

Acting and Assigned Judge Compensation Reimbursement

Instructions for County Treasurers Seeking Reimbursement from the Supreme Court of Ohio for Compensation Paid to Acting and Assigned Judges

A. Changes in the Law under H.B. 166

With the enactment of H.B. 166 by the 133rd General Assembly, effective October 17, 2019, the Supreme Court of Ohio has assumed responsibility from the county treasurers for paying the compensation of judges assigned by the Chief Justice to municipal courts and county courts for work performed on or after October 17, 2019. In addition, H.B. 166 further permits the Supreme Court to seek each year on August 1 reimbursement from the county treasurers of the local share of the compensation paid during the prior fiscal year.¹

H.B. 166 did not alter the county treasurers' responsibility for paying the compensation of acting judges appointed to municipal courts and county courts, or the obligation of the Supreme Court for reimbursing county treasurers for the state share of compensation paid to acting judges.

B. Procedures for Compensating Retired Assigned Judges for Work Performed Prior to October 17, 2019 and Compensating Acting Judges

On July 10, 2014, H.B. 261 of the 130th General Assembly went into effect. That legislation reinstated the laws permitting county treasurers to seek reimbursement from the Supreme Court for the state share of compensation paid to acting judges appointed to municipal courts and county courts. H.B. 261 also clarified the formula for calculating the compensation payable to judges assigned by the Chief Justice to municipal courts and county courts. In addition, the legislation established procedures for county treasurers to follow when requesting reimbursement from the Supreme Court. However, with the passage H.B. 166 of the 133rd General Assembly, those procedures now only pertain to work performed by retired assigned judges prior to October 17, 2019, but remain applicable to work performed by acting judges.

Accordingly, the remainder of the following instructions pertain only to:

- (1) requests for reimbursement for the state share of compensation paid to *acting judges*,
- (2) requests for reimbursement for the state share of compensation paid to *sitting part-time judges* assigned to municipal courts or county courts for work performed prior to October 17, 2019, and
- (3) requests for reimbursement for the state share of compensation paid to *retired assigned judges* for work performed prior to October 17, 2019.

¹ R.C. 1901.123, which establishes the procedure for the Supreme Court to seek reimbursement from the county treasurers for the local share of compensation paid to assigned judges, was further clarified by H.B. 166 and provides that after forwarding their reimbursement payment to the Supreme Court the county treasurers shall seek reimbursement, as applicable, from the local municipal funding authorities, as appropriate. See Appendix B.

County treasurers seeking reimbursement must submit quarterly request to the Administrative Director of the Supreme Court. The requests must include verifications by the treasurer of the amounts paid and affidavits from the acting judges and assigned judges attesting to the dates and hours they worked. In order to assist the county treasurers in complying with the new laws, the Supreme Court has created standardized forms for the county treasurers to use when requesting reimbursement.

C. When Acting Judges May be Appointed

H.B. 261 also made changes to Ohio law concerning when acting judges may be appointed to assist municipal courts and county courts. Attached as Appendix A is a summary showing the various circumstances in which the presiding judges in municipal courts and county courts may appoint acting judges. Attached as Appendix B are copies of the pertinent statutes and Sup.R. 17. It is important to note the applicability of the various circumstances depends on how many judgeships there are in the municipal court or county court. Also included in the summary are references to the statutory provisions arising out of H.B. 261 that pertain to the assignment of judges by the Chief Justice.

D. Compensation Rates and Formulas

Attached as Appendices C-1 through C-4 are summaries showing the per diem compensation rates payable to acting judges and assigned judges for services performed either (1) between January 1, 2020 and December 31, 2020, (2) between January 1, 2021 and December 31, 2021, (3) between January 1, 2022 and December 31, 2022, or (4) between January 1, 2023 and December 31, 2023, respectively. Also shown in the summaries are the breakdowns between the local share and state share of the various per diem rates. The rates are calculated as follows:

1. Acting Judges

The statutes establish a maximum per diem rate and permit local courts to pay acting judges at some lesser rate. Regardless of the per diem rate actually paid, the ratio of the state share and local share remains the same.

a. Incumbent Judge is Full-Time. R.C. 1901.122(A)(1)(a) provides that if the acting judge is appointed to assist a court where the unavailable incumbent judge is paid at the full-time rate pursuant to R.C. 141.04(A)(5), that acting judge's per diem rate shall not exceed the full-time incumbent judge's annual salary divided by 250 (using 250 working days per year as the basis for the per diem rate calculation).

b. Incumbent Judge is Part-time. R.C. 1901.122(A)(1)(b) provides that if the acting judge is appointed to assist a court where the unavailable incumbent judge is paid at the part-time rate pursuant to R.C. 141.04(A)(6), that acting judge's per diem rate shall not exceed the part-time incumbent judge's annual salary divided by 130 (using 130 working days per year as the basis for the per diem rate calculation).

