

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS
FINAL BILL ANALYSIS**

BILL #: CS/CS/HB 337 Courts
SPONSOR(S): Judiciary Committee and Civil Justice Subcommittee, Leek
TIED BILLS: IDEN./SIM. **BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Civil Justice Subcommittee	13 Y, 1 N, As CS	Jones	Poche
2) Justice Appropriations Subcommittee	11 Y, 0 N	Smith	Gusky
3) Judiciary Committee	18 Y, 0 N, As CS	Jones	Poche

FINAL HOUSE FLOOR ACTION: 109 Y's 0 N's
GOVERNOR'S ACTION: Approved

SUMMARY ANALYSIS

CS/CS/HB 337 passed the House on April 24, 2019. The bill was amended in the Senate on May 3, 2019, and returned to the House. The House concurred in the Senate amendments and subsequently passed the bill as amended on May 3, 2019.

In Florida, the two types of trial courts that hear civil lawsuits are county courts and circuit courts. County courts generally have jurisdiction of actions at law where the amount in controversy does not exceed \$15,000; actions at law where the amount in controversy exceeds \$15,000 are filed in circuit court. The threshold was last changed in 1992.

The bill increases the jurisdictional threshold between county court and circuit courts from \$15,000 to \$30,000, beginning January 1, 2020; and to \$50,000, beginning January 1, 2023. The bill also:

- Provides that a county court case with an amount in controversy exceeding \$15,000 is appealed to the district court of appeal, until January 1, 2023, at which time the provision is repealed.
- Makes low-cost mediation available in county court only in cases where the amount in controversy does not exceed \$15,000.
- Adjusts filing fees paid to the clerk to maintain fiscal neutrality with respect to the threshold changes.
- Requires the Office of the State Courts Administrator to make recommendations on court jurisdiction.
- Increases the revenues from court fees, fines, and service charges that will go to the clerks by:
 - Clarifying that clerks may carry forward unspent budgeted funds from one fiscal year to the next; and
 - Specifically providing the amount of excess fees, fines, and service charges the clerks will be authorized to retain and use for their budgets from 2020 through 2023.
- Clarifies that the 2008 increases in court fees, fines, service charges, and costs which have been directed to General Revenue since their enactment will continue to be paid to General Revenue.
- Makes the attorney fees provision of CS/CS/HB 7065 effective upon becoming law.

The bill has an indeterminate fiscal impact on state and local governments.

The bill was approved by the Governor on May 24, 2019, ch. 2019-58, L.O.F., and will become effective on July 1, 2019.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Background

County and Circuit Courts

In Florida, two types of trial courts hear civil lawsuits: county courts and circuit courts.¹ The Florida Constitution provides that county courts exercise jurisdiction as provided by general law, and circuit courts exercise jurisdiction in matters not within the jurisdiction of county courts.² Section 34.01, F.S., implements the constitutional provision, establishing that county courts have jurisdiction of cases including actions at law where the amount in controversy does not exceed \$15,000, exclusive of interest, costs, and attorney's fees, except those cases within the exclusive jurisdiction of circuit courts.³ Any general action at law with an amount in controversy exceeding \$15,000 must be filed in circuit court. The \$15,000 threshold has not changed since 1992.⁴

The plaintiff alleges in his or her complaint the amount in controversy and files the complaint in county or circuit court, depending on the alleged amount in controversy. If the plaintiff chooses the wrong court, the court lacks jurisdiction and may transfer it to the appropriate court.⁵

Filing Fees

The filing fee for a civil lawsuit in circuit court is \$400 or more, depending on the number of defendants and the nature of the case.⁶ The Legislature last raised filing fees for basic circuit court filings in 2009.⁷ The circuit court filing fee is allocated:

- \$195 to the clerk as a filing fee;
- \$196 to the State Courts Revenue Trust Fund;
- \$5.50 to the Department of Financial Services Trust Fund; and
- \$3.50 to the Court Education Trust Fund.⁸

The filing fee for a civil lawsuit in county court ranges from \$50 to a maximum of \$300, depending on the amount in controversy.⁹ The Legislature last raised filing fees for basic county court filings in 2008.¹⁰ The county court filing fee for a case with an amount in controversy greater than \$2,500 and up to \$15,000 is allocated:

- \$280 to the clerk as a filing fee;
- \$16 to the State Courts Revenue Trust Fund
- \$3.50 to the Court Education Trust Fund; and
- \$0.50 to the Department of Financial Services Trust Fund.¹¹

¹ Ss. 26.012(5) and 34.01(5), F.S.

² Art. V, ss. 5 and 6, Fla. Const.; s. 26.012(2)(a), F.S.

³ S. 34.01(1)(c), F.S.

⁴ S. 1, ch. 90-269, L.O.F. (raising the jurisdictional threshold from \$10,000 to \$15,000, effective July 1, 1992).

