



## 1995 ASSEMBLY BILL 219

March 17, 1995 - Introduced by Representatives VRAKAS, GROTHMAN, HAHN, F. LASEE, URBAN, GUNDERSON, OTT, SERATTI, AINSWORTH, PORTER, WARD and OWENS, cosponsored by Senators HUELSMAN, DARLING and ROSENZWEIG. Referred to Committee on Judiciary.

1     **AN ACT** *to repeal* 799.25 (11) and 814.63 (2); *to amend* 66.12 (3) (a), 800.02 (2)  
2           (a) 8., 800.03 (3), 800.04 (2) (c), 800.09 (1) (intro.), 800.09 (2) (b), 814.63 (1) (a),  
3           814.63 (1) (b), 814.63 (4), 814.63 (5) (a) and 814.65 (4) (a); and *to create* 758.19  
4           (7) and 814.65 (1m) of the statutes; **relating to:** fees in municipal court,  
5           establishing a municipal court automation fee and providing an exemption  
6           from rule-making procedures.

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### *Analysis by the Legislative Reference Bureau*

Under current law, the defendant in a forfeiture action in circuit court is required to pay a fee of \$20. After December 31, 1995, that fee will be \$15. If the forfeiture action in circuit court is for the violation of a county, town, city, village or public inland lake protection and rehabilitation district ordinance, the county, town, city, village or public inland lake protection and rehabilitation district is required to pay an additional fee of \$5 to the clerk of circuit court. This bill raises the fee that the defendant has to pay the clerk of circuit court in forfeiture actions involving county, town, city, village or public inland lake protection and rehabilitation district ordinances by \$5 and repeals the requirement that the county, town, city, village or public inland lake protection and rehabilitation district pay a \$5 fee in those cases.

Under current law, the clerk of circuit court collects a \$3 automation fee in circuit court actions to be used to automate the circuit courts. This bill allows a municipal judge to collect a \$3 automation fee in municipal court actions to be used to automate municipal courts. The municipal judge may only collect the \$3 fee after the director of state courts has specified in writing that the municipal court meets the policies established by the director of state courts for the automation of a municipal court.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 66.12 (3) (a) of the statutes is amended to read:

2           66.12 **(3)** (a) Fees in forfeiture actions in circuit court for violations of  
3 ordinances are prescribed in s. 814.63 (1) ~~and (2)~~.

4           **SECTION 2.** 758.19 (7) of the statutes is created to read:

5           758.19 **(7)** The director of state courts shall develop and promote municipal  
6 court automation information systems. The director of state courts shall establish  
7 policies and criteria to use when determining if a municipal court is being automated  
8 and eligible to collect the automation fee under s. 814.65 (1m). The director of state  
9 courts need not promulgate the policies and criteria as rules under ch. 227. The  
10 director of state courts shall review a municipal court's information system upon the  
11 request of the municipal court and specify in writing if that court meets the policies  
12 and criteria established under this subsection.

13           **SECTION 3.** 799.25 (11) of the statutes is repealed.

14           **SECTION 4.** 800.02 (2) (a) 8. of the statutes is amended to read:

15           800.02 **(2)** (a) 8. Notice that if the defendant makes a deposit and fails to appear  
16 in court at the time fixed in the citation, the defendant is deemed to have tendered  
17 a plea of no contest and submits to a forfeiture, penalty assessment, jail assessment  
18 and any applicable domestic abuse assessment plus costs, including the ~~fee~~ fees  
19 prescribed in s. 814.65 (1) and (1m), not to exceed the amount of the deposit. The  
20 notice shall also state that the court may decide to summon the defendant rather  
21 than accept the deposit and plea.

1           **SECTION 5.** 800.03 (3) of the statutes is amended to read:

2           800.03 (3) The amount of the deposit shall be set by the municipal judge, but  
3 shall not be effective until approved by the governing body of the municipality. The  
4 amount shall not exceed the maximum penalty for the offense, including any penalty  
5 assessment that would be applicable under s. 165.87, any jail assessment that would  
6 be applicable under s. 302.46 (1) and any domestic abuse assessment that would be  
7 applicable under s. 973.055 (1), plus court costs, including the fee fees prescribed in  
8 s. 814.65 (1) and (1m).

9           **SECTION 6.** 800.04 (2) (c) of the statutes is amended to read:

10          800.04 (2) (c) If the defendant has made a deposit under par. (b) or s. 800.03  
11 and does not appear, he or she is deemed to have tendered a plea of no contest and  
12 submits to a forfeiture, a penalty assessment imposed by s. 165.87, a jail assessment  
13 imposed by s. 302.46 (1) and any applicable domestic abuse assessment imposed by  
14 s. 973.055 (1) plus costs, including the fee fees prescribed in s. 814.65 (1) and (1m),  
15 not exceeding the amount of the deposit. The court may either accept the plea of no  
16 contest and enter judgment accordingly, or reject the plea and issue a summons. If  
17 the court finds that the violation meets the conditions in s. 800.093 (1), the court may  
18 summon the alleged violator into court to determine if restitution shall be ordered  
19 under s. 800.093. If the defendant fails to appear in response to the summons, the  
20 court shall issue a warrant under s. 968.09. If the defendant has made a deposit but  
21 does appear, the court shall allow the defendant to withdraw the plea of no contest.

