

2009 Non-Mandated Expenditures

Department Response

Department: Hamilton County Clerk of Courts
Elected Official: Gregory P. Hartmann
OCA Title: 460337 Common Pleas

1. Are there elements of the BSI non-mandated services that you believe are mandated? If so, provide the specific Ohio Revised Code (ORC) citation, Code of Federal Regulation (CFR) and/or relevant case law information. Please be especially diligent if there is a specific service or staffing level prescribed by law.

County Administration's own analysis clearly properly cites Ohio Revised Code Section 2303 as providing for the authority and duties of the Clerk of the Court of Common Pleas. This code section also requires that the Board of County Commissioners provide the Clerk with the resources necessary to carry out those duties. There is however no specific authority that states what level of personnel is needed to provide the minimum mandated services for their functions. Many of the duties required of the Clerk include record reproduction and storage, and create a substantial need for paper products, printers and copiers, and maintenance for the printers and copiers. The authority to decide on what level of personnel, the pay for those personnel, and the necessary level of resources is granted to the Clerk of Courts, not the Board of County Commissioners, by ORC Section 2303.

2. Who are the recipients of the service or activity for the non-mandated service? How many recipients? Please note any internal customers, other county departments, jurisdictions, businesses, etc. If the service is geographic specific (i.e., a satellite probation office), please identify the neighborhood, township or municipality.

Recipients of the benefits of Common Pleas division of the Clerk of Courts office are:

- A. Hamilton County Common Pleas Court
 - B. Ohio 1st District Court of Appeals
 - C. Hamilton County Court of Domestic Relations
 - D. Hamilton County Job & Family Services
 - E. Hamilton County Prosecutor
 - F. Hamilton County Public Defender
 - G. Attorneys
 - H. Citizens
3. Are there county revenues associated with the non-mandated services? If so, please provide the methodology for any lost revenues. Please consider state or federal reimbursements, grants, fees, etc. Please note if the service or activity is included in the county's indirect cost plan.

Ohio Revised Code 2303.20 delineates the fees that are to be collected by the Clerk.

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4. If the county did not provide the non-mandated service, is there the potential for increased expenditures in another jurisdiction within Hamilton County? If so, please list the specific municipality and/or township.

The courts mentioned in the answer to number 2 above would absorb all the same costs. The Auditor would have to issue all checks for the Court and the Clerk. The Clerk would most certainly be sued for failure to perform his duties, and the Board of Commissioners would most likely have to settle or pay for judgments from a plethora of lawsuits.

5. Does the non-mandated service include Board of County Commissioner policy via resolution or motion?

No.

6. Are there contracts or agreements that preclude the elimination of a non-mandated service? If so, please provide the specific language as to termination and/or amendment terms.

No.

7. What are the equipment/non-personnel expenditure considerations with discontinuing a non-mandated service? (i.e., surplus equipment).

There are none because the Clerk will continue to use the equipment it has for his mandated duties.

8. Do any of the non-mandated services include employees represented by a bargaining unit? If so, please note the union and provide information as to reduction-in-force and job abolishment considerations.

No.

9. For positions within non-mandated services, are there are special circumstances that preclude a traditional job abolishment process? Separation costs will be addressed centrally including leave balance payouts, unemployment compensation and severance (based on current Commission policy).

No.

10. In addition to positions associated with non-mandated services, the Budget Office included a review of management layers, support staff, and currently vacant positions. Please comment on the impact of eliminating these positions.

N/A

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11. What is the performance impact of not providing the non-mandated service? For example, wait times, waiting lists, case loads, operating hours and other consequences of not providing the service.

Again, the services provided by the Clerk of Court of Common Pleas are mandated services. While paper, printers, and copiers are not mandated by statute, it is painfully clear that they are needed to provide the mandated services provided by the Common Pleas division of the Clerk of Courts. Reducing the amount of paper, copiers and toner, and maintenance for the copiers will result in the following:

- A. The Clerk would not be able to create the public records requested by citizens and would then violate Ohio Revised Code Section 149.43. Such violations would most certainly result in lawsuits that the Clerk would most likely lose, and the County would pay substantial amounts of money to settle or pay the claims after judgment.
 - B. The Clerk would not be able to send out the required summons for civil suits. Service would only be available by publication which is substantially more expensive. This would preclude a great number of citizens from choosing to use the legal system. Dockets that remained would be extremely backed logged. Basically, the civil legal system would fail. The Clerk would most certainly be sued for failure to perform his duties, and again would most likely lose. The result would be the County paying substantial sums of money in settlements or judgments.
 - C. The Clerk would not be able to send out the required capiases and warrants in criminal cases. The criminal justice system would fail. The public's safety would be at risk. The Clerk would most certainly be sued for failure to perform his duties, and again would most likely lose. The result would be the County paying substantial sums of money in settlements or judgments.
 - D. Sentencing entries would no longer be done by the Clerk. The judges would have to do their own.
 - E. Checks would no longer be issued by the Clerk. The Auditor or the Court would have to pick up this responsibility.
12. Are there any alternatives that result in savings to the general fund?

No.

13. Are there more efficient ways to deliver a mandated service that may allow for the savings to offset the cost of a non-mandated service?

The Clerk of Courts routinely seeks out ways to provide mandated and non-mandated services in ways that create savings or avoid costs. The Clerk implemented electronic certified mail in order to save close to \$2,000,000 over the next decade.

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14. Is there an opportunity to transfer any non-mandated expenditures to another funding source (i.e., restricted fund or grant)?

No.

15. Does your department have any fees that could be raised to offset the cost of a mandated service?

Again, Ohio Revised Code 2303.20 delineates the fees to be collected by the Clerk. Increasing the fees in the following subsections would have the largest impact: A, F, N, O, P, R, and Z.

Other Considerations and Comments: