

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.)

Prepared By: The Professional Staff of the Committee on Judiciary

BILL: CS/SB 556

INTRODUCER: Judiciary Committee and Senator Ring

SUBJECT: Clerks of the Court

DATE: March 7, 2013 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brown	Cibula	JU	Fav/CS
2.			GO	
3.			AFT	
4.			AP	
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

CS/SB 556 makes numerous changes to laws relating to clerks of circuit courts.

The bill authorizes or requires a clerk to electronically perform existing duties. Specifically, the bill:

- Requires the clerk to maintain electronic filings.
- Authorizes a clerk to charge for services rendered electronically.
- Authorizes the clerk to affix electronically a date and time stamp to filings.
- Authorizes the clerk to provide public records electronically.

The bill makes other changes as follows:

- Requires a county recorder to remove recorded court documents from the Official Records pursuant to a sealing or expunction order.
- Increases to \$10 from \$5 the threshold requirement for which a clerk must refund an overpayment.

- Clarifies which public entities are not required to pay for access to public records maintained by the clerk.
- Requires requests for maintenance of a public records exemption to include the document type, name, identification number, and page number of the court record or official record that contains the exempt information.
- During an administrative review of property taxes, requires a property appraiser, rather than a clerk, to provide a copy of a property record card to a petitioner upon receipt of the petition from the clerk.
- Clarifies that governmental entities do not have to pay fees to enforce judgments for court costs and fines in criminal cases.

This bill substantially amends the following sections of the Florida Statutes: 28.13, 28.222, 28.24, 28.244, 28.345, 57.081, 57.082, 101.151, 119.0714, 194.032, and 938.30.

II. Present Situation:

Filings

The clerk of the circuit court is required to keep all papers with the maximum care and security, arranged in appropriate files.¹ The clerk is also required to ensure that the papers do not leave the office without permission from the court.²

Clerk as County Recorder

Pursuant to statute, the clerk of the circuit court generally acts as the county recorder.³ Current law does not require a clerk to remove recorded court documents from the Official Records pursuant to a sealing or expunction order as part of his or her duties.

Refunds

If a clerk of court determines that an overpayment is made, the clerk must make a refund if the overpayment exceeds \$5.⁴ If the amount of the overpayment is \$5 or less, the clerk need only refund the amount if the person who made the overpayment submits a written request.⁵

Fee Exemption

Certain individuals and groups, such as judges, state attorneys, and public defenders, are exempt from all court-related fees and charges assessed by the clerks of the circuit courts, when acting in their official capacity.⁶ State agencies are also exempt from all court-related fees and charges assessed by the clerks.⁷

¹ Section 28.13, F.S.

² *Id.*

³ Section 28.222(1), F.S.

⁴ Section 28.244, F.S.

⁵ *Id.*

⁶ Section 28.345, F.S.

⁷ *Id.*

Public Records

A clerk of court is a custodian of public records. As custodian, clerks are required to provide access and copies of public records, if the requesting party is entitled by law to view a given record. Certain records are confidential or exempt from disclosure under public records laws, including personal information of certain individuals such as law enforcement personnel, firefighters, justices and judges, state attorneys, magistrates, and others as specified by statute.⁸ An individual whose information is exempt must submit a written request for exemption with any agency that holds an exempt record.⁹

III. Effect of Proposed Changes:

This bill revises the responsibilities of the clerks of court.

Electronic Filings and Communications

This bill:

- Updates the law requiring the clerk of courts to maintain paper filings by adding electronic filings.
- Authorizes the clerk to affix electronic, rather than just ink, time and date stamps to filings.
- Authorizes clerks to render services electronically and charge for those services.

Other Duties of the Clerk

This bill:

- Requires county recorders to remove recorded court documents from the Official Records when a sealing or expunction order is issued.
- Requires requests for maintenance of public records exemptions to specifically include the document type, name, identification number, and page number of the court record or official record where the exempt information appears.
- During a challenge to a property assessment or the denial of a property tax exemption, the property appraiser must give the petitioner a copy of the property record card at the time that the appraiser receives the petition from the clerk, regardless of whether the petitioner has initiated an evidence exchange.
- Appears to make an indigent person responsible for paying the costs of the service of a summons by a sheriff and to reimburse the clerk for filing fees.
- Clarifies that public entities are not required to pay statutory fees associated with the enforcement of financial obligations in criminal cases.

The bill takes effect July 1, 2013.

⁸ Section 119.071(4)(d), F.S.

⁹ Section 119.071(4)(d)2., F.S.

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:

The amendment of s. 57.081(1), F.S., appears to make an indigent person responsible for paying the costs of the service of a summons by a sheriff. The changes to s. 57.082(6), F.S., by the bill appear to require that an indigent person reimburse the clerk for filing fees.

C. Government Sector Impact:

The clerks of courts expect an indeterminate fiscal impact associated with the bill.

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.)**CS by Judiciary on March 6, 2013:**

The CS:

- Removes from the bill all references to the tax lien process.
- Deletes from the bill a provision that allowed the Florida Rules of Judicial Administration to specify entities authorized to access public records that are exempt or confidential.

B. Amendments:

None.

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