



# Ohio Legislative Service Commission

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## Fiscal Note & Local Impact Statement

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**Bill:** S.B. 321 of the 131st G.A.

**Date:** May 10, 2016

**Status:** As Introduced

**Sponsor:** Sen. Faber

**Local Impact Statement Procedure Required:** No

**Contents:** Court of Claims procedure to hear denials of access to public records

### State Fiscal Highlights

- The Court of Claims expects its operating expenses to increase by approximately \$650,000 annually to implement a public records dispute resolution process.
- The amount of revenue that may be generated for the state's General Revenue Fund (GRF) from the \$25 filing fee will be minimal at most annually.
- The likely discontinuation of public records mediation and resolution programs currently operated by the Attorney General and Auditor of State may produce some savings effect for both state agencies, with the result that staff and resources will be reallocated to other duties and responsibilities rather than eliminated.

### Local Fiscal Highlights

- There is likely to be a net minimal annual effect on the operating expenses of the courts of common pleas from (1) an expenditure savings from a potential reduction in the number of public records disputes adjudicated directly by courts of common pleas, and (2) an expenditure increase related to the clerks of the courts of common pleas acting as the clerk of the Court of Claims in their respective counties.
- The amount of revenue that may be generated for any given county's general fund from the \$25 filing fee will be minimal at most annually.

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## **Detailed Fiscal Analysis**

The bill modifies existing law by creating an adjudication and mediation program for public records request disputes in the Court of Claims. Under current law, unchanged by the bill, an individual may file a mandamus action in the court of common pleas to resolve a public records request dispute. The bill permits an individual to file an action with the Court of Claims or a mandamus action with a court of common pleas, but not both. In either instance a judgement may be appealed to the proper appellate court. The bill requires clerks for the courts of common pleas to act as clerks for the Court of Claims in their respective counties for any public records complaints filed in the Court of Claims, although a complainant may file directly with the clerk of the Court of Claims.

### **Court of Claims**

Under the bill, except for a court that hears a mandamus action, the Court of Claims is the sole and exclusive authority in Ohio that adjudicates or resolves complaints based on alleged violations of the Public Records Law. The clerk of the Court of Claims is required to designate one or more current employees or hire one or more individuals to serve as special masters to hear complaints. The clerk may assign administrative and clerical work associated with complaints to current employees or may hire such additional employees as may be necessary to perform such work.

The Court of Claims expects to adjudicate approximately 200 public records cases annually. To handle that workload, the Court expects to hire an additional six employees, including two special masters, two staff attorneys, one executive assistant, and one support staff for a total additional payroll expense of just under \$550,000 annually. Adding an additional estimated \$103,000 in personal services, equipment, supplies, and maintenance, the Court of Claims projects the total annual expense to be approximately \$650,000.

### **State mediation programs**

The Attorney General and the Auditor of State currently operate public records dispute mediation programs. Because the bill gives sole and exclusive authority for adjudication and resolution of violations of the Public Records Law to the Court of Claims, except for a court that hears a mandamus action, these programs are expected to be discontinued. The discontinuation may produce some savings effect for both state agencies, with the result that staff and resources will be reallocated to other duties and responsibilities rather than eliminated.

### **Courts of common pleas**

Courts of common pleas generally are expected to see some decrease in the number of mandamus filings related to the Public Records Law, as individuals file with the Court of Claims to take advantage of the expedited process and lower cost. The

potential savings effect on any given court's annual operating expenses will not be readily discernible in terms of dollars and cents. On the other hand, the bill's requirement that the clerks of courts of common pleas serve as the clerk of the Court of Claims in their respective county creates another duty in the adjudication of Public Records Law disputes that presumably generates new work and some associated cost. The net fiscal effect of these two factors on any given clerk and court of common pleas will be minimal annually.

### **Filing fee**

Under the bill, the cost for an aggrieved person to file a complaint is \$25, to be retained as follows:

- If the complaint is filed with the clerk of the court common pleas, the fee will be deposited in the county general fund.
- If the complaint is filed directly with the Court of Claims, the fee will be deposited in the state treasury to the credit of the General Revenue Fund (GRF).

If, based on the Court of Claims' estimate, approximately 200 complaints are filed each year then the amount of filing fee money that will be generated annually statewide will be \$5,000. Thus, the amount of money that the state or any given county may gain from the filing fee will be minimal at most annually.