

2009 Non-Mandated Expenditures

Department Response

Department: Hamilton County Clerk of Courts
Elected Official: Gregory P. Hartmann
OCA Title: 460360 Municipal Civil

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 shows that the services provided by the Municipal Civil division of the Clerk of Courts are mandated by Ohio Revised Code Section 1901.31. Additionally, Hamilton County Municipal Court's Local Rules of Civil Procedure III and IV provide for the authority and duties of the Clerk of the Court for Municipal Court. ORC Section 1901.31 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, under the ORC Section listed above.

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 Municipal Civil division of the Clerk of Courts office are:

- A. Hamilton County Municipal Court
 - B. Attorneys
 - C. Creditors
 - D. Land owners
 - E. 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 1901.26 and Hamilton County Municipal Court Local Rule XVIII delineate 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.

No. Ohio Revised Code Sections 1901.31 and 1907.20 require the Clerk of the Municipal Court to carry out these duties. No other agency has the authority to do so.

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 the Municipal Court 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 Municipal Civil 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 print the Courts' daily dockets and calendars. This would create chaos in the court rooms causing substantial delays that would ultimately bring the wheels of justice to a halt. 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 summons for civil suits. The result would be that defendants would not receive notice. All cases would go on for one year without service and then be dismissed. 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.
- D. The Clerk would no longer be able to provide any forms to the public to initiate cases. Again, 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.
- E. The Clerk would no longer be able to print and send postcards to notify parties of court dates. This would create chaos in the court rooms causing substantial delays that would ultimately bring the wheels of justice to a halt. 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.
- F. Copies for personal service or special process servers would not be made. Good service would be impossible. Once again, 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.

12. Are there any alternatives that result in savings to the general fund?

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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. The Clerk hopes to take evictions and small claims online in the near future.

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 1901.26 and Hamilton County Municipal Court Local Rule XVIII delineate the fees that are to be collected by the Clerk. The Ohio General Assembly would have to amend the ORC or the Hamilton County Municipal Court would have to change its local rules to increase the associated fees.

Other Considerations and Comments: