

**HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS**

BILL #: SB 1964

FINAL HOUSE FLOOR ACTION:

SPONSOR(S): Budget

110 Y's

5 N's

**COMPANION
BILLS:** None.

GOVERNOR'S ACTION: Pending

SUMMARY ANALYSIS

The State Court System and the Clerks of the Court rely on fines, fees, service charges and other court-related revenues to operate Florida's trial courts. Specifically, the bill:

- requires that all monetary assessments mandated by statute are imposed without regard to whether the assessment is announced in open court;
- requires the clerks of court to develop a uniform form for the identification and imposition of all assessments mandated by statutes; and
- refines the definition of assessment data elements collected by the Clerks of Court.

The effective date of this bill is July 1, 2012.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Current Situation

Article V, Section 14 of the State Constitution authorizes the use of filing fees and service charges and costs for the funding of the clerks of the court and the court system salaries, costs and expenses. These fines and fees are established in statute, primarily in Chapters 28 and 318, Florida Statutes, and many are mandatory. Judges impose these fines and fees at disposition and clerks enter them into the official court record. In order to monitor the court's imposition of these fines and fees, s. 28.246(1), Florida Statutes, requires the clerk of the court to report specific information to the Legislature:

1. The clerk of the circuit court shall report the following information to the Legislature and the Florida Clerks of Court Operations Corporation on a form developed by the Department of Financial Services:
 - a. total amount of mandatory fees, service charges, and costs; total amount actually assessed; total amount discharged, waived, or otherwise not assessed; total amount collected.
 - b. amount of discretionary fees, service charges, and costs assessed; total amount discharged; total amount collected.
 - c. total amount of mandatory fines and other monetary penalties; total amount assessed; total amount discharged, waived, or otherwise not assessed; total amount collected.
 - d. amount of discretionary fines and other monetary penalties assessed; amount discharged; amount collected.

If provided to the clerk of court by the judge, the clerk, in reporting the amount assessed, shall separately identify the amount assessed pursuant to s. 938.30 as community service; assessed by reducing the amount to a judgment or lien; satisfied by time served; or other. The form developed by the Chief Financial Officer shall include separate entries for recording these amounts. The clerk shall submit the report on an annual basis 60 days after the end of the county fiscal year.

As shown below, the Florida Court Clerks and Comptrollers reported that during County Fiscal Year 2010-11, \$78.8 million in mandatory assessments were not assessed.

Payments of Court-Related Fees, Charges, Costs, Fines, and Other Monetary Penalties – ALL COURTS STATEWIDE	
Fines, Court Costs & Other Monetary Penalties	CFY 2010-11
Total of Possible Assessments	\$ 800,364,984
Amount Actually Assessed	\$ 724,458,645
Amount Discharged or Waived	\$ 91,598,119
Amount Collected	\$ 425,106,587
Fees, Service Charges & Costs	
Total of Possible Assessments	\$ 479,905,134
Amount Actually Assessed	\$ 477,055,395
Amount Discharged or Waived	\$ 9,192,514
Amount Collected	\$ 435,142,425
TOTAL COURT-RELATED ASSESSMENTS	
Total of Possible Assessments	\$ 1,280,270,118
Amount Actually Assessed	\$ 1,201,514,040
Difference	\$78,756,078
Amount Discharged or Waived	\$ 100,790,633
Amount Collected	\$ 860,249,012

Source: Payment of Court-Related Fees, Charges, Fines and Other Monetary Penalties. Annual Report. Fiscal Year: Oct 2010-Sept 2011. The Florida Court Clerks and Comptrollers

However, both the clerks and the court conceded that there are limitations in this data. For example, clerks have noted confusion and misunderstanding in the definition of (or lack of definition of) the terms

“discharged”, “waived” and “other” in the statutory language in s. 28.264, F.S. This has resulted in a lack of uniform application by clerks and courts in reporting assessments in appropriate categories. As a result, the courts, clerks, the legislature and the taxpayers have inadequate information on the extent to which judges are assessing fines and fees required by law.

Effect of Changes

The bill requires that all monetary assessments mandated by statute are imposed without regard to whether the assessment is announced in open court. The mandatory monetary assessment will be added automatically to the judge’s order, even if the judge fails to order it in the courtroom. When an assessment mandated by statute sets a minimum assessment and a maximum assessment, or only sets a minimum assessment, the bill requires the minimum to be imposed and included in the judgment, unless the court specifies a higher amount.

The bill requires the clerks, in consultation with the courts, to develop a uniform form to help identify and record all mandatory assessments. The form will be updated and submitted to the Supreme Court by October 1 for approval each year. Once the form is approved, all circuit and county courts will be required to use the form.

The bill refines the clerks’ reporting requirements for monetary assessments by the courts. The bill clarifies reporting requirements for the total amount of fines and fees collected that are under-assessed, and separates out the reporting of assessments that are subsequently discharged or converted to community service.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: See “fiscal comments” section.
2. Expenditures: See “fiscal comments” section.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: None.
2. Expenditures: None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Mandatory assessments will now be collected regardless of if it is assessed in open court.

D. FISCAL COMMENTS:

The bill may have a positive fiscal impact to the state. Under the new requirements, clerks will record all mandatory assessments into the court order. As a result, the clerks will have more assessments available for collection. However, the creation and implementation of the new reporting requirements will cause an initial increase in workload for the clerks in every county.