22          **SECTION 7.** 800.09 (1) (intro.) of the statutes is amended to read:

23          **800.09 (1) JUDGMENT.** (intro.) If a municipal court finds a defendant guilty it  
24 may render judgment by ordering restitution under s. 800.093 and payment of a  
25 forfeiture, the penalty assessment imposed by s. 165.87, the jail assessment imposed

1 by s. 302.46 (1) and any applicable domestic abuse assessment imposed by s. 973.055  
2 (1) plus costs of prosecution, including the fee fees prescribed in s. 814.65 (1) and  
3 (1m). The court shall apply any payment received on a judgment that includes  
4 restitution to first satisfy any payment of restitution ordered, then to pay the  
5 forfeiture, assessments and costs. If the judgment is not paid, the court may proceed  
6 under par. (a), (b) or (c) or any combination of those paragraphs, as follows:

7 **SECTION 8.** 800.09 (2) (b) of the statutes, is amended to read:

8 800.09 (2) (b) If the person charged fails to appear personally or by an attorney  
9 at the time fixed for hearing of the case, the defendant may be deemed to have  
10 entered a plea of no contest and the money deposited, if any, or such portion thereof  
11 as the court determines to be an adequate penalty, plus the penalty assessment, the  
12 jail assessment and any applicable domestic abuse assessment plus costs, including  
13 the fee fees prescribed in s. 814.65 (1) and (1m), may be declared forfeited by the court  
14 or may be ordered applied upon the payment of any penalty which may be imposed,  
15 together with the penalty assessment, the jail assessment and any applicable  
16 domestic abuse assessment plus costs. If the court finds that the violation meets the  
17 conditions in s. 800.093 (1), the court may summon the alleged violator into court to  
18 determine if restitution shall be ordered under s. 800.093. Any money remaining  
19 after payment of any penalties, assessments, costs and restitution shall be refunded  
20 to the person who made the deposit.

21 **SECTION 9.** 814.63 (1) (a) of the statutes is amended to read:

22 814.63 (1) (a) Except as provided in par. (b), in ~~all~~ forfeiture actions in circuit  
23 court, the clerk of circuit court shall collect a fee of \$15 to be paid by the defendant  
24 when judgment is entered against the defendant, except that in forfeiture actions  
25 involving the violation of a county, town, city, village or public inland lake protection

1 and rehabilitation district ordinance, the defendant shall pay an additional \$5 to the  
2 clerk of circuit court.

3 **SECTION 10.** 814.63 (1) (b) of the statutes is amended to read:

4 814.63 (1) (b) Beginning with the fees imposed on September 1, 1989, and  
5 ending with the fees imposed on December 31, 1995, in all forfeiture actions in circuit  
6 court, the clerk of circuit court shall collect a fee of \$20 to be paid by the defendant  
7 when judgment is entered against the defendant, except that in forfeiture actions  
8 involving the violation of a county, town, city, village or public inland lake protection  
9 and rehabilitation district ordinance, the defendant shall pay an additional \$5 to the  
10 clerk of circuit court.

11 **SECTION 11.** 814.63 (2) of the statutes is repealed.

12 **SECTION 11.** 814.63 (4) of the statutes is amended to read:

13 814.63 (4) In forfeiture actions in which a county, town, city, village or public  
14 inland lake protection and rehabilitation district prevails, costs and disbursements  
15 shall be allowed to the county, town, city, village or public inland lake protection and  
16 rehabilitation district subject only to ~~sub. (2) and such other~~ any limitation as that  
17 the court may direct.

18 **SECTION 13.** 814.63 (5) (a) of the statutes is amended to read:

19 814.63 (5) (a) Of the fees received by the clerk under sub. (1) (a), the county  
20 treasurer shall pay ~~50%~~ \$7.50 to the state treasurer for deposit in the general fund  
21 and shall retain the balance for the use of the county.

22 **SECTION 14.** 814.65 (1m) of the statutes is created to read:

23 814.65 (1m) FEE FOR AUTOMATION. A municipal judge shall charge and collect  
24 a \$3 court automation fee from any person, including any government unit as defined  
25 in s. 108.02 (17), paying a fee under sub. (1). The municipal judge may charge and

1 collect the automation fee under this subsection after the director of state courts has  
2 specified in writing that the municipal court meets the policies and criteria  
3 established by the director of state courts for the automation of a municipal court.  
4 The municipal court automation fee is in addition to the other fees listed in this  
5 section.

6 **SECTION 15.** 814.65 (4) (a) of the statutes is amended to read:

7 814.65 (4) (a) Other than fees specified in ~~sub.~~ subs. (1) and (1m) and costs  
8 specified in par. (b), no fees or costs are taxable by a municipality to a party before  
9 a municipal court unless it is directly chargeable to the municipality as a  
10 disbursement, such as service of process costs.

11 (END)