2. Assigned Judges

a. Sitting Court of Appeals, Common Pleas, and Full-time Municipal Judges. Rule 17 of the Rules of Superintendence for the Courts of Ohio provides that if the Chief Justice assigns a sitting court of appeals judge, a sitting common pleas court judge, or a sitting full-time municipal court judge, that judge is entitled to be paid a per diem of either \$50 (for court of appeals and common pleas court judges) or \$30 (for full-time municipal court judges). However, in practice some sitting judges choose not to receive these per diems.

b. Sitting Part-time Judges. Rule 17 of the Rules of Superintendence for the Courts of Ohio provides that if the Chief Justice assigns a sitting part-time municipal court or county court judge, that judge, regardless of whether assigned to a court with part-time or full-time judgeships, is entitled to be paid a per diem that consists of the difference between the per diem of a full-time municipal court judge and the per diem of a part-time municipal court or county court judge, each calculated on the basis of 250 days per year.

c. Retired Judges. Rule 17 of the Rules of Superintendence for the Courts of Ohio provides that if the Chief Justice assigns a retired judge to any municipal court or county court, that judge shall be paid the per diem rate of a full-time municipal court judge calculated on the basis of 250 days per year. In addition, Rule 17 of the Rules of Superintendence for the Courts of Ohio requires retired judges assigned to municipal courts and county courts to earn any retirement benefits to which they may be entitled pursuant to Article 4, Section 6(C) of the Ohio Constitution.

E. Request Process

The following process has been crafted by the Supreme Court in order to provide the county treasurers, local court leadership, and the acting judges and assigned judges with clarity in how and when to submit reimbursement requests.

The reimbursement forms described below must be submitted in original hard copy format bearing all applicable signatures and mailed to the Office of Fiscal Resources, The Supreme Court of Ohio, 65 South Front Street, Columbus, Ohio, 43215 (also shown at the bottom of the county treasurer reimbursement request form.)

1. Timing of Quarterly Request Submission

Requests for reimbursement should be submitted to the Supreme Court within 30 days following the close of each standard calendar quarter. Accordingly, requests for the first quarter are due by April 30th, requests for the second quarter are due by August 30th, requests for the third quarter are due by October 30th, and requests for the fourth quarter are due by January 30th.

2. Nature of the Content of the Quarterly Requests

Each quarterly request must be for reimbursement of the state share of compensation paid for *dates of work performed* by the judges which fall within the applicable quarterly period.² For example, a request for reimbursement for the first quarter shall be for compensation paid to the judges for dates between January 1st and March 31st on which the judges provided services. The 30-day submission period following the close of the quarter is designed to afford the county treasurers adequate time to issue payment for services provided during the immediate prior quarter and obtain the affidavits from the acting and assigned judges required under the new laws.

3. County Treasurer Reimbursement Request Form

Attached as Appendix D is the standard form for use by county treasurers seeking reimbursement. The elements of the form consist of:

- a. **County Name.** The name of the county in which are located the municipal and county courts to which acting judges were appointed and assigned judges were assigned.
- b. **Quarter and Year.** The quarter and year of the request.
- c. **Judge.** The full name of each acting judge and assigned judge who were paid for work performed during the quarter. If any given judge only worked in one court, then the details for that judge will all appear in a single row in the form body. In general, acting judges will perform work in a single court and each acting judge's details will appear in a single row in the form body. Assigned judges may be assigned to many courts and, for counties that contain more than one municipal court or county court, their details may appear in more than one row in the form body.
- d. **Court.** The name of the court to which each judge was appointed or assigned.
- e. **Total Number of Days Worked During Quarter.** The total number of days which each judge worked during the quarter. The value indicated shall be a whole number and cannot exceed the total number of days between the first date and the last date of the quarter.
- f. **Total Compensation Paid During Quarter.** The total amount of compensation paid to the judge for their services performed on dates in the quarter. This amount will consist of the sum of the applicable local and state shares of the compensation paid.

² Because the effective date of H.B. 166 was October 17, 2019, the quarterly request for reimbursement for the fourth quarter of Calendar Year 2019 is limited to compensation paid to the assigned judges for work performed only between October 1, 2019 and October 16, 2019.

g. State Share of Compensation Paid During Quarter. The state share of the compensation paid to the judge for their services performed on dates in the quarter. This is the amount for which the treasurer is seeking reimbursement from the Supreme Court.

h. Grand Totals. The three grand totals values will be the sum of the values shown in each of their respective columns.

i. Verification. The county treasurer must sign and date the form and print their name. The county treasurer must also provide the name and telephone number of his or her designated contact person whom the Supreme Court may contact in the event of a question or other feedback.

j. Additional Sheets. If necessary, the county treasurer may attach additional sheets containing details in substantially the same format as the regular form body.

k. Affidavits. The county treasurer must attach affidavits from each of the acting judges and assigned judges referenced in the request using the affidavit form described below.

