

**2003 DRAFTING REQUEST**

**Senate Amendment (SA-SB44)**

Received: **05/12/2003**

Received By: **rnelson2**

Wanted: **As time permits**

Identical to LRB:

For: **Legislative Fiscal Bureau**

By/Representing: **Carmichael**

This file may be shown to any legislator: **NO**

Drafter: **rnelson2**

May Contact:

Addl. Drafters:

Subject: **Courts - costs and fees**

Extra Copies:

Submit via email: **YES**

Requester's email:

Carbon copy (CC:) to:

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**Pre Topic:**

LFB:.....Carmichael -

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**Topic:**

Increased court fees

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**Instructions:**

See Attached

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**Drafting History:**

| <u>Vers.</u> | <u>Drafted</u>         | <u>Reviewed</u>       | <u>Typed</u>           | <u>Proofed</u> | <u>Submitted</u>     | <u>Jacketed</u> | <u>Required</u> |
|--------------|------------------------|-----------------------|------------------------|----------------|----------------------|-----------------|-----------------|
| /1           | rnelson2<br>05/12/2003 | kgilfoy<br>05/12/2003 | rschluet<br>05/12/2003 | _____          | lemery<br>05/12/2003 |                 |                 |

FE Sent For:

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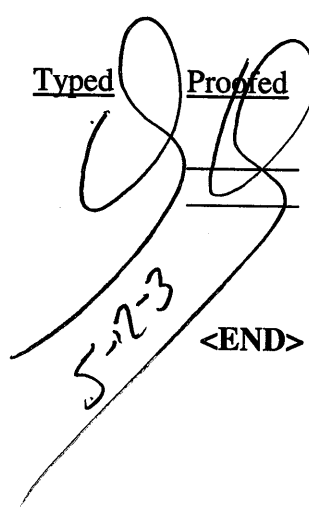
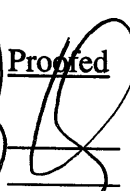
Increased court fees

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FE Sent For:

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## Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

May 7, 2003

Joint Committee on Finance

Paper #210

### **Court Support Service Fee Increase and Increased Filing Fees (Circuit Courts, Court of Appeals and Supreme Court)**

[LFB 2003-05 Budget Summary: Page 95, #2, Page 131, #2, and Page 396, #3]

#### **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 is: (a) \$52 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) \$130 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) \$39 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).

For filing an appeal, cross-appeal, petition for review, petition to bypass, or other appellate proceeding in the Court of Appeals or the Supreme Court, a filing fee of \$150 is charged.

Revenue generated from the court support services fee and from Court of Appeals and Supreme Court filing fees are deposited to the general fund as GPR-Earned.

## **GOVERNOR**

Increase the court support services fee by 30% as follows: (a) increase to \$67.60 the \$52 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 \$169 the \$130 fee for certain large claim civil actions and special proceedings, third-party complaints or certain garnishment or wage earner actions; and (c) increase to \$50.70 the \$39 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 the effective date of the bill.

Increase the filing fee for an appeal, cross-appeal, petition for review, petition to bypass, or other appellate proceeding by 30% from \$150 to \$195.

Total additional revenue generated by the fee increases is estimated to be: (a) for the court support services fee, \$9,287,700 in 2003-04 and \$11,205,600 in 2004-05; (b) for the Court of Appeals filing fee, \$68,300 in 2003-04 and \$81,700 in 2004-05; and (c) for the Supreme Court filing fee, \$17,300 in 2003-04 and \$20,900 in 2004-05. In total, the bill estimates additional revenue at \$9,373,300 in 2003-04 and \$11,308,200 in 2004-05.

## **DISCUSSION POINTS**

1. The court support services fee was established in 1993 as a \$20 fee on all forfeiture judgments and most civil court filings. In 1995, the fee was increased to \$30 for filing small claims actions, \$100 for filing large claim actions and \$40 for other civil court filings and forfeiture judgments. Under 2001 Act 109 (the 2001-03 budget adjustment bill), the fee was increased 30% to \$39 for filing small claims actions, \$130 for filing large claim actions, and \$52 for other civil court filings and forfeiture judgments.
2. The fee for filing an appeal, cross-appeal, petition for review, petition to bypass, or other appellate proceeding was increased from \$50 to \$150 in the 1985-87 biennial budget.
3. In 1993, 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 pays counties for the costs of transcripts requested by public defenders and state-appointed private bar attorneys).
4. The court support services fee was originally created to offset the costs of the three

16. Increased revenues from the court support services fee and appeals filing fees are included in the Governor's general fund revenue estimate. To the extent that the fees are increased by less than 30%, revenues to the general fund will be less than estimated by the Governor. On March 20, 2003, the Chief Justice of the Supreme Court indicated concern that the fee increases may limit access to the courts. However, the Chief Justice also stated that "these fee increases are intended to allow for the flexibility provided the Court and therefore may be necessary to maintain the Court's constitutionally mandated services in this biennium."