⁵ See *Bowers v. Parrish*, 845 So. 2d 251, 251-52 (Fla. 1st DCA 2003); *Edwards v. Jones*, 221 So. 3d 770, 772 (Fla. 1st DCA 2017); Fla. R. Civ. P. 1.060(a).

⁶ Ss. 28.241 and 44.108(1), F.S.

⁷ S. 5, ch. 2009-61, L.O.F.

⁸ Ss. 28.241(1) and 44.108, F.S.

⁹ S. 34.041(1)(a), F.S.

¹⁰ S. 11, ch. 2008-111, L.O.F.

¹¹ Ss. 34.041(1) and 44.108(1), F.S.

When a party appeals a case from circuit court to a district court of appeal, the filing fee is \$400.¹² That fee is allocated:

- \$50 to the State Courts Revenue Trust Fund;
- \$250 to General Revenue; and
- \$100 to the clerks of court.¹³

When a party appeals a case from county court to circuit court, the filing fee is \$281.¹⁴ That fee is allocated:

- \$1 to the State Courts Revenue Trust Fund; and
- \$280 to the clerks of court.¹⁵

Low-Cost Mediation Services

When a circuit court orders mediation by the circuit court's mediation program, certain low-income litigants, as well as all litigants in county court, are entitled to low-cost mediation. For cases in county court, the clerk may charge only \$60 per person per mediation session.¹⁶

Small Claims Court

Small claims court is a type of proceeding in county court reserved for cases with an amount in controversy less than a specified amount, as set by the Florida Supreme Court.¹⁷ In small claims court, special rules apply to simplify and expedite the proceedings. Currently, the threshold for small claims court is \$5,000,¹⁸ last modified in 1996.¹⁹ The small claims court threshold is independent of the county court jurisdictional threshold set by the Legislature.

Clerk of Court Funding

Article V, s. 14 of the Florida Constitution states that:

All funding for the offices of the clerks of the circuit and county courts performing court-related functions, except as otherwise provided . . . shall be provided by adequate and appropriate filing fees for judicial proceedings and service charges and costs for performing court-related functions as required by general law.

The court-related functions of the clerks' offices are funded from the statutorily authorized court filing fees, fines, and service charges that the clerks collect from the operation of those offices. By June of each year, each clerk must prepare, summarize, and submit his or her proposed budget to the Florida Clerks of Court Corporation²⁰ for the county fiscal year beginning October 1.²¹ The clerk must ensure the budget is balanced so that aggregate estimated revenues equal or exceed the total anticipated expenditures.²² The clerk must notify the corporation if the clerk anticipates a deficit, meaning that projected revenues will be insufficient to meet anticipated expenditures.²³

¹² Ss. 28.241(2) and 35.22(2)(a), F.S.

¹³ Ss. 28.241(2) and 35.22(5), F.S.

¹⁴ Ss. 28.241(2) and 44.108, F.S.

¹⁵ S. 28.241(2), F.S.

¹⁶ S. 44.108, F.S.

¹⁷ Fla. Sm. Cl. R. 7.010(b).

¹⁸ *Id.*

¹⁹ *In re Amendments to the Florida Small Claims Rules*, 682 So. 2d 1075 (Fla. 1996) (raising the amount from \$2,500 to \$5,000).

²⁰ The Florida Clerks of Court Corporation is created in s. 28.35, F.S.

²¹ Section 28.36(2)(a), F.S.

²² S. 28.36(2)(b), F.S.

²³ S. 28.36(3), F.S.

The corporation must extensively review the clerks' budgets using information such as cost comparisons with similarly situated clerks, a base budget review, and estimates of available revenues. In approving the proposed budgets submitted by the clerks, the corporation must ensure that the total combined budgets of the clerks do not exceed the total estimated revenues available for court-related expenditures, as determined by the most recent Revenue Estimating Conference.^{24 25}

Section 28.37, F.S., provides that each year no later than January 25, the clerks of court shall remit to the Department of Revenue for deposit in the General Revenue Fund the cumulative excess of all fines, fees, service charges, and costs retained by the clerks exceeding the amount needed to fund their authorized budgets. In 2019, \$24.8 million in excess fees and fines was paid to the General Revenue Fund pursuant to this section.

Chapter 2008-111, Laws of Florida, amended a number of statutes to increase filing fees, fines, and other costs. Section 47 stated that “notwithstanding s. 28.36, Florida Statutes, the Florida Clerks of Court Operations Corporation may not approve increases to the clerks’ budget based on increased revenue generated under this act.” Based on this language, the clerks have remitted the portion of filing fees and fines which were increased pursuant to this chapter law to the General Revenue Fund.²⁶

Effect of the Bill

Jurisdictional Threshold

The bill amends s. 34.01, F.S., to increase the county court's jurisdictional amount in controversy threshold from \$15,000 to:

- \$30,000, beginning January 1, 2020; and
- \$50,000, beginning January 1, 2023.

The changes in threshold apply to all causes of action filed on or after the specified date, regardless of when the cause of action accrued.

