



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #745

Standardized County Court Cost Reporting (Supreme Court)

Bill Agency

[LFB 2007-09 Budget Summary: Page 521, #2]

CURRENT LAW

Under current law, no later than July 1st of each year, counties are required to submit information to the Director of State Courts regarding the amount of actual court costs that the county incurred in the previous calendar year. In addition, statutory provisions provide that no action is required of, and no condition may be imposed on, a county to receive a circuit court support payment. Further, the Director of State Courts may not withhold a circuit court support payment from a county, except in cases where a county fails to report or in which a circuit court support payment exceeds actual reported costs.

GOVERNOR

Provide \$49,500 GPR in 2007-08 and \$73,000 GPR in 2008-09 and 1.0 auditor position annually to begin a standardized program for the recording, reporting, and auditing of annual county reports of court costs and revenues submitted to the Director of State Courts Office.

Create statutory language allowing the Director of State Courts to create a uniform chart of accounts that each county would be required to use for recording all financial transactions relating to the operations of circuit courts. Modify current law to: (a) require counties to submit financial information to the Director of State Courts annually by May 15th (rather than July 1st); (b) specify that information submitted to the Director of State Courts follow the uniform chart of accounts; and (c) specify that financial information that is provided also include revenues collected or received by the court in the previous calendar year. Specify that the Director of State Courts may audit information that is submitted by the counties.

Delete the current law provision which specifies that: (a) no action is required and no condition may be imposed on a county to receive a payment under the circuit court support program, "including applying for submitting information in connection with, entering into a memorandum of understanding concerning or making any other agreement regarding the payment;" and (b) except in cases where a county fails to report or in which a circuit court support payment exceeds actual reported costs, the Director of State Courts may not withhold county payments.

DISCUSSION POINTS

Current Law

1. Under current law, counties are required to submit information to the Director of State Courts, no later than July 1st of each year, regarding the amount of actual court costs that the county incurred in the previous calendar year, for each of the following court costs:

- a. Juror fees;
- b. Certain witness or expert witness fees;
- c. Salary and fringe benefits for judicial assistants to circuit court judges; and
- d. Any other court costs, except costs related to courtroom security, including security personnel, and costs related to rent, utilities, maintenance, rehabilitation and construction of court facilities.

2. The Director of State Courts compiles the information reported by counties and submits the information to the Legislature and Governor by October 1st of each year. In addition, the Director of State Courts utilizes the county information to determine whether or not the state payment to a county under the circuit court support program exceeded the county's reported costs. If the circuit court support payment exceeds the county's reported court costs, the Director of State Courts will deduct the difference from the following year's circuit court support payment to the county.

3. Current law provides that no action is required of, and no condition may be imposed on, a county to receive a circuit court support payment, including applying for, submitting information in connection with, entering into a memorandum of understanding concerning or making any other agreement regarding circuit court support payments. Except in cases where a county fails to report court costs, the Director of State Courts may not withhold circuit court support payments.

Senate Bill 40

4. Senate Bill 40 would provide \$49,500 GPR in 2007-08 and \$73,000 GPR in 2008-

09 for 1.0 auditor position to begin a standardized program for the recording, reporting, and auditing of annual county reports of court costs and revenues submitted to the Director of State Courts Office.

5. Further, SB 40 would create statutory language authorizing the Director of State Courts Office (DSCO) to create a uniform chart of accounts that each county would be required to use for recording all financial transactions relating to the operations of circuit courts. Current law would be modified to: (a) require counties to submit financial information to the Director of State Courts annually by May 15th (rather than July 1st); (b) specify that information submitted to the Director of State Courts follow the uniform chart of accounts; and (c) specify that financial information that is provided also include revenues collected or received by the court in the previous calendar year. The information would still be reported to the Legislature and Governor by October 1st of each year.