4. Judge Affidavits

Attached as Appendix E is the standard affidavit form for use by the acting judges, assigned judges, and county treasurers when the treasurers are seeking reimbursement. Each acting judge and assigned judge whose services relate to the county treasurer's quarterly request for reimbursement must provide an affidavit and each such affidavit must be attached to the county treasurer's reimbursement request form. In addition, attached to each affidavit must be a copy of the applicable presiding judge's entry of appointment of the acting judge or a copy of the Chief Justice's Certificate of Assignment of the assigned judge, whichever is applicable. The elements on the affidavit form consist of:

a. Name. The full name of the acting judge or assigned judge.

b. Quarter and Year. The quarter and year of the county treasurer's request to which the affidavit pertains.

c. County. The county pertaining to the county treasurer's request to which the affidavit pertains. Assigned judges will often provide services to courts in different counties within a single quarter. Accordingly, those judges would be providing affidavits to more than one county treasurer.

d. Attorney Registration Number. The acting judge's or assigned judge's Supreme Court Attorney Registration Number.

e. Judge Type Checkbox. Check whichever of the two boxes is appropriate.

f. Court. The name of the court to which the judge was appointed or assigned and for which the county treasurer is seeking reimbursement.

g. Date of Work. The date (in *mm/dd* or *m/d* format) in the quarter on which the judge worked and received compensation for which the county treasurer is seeking reimbursement. If a judge worked in a court on more than one date in the quarter, each date will appear in a separate row in the affidavit form body. If necessary, the judge may attach additional sheets containing details in substantially the same format as the regular affidavit form body.

h. Hours Worked. The total number of hours, in whole hour increments, in which the judge provided services on each date of work shown. For example, if retired Judge Jane Doe worked on April 2nd for three hours and April 10th for eight hours, she would show that detail as follows:

Court	Date of Work	Hours Worked
Example Municipal Court	4/2	3
Example County Court	4/10	8

i. Grand Total Hours Worked During Quarter. The sum of the values shown in the Hours Worked column.

j. Affidavit. The judge will execute the affidavit where indicated and include a telephone number and email address in the event of a question or need for clarification.

k. Attach Entries of Appointment or Certificates of Assignment. The judge must attach to their affidavit a copy of the applicable entries of appointment issued by the presiding judges or the applicable Certificates of Assignment issued by the Chief Justice.

5. Request Submission

The county treasurers must send their requests for reimbursement by mail to the Office of Fiscal Resources, Supreme Court of Ohio, 65 South Front Street, 7th Floor, Columbus, Ohio, 43215-3431.

6. Processing Requests by the Supreme Court

Upon their receipt, the Supreme Court will examine the county treasurer requests to ensure the required information has been included and that it is in compliance with applicable law. If approved, payment will be issued to the county treasurer. If any the required information is missing or there are any other issues with the request, Supreme Court staff will contact the county treasurer's designated contact person.

F. Questions and Support

Staff of the Supreme Court are available to answer questions concerning the information contained in these instructions and in completing the request for reimbursement forms. Please direct questions to *Reimbursements@sc.ohio.gov*.

WHEN ACTING JUDGES MAY BE APPOINTED, AND WHEN ASSIGNED JUDGES MAY BE ASSIGNED						
	Recusal	Vacancy	Incumbent Judge Disqualified, Suspended, or Removed	Incumbent Judge Incapacitated	Incumbent Judge Otherwise Temporarily Unavailable	Caseload Volume Necessitates Additional Judgeship
One	Chief Justice may assign an assigned judge <i>1901.121(A)(1) and 1907.141(A)(1)</i>	Chief Justice may assign an assigned judge <i>1901.121(A)(1) and 1907.141(A)(1)</i>	Chief Justice may assign an assigned judge <i>1901.121(A)(1) and 1907.141(A)(1)</i>	Chief Justice may assign an assigned judge <i>1901.121(A)(1) and 1907.141(A)(1)</i>	Presiding judge may appoint an acting judge (if none available in territory and population served is less than 25,000, may appoint from contiguous court territory) <i>1901.121(A)(2)(a) and 1907.141(A)(2)(a)</i>	Chief Justice may assign an assigned judge <i>1901.121(D)</i>
Two	Chief Justice may assign an assigned judge <i>Sup. R. 17</i>	Presiding judge may appoint an acting judge (if none available in territory and population served is less than 25,000, may appoint from contiguous court territory) <i>1901.121(B)(1) and 1907.141(B)(1)</i>	Presiding judge may appoint an acting judge (if none available in territory and population served is less than 25,000, may appoint from contiguous court territory) <i>1901.121(B)(1) and 1907.141(B)(1)</i>	Presiding judge may appoint an acting judge (if none available in territory and population served is less than 25,000, may appoint from contiguous court territory) <i>1901.121(B)(1) and 1907.141(B)(1)</i>	Presiding judge may appoint an acting judge (if none available in territory and population served is less than 25,000, may appoint from contiguous court territory) <i>1901.121(B)(1) and 1907.141(B)(1)</i>	Chief Justice may assign an assigned judge <i>1901.121(D)</i>
		Chief Justice may assign an assigned judge <i>1901.121(B)(2) and 1907.141(B)(2)</i>	Chief Justice may assign an assigned judge <i>1901.121(B)(2) and 1907.141(B)(2)</i>	Chief Justice may assign an assigned judge <i>1901.121(B)(2) and 1907.141(B)(2)</i>	Chief Justice may assign an assigned judge <i>1901.121(B)(2) and 1907.141(B)(2)</i>	
Three or more	Chief Justice may assign an assigned judge <i>Sup. R. 17</i>	Presiding judge may appoint an acting judge <i>1901.121(C)(1) and 1907.141(C)(1)</i>	Presiding judge may appoint an acting judge <i>1901.121(C)(1) and 1907.141(C)(1)</i>	Presiding judge may appoint an acting judge <i>1901.121(C)(1) and 1907.141(C)(1)</i>	Presiding judge may appoint an acting judge <i>1901.121(C)(1) and 1907.141(C)(1)</i>	Chief Justice may assign an assigned judge <i>1901.121(D)</i>
		Chief Justice may assign an assigned judge <i>1901.121(C)(2) and 1907.141(C)(2)</i>	Chief Justice may assign an assigned judge <i>1901.121(C)(2) and 1907.141(C)(2)</i>	Chief Justice may assign an assigned judge <i>1901.121(C)(2) and 1907.141(C)(2)</i>	Chief Justice may assign an assigned judge <i>1901.121(C)(2) and 1907.141(C)(2)</i>	

