clerks of Hamilton and Clermont counties, that also serve as the clerk of the municipal court, receive a 25% supplement for these duties. The Portage and Wayne County clerks, receive a supplement equal to \$4,800, while the clerk of Auglaize County receives a supplement of \$1,800 for serving as the clerk of the municipal court.

The Act provides that the clerks of Portage, Wayne and Auglaize Counties will receive a full 25% supplement like their colleagues in Hamilton and Clermont Counties. These changes in the municipal court supplement become effective in 1997 when a new term of office begins. This supplement is not automatic if other clerks are designated as the clerk of the municipal court, which is contingent of upon state legislation.

Also under current law, the clerk of courts in Putnam and Sandusky County also receive a 25% supplement for serving as the clerk of the county court. The bill amends this provision by establishing the general rule in law that if any clerk is also the clerk of a county court, that the clerk is entitled to a 25% supplement. Clerks are entitled to this new supplement when they commence a new term of office in 1997.

In addition, all clerks of court continue to receive state paid compensation equal to one-eighth of their county paid compensation for serving as the clerk of the court of appeals. Salary figures for the clerk of courts is contained in Table 3 at the end of this CAB.

COUNTY CORONER

County coroners will receive a three percent annual increase from 1997-2000. This increase applies to those who continue to have a private practice of medicine as well as those coroners in compensation classes 10-14 who have the option to terminate the private practice medicine and receive higher compensation. Tables 4 and 4A at the end of this CAB shows the compensation of both "full-time" and "part-time" coroners.

In addition, the Act specifically allows the coroner to appoint a person who is an associate of or who is employed by the coroner in the private practice of medicine in a partnership, professional association or other medical business arrangement. ORC 313.05 specifically allows the coroner to appoint the following positions with which he may be associated in private practice without being in violation of the conflict of interest provisions of the Ohio Ethics Law:

1. Deputy Coroner
2. Pathologist
3. Stenographer
4. Secretary
5. Clerk
6. Custodian
7. Investigator
8. Other Employee

It should be noted, however, that this change in the law does not remove the prohibition against the coroner hiring relatives as this action would continue to be considered a violation of the public contract statute.

COUNTY ENGINEER

County engineers will also receive a three percent annual increase from 1997-2000. The increase applies to both those who maintain a private practice and those who have given up their private practice and receive higher compensation. The compensation of engineers is shown in tables 5 and 5A at the end of this CAB.

COUNTY PROSECUTING ATTORNEY

County prosecutors also will be entitled to three percent annual increases from 1997-2000. The increase will apply to prosecutors who continue to maintain a private practice of law as well as those whose have given up their private practice in order to be eligible for higher compensation.

In addition, prosecutors in classes 1-4 will, for the first time, have the option of closing out a private practice of law and receiving higher compensation like their colleagues in classes 5-14. These provisions will apply to terms beginning in 1997.

Prosecutors in classes 1 and 2 who make this election will be entitled to 80 percent of the compensation of those "full-time" prosecutors in classes 5-14, while those in classes 3 and 4 will receive 90 percent of the amount of those "full-time" prosecutors in classes 5-14.

In addition, for the first time, the state will pay the prosecutor directly 40 percent of the difference between the "full-time" and the "part-time" entitlement each year.

While the Act provides that prosecutors in classes 1-4 who elect the "full-time" option will receive state checks for 40 percent of the difference between "full-time" and part-time" compensation, the law may be changed so that the county will pay the full amount, contingent upon state appropriations, and the state will advance the state paid portion to the county. CCAO will keep you advised of any change in this provision.

Tables 6 and 6A at the end of this CAB show the compensation of county prosecutors.

COUNTY RECORDER

County recorders will receive three percent annual increases from 1997-2000. County recorders compensation is shown in Table 7 at the end of this CAB.

COUNTY SHERIFF

The county sheriff will receive three compensation increases under the bill as follows:

1. In 1997 a one-time county paid dollar increase as follows:

Classes 1 -4	\$2,000
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Classes 5-9	\$4,000
Classes 10-14	\$8,000

2. From 1997-2000 a three percent annual increase. In 1997 this three percent increase is applied after the one time fixed dollar increase specified above.

3. In 1996, and in each year through 2000, an additional state paid supplement equal to one-eighth (12.5%) of county paid compensation. This supplement is paid by the county, but is contingent upon the appropriation of state funds by the General Assembly. In addition, before this money can be paid by the county, the county auditor must receive a certification from the Attorney General that these funds have been appropriated. The county auditor will then make the required payment to the sheriff and will file for reimbursement from the Attorney General within 15 days after the end of March, June, September and December of each year. The amount of the reimbursement will be equal to the one-eighth supplement plus the required PERS contribution on the one-eighth supplement. The reimbursement is deposited in the county general fund.

