



## Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #1130

### **Court Support Services Fee Increase (Circuit Courts)**

[LFB Summary of the Governor's Budget Reform Bill: Page 26, #1]

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#### **CURRENT LAW**

Under current law, a filing fee is charged for initiating large and small claims actions and other actions in circuit court, and for various counterclaims, cross-complaints, third-party complaints and appeals in cases that have already been filed, ranging from \$10 (for commencing a wage earner action) to \$75 (for commencing most civil actions). For most civil filings, two additional fees are assessed: (a) a \$9 justice information fee; and (b) a court support services fee. For commencement of family actions, a \$20 family court counseling fee is also assessed (if the action includes a request for support or maintenance, an additional \$10 support or maintenance petition fee is assessed).

The court support services fee ranges from: (a) \$40 for certain civil actions and special proceedings, third-party complaints, appeals from municipal court, reviews of administrative decisions or forfeiture actions in circuit court (forfeiture judgments and most civil actions); (b) \$100 for certain civil actions and special proceedings, third-party complaints or certain garnishment or wage earner actions, if the party paying the fee seeks the recovery of money and the amount claimed exceeds \$5,000 (large claims actions); and (c) \$30 for certain small claims actions (including counterclaims or cross complaints), civil actions and special proceedings, third-party complaints or certain garnishment or wage earner actions, if the party paying the fee seeks the recovery of money and the amount claimed is \$5,000 or less (small claims actions). In 2000-01, the court support services fee generated \$26,993,600 in revenue, which is deposited to the general fund as GPR-Earned.

## **GOVERNOR**

Increase the court support services fee by 30% as follows: (a) increase to \$52 the \$40 fee for certain civil actions and special proceedings, third-party complaints, appeals from municipal court, reviews of administrative decisions or forfeiture actions; (b) increase to \$130 the \$100 fee for certain large claim civil actions and special proceedings, third-party complaints or certain garnishment or wage earner actions; and (c) increase to \$39 the \$30 fee for certain small claims actions, civil actions and special proceedings, third-party complaints or certain garnishment or wage earner actions. Provide that the fee increase would first apply to actions commenced on July 1, 2002.

## **DISCUSSION POINTS**

1. The court support services fee was established in the 1993-95 biennial budget as a \$20 fee on all forfeiture judgments and most civil court filings. In the 1995-97 biennial budget, the fee was increased to its current levels (\$30 for filing small claims actions, \$100 for filing large claim actions and \$40 for other civil court filings and forfeiture judgments). For 2001-02 and 2002-03, the circuit court support fee is estimated to generate \$27 million annually in general fund revenue.

2. In conjunction with the creation of the court support services fee, three programs were established to provide state funding to counties for certain court costs paid by counties: (a) circuit court support grants, which partially reimburse counties for county court costs excluding security, rent, utilities, maintenance, remodeling or construction; (b) guardian ad litem services reimbursements; and (c) public defender transcript fee payments (the State Public Defender [SPD] pays counties for the costs of transcripts requested by public defenders and state-appointed private bar attorneys). These three programs are appropriated a total of approximately \$24.7 million GPR annually.

3. In 2001 Act 16, the 2001-03 biennial budget act, the SPD GPR appropriations were annually reduced, in total, by 5% of the SPD's GPR adjusted base for state operations; and the Circuit Courts, Court of Appeals and Supreme Court's GPR appropriations were annually reduced, in total, by 4% of their respective GPR adjusted bases for state operations. Under the bill: (a) the SPD's program administration appropriation would be reduced by an additional 3.5% in 2001-02 and 5% in 2002-03; and (b) the Supreme Court's two sum certain state operations appropriations, the Director of State Courts general program operations and the law library general program operations appropriations, would also be reduced by an additional 3.5% in 2001-02 and 5% in 2002-03. Other SPD appropriations and the Circuit Court, Court of Appeals and Supreme Court appropriations for court operations would not be reduced under the bill. The Governor's budget reform bill summary indicates that the Governor recommends increasing the court support services fee in lieu of making additional reductions for direct court functions and SPD services.