NUMBER OF JUDGES IN COURT

Sec. 1901.121.(A)(1) If a vacancy occurs in the office of a judge of a municipal court that consists of only one judge or if the judge of a municipal court of that nature is incapacitated or unavailable due to disqualification, suspension, or recusal, the chief justice of the supreme court may assign a sitting judge of another court of record or a retired judge of a court of record to temporarily serve on the court in accordance with rules adopted by the supreme court pursuant to division (A)(1) of Section 5 of Article IV, Ohio Constitution. The assignee shall be styled "assigned judge" and shall serve for any period of time the chief justice may prescribe.

(2) If a judge of a municipal court that consists of only one judge is otherwise temporarily absent for a reason other than as specified in division (A)(1) of this section, the judge may do either of the following:

(a) Appoint a substitute who is a resident of the territory of the court or, if the territory of the court has a population of less than twenty-five thousand according to the latest federal decennial census and the judge is unable to appoint a substitute who is a resident of the territory of the court, appoint a substitute who is a resident of the territory of a municipal or county court that is contiguous to the court. The appointee shall either be admitted to the practice of law in this state and have been, for a total of at least six years preceding appointment, engaged in the practice of law in this state or a judge of a court of record in any jurisdiction in the United States or be a retired judge of a court of record. The appointee shall be styled "acting judge" and shall temporarily serve on the court during the temporary absence of the incumbent judge.

(b) Request the chief justice of the supreme court to assign a sitting judge of another court of record or a retired judge of a court of record to temporarily serve on the court in accordance with rules adopted by the supreme court pursuant to division (A)(1) of Section 5 of Article IV, Ohio Constitution. The assignee shall be styled "assigned judge" and shall serve for any period of time the chief justice may prescribe.

(B) If a vacancy occurs in the office of a judge of a municipal court that consists of two judges or if a judge of a municipal court of that nature is incapacitated, unavailable, or temporarily absent, the presiding judge may do either of the following:

(1) Appoint a substitute who is a resident of the territory of the court or, if the territory of the court has a population of less than twenty-five thousand according to the latest federal decennial census and the judge is unable to appoint a substitute who is a resident of the territory of the court, appoint a substitute who is a resident of the territory of a municipal or county court that is contiguous to the court. The appointee shall either be admitted to the practice of law in this state and have been, for a total of at least six years preceding appointment, engaged in the practice of law in this state or a judge of a court of record in any jurisdiction in the United States or be a retired judge of a court of record. The appointee shall be styled "acting judge" and shall temporarily serve on the court during the vacancy or the incapacity, unavailability, or temporary absence of the incumbent judge.

(2) Request the chief justice of the supreme court to assign a sitting judge of another court of record or a retired judge of a court of record to temporarily serve on the court in accordance with rules adopted by the supreme court pursuant to division (A)(1) of Section 5 of Article IV, Ohio Constitution. The assignee shall be styled "assigned judge" and shall serve for any period of time the chief justice may prescribe.

(C) If a vacancy occurs in the office of a judge of a municipal court that consists of three or more judges or if a judge of a municipal court of that nature is incapacitated, unavailable, or temporarily absent, the presiding judge may do either of the following:

(1) If no other judge of the court is available to perform the duties of the judge, appoint a substitute who is a resident of the territory of the court. The appointee shall either be admitted to the practice of law in this state and have been, for a total of at least six years preceding appointment, engaged in the practice of law in this state or a judge of a court of record in any jurisdiction in the United States or be a retired judge of a court of record. The appointee shall be styled "acting judge" and shall temporarily serve on the court during the vacancy or the incapacity, unavailability, or temporary absence of the incumbent judge.

(2) Request the chief justice of the supreme court to assign a sitting judge of another court of record or a retired judge of a court of record to temporarily serve on the court in accordance with rules adopted by the supreme court pursuant to division (A)(1) of Section 5 of Article IV, Ohio Constitution. The assignee shall be styled "assigned judge" and shall serve for any period of time the chief justice may prescribe.

