

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Judiciary Committee

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BILL: SB 882

INTRODUCER: Senator Dean

SUBJECT: Court Costs

DATE: January 18, 2012

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	White	Cibula	JU	<b>Favorable</b>
2.	_____	_____	BC	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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**I. Summary:**

The bill repeals a statute that prohibits the Supreme Court from charging a losing party in the Supreme Court for copies of the record which have not been ordered by the party or his or her attorney.

This bill repeals section 57.101, Florida Statutes.

**II. Present Situation:**

Chapter 57, F.S., outlines the statutory requirements relating to the taxation of fees and costs accruing in legal actions before Florida courts. Generally, the clerk or the judge will tax the costs in favor of the prevailing party when the action is determined.<sup>1</sup> While it is a judicial function requiring adjudication to determine which party has the right to recover costs and in what amount, the clerical act of assessing costs may be performed by the court clerk.<sup>2</sup> The Florida Rules of Appellate Procedure list taxable costs as including:

- (1) fees for filing and service of process;
- (2) charges for preparation of the record;
- (3) bond premiums; and
- (4) other costs permitted by law.<sup>3</sup>

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<sup>1</sup> Section 57.021, F.S.

<sup>2</sup> *Omohundro v. Wilkins*, 114 So. 502 (Fla. 1927); *Parker v. Dekle*, 35 So. 4 (Fla. 1903).

<sup>3</sup> Fla. R. App. P. 9.400 (Costs and Attorneys' Fees).

Section 57.101, F.S., was first enacted in 1861.<sup>4</sup> In its original context, the law prohibited the Clerk of the Supreme Court from charging a losing party for copies that the Clerk was required to provide to the Attorney General.<sup>5</sup> That context has been lost in the subsequent shuffling of provisions of the Florida Statutes.

Today, the statute simply provides that a person may not be charged a fee for something the person did not order or request.<sup>6</sup> Unless the copies have been ordered by the party or his or her attorney, costs of copies of the record of any paper on file in the Supreme Court shall not be taxed as costs against the losing party.<sup>7</sup>

### **III. Effect of Proposed Changes:**

The bill repeals s. 57.101, F.S., which specifies that the “costs of copies of the record of any paper on file in the Supreme Court shall not be taxed as costs against the losing party unless the copies have been ordered by the party or his or her attorney.”

The bill provides an effective date of July 1, 2012.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

#### **B. Public Records/Open Meetings Issues:**

None.

#### **C. Trust Funds Restrictions:**

None.

### **V. Fiscal Impact Statement:**

#### **A. Tax/Fee Issues:**

None.

#### **B. Private Sector Impact:**

None.

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<sup>4</sup> Chapter 1137, s. 5, Laws of Fla. (1861).

<sup>5</sup> *Id.*

<sup>6</sup> Section 57.101, F.S. (2011).

<sup>7</sup> *Id.*

C. Government Sector Impact:

The Office of the State Courts Administrator does not expect any additional revenues or expenditures for the Judiciary as a result of this bill.<sup>8</sup>

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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<sup>8</sup> Office of the State Courts Administrator, 2012 Judicial Impact Statement for SB 882 (Dec. 8, 2011) (on file with the Senate Committee on Judiciary).