6. In addition, SB 40 would delete the current law provision that specifies no action is required of and no condition may be imposed on a county to receive a circuit court support payment. Further, the bill deletes the current law prohibition on the DSCO from withholding payments, except under specific circumstances. The current law provision authorizing the Director of State Courts to withhold payment if no report is submitted would remain.

7. The DSCO indicates that there are inconsistencies in the current cost data collected on county expenditures. Counties reported spending \$166.7 million in calendar year 2005 on actual court costs, of which \$141.5 million were allowable under the circuit court support payment program. In addition to reporting actual court costs to the DSCO, counties also report "judicial expenditures" to the Department of Revenue, which are described as expenditures involving the "circuit court, clerk of courts, probate court, family court commissioner, law library, public defenders for indigent defendants, coroner, etc." In calendar year 2005, counties reported expenditures totaling \$154.5 million. Because there is a range of items that counties could list as judicial expenditures, the consistency of reports among counties is uneven, and does not correspond with the report to the DSCO.

8. According to a Supreme Court issue paper submitted with the court system's 2007-09 biennial budget request:

"Although the Director of State Courts' Office has repeatedly tried to refine the reporting format and process to result in better reporting of this county cost data, inconsistencies continue both among counties and within an individual county over time. These reporting problems persist due to differing and inconsistent accounting practices among and within counties.

Further, counties are not required to report to the State all county revenues that may be collected or received by the courts. For example, miscellaneous revenues may be collected for such services as copying, which may accrue directly to a court account or go into the county general fund but never is reported to the State.

Likewise, counties' recoupments of court costs beyond those that are statutorily required to be reported are not known. Because these revenues are not reported to the State, it is not known the extent to which they offset county court costs. Expanding each county's annual reporting requirements to the Director of State Courts to include revenues as well as costs would provide a more exact picture as to how counties are funding the circuit courts. . .

A solution is for the State to provide counties with a chart of accounts to ensure core court costs are uniformly recorded and reported and to have the State perform regular audits of the annual reports to ensure compliance."

9. Some might question the purpose of the reporting requirement under either current law or under SB 40. Presumably, one use of the report is to allow the DSCO to withhold state-funded circuit court support payments from a county if payment exceeds actual reported costs. Given that statewide reported costs were \$141.5 million in 2005 and state funding was \$18.7 million it is unlikely that payments to any county would be withheld. In fact, the DSCO indicates that payments have never been withheld. While SB 40 increases the circuit court support payment by \$19.1 million over the 2007-09 biennium, it is still unlikely that a county's costs will exceed its estimated support payment. Therefore, either the current law or SB 40 reporting requirement would appear to have little impact on the distribution of state payments.

10. Clearly, as the DSCO has indicated, the consistency and accuracy of statewide circuit court expenditure data is questionable. Further, a complete identification of revenue from the courts is not currently available. While the SB 40 provisions would provide more consistent, accurate and detailed information, questions may be raised as to how this additional information will be used beyond the data that is already being collected.

11. In response to the increasing calls for full state funding, the Supreme Court's Planning and Policy Advisory Committee created an ad hoc Subcommittee on Court Financing in May, 2002, to identify an effective and responsible financing system to support court services. Subcommittee members included a Supreme Court Justice, chief judges of the circuit court, circuit court judges, district court administrators, clerks of circuit court, a county board chairperson, a county executive, and a public member. The Subcommittee met seven times between December, 2002, to January, 2004, and issued its final report in February, 2004. In its executive summary, the Subcommittee noted:

"After reviewing prior court financing studies and the current Wisconsin circuit court funding model and examining court financing models in other states, the subcommittee concluded that there was no "right way" to finance the circuit courts. Each approach the subcommittee examined contained both potential strengths and weaknesses. The ideal of providing a stable, sufficient court financing mechanism impervious to the political and fiscal forces that affect the other branches of government is not realistic. Because the courts provide a basic government function under our democracy, a core level of funding for the courts

must come from government revenues. This means that the court system cannot be immune from fluctuations in revenues and the resulting political budget processes of the other branches of government."