(D) When the volume of cases pending in any municipal court necessitates an additional judge, the judge, if the court consists of a single judge, or the presiding judge, if the court consists of two or more judges, may request the chief justice of the supreme court to assign a sitting judge of another court of record or a retired judge of a court of record to temporarily serve on the court in accordance with rules adopted by the supreme court pursuant to division (A)(1) of Section 5 of Article IV, Ohio Constitution. The appointee shall be styled "assigned judge" and shall serve for any period of time the chief justice may prescribe.

(E) An acting judge appointed pursuant to division (A)(2)(a), (B)(1), or (C)(1) of this section and an assigned judge assigned pursuant to division (A)(1), (A)(2)(b), (B)(2), (C)(2), or (D) of this section shall have the jurisdiction and adjudicatory powers conferred upon the judge of the municipal court. During the time of service, the acting judge or assigned judge shall sign all process and records and shall perform all acts pertaining to the office, except that of removal and appointment of officers of the municipal court. All courts shall take judicial notice of the selection and powers of the acting judge or assigned judge.

1901.123 Payment of per diem compensation.

(A)

(1) Subject to reimbursement under division (B) of this section, the treasurer of the county in which a county-operated municipal court or other municipal court is located shall pay the per diem compensation to which an acting judge appointed pursuant to division (A)(2)(a), (B)(1), or (C)(1) of section 1901.121 of the Revised Code is entitled pursuant to division (A)(1) of section 1901.122 of the Revised Code.

(2) The treasurer of the county in which a county-operated municipal court or other municipal court is located shall pay the per diem compensation to which an assigned judge assigned pursuant to division (A)(1), (A)(2)(b), (B)(2), (C)(2), or (D) of section 1901.121 of the Revised Code is entitled pursuant to division (B)(1) or (4) of section 1901.122 of the Revised Code.

(3) Subject to reimbursement under division (B) of this section, the treasurer of the county in which a county-operated municipal court or other municipal court is located shall pay the per diem compensation to which an assigned judge assigned pursuant to division (A)(1), (A)(2)(b), (B)(2), (C)(2), or (D) of section 1901.121 of the Revised Code is entitled pursuant to division (B)(2) of section 1901.122 of the Revised Code.

(4) Subject to reimbursement under division (C) of this section, the supreme court shall pay the per diem compensation to which an assigned judge assigned pursuant to division (A)(1), (A)(2)(b), (B)(2), (C)(2), or (D) of section 1901.121 of the Revised Code is entitled pursuant to division (B)(3) of section 1901.122 of the Revised Code.

(B) The treasurer of a county that, pursuant to division (A)(1) or (3) of this section, is required to pay the per diem compensation to which an acting judge or assigned judge is entitled, shall submit to the administrative director of the supreme court quarterly requests for reimbursements of the state portion of the per diem amounts so paid. The requests shall include verifications of the payment of those amounts and an affidavit from the acting judge or assigned judge stating the days and hours worked. The administrative director shall cause reimbursements of the state portion of the per diem Page 2 amounts paid to be issued to the county if the administrative director verifies that those amounts were, in fact, so paid.

(C) If the supreme court, pursuant to division (A)(4) of this section, is required to pay the per diem compensation to which an assigned judge is entitled, annually, on the first day of August, the administrative director of the supreme court shall issue a billing to the county treasurer of any county to which such a judge was assigned to a municipal court for reimbursement of the county or local portion of the per diem compensation previously paid by the supreme court for the twelve-month period preceding the last day of June. The county or local portion of the per diem compensation shall be that part of each per diem paid by the state which is proportional to the county or local shares of the total compensation of a resident judge of such court. The county treasurer shall forward the payment within thirty days. After forwarding the payment, the county treasurer shall seek reimbursement from the applicable local municipalities as appropriate.

Amended by 133rd General Assembly, H.B. 312, eff. 1/9/2021.

Sec. 1907.141. (A)(1) If a vacancy occurs in the office of a judge of a county court that consists of only one judge or if the judge of a county court of that nature is incapacitated or unavailable due to disqualification, suspension, or recusal, the chief justice of the supreme court may assign a sitting judge of another court of record or a retired judge of a court of record to temporarily serve on the court in accordance with rules adopted by the supreme court pursuant to division (A)(1) of Section 5 of Article IV, Ohio Constitution. The assignee shall be styled "assigned judge" and shall serve for any period of time the chief justice may prescribe.

(2) If a judge of a county court that consists of only one judge is temporarily absent for a reason other than as specified in division (A)(1) of this section, the judge may do either of the following:

(a) Appoint a substitute who is a resident of the territory of the court or, if the territory of the court has a population of less than twenty-five thousand according to the latest federal decennial census and the judge is unable to appoint a substitute who is a resident of the territory of the court, appoint a substitute who is a resident of the territory of a municipal or county court that is contiguous to the court. The appointee shall either be admitted to the practice of law in this state and have been, for a total of at least six years preceding appointment, engaged in the practice of law in this state or a judge of a court of record in any jurisdiction in the United States or be a retired judge of a court of record. The appointee shall be styled "acting judge" and shall temporarily serve on the court during the temporary absence of the incumbent judge.

