

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1127

Joint Select Committee of the Legislature

SPONSOR(S): Soto

TIED BILLS: None

IDEN./SIM. BILLS: SB 1636

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Courts</u>	<u>6 Y, 0 N</u>	<u>Webb</u>	<u>Bond</u>
2) <u>Safety & Security Council</u>	<u></u>	<u></u>	<u></u>
3) <u>Rules & Calendar Council</u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

This bill provides for a 13 member joint select committee for a period of 1 year, consisting of 5 Senators appointed by the President of the Senate and 8 Representatives appointed by the Speaker of the House of Representatives, to review the methods currently used by each circuit court and county court of Florida to collect court-related fees, service charges, costs and fines.

This bill will have an insignificant fiscal impact on state expenditures and will have no impact on local governments or the private sector.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

This bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Background

Civil Court Fees and Costs for Indigents

Under Florida law, any party in any judicial or administrative proceeding is entitled to “receive the services of the courts, sheriffs, and clerks . . . despite his or her present inability to pay for [those] services.”¹ Such services include:

- Filing fees;
- Service of process;
- Certified copies of orders or final judgments;
- A single copy of any court pleading, record, or instrument filed with the clerk;
- Examining fees;
- Mediation services and fees;
- Private court-appointed counsel fees;
- Subpoena fees and services;
- Service charges for collecting and disbursing funds; and
- Any other cost or service arising out of pending litigation.

Under existing law, a person who is indigent and cannot afford civil court costs and fees is still entitled to the services of the court system. However, the person must repay the amount for such services.

Fee Collection

Court costs, fees, and collection rates were the subject of a report prepared by the Office of Program Policy Analysis and Government Accountability (OPPAGA) in March 2007.² As noted in the OPPAGA report, in 1998, Florida voters approved Revision 7 to Article V of the state constitution, which allocated more costs to the state, effective July 1, 2004. To that end, the Legislature directed the state to pay for specified elements of the state courts system and required the 67 county clerks of court to fund their offices using revenues derived from fines, fees, service charges, and court costs assessed in both civil and criminal proceedings.³ “Except under certain conditions, one-third of [those] funds are transmitted to the state to help fund the operation of the state courts system.”⁴ Further, the report noted that “[i]n Fiscal Year 2005-06, clerks of court remitted \$93.7 million in court-related collections to the state after funding their own operations. These funds offset 23% of the \$405.4 million cost of the state courts system during that year.”⁵ OPPAGA found that statewide, clerks collected 71% of assessed court fines, fees, service charges and court costs in Fiscal Year 2005-2006.⁶

¹ Section 57.081, F.S.

² Office of Program Policy Analysis and Government Accountability, Report No. 07-21, Clerks of Court Generally Are Meeting the System’s Collections Performance Standards 1 (March 2007).

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

Florida TaxWatch conducted a report on the status and cost efficiency of civil filing fees for indigents throughout the state in March 2008.⁷ The study found that while the law allows for a waiver of court fees by judicial discretion on a case by case basis, clerks across the state were not consistent in their enforcement and collection of civil court filing fees from indigent persons.⁸ Furthermore, TaxWatch determined that around 90% of indigent fees are never paid in their entirety.⁹ The study also compared the cost between aggressive and nonaggressive collection policies and concluded that the more aggressive approaches to collect fees cost the clerks more than not collecting the fees.¹⁰

Effect of Proposed Changes

This bill provides for a 13 member joint select committee for a period of 1 year, consisting of 5 Senators appointed by the President of the Senate and 8 Representatives appointed by the Speaker of the House of Representatives, to review the methods currently used by each circuit court and county court of Florida to collect court-related fees, service charges, costs and fines. This bill provides that the committee must submit recommendations to the President of the Senate and the Speaker of the House of Representatives for an effective, uniform statewide method to collect court-related fees, service charges, costs and fines.

C. SECTION DIRECTORY:

Section 1 provides for a joint committee to review court collection methods.

Section 2 provides an effective date of July 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill creates a joint select committee which will presumably be administered by the Legislature using existing resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

⁷ Florida TaxWatch, Charging Indigent Floridians Civil Court Filing Fees Raises Questions of Cost Efficiency and Equal Access to the Florida Court System, (March 2008).

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.* The most aggressive collection policy cost an average of \$76.92 per case on the collection of civil indigent filing fees, while the less aggressive clerks spent an average of \$3.35 per case.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On March 19, 2008, the Committee on Courts adopted one amendment to this bill. The amendment made the following revisions to the bill:

- Removed the requirement of a 13 member joint select committee to review the methods of the circuit and county court of Florida to collect court-related fees, service charges, costs and fines.
- Provided that a person who is a state inmate does not have to appear and be examined about his or her ability to pay in a criminal case.
- Provided that the Comprehensive Court Enforcement Program must be implemented in each judicial circuit.
- Adds that the clerk may apply for additional funding under this bill.
- Adds a requirement for the clerk to compare the amounts collected by the Comprehensive Court Enforcement Program with the amounts assessed by the courts on a quarterly basis.
- Adds that the clerk retain 10% of the total assessments and 10% of county criminal collections in excess of 50% of the total assessments, which monies must be used only in the county imposing the assessment to fund innovations to supplement state funding for state court systems and county funding for local requirements.

The bill was then reported favorably with an amendment.