



## Legislative Fiscal Bureau

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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]

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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 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

programs. From 1993 through 1996, 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. In 2001-02, the three programs were appropriated a total of approximately \$24.7 million GPR annually, while the court support services fee generated \$28.2 million.

5. For 2002-03, the Department of Administration (DOA) estimates general fund revenue under current law to be: (a) \$34.6 million annually for the court support services fee; (b) \$225,000 annually for the Court of Appeals filing fee; and (c) \$65,000 annually for the Supreme Court filing fee. Based on current revenue projections, however, it is estimated that general fund revenue in 2002-03 will be: (a) \$34.0 million annually for the court support services fee (an average of \$2,833,300 per month); (b) \$215,000 for the Court of Appeals filing fee; and (c) \$63,000 for the Supreme Court filing fee.

6. The Governor's Executive Budget Book projects additional general fund revenue associated with the 30% fee increases as follows: (a) for the court support services fee increase, \$9,287,700 million in 2003-04 and \$11,205,600 million in 2004-05; (b) for the Court of Appeals filing fee increase, \$68,300 in 2003-04 and \$81,700 in 2004-05; and (c) for the Supreme Court filing fee increase, \$17,300 in 2003-04 and \$20,900 in 2004-05. Total additional revenue would be \$9,373,300 in 2003-04 and \$11,308,200 in 2004-05.

7. The administration indicates that the 30% fee increases are intended to: (a) fund the increased operating costs of the courts under the bill; and (b) generate additional GPR-Earned equivalent to 5% of the Courts' operating budget. According to DOA, a smaller fee increase would not raise sufficient revenue to cover these costs in 2003-04. Under the bill, GPR operating costs for the Courts increase by \$6,036,600 in 2003-04 and \$6,244,900 in 2004-05 as follows: (a) Judicial Commission, \$14,100 annually for standard budget adjustments; (b) Circuit Courts, \$4,732,600 in 2003-04 and \$4,940,900 in 2004-05 for standard budget adjustments and the court interpreter reimbursement program; (c) Court of Appeals, \$575,200 annually for standard budget adjustments; and (d) Supreme Court, \$714,700 annually for standard budget adjustments. Five percent of the general program operations appropriations of the Courts is: (a) Circuit Courts, \$2,500,500 annually; (b) Court of Appeals, \$383,000 annually; and (c) Supreme Court, \$555,000 annually. The Courts' 5% operating budget amounts and the increased GPR operating costs for the Courts, total \$9,475,100 in 2003-04 and \$9,683,400 in 2004-05.

8. In a separate item, the Governor recommends that \$750,000 GPR annually from the sum of GPR state operations appropriations of the three courts (Court of Appeals, Circuit Courts and Supreme Court) be lapsed to the general fund. This lapse requirement represents 1.1% of the adjusted base budget for the three courts. This item is addressed in Paper #705.

9. Under current law, a person filing a large claim action pays \$214 to commence the action as follows: (a) a \$75 filing fee; (b) a \$130 court support services fee; and (c) a \$9 justice information fee. A person filing a small claim action pays \$70: (a) a \$22 filing fee; (b) a \$39 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 \$166: (a) a \$75 filing fee; (b) a \$52 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 \$253, \$81.70, and \$181.60, respectively.

10. Revenue estimates under the bill were based on several assumptions, including: (a) the DOA estimates for general fund revenue in 2002-03; (b) increased operating costs which included increased PR and SEG costs for the Supreme Court; (c) a 2.4% increase in the number of cases filed in 2000-01 to 2003-04, and a 2.4% increase from 2003-04 to 2004-05; and (d) a one-month delay in beginning to collect additional revenues.

11. When reviewing DOA's revenue estimates as a result of the proposed increased fees, the following points should be noted:

- In calculating the number of cases to which the increased fees would be applied, it was assumed that between 2000-01 and 2003-04 cases would increase by 2.4%. Based on historic data, however, cases have increased at annual rate of 2.3% (6.9% over the three-year period), which would result in a higher estimated number of cases in 2003-04 to which the new fees would apply. Further, it can be assumed that the annual increase in 2004-05 will be 2.3% rather than 2.4% as assumed under the bill.

- The estimate under the bill assumes that for a one-month period in 2003-04, revenue from the court support services fee will continue at the estimated monthly amounts for 2002-03 (approximately \$2.9 million). Based on more recent data, however, it is estimated that monthly revenue in 2002-03 will average \$2,833,300.

- The bill assumes that the fee increases will begin in August, 2003. While the filing fee increases may be implemented relatively quickly, the increases associated with the court support services fee generally take longer to implement. For this reason, revenue estimates associated with past fee increases have been assumed to begin three months after implementation.

- When calculating total increased GPR court costs (a factor in determining the level at which to establish the increased fees), PR and SEG funding associated with Supreme Court standard budget adjustments was included. Given that the increased fees are intended to offset increased GPR court costs, the PR and SEG costs should be removed from the calculation.

- Based on the above assumptions, additional revenue for the fee increases may be reestimated as follows: (a) for the court support services fee increase, \$8,956,100 in 2003-04 and \$13,216,500 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 \$9,066,700 in 2003-04 and

\$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

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.

<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,

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 fee for filing an appeal, cross-appeal, petition for review, petition to bypass, or other appellate proceeding from \$150 to \$198.

<b><u>Alternative 3</u></b>	<b><u>GPR</u></b>
<b>2003-05 REVENUE</b> (Change to Bill)	\$3,400,200

4. Increase the court support services fee by one of the following percentages. In the table, *civil actions* include civil special proceedings, third-party complaints, appeals from municipal court, reviews of administrative decisions and forfeiture actions, *large claim civil actions* include large claim special proceedings, third-party complaints or certain garnishment or wage earner actions, and *small claims actions* include civil actions and special proceedings, third-party complaints or certain garnishment or wage earner actions.

	<u>Percent Increase</u>	<u>Certain Civil Actions</u>	<u>Large Claim Civil Actions</u>	<u>Small Claim Civil Actions</u>	<u>Appeals Filings</u>	<u>GPR-REV Change to Bill</u>
4a.	5%	\$55	\$137	\$41	\$158	-\$13,916,200
4b.	10	57	143	43	165	-11,360,600
4c.	15	60	150	45	173	-7,686,900
4d.	20	62	156	47	180	-5,131,400
4e.	25	65	163	49	188	-1,457,600

5. Maintain current law.

<b><u>Alternative 5</u></b>	<b><u>GPR</u></b>
<b>2003-05 REVENUE</b> (Change to Bill)	- \$20,681,500

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