(b) Request the chief justice of the supreme court to assign a sitting judge of another court of record or a retired judge of a court of record to temporarily serve on the court in accordance with rules adopted by the supreme court pursuant to division (A)(1) of Section 5 of Article IV, Ohio Constitution. The assignee shall be styled "assigned judge" and shall serve for any period of time the chief justice may prescribe.

(B) If a vacancy occurs in the office of a judge of a county court that consists of two judges or if a judge of a county court of that nature is incapacitated, unavailable, or temporarily absent, the presiding judge may do either of the following:

(1) Appoint a substitute who is a resident of the territory of the court or, if the territory of the court has a population of less than twenty-five thousand according to the latest federal decennial census and the judge is unable to appoint a substitute who is a resident of the territory of the court, appoint a substitute who is a resident of the territory of a municipal or county court that is contiguous to the court. The appointee shall either be admitted to the practice of law in this state and have been, for a total of at least six years preceding appointment, engaged in the practice of law in this state or a judge of a court of record in any jurisdiction in the United States or be a retired judge of a court of record. The appointee shall be styled "acting judge" and shall temporarily serve on the court during the vacancy or the incapacity, unavailability, or temporary absence of the incumbent judge.

(2) Request the chief justice of the supreme court to assign a sitting judge of another court of record or a retired judge of a court of record to temporarily serve on the court in accordance with rules adopted by the supreme court pursuant to division (A)(1) of Section 5 of Article IV, Ohio Constitution. The assignee shall be styled "assigned judge" and shall serve for any period of time the chief justice may prescribe.

(C) If a vacancy occurs in the office of a judge of a county court that consists of three or more judges or if a judge of a county court of that nature is incapacitated, unavailable, or temporarily absent, the presiding judge may do either of the following:

(1) If no other judge of the court is available to perform the duties of the judge, appoint a substitute who is a resident of the territory of the court. The appointee shall either be admitted to the practice of law in this state and have been, for a total of at least six years preceding appointment, engaged in the practice of law in this state or a judge of a court of record in any jurisdiction in the United States or be a retired judge of a court of record. The appointee shall be styled "acting judge" and shall temporarily serve on the court during the vacancy or the incapacity, unavailability, or temporary absence of the incumbent judge.

(2) Request the chief justice of the supreme court to assign a sitting judge of another court of record or a retired judge of a court of record to temporarily serve on the court in accordance with rules adopted by the supreme court pursuant to division (A)(1) of Section 5 of Article IV, Ohio Constitution. The assignee shall be styled "assigned judge" and shall serve for any period of time the chief justice may prescribe.

(D) An acting judge appointed pursuant to division (A)(2)(a), (B)(1), or (C)(1) of this section and an assigned judge assigned pursuant to division (A)(1), (A)(2)(b), (B)(2), or (C)(2) of this section shall have the jurisdiction and adjudicatory powers conferred upon the judge of the county court. During the time of service, the acting judge or assigned judge shall sign all process and records and shall perform all acts pertaining to the office, except that of removal and appointment of officers of the court. All courts shall take judicial notice of the selection and powers of the acting judge or assigned judge.

RULE 17. Assignment of Judges--Municipal and County Courts.**(A) Definitions**

As used in this rule:

(1) “Retired judge” means a person who left service on the applicable court either voluntarily by reason of resignation or retirement or involuntarily by reason of Article IV, Section 6(C) of the Ohio Constitution. “Retired judge” does not include either of the following:

(a) A person who was removed or suspended without reinstatement from service on any court of the state pursuant to the Rules for the Government of the Judiciary or resigned or retired from service on any court of the state while a complaint was pending against the person under those rules;

(b) A person who is engaged in the practice of law.

(2) “Sitting judge” means a person who currently holds judicial office by reason of election or gubernatorial appointment.

(B) Assignment

The Chief Justice or acting Chief Justice of the Supreme Court may assign any of the following persons who consent to temporarily serve as a judge on any municipal or county court:

(1) A sitting judge of a municipal or county court;

(2) A retired judge of a municipal or county court, provided the judge was not defeated in the judge’s final election for new or continued service on a municipal or county court;

(3) A sitting judge of a court of common pleas or court of appeals who formerly served as a judge of a municipal or county court, provided the judge was not defeated in the judge’s final election for new or continued service on a municipal or county court;

(4) A retired judge of a court of common pleas or court of appeals who formerly served as a judge of a municipal or county court, provided the judge was not defeated in the judge’s final election for new or continued service on a municipal or county court;

(5) A sitting judge of a court of common pleas who has not formerly served as a judge of a municipal or county court, but has completed an educational program established by the Supreme Court of Ohio Judicial College;

(6) A retired judge of a court of common pleas who has not formerly served as a judge of a municipal or county court, but has completed an educational program established by the Judicial College.

(C) Compensation

(1) While serving on assignment pursuant to this rule, a judge shall receive actual and necessary expenses, in addition to compensation for each day assigned, computed as follows:

(a) If the assigned judge is a sitting full-time judge of a municipal court, thirty dollars.

