



Ohio Judicial Conference  
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## MEMORANDUM

Date: December 6, 2011  
To: Ohio Judges  
From: Retired Judge Mark R. Schweikert, Executive Director  
Re: Court Restricted Funds--NEW Appropriation and Reporting Requirements

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### **Court Restricted Funds NEW Appropriation and Reporting Requirements** (as contained in Enacted Amended Substitute House Bill 153, effective September 29, 2011)

Enacted Amended Substitute House Bill 153 contains very important changes regarding the expenditure and reporting requirements that apply to special project and other court restricted funds.

**What is the nature of the change that took place as a result of passage of House Bill 153?** There are notable changes in the expenditure requirements associated with court restricted funds. Unfortunately, the funds are not treated uniformly. In some cases, there must be an appropriation of the funds by the local funding authority prior to any expenditure. In some cases, the court can substitute an annual report of expenditures in lieu of an appropriation by the local funding authority. The Ohio Revised Code was unchanged with regard to the authority of the judge to collect the funds and with regard to the products and services that the funds can be used to purchase.

**What Ohio Revised Code sections provide for court restricted funds?** The Code sections include 1901.26, 1901.261, 1901.262, 1907.24, 1907.261, 1907.262, 2101.162, 2101.163, 2151.541, 2153.081, 2301.031, 2303.201, and 2501.16.

**What funds are affected by House Bill 153 and contain the new requirement that any disbursement or transfer of the funds is subject to an appropriation of the funding authority?** The changes were not consistently made throughout the Ohio Revised Code and thus do not apply to all court funds. The funds that are impacted by House Bill 153 include the following funds:

- Special Projects Funds for the Common Pleas Court [R.C. 2303.201(E)(1)]\*\*
- Special Program or Service Funds for the Common Pleas Court [R.C. 2303.201(E)(1)] \*\*
- Court Computerization for the Common Pleas General Division [R.C. 2303.201(A)(1)], the Juvenile Division [R.C. 2151.541(A)(1)], the Domestic Relations Division [R.C. 2301.031(A)(1)], the Municipal Courts [R.C. 1901.261(A)(1)], and the County Courts [R.C. 1907.261(A)(1)]
- Alternate Dispute Resolution Funds for Municipal Courts [R.C. 1901.262] and County Courts [R.C. 1907.262]

\*\* The annual reporting option is not available for these affected funds

**What funds are not affected?** The following funds are NOT impacted by House Bill 153:

- Special Project Funds for Courts of Appeal [R.C. 2501.16(B)], Municipal Courts [R.C. 1901.26(B)(1)], County Courts [R.C. 1907.24(B)(1)]
- Special Program or Service Funds for Courts of Appeal [R.C. 2501.16(B), Municipal Courts [R.C. 1901.26(B)(1)], County Courts [R.C. 1907.24(B)(1)]
- Court Computerization Juvenile Division of Cuyahoga County [R.C. 2153.081(A)(10), Probate Division [R.C. 2101.162(A)(1)]
- Alternative Dispute Resolution Funds for Common Pleas Courts [R.C. 2303.201(E)(1)], Probate Division [R.C. 2101.163],
- Clerk Computerization Funds for all courts were unaffected by House Bill 153 but contain “subject to appropriation by the board of county commissioners” language.

**Is there any action that the judge must take when expending court restricted funds affected by House Bill 153?** You should identify what appropriation or reporting requirements apply to each of the funds you oversee and ensure that those requirements are met. If the funds are subject to the appropriation of the funding authority, you should include them in your routine appropriation process. Remember that under Ohio law court restricted funds must be deposited in the county or municipal treasury. [R.C. 1901.26(B)(1), 1901.261(A)(2), 1901.262(B), 1907.24(B)(1), 1907.261(A)(2), 1907.262(B), 2101.162(A)(2), 2101.163(B), 2151.541(A)(2), 2153.081(A)(2), 2301.031(A)(2), 2303.201(A)(2), 2303.201(E)(1), 2501.16(B)]

**Must judges prepare the annual report of expenditures of court restricted funds?** The judge has no reporting requirements as long as the local funding authority has appropriated the special project or other restricted funds. However, in some cases the judge may avoid the appropriation oversight of the funding authority by making an annual report available to the public listing the use of all such funds. The reporting option is not available to the Special Projects Common Pleas Courts [R.C. 2303.201(E)(1)] or special program or Service of the Common Pleas Courts [R.C. 2303.201(E)(1)].

**How does the reporting option work?** The affected Ohio Revised Code sections do not provide any guidance as to the content of the report, the production timeline, or any other matter regarding the report except that the report is to be “an annual report available to the public listing the use of all such funds.” The Ohio Judicial Conference suggests that judges either develop their own report or rely on a report that may currently be available from the local treasurer or auditor, or one that the treasurer or auditor might easily produce. The judge may want to retain a copy of the report at a central location in the courthouse where interested members of the public could see the report.

*Please let us know if you have additional questions or comments.*