Based on its review of the role of the state and counties in financing circuit courts, the Subcommittee adopted the following premise: "The trial court system in Wisconsin should continue to remain a partnership between counties and the State, with the long-term goal of the State increasing its responsibility for funding certain core court services." In consideration of this premise, some of the issues and recommendations identified by the Subcommittee included:

- The definition of what constitutes a "court service" is broad and may vary among the counties. The Subcommittee defined court services as those services directly provided by the circuit courts or court agencies that support the circuit courts, and are a subset of the services provided by the entire legal/justice system.

- Two criteria are "critical" for the successful takeover of any costs: (a) adequate state funding and planning time must be provided to the court system; and (b) the court system, including the Director of State Courts Office, judges, and clerks of circuit court, must be involved in the decision-making process.

- In order for the state to takeover county costs, accurate data from the counties is necessary. To improve the reporting of county court costs, the Subcommittee recommended that: (a) for the annual form to the Director of State Courts Office, counties should report "core court services" costs that may not be included in the county's court budget; (b) clerks of circuit court should work closely with county financial officers in completing the annual form and clerks of court should send a copy of the completed form to the county financial officer; and (c) a statutory provision be created to allow the county court cost information to be audited.

- When reviewing the costs of circuit courts, offsetting revenues should be considered. The clerks of circuit court have the responsibility for collection of court-ordered obligations, and must continue enhanced efforts at debt collection. The state share of revenues collected should increase proportionately at the time of any transfer of county court funding to the state.

- Given the complexity of personnel issues, the Subcommittee recommended that the state not take on county personnel in the short term (the timeline is not specified in the report), noting that the 72 counties have differing organizational structures, position classifications, pay ranges, and union contracts. Before any transfer of personnel from county to state employment, a classification and compensation study should be conducted to standardize position titles, classifications, and functions of each affected position. Further, the Subcommittee recommended that "any transition plan include provisions to control transitional costs, such as not allowing counties to create new positions, modify the salaries of existing positions or fill certain vacancies without approval of the Director of State Courts and the chief judge of the district during a certain period of time preceding transfer to state employment."

- A shift to a state-funded circuit court system could: (a) lessen the input that locally elected judges have on budgetary or programmatic issues of the court; (b) lessen county-specific "local customs and community standards that make counties unique;" and (c) lessen fiscal accountability of locally elected officials (judges and clerks of court) by shifting budget authority to the state.

- According the Subcommittee's executive summary:

"The current push towards state funding is largely driven from a fiscal perspective -- county levy limits and intensified citizen complaints of high property taxes have forced counties to look for ways to cut costs. One area that counties have looked toward is the court system -- counties believe the circuit courts are part of the state judicial system and, therefore, county property taxes should not be used to pay for the system. Conversely, counties have provided funding for the trial courts since Wisconsin was a territory. This history, along with the history of the courthouse being the cornerstone of county government and Wisconsin's county-based circuit court administration structure headed by county-elected officials (judges and clerks of circuit court), could lead one to conclude that continued county funding of the courts is appropriate. The extent to which the State should take on county court costs and the appropriate administrative structures to do so remain to be answered.

It is in the court system's interest to support whatever funding mechanism provides the most stable, effective and uniform circuit court structure, be it state, county or some combination. The subcommittee recognizes the pressures for change being brought at the state and local levels. Given the changing political realities across the State, practices and administrative structures that have worked in the past may no longer work in the future. In addition to providing fiscal relief to counties, state funding could provide the opportunity for a more uniform and judicial branch-centered approach to circuit court operations resulting in increased equity across the courts, greater efficiencies through economies of scale and more focused, improved management practices."

