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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

H.B. 488
134th General Assembly

Fiscal Note & Local Impact Statement

[Click here for H.B. 488's Bill Analysis](#)

Version: As Introduced

Primary Sponsors: Reps. Grendell and Galonski

Local Impact Statement Procedure Required: Yes

Robert Meeker, Budget Analyst

Highlights

- The changes to the Guardianship Law are not expected to create significant expenses, revenues, or savings for the probate divisions of the courts of common pleas.
- Costs paid by a county general revenue fund may increase as a result of the bill's provision allowing a judge of the court of common pleas to retain legal counsel and the requirement that those expenses be paid or reimbursed from that fund.

Detailed Analysis

The bill (1) makes changes to the Guardianship Law, and (2) allows a court of common pleas to employ an attorney under certain circumstances to provide legal services to the judge or court officials.

Guardianship Law changes

Judges and the Ohio Judicial Conference expect the changes made to the laws governing guardianships to be fiscally neutral for the courts: causing neither significant expenses, revenues, nor savings for the probate courts. The changes include definitions, guardianship of a minor or incompetent, petitions for conservatorship, notice of hearing on an application for guardianship in general, guardianship of wards in general, transactions dealing with a ward's property, termination of a guardianship, and guardians for nonresidents.

Court authority to employ legal counsel

The bill allows a court of common pleas to employ legal counsel at its choosing without competitive bidding to represent it in any matter of public business before the court or in the prosecution or defense of any action in which that court's judge or official is a party or has an interest when the judge or official is acting in an official capacity.

When a court employs counsel in this way, the bill requires the judge to enter an order upon the court's journal to fix the compensation to be paid and requires the compensation to be paid from the county general fund or another court fund at the judge's discretion. When paid from the county general fund, the court is required to submit invoices to the county commissioners for review. The bill prohibits the hourly compensation described above from exceeding the highest hourly compensation paid by the board of county commissioners for an attorney to represent the board or other county officials excluding the prosecuting attorney.

The bill (1) permits a court of common pleas to charge a fee for the employment of legal counsel, (2) permits both a court special projects fund¹ and a Probate Court Conduct of Business Fund² to be used to employ legal counsel, and (3) requires any money so used to be reimbursed by the county general fund.

Because of the bill's employment of legal counsel provision, expenses paid through a county general fund may increase at the discretion of a judge of the court of common pleas. Any change in expenses as compared to current law and practice will depend on the situation and compensation of the hired legal counsel.

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¹ The court special projects fund consists of certain special fees charged on the filing of each criminal cause, civil action or proceeding, or judgment by confession and fees for special programs or additional services.

² The Probate Court Conduct of Business Fund consists of all moneys obtained from the sale of merchandise to be used in connection with any license, order, or document issued by a probate court.