(b) If the assigned judge is a sitting part-time judge of a municipal court or a sitting judge of a county court, the greater of the following:

(i) Thirty dollars;

(ii) The per diem compensation of a full-time judge of a municipal court, less the per diem compensation of the assigned judge, each calculated on the basis of two hundred fifty working days per year.

(c) If the assigned judge is a retired judge of a municipal or county court or a court of common pleas, the established per diem compensation for a full-time judge of a municipal court calculated on the basis of two hundred fifty working days per year, in addition to any retirement benefits to which the assigned judge may be entitled;

(d) If the assigned judge is a sitting judge of the court of appeals or court of common pleas, fifty dollars.

(2) All compensation and expenses payable to an assigned judge under this rule, other than any compensation payable pursuant to division (A)(5) or (6) of section 141.04 of the Revised Code, shall be paid from the municipal treasury or, in the case of a county-operated municipal court or a county court, from the county treasury. Payment by and reimbursement to the county treasury of any per diem compensation payable pursuant to division (A)(5) or (6) of section 141.04 of the Revised Code shall be made in the manner set forth in section 1901.121 of the Revised Code.

(D) Construction

This rule shall not be construed to limit the operation of section 2701.031 of the Revised Code or the assignment of acting judges pursuant to sections 1901.10 or 1901.12 of the Revised Code.

(E) Waiver

The Chief Justice may waive compliance with any requirement of this rule to assist the exercise of the Chief Justice's discretion in making temporary assignments of judges pursuant to the Ohio Constitution and the Revised Code.

Commentary (July 1, 1997)**Assignment of sitting and retired municipal and county court judges**

The assignment and compensation of all other sitting and retired judges is addressed in the Ohio Constitution, the Revised Code, and the Guidelines for the Assignment of Judges.

Compensation

The language "actual and necessary expenses" in division (C)(1) of this rule does not appear in the Constitution, but reflects *State, ex rel. Winn v. Galvin* (1974), 39 Ohio St.2d 58, which held actual and necessary expenses are a part of the established compensation of a visiting judge as specified in Section 6(C). While *Winn* concerned common pleas judges, *State, ex rel. Graves v. Brown* (1969), 18 Ohio St.2d 61 held Section 6(C) applies to municipal court judges.

Construction

Section 1901.10 of the Revised Code provides for the appointment of acting judges in municipal courts in the case of temporary absence, incapacity, or unavailability or because of the volume of caseload and the assignment of visiting judges. Section 1901.12 of the Revised Code provides for the appointment of acting judges during periods of vacation. Section 2701.031 of the Revised Code concerns the assignment of a judge in municipal or county court in the event the sitting judge is disqualified.

Rates effective January 1, 2020

Pursuant to S.B. 296 (132nd General Assembly)

Full-time salary: \$141,229.00

Part-time salary: \$81,298.00

		Type of COURT Receiving Assistance of the Acting or Assigned Judge					
		Municipal Court with FULL-TIME Judgeships		Municipal Court or County Court with PART-TIME Judgeships			
		Per Diem Rate	Local Share	State Share	Per Diem Rate	Local Share	State Share
ACTING JUDGE							
Appointed by the court's presiding judge	\$564.92 <i>(not to exceed)</i>	\$247.00 <i>(or otherwise 43.72% of actual per diem paid)</i>	\$317.92 <i>(or otherwise 56.28% of actual per diem paid)</i>	\$625.37 <i>(not to exceed)</i>	\$273.08 <i>(or otherwise 43.67% of actual per diem paid)</i>	\$352.29 <i>(or otherwise 56.33% of actual per diem paid)</i>	
ASSIGNED JUDGE							
Sitting court of appeals judge assigned by Chief Justice	\$50.00	No reimbursable local share	\$50.00	\$50.00	No reimbursable local share	\$50.00	\$50.00
Sitting common pleas court judge assigned by Chief Justice	\$50.00	No reimbursable local share	\$50.00	\$50.00	No reimbursable local share	\$50.00	\$50.00
Sitting full-time municipal court judge assigned by Chief Justice	\$30.00	No reimbursable local share	\$30.00	\$30.00	No reimbursable local share	\$30.00	\$30.00
Sitting part-time municipal court or county court judge assigned by Chief Justice	\$239.72	\$105.00	\$134.72	\$239.72	\$105.00	\$134.72	\$134.72
Retired judge assigned by Chief Justice	\$564.92	\$247.00	\$317.92	\$564.92	\$247.00	\$317.92	\$317.92

Type of JUDGE Assisting the Court

Rates effective January 1, 2021

Pursuant to S.B. 296 (132nd General Assembly)