As is the case for the prosecutor, it is possible that the law may be changed so that these funds are annually advanced to the county. CCAO will keep you informed of any change as it relates to this provision.

The compensation of county sheriffs is shown in Table 8 at the end of this CAB.

COUNTY TREASURER

The county treasurer will receive a three percent annual increase from 1997-2000. The treasurer, however, will not be entitled to the 1997 salary until the commencement of a new term of office on September 1, 1997. In addition, during the last nine months of their term in 2001 they will receive the same amount they received during the year 2000. Table 9, at the end of this CAB shows the compensation of county treasurers.

MEMBERS OF COUNTY BOARD OF ELECTIONS

Members of the county board of elections also receive three percent annual increases from 1997-2000. This increase applies to both the population derived component of their salaries as well as to the minimums and maximums provided for in law. Table 10 shows the increases that are provided for in the law.

The annual compensation of members of the board of elections is specified in ORC Section 3501.12. Effective December 26, 1984, with the enactment of Am. Sub. H.B. 897, this section was amended with the addition of the following language:

For the purpose of this section, members of boards of elections shall be deemed to be

appointed and not elected, and therefore not subject to Section 20 of Article II of the Ohio Constitution.

Article II, Section 20 of the Ohio Constitution generally prohibits in-term increases in compensation. It provides that:

The General Assembly, in cases not provided for in this constitution, shall fix the term of office and the compensation of all officers; but no change therein shall affect the salary of any officer during his existing term, unless the office be abolished.

On March 1, 1996 the appointments of two members of the county board of elections will become effective for a term of four years. The terms of the other two members were made on March 1, 1994 and these two members will serve until February 28, 1998. The amendment to ORC 3501.12 that is contained in Am. Sub. H.B. 408 becomes effective May 8, 1996. The question that thus arises is whether any of the current members of the board of elections are entitled to the increase during the remainder of the term of office.

While ORC 3501.12, as amended in 1984, provides that the members of the county board of elections are "not subject to Section 20 of Article II of the Ohio Constitution", the language in the statute declares that the members are "deemed to be appointed and not elected". The Ohio Constitution on the other hand, does not deal with elected versus appointed officials, but instead prohibits, "all officers" from receiving in-term increases.

In addition in 1950 the Ohio Supreme Court ruled that members of the board of elections are "...officers whose compensation is subject to the provision of Section 20 of Article II of the state Constitution, which precludes a change in compensation of any officer during his existing term." (State exrel. Milburn vs. Pethtel, (153 OS 1)

Given this apparent conflict it is recommended that each county should request advise from the prosecutor prior to implementing the salary adjustment of board members whose terms begin before May 8, 1996.

COMPENSATION OF JUDGES

Perhaps the most complex provisions included in the bill deal with salaries of judges. County Advisory Bulletin 96-1, February, 1996 included a description of how to calculate certain judicial salaries beginning on March 1, 1996.

Generally speaking judges will receive three percent annual increases from 1996-2001. For common pleas judges and full-time municipal court judges (including judges of municipal courts where judges are not designated as full time and serving territories in excess of 50,000 population) all of the increase is paid with state dollars. The increase will be based upon both the state base payment plus the local per capita share, but will be paid by the state.

In the case of part-time municipal judges and county court judges, the three percent annual increase is again based on both the base amount and the per capita payment, but is paid entirely with local funds. In the case of part-time municipal judges these payments will be paid by both the county and municipal corporations. In the case of county court judges the entire amount of the annual increase is paid by the county.

Because of the variation in per capita amounts among counties it is not possible to provide exact figures. Included at the end of this CAB, however, is Table 11 that provides a comprehensive list of statutory references on the compensation of various judges. CAB 95-1 did, however, include information on how to calculate the salaries of part-time municipal and county court judges.

In addition, legislation is currently pending that would make other changes in the compensation of certain judges. CCAO will keep you advised of any changes relating to judicial compensation.

SELECTED MUNICIPAL COURT CLERKS

Elected municipal court clerks where the population of the territory is 100,000 or more is entitled to compensation that is the equivalent of 85 percent of that of the municipal court judge (ORC 1901.31(C)). As a result of this provision, such clerks are entitled to an increase effective March 1, 1996. In each subsequent year such clerks will receive compensation at the rate of 85 percent of the current salary of the judge. These payments continue to be shared between the county and municipality pursuant to ORC 1901.11(C).