**ALTERNATIVES**

1. Approve the Governor's recommendation to increase the court support services fee by 30%, to apply to actions commenced on the effective date of the bill, as follows: (a) increase to \$67.60 the \$52 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 \$169 the \$130 fee for certain large claim civil actions and special proceedings, third-party complaints or certain garnishment or wage earner actions; and (c) increase to \$50.70 the \$39 fee for certain small claims actions, civil actions and special proceedings, third-party complaints or certain garnishment or wage earner actions. Increase the fee for filing an appeal, cross-appeal, petition for review, petition to bypass, or other appellate proceeding 30% from \$150 to \$195. Total additional revenue from the fee increases would be \$9,066,700 in 2003-04 and \$13,336,300 in 2004-05.

*Carmichael*

|                                  |             |
|----------------------------------|-------------|
| <u>Alternative 1</u>             | <u>GPR</u>  |
| 2003-05 REVENUE (Change to Bill) | \$1,721,500 |

2. Reestimate revenues generated by the Governor's recommendation to increase fees by 30% and establish court fees to whole numbers as follows: (a) increase to \$68 the \$52 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 \$169 the \$130 fee for certain large claim civil actions and special proceedings, third-party complaints or certain garnishment or wage earner actions; and (c) increase to \$51 the \$39 fee for certain small claims actions, civil actions and special proceedings, third-party complaints or certain garnishment or wage earner actions. Increase the fee for filing an appeal, cross-appeal, petition for review, petition to bypass, or other appellate proceeding from \$150 to \$195.

|                                  |             |
|----------------------------------|-------------|
| <u>Alternative 2</u>             | <u>GPR</u>  |
| 2003-05 REVENUE (Change to Bill) | \$2,150,200 |

3. Increase fees by 32% to generate sufficient revenue to fund increased GPR operating Courts, and establish court fees to whole numbers as follows: (a) increase to \$69 the \$52 fee for certain civil actions and special proceedings, third-party complaints, appeals from municipal court,

\$13,336,300 in 2004-05. The reestimated revenues would be \$306,600 less in 2003-04 than estimated in SB 44 and \$2,028,100 more in 2004-05.

12. Under the bill, fees are established at fractional dollar amounts. Court fees have historically been set at whole numbers. If the Committee wishes, fees could be set at whole dollar amounts. Based on the updated assumptions, and using whole numbers for the fees, additional revenue for the fee increases may be reestimated as follows: (a) for the court support services fee increase, \$9,137,400 million in 2003-04 and \$13,463,900 million in 2004-05; (b) for the Court of Appeals filing fee increase, \$88,000 in 2003-04 and \$95,200 in 2004-05; and (c) for the Supreme Court filing fee increase, \$22,600 in 2003-04 and \$24,600 in 2004-05. Total additional revenue would be \$9,248,000 in 2003-04 and \$13,583,700 in 2004-05. These reestimated revenues would be \$125,300 less than SB 44 in 2003-04 and \$2,275,500 more in 2004-05.

13. Although the reestimate of additional revenue is more than initially projected, the amount would not be sufficient to fund increased GPR operating costs for the courts in 2003-04. In order to fund increased GPR operating costs for the Courts in 2003-04, a 32% fee increase would be necessary as follows: (a) increase to \$69 the \$52 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 \$172 the \$130 fee for certain large claim civil actions and special proceedings, third-party complaints or certain garnishment or wage earner actions; and (c) increase to \$51 the \$39 fee for certain small claims actions, civil actions and special proceedings, third-party complaints or certain garnishment or wage earner actions. Increase the filing fee for an appeal, cross-appeal, petition for review, petition to bypass, or other appellate proceeding from \$150 to \$198. Total additional revenue for a 32% increase would be \$9,777,700 in 2003-04 and \$14,304,000 in 2004-05.

14. It could be argued that access to the courts is a basic right and that a 30% increase in the court support services fee may limit citizen access to the courts. Further, the court support services fee was just recently increased by 30% in 2001 Act 109.

15. While the bill increases the court support services fee and appeals filing fees by 30% to cover increased court costs and to generate additional revenue for deposit to the general fund, the increased fees do not directly support any specific court program. Any percentage increase in fees could, therefore, be provided to generate additional revenue to the general fund. If the Committee wishes, the fees could be increased by any of the following percentages:

| <u>Increase</u> | <u>Additional Revenue</u> |                | <u>Change to Bill</u> |
|-----------------|---------------------------|----------------|-----------------------|
|                 | <u>2003-04</u>            | <u>2004-05</u> |                       |
| 5%              | \$2,440,800               | \$4,324,500    | -\$13,916,200         |
| 10              | 3,523,900                 | 5,797,000      | -11,360,600           |
| 15              | 5,080,300                 | 7,914,300      | -7,686,900            |
| 20              | 6,163,400                 | 9,386,700      | -5,131,400            |
| 25              | 7,719,800                 | 11,504,100     | -1,457,600            |