Full-time salary: \$143,701.00

Part-time salary: \$82,721.00

		Type of COURT Receiving Assistance of the Acting or Assigned Judge							
		Municipal Court with FULL-TIME Judgeships				Municipal Court or County Court with PART-TIME Judgeships			
		Per Diem Rate	Local Share	State Share	Per Diem Rate	Local Share	State Share		
ACTING JUDGE	Appointed by the court's presiding judge	\$574.80 <small>(not to exceed)</small>	\$247.00 <small>(or otherwise 42.97% of actual per diem paid)</small>	\$327.80 <small>(or otherwise 57.03% of actual per diem paid)</small>	\$636.32 <small>(not to exceed)</small>	\$273.08 <small>(or otherwise 42.92% of actual per diem paid)</small>	\$363.24 <small>(or otherwise 57.08% of actual per diem paid)</small>		
	ASSIGNED JUDGE								
	Sitting court of appeals judge assigned by Chief Justice	\$50.00	<i>No reimbursable local share</i>	\$50.00	\$50.00	<i>No reimbursable local share</i>	\$50.00		
	Sitting common pleas court judge assigned by Chief Justice	\$50.00	<i>No reimbursable local share</i>	\$50.00	\$50.00	<i>No reimbursable local share</i>	\$50.00		
	Sitting full-time municipal court judge assigned by Chief Justice	\$30.00	<i>No reimbursable local share</i>	\$30.00	\$30.00	<i>No reimbursable local share</i>	\$30.00		
	Sitting part-time municipal court or county court judge assigned by Chief Justice	\$243.92	\$105.00	\$138.92	\$243.92	\$105.00	\$138.92		
	Retired judge assigned by Chief Justice	\$574.80	\$247.00	\$327.80	\$574.80	\$247.00	\$327.80		

Type of JUDGE Assisting the Court

Rates effective January 1, 2022

Pursuant to S.B. 296 (132nd General Assembly)

Full-time salary: \$146,216.00

Part-time salary: \$84,169.00

		Type of COURT Receiving Assistance of the Acting or Assigned Judge					
		Municipal Court with FULL-TIME Judgeships			Municipal Court or County Court with PART-TIME Judgeships		
		Per Diem Rate	Local Share	State Share	Per Diem Rate	Local Share	State Share
ACTING JUDGE	Appointed by the court's presiding judge	\$584.86 <small>(not to exceed)</small>	\$247.00 <small>(or otherwise 42.23% of actual per diem paid)</small>	\$337.86 <small>(or otherwise 57.77% of actual per diem paid)</small>	\$647.45 <small>(not to exceed)</small>	\$273.08 <small>(or otherwise 42.18% of actual per diem paid)</small>	\$374.37 <small>(or otherwise 57.82% of actual per diem paid)</small>
	ASSIGNED JUDGE						
	Sitting court of appeals judge assigned by Chief Justice	\$50.00	<i>No reimbursable local share</i>	\$50.00	\$50.00	<i>No reimbursable local share</i>	\$50.00
	Sitting common pleas court judge assigned by Chief Justice	\$50.00	<i>No reimbursable local share</i>	\$50.00	\$50.00	<i>No reimbursable local share</i>	\$50.00
	Sitting full-time municipal court judge assigned by Chief Justice	\$30.00	<i>No reimbursable local share</i>	\$30.00	\$30.00	<i>No reimbursable local share</i>	\$30.00
	Sitting part-time municipal court or county court judge assigned by Chief Justice	\$248.19	\$104.81	\$143.38	\$248.19	\$104.81	\$143.38
	Retired judge assigned by Chief Justice	\$584.86	\$247.00	\$337.86	\$584.86	\$247.00	\$337.86

Type of JUDGE Assisting the Court

Rates effective January 1, 2023

Pursuant to S.B. 296 (132nd General Assembly)

Full-time salary: \$148,775.00

Part-time salary: \$85,642.00

		Type of COURT Receiving Assistance of the Acting or Assigned Judge					
		Municipal Court with FULL-TIME Judgeships			Municipal Court or County Court with PART-TIME Judgeships		
		Per Diem Rate	Local Share	State Share	Per Diem Rate	Local Share	State Share
ACTING JUDGE	Appointed by the court's presiding judge	\$595.10 <small>(not to exceed)</small>	\$247.00 <small>(or otherwise 41.51% of actual per diem paid)</small>	\$348.10 <small>(or otherwise 58.49% of actual per diem paid)</small>	\$658.79 <small>(not to exceed)</small>	\$273.08 <small>(or otherwise 41.45% of actual per diem paid)</small>	\$385.71 <small>(or otherwise 58.55% of actual per diem paid)</small>
	ASSIGNED JUDGE						
	Sitting court of appeals judge assigned by Chief Justice	\$50.00	<i>No reimbursable local share</i>	\$50.00	\$50.00	<i>No reimbursable local share</i>	\$50.00
	Sitting common pleas court judge assigned by Chief Justice	\$50.00	<i>No reimbursable local share</i>	\$50.00	\$50.00	<i>No reimbursable local share</i>	\$50.00
	Sitting full-time municipal court judge assigned by Chief Justice	\$30.00	<i>No reimbursable local share</i>	\$30.00	\$30.00	<i>No reimbursable local share</i>	\$30.00
Sitting part-time municipal court or county court judge assigned by Chief Justice	\$252.53	\$104.81	\$147.72	\$252.53	\$104.81	\$147.72	
Retired judge assigned by Chief Justice	\$595.10	\$247.00	\$348.10	\$595.10	\$247.00	\$348.10	

Type of JUDGE Assisting the Court

