

Fiscal Estimate - 2007 Session

Per Joint Rule 48 (3)
 Supplemental

- Original
 Updated
 Corrected
 Supplemental

LRB Number **07-3094/2** Introduction Number **AB-0579**

Description
 Increasing the jurisdictional amount in small claims actions

Fiscal Effect

State:

- No State Fiscal Effect
 Indeterminate
 Increase Existing Appropriations
 Increase Existing Revenues
 Increase Costs - May be possible to absorb within agency's budget
 Decrease Existing Appropriations
 Decrease Existing Revenues
 Yes No
 Create New Appropriations
 Decrease Costs

Local:

- No Local Government Costs
 Indeterminate
 1. Increase Costs 3. Increase Revenue
 Permissive Mandatory
 Permissive Mandatory
 2. Decrease Costs 4. Decrease Revenue
 Permissive Mandatory
 Permissive Mandatory
 5. Types of Local Government Units Affected
 Towns Village Cities
 Counties Others
 School Districts WTCS Districts

Fund Sources Affected **Affected Ch. 20 Appropriations**
 GPR FED PRO PRS SEG SEGS

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Fiscal Estimate Narratives

LFB 2/21/2008

Supplemental

LRB Number 07-3094/2	Introduction Number AB-0579	Estimate Type Original
Description Increasing the jurisdictional amount in small claims actions		

Assumptions Used in Arriving at Fiscal Estimate

Current Law

Small Claims -- Chapter 799 of the statutes provides for the procedures to be used in small claims actions. Under current law, small claims actions include all of the following:

1. Actions for eviction, regardless of the amount of rent claimed;
2. Actions to recover certain forfeitures;
3. Actions for the return of earnest money tended pursuant to a contract for purchase of certain real properties, regardless of the amount claimed;
4. Actions for the confirmation, vacation, modification or corrections of an arbitration award where arbitration was in settlement of a controversy arising out of a transaction for the purchase of certain real properties;
5. Actions for replevin (actions for the return of movable goods) where the value of the property claimed does not exceed \$5,000; or
6. Other civil actions where the amount claimed is \$5,000 or less, if the actions or proceedings are: (a) for money judgments only, except for default judgments on agreements where the debtor accepted liability; (b) for garnishments or most attachments; or (c) to enforce a lien upon movable assets.

In addition, taxing authorities may use the small claims procedures in an action to recover a tax from a person liable for that tax where the amount claimed, including interest and penalties, is \$5,000 or less. Statutes specify, however, that small claims is not the exclusive procedure for these actions.

Court Support Services Surcharge -- The court support services surcharge is placed on all forfeiture judgments and most civil court filings. The surcharge applies as follows: (a) \$51 for various small claims filings; (b) \$169 for various large claims filings; and (c) \$68 for forfeiture action judgments, appeals from municipal courts or administrative decisions, and certain court filings not covered under (a) or (b). Revenue generated from the court support services surcharge is deposited to the state's general fund.

In addition to the court support services surcharge, a justice information system surcharge and filing fee are assessed for small and large claim actions. The justice information surcharge is \$12 for both small and large claims and is divided as follows: \$6 to the circuit courts automation programs (CCAP), \$5 to the Department of Administration for its justice information systems, and \$1 to the general fund. For small claims actions, a \$22 filing fee is assessed, with \$11.80 paid to CCAP and \$10.20 paid to the counties. For large claims actions, a \$75 filing fee is assessed, with \$15 paid to CCAP and \$30 each paid to the general fund and to the counties.

State Claims Board Award Limits--Current law (s. 16.007(6)(a)) specifies that "whenever the Claims Board by unanimous vote finds that payment to a claimant of not more than the amount specified in s. 799.01 (1) (d) [the \$5,000 small claims jurisdictional limit] is justified, it may order the amount that it finds justified to be paid on its own motion without submission of the claim in bill form to the Legislature. The claim shall be paid on a voucher upon the certification of the chairperson and secretary of the board, and shall be charged as provided in sub. (6m)." Under s.16.007(6m), the Claims Board may direct that payment of a claim be made from any appropriation, or if "no determination is made as to the appropriation or appropriations from which a claim shall be paid, the claim shall be paid from the appropriation under s. 20.505 (4) (d) [a GPR sum sufficient appropriation]."

Assembly Bill 579 (AB 579) would increase the jurisdictional limit in small claims cases from \$5,000 or less to \$10,000 or less. Provisions of the bill would become effective on January 1, 2009, and first apply to actions commenced or claims made on that date.

Fiscal Effect

Increasing the jurisdictional limit for small claims actions will shift cases from the large claims caseload to the small claims caseload. However, data is not available to predict the amount of the shift. Civil action filings are not classified by specific dollar amounts, and, based on discussions with state and county court officials, many large claim filings do not identify amounts being sought. For instance, under s. 802.02(1m), "the demand for judgment may not specify the amount of money the pleader seeks" for tort actions (the amount may be identified to a jury or the court).

Since the court fees and surcharges assessed to small claims actions are smaller than those assessed in large claims actions, a decrease in large claims actions would likely result in a loss of revenue to the general fund. In 2006, there were 172,330 small claims actions filed with the courts, and 61,418 large claims actions filed. The potential impact on revenue generated from small and large claim actions as a result of AB 579 would be that for every 1,000 cases filed as a small claim rather than a large claim: (a) state revenues to the general fund would decrease by approximately \$148,000; (b) program revenue funding to CCAP would decrease by \$3,000; and (c) revenue to county governments would decrease by a total of \$20,000.

In addition to the shift of current cases from large claims to small claims, AB 579 could generate new small claims cases to the extent that the previous \$5,000 limit may have discouraged the filing of any claim and the \$10,000 limit is viewed as a more favorable amount. It is not known how many new small claims would be filed. However, for every new 1,000 cases filed as a small claim: (a) state revenues to the general fund would increase by approximately \$52,000; (b) program revenue funding to CCAP would increase by \$18,000; (c) justice information fee revenue to the Department of Administration would increase by \$5,000; and (d) revenue to county governments would increase by a total of \$10,000.

Further, since the limit on claims paid by the State Claims Board without separate legislation is associated with the small claims jurisdictional limit, the increase in the small claims jurisdictional amount under AB 579 would result in an increase to the maximum state claims payment that could be made without legislation. Any increase in actual payments, however, would be dependent on specific claims, the merit of each claim, and the affirmative action of the Claims Board. Therefore, an estimate of the fiscal effect under AB 579 associated with state claims payments cannot be identified.

Because AB 579 becomes effective on January 1, 2009, the fully annualized fiscal effect of the bill will not occur until the first year of the 2009-11 biennium.

Long-Range Fiscal Implications

Under AB 579, the jurisdictional amount for small claims actions would increase from \$5,000 or less to \$10,000 or less. Assuming a shift in cases from large claims to small claims, the net effect would be a decrease in state general fund revenue, CCAP program revenue and revenues to the counties. Any increase in new small claims cases could generate increased revenue for the state and counties.