12. The reporting requirement in the bill is an outgrowth of the Subcommittee's report.

13. According to the DSCO, existing resources and staffing are insufficient to create a uniform chart of accounts or to audit county court costs. Since 1996-97, GPR staffing for the DSCO has increased by 0.5 position (in 1996-97), and there is currently only 1.0 fiscal officer position for the entire court system. It is anticipated that the auditor would travel to, and work with, counties to develop the uniform chart of accounts and audit county costs. Development of a uniform chart of accounts and auditing of those costs would allow the DSCO to have a more complete financial view of operations and management of the circuit court system, and assist in its oversight of court operations.

14. If the Governor's recommendation is not approved, the Director of State Courts Office indicates that accurate financial information from counties will not be obtained, "making it impossible to develop accurate revenue and costs estimates for any proposal for state funding of county-funded court services."

15. As the bill is currently written, counties would be required to utilize the uniform chart of accounts to report costs by May 15, 2008. It could be argued that delaying the provision would be helpful to allow sufficient time for the auditor to travel across the state, work with counties to develop the chart, and provide information and training on the chart. As such, if the Committee wishes to approve the provision, specifying that the first reports utilizing the uniform chart of accounts be submitted by May 15, 2009, may be appropriate.

16. It should be noted that requiring counties to utilize a standardized chart of accounts would, at least initially, create additional work for the counties by requiring changes in current county procedures. Arguably, counties might view the provision as an additional workload directive from the state. However, the Wisconsin Counties Association indicated its support for the provision in its "2007-08 Legislative Agenda."

17. As mentioned previously, counties currently report "actual court costs" to the DSCO, as well as "judicial expenditures" to the Department of Revenue (DOR). Rather than continuing the practice of counties submitting two different reports on courts costs, the Committee could direct the DSCO to consult with the Department of Revenue to develop a uniform chart of accounts, where counties would submit the same information to both the DSCO and DOR. Under this alternative, counties would be able to compile the same data for both reports and the DSCO and DOR would have comparable information.

18. Alternatively, given existing budget constraints, the Committee may determine that consideration of such a proposal would be more appropriate in future biennia. If this provision were deleted from the bill, funding would decrease by \$49,500 GPR in 2007-08 and \$73,000 GPR in 2008-09 and 1.0 GPR position annually.

ALTERNATIVES TO BILL

1. Approve the Governor's recommendation to provide \$49,500 GPR in 2007-08 and \$73,000 GPR in 2008-09 and 1.0 GPR auditor position annually to begin a standardized program for the recording, reporting, and auditing of annual county reports of court costs and revenues submitted to the Director of State Courts Office.

Create statutory language allowing the Director of State Courts to create a uniform chart of accounts that each county would be required to use for recording all financial transactions relating to the operations of circuit courts. Modify current law to: (a) require counties to submit financial information to the Director of State Courts annually by May 15th (rather than July 1st); (b) specify that information submitted to the Director of State Courts follow the uniform chart of accounts; and (c) specify that financial information that is provided also include revenues

collected or received by the court in the previous calendar year. Specify that the Director of State Courts may audit information that is submitted by the counties.

Delete the current law provision which specifies that: (a) no action is required and no condition may be imposed on a county to receive a payment under the circuit court support program, "including applying for submitting information in connection with, entering into a memorandum of understanding concerning or making any other agreement regarding the payment;" and (b) except in cases where a county fails to report or in which a circuit court support payment exceeds actual reported costs, the Director of State Courts may not withhold county payments.

ALT 1	Change to Bill		Change to Base	
	Funding	Positions	Funding	Positions
GPR	\$0	0.00	\$122,500	1.00

2. Modify Alternative 1 to specify that counties submit their initial reports utilizing the uniform chart of accounts by May 15, 2009, rather than May 15, 2008.

3. Modify Alternative 1 to direct that the Director of State Courts Office consult with the Department of Revenue to develop a uniform chart of accounts.

4. Delete provision.

ALT 4	Change to Bill		Change to Base	
	Funding	Positions	Funding	Positions
GPR	-\$122,50	- 1.00	\$0	0.00

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