4. The court support services fee was originally created as a funding mechanism to provide state support for county court-related costs. From 1993-94 through 1995-96, state

reimbursements to counties under the three programs were higher than the general fund revenue generated from the court support services fee. Since 1996-97, however, the fee has generated revenues above the amounts reimbursed to counties, and revenue from the fee during the 2001-03 biennium is estimated under current law to exceed reimbursements by approximately \$2.3 million annually. The Governor's proposal to increase the court support services fee by 30% could be seen as an expansion of a funding mechanism to partially fund state GPR court costs.

5. Some might argue that access to the courts is a basic right and that a 30% increase in the court support services fee could limit citizen access to the courtroom. Under current law, a person filing a large claim action pays \$184 to commence the action as follows: (a) a \$75 filing fee; (b) a \$100 court support services fee; and (c) a \$9 justice information fee. A person filing a small claim action pays \$61: (a) a \$22 filing fee; (b) a \$30 court support services fee; and (c) a \$9 justice information fee. A person filing a family court action with a request for support or maintenance pays \$154: (a) a \$75 filing fee; (b) a \$40 court support services fee; (c) a \$9 justice information fee; (d) a \$20 family court counseling fee; and (e) a \$10 support or maintenance petition fee. Under the Governor's recommendation, the total fees associated with filing large claims, small claims and family actions with a request for support or maintenance would increase to \$214, \$70 and \$166, respectively.

6. On the other hand, it could be argued that the fee has not been raised since 1995 and the fee increase would protect the administration of justice, by sparing basic court operations and SPD services for indigent defendants from further reductions.

7. The Governor's budget reform bill summary projects \$8 million in general fund revenue in 2002-03 from the fee increase. Based upon updated projections, it is estimated that a 30% court support services fee increase would generate \$8,100,000 in general fund revenue in 2002-03. A 15% court support services fee increase would generate an estimated \$4,050,000 in general fund revenue in 2002-03.

## **ALTERNATIVES TO BILL**

1. Approve the Governor's recommendation to increase the court support services fee by 30%, to apply to actions commenced on July 1, 2002, as follows: (a) increase to \$52 the \$40 fee for certain civil actions and special proceedings, third-party complaints, appeals from municipal court, reviews of administrative decisions or forfeiture actions in circuit court; (b) increase to \$130 the \$100 fee for certain civil actions and special proceedings, third-party complaints or certain garnishment or wage earner actions, if the party paying the fee seeks the recovery of money and the amount claimed exceeds \$5,000; and (c) increase to \$39 the \$30 fee for certain small claims actions (including counterclaims or cross complaints), civil actions and special proceedings, third-party complaints or certain garnishment or wage earner actions, if the party paying the fee seeks the recovery of money and the amount claimed is \$5,000 or less. In addition, reestimate the amount of GPR-Earned to be deposited to the general fund associated with the fee increases by an additional \$100,000 in 2002-03.

<b>Alternative 1</b>	<b>GPR</b>
2001-03 REVENUE	\$100,000

2. Modify the Governor's recommendation by increasing the court support services fee by 15% as follows: (a) increase to \$46 the \$40 fee for certain civil actions and special proceedings, third-party complaints, appeals from municipal court, reviews of administrative decisions or forfeiture actions; (b) increase to \$115 the \$100 fee for certain large claim civil actions and special proceedings, third-party complaints or certain garnishment or wage earner actions; and (c) increase to \$34.50 the \$30 fee for certain small claims actions, civil actions and special proceedings, third-party complaints or certain garnishment or wage earner actions.

<b>Alternative 2</b>	<b>GPR</b>
2001-03 REVENUE	- \$3,950,000

3. Maintain current law.

<b>Alternative 3</b>	<b>GPR</b>
2001-03 REVENUE	- \$8,000,000

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