OTHER STATEWIDE ELECTED OFFICIALS AND JUDGES

The Act also increases the compensation of the Governor, Lieutenant Governor, Auditor of State, Attorney General, Secretary of State, Treasurer of State, Supreme Court Justices and Court of Appeals Judges. As with other officials, the Act provides for three percent annual increases. In the case of statewide elected office holders these increases are for four years and begin when a new term of office commences. In the case of the Supreme Court Justices and Court of Appeals Judges the increase begins on March 1, 1996 and continues for a six year period. Table 12 at the end of this CAB details the salaries.

TOWNSHIP TRUSTEES AND CLERKS

The schedule of compensation of township trustees and clerks are both increased under the Act. The Act increases the base per diem for trustees and the salary of the township clerk based on township budget amounts. In addition to these increases, both positions are entitled to three percent annual increases in 1999-2002. Since it appears that these provisions do not become effective until after trustees and clerks took office in 1996, most of these provisions will not impact individuals until 1998 or until the commencement of a new term of office. Tables 13 and 13A show the salaries contained in the Act.

ELECTED OFFICIALS COMPENSATION COMMISSION

The Act also establishes the Elected Officials Compensation Commission. It is composed of eleven members appointed as follows:

1. Two appointed by the Governor
2. Two appointed by the Senate President
3. One appointed by the Minority Leader of the Senate
4. Two appointed by the Speaker of the House
5. One appointed by the Minority Leader of the House
6. One appointed by the Chief Justice
7. One appointed by the Ohio Township Association
8. One appointed by the Ohio Council of County Officials

Legislators, state employees and officers or employees of political subdivisions are ineligible for membership on the commission. Members must be generally knowledgeable in compensation practices and financial matters. After the appointment by certain appointing authorities to staggered terms, all terms are for six years.

It is the responsibility of the Elected Officials Compensation Commission to periodically evaluate the salaries and duties of elected officials to determine if the salaries are fair and adequate for the duties incumbent upon the office. If the commission finds that the salaries are not fair and adequate it will recommend adjustments for any or all of the officials for which it has jurisdiction which includes the following officials:

1. All state and local judges
2. Statewide elected office holders
3. County elected officials
4. Township trustees and clerks

If the commission wishes to make recommendations to adjust salaries of any or all of these officials it must file its recommendation with the Legislature Clerk of the Ohio House of Representatives and the Clerk of the Senate between January 1 and March 31 of any odd numbered year. CCAO hopes that one of the first recommendations made by the commission will to extend the annual increase for county commissioners to the years 2001 and 2002 so that commissioners elected in 1998 will receive an adjustment during each year of their next term of office.

ACKNOWLEDGMENT

CCAO appreciates the help provided by a variety of persons in the preparation of this CAB. It was reviewed by representatives of all associations representing county elected officials and judges. Copies of parts of the bulletin were also sent to the State Auditor's office and the Attorney General for comments. While various individuals provided valuable input in the finalization of this bulletin, any errors are the sole responsibility of CCAO.

**TABLE 11
STATUTORY REFERENCES FOR JUDICIAL SALARIES**

COMMON PLEAS JUDGES

TYPE OF COMPENSATION	ORC SECTION
State paid base amount	141.04(A)(4)
State paid supplement to common pleas judges in counties under 60,000 population not having a separate probate division	141.06
County paid per capita amount	141.05

**FULL-TIME MUNICIPAL COURT JUDGES AND PART-TIME
MUNICIPAL JUDGES SERVING POPULATIONS MORE THAN 50,000**

TYPE OF COMPENSATION	ORC SECTION
State paid base amount	141.04(A)(5)
Local paid base amount	1901.11(B)(1)(a)
Local per capita amount	1901.11(B)(1)(a)
Local paid supplement for presiding judge who is also an administrative judge	1901.11(B)(3)
Cap on locally paid portion of salaries	1901.11(B)(2)
Division of locally paid cost between county and municipalities	1901.11(C)

PART-TIME MUNICIPAL COURT JUDGES

TYPE OF COMPENSATION	ORC SECTION
Locally paid base amount	1901.11(A)(2)
Locally paid per capital amount	1901.11(A)(1)
Locally paid supplement for presiding judge who is also an administrative judge	1901.11(B)(3)

COUNTY COURT JUDGES

TYPE OF COMPENSATION	ORC SECTION
County paid base	1907.16(A)(2)
County paid per capita amount	1907.16(A)(1)
Optional county payments	1907.17