The bill also provides that where the amount in controversy exceeds \$15,000, appeal is to the district court of appeal, not the circuit court. This allows district courts of appeal to continue hearing the appeals currently heard and avoids overwhelming the circuit courts with an increased appellate caseload. This provision is repealed effective January 1, 2023. This will allow the Legislature time to decide whether to make the provision permanent.

The bill requires the Office of the State Courts Administrator to file a report with the Governor, the President of the Senate, and the Speaker of the House of Representatives by February 1, 2021, making recommendations on court jurisdiction. The county and circuit court clerks must provide data to develop the report. The report must consider:

- The claim value of filings in county and circuit courts;
- Case events;
- Timeliness in processing cases;
- The fiscal impact resulting from the threshold adjustment;

²⁴ S. 28.35(f), F.S.

²⁵ S. 216.136(3), F.S., authorizes Revenue Estimating Conferences (REC) to develop official information on anticipated state and local government revenues for state budgeting purposes. The Article V Fees and Transfers REC is one of at least 17 RECs, and generally meets three times a year to estimate revenues from court fines, fees, penalties, and service charges. The results of the July Article V REC are used to set the budget for the clerks.

²⁶ FLORIDA COURT CLERKS & COMPTROLLERS, 2018 Distribution of Court Related Filing Fees, Service Charges, Costs and Fines, https://www.flclerks.com/resource/resmgr/public_documents/_2018_distribution_schedule_1.pdf (last visited May 13, 2019); OFFICE OF ECONOMIC & DEMOGRAPHIC RESEARCH, Revenue Estimating Conference Article V Fees & Transfers, <http://edr.state.fl.us/Content/conferences/articleV/ArticleVResults.pdf> (last visited May 13, 2019).

- The filing fee structure, to ensure the courts are adequately funded; and
- The appellate jurisdiction of the district and circuit courts, including the use of appellate panels by circuit courts.

The bill amends the filing fee statutes to keep the jurisdictional threshold changes from affecting the bill's fiscal impact. The bill also limits entitlement to low-cost mediation to county court cases with an amount in controversy not exceeding \$15,000. This keeps low-cost mediation services available to the same county court litigants as under current law without expanding such services after the threshold is increased.

Clerk of Court Funding Issues

The bill amends ss. 28.35 and 28.36, F.S., to provide that, in addition to the total estimated revenues from fees, service charges, costs, and fines for court-related functions available for court-related expenditures as determined by the most recent Revenue Estimating Conference, the combined budget for the clerks of court may also include:

- The unspent budgeted funds for court-related functions carried forward by the clerks of court from the previous county fiscal year; and
- The balance of funds remaining in the Clerks of the Court Trust Fund after the transfer of funds to the General Revenue Fund required pursuant to s. 28.37, F.S.

The bill defines the term “unspent budgeted funds for court-related functions” as undisbursed funds included in the clerks of the courts budgets for court-related functions.

The bill amends s. 28.37, F.S.—which currently requires the cumulative excess of all fines, fees, service charges, and costs retained by the clerks of court exceeding the amount needed to fund their authorized budgets to be transferred to the General Revenue Fund—as follows:

- No later than February 1, 2020, the cumulative excess of all fines, fees, services charges, and costs exceeding \$10 million will be transferred to the General Revenue Fund.
- No later than February 1, 2021, and no later than February 1, 2022, not less than 50 percent of the cumulative excess of all fines, fees, services charges, and costs will be transferred to the General Revenue Fund; provided, however, that the balance remaining in the Clerks of Courts Trust Fund after the transfer may not exceed \$20 million.
- No later than February 1, 2023, and each February 1 thereafter, the the cumulative excess of all fines, fees, services charges, and costs will be transferred to the General Revenue Fund.

In the 2019-2020 General Appropriations Act, proviso language associated with Specific Appropriation 2754 provides that:

[T]he Office of Program Policy Analysis and Government Accountability is directed to contract with an independent third party consulting firm to assist with a review of the Clerk of Court processes including collection and compilation of empirical evidence based on observation of a random sample of clerks’ offices employees; comparison of clerks’ office work patterns to propose efficiency and productivity standards; and assessment and comparison of organizational arrangements and deployment of personnel resources among all clerks’ offices. Sample groups must include a broad number of large and small counties and include entities from all areas of the state. The analysis shall be submitted to the chair of the Senate Appropriations Committee and the chair of the House of Representatives Appropriations Committee by November 15, 2019.

The bill provides that before the 2022 Regular Session of the Legislature, the Legislature shall review and consider the results of the clerk of court process analysis for the purpose of considering the extension or reenactment of clerk funding provisions in this act.

The bill also amends the statutory sections amended by Chapter 2008-111, Laws of Florida, to codify the amount of each filing fee or fine that must be remitted to General Revenue in conformity with current law and practice. The bill provides that amendments made by this act to ss. 27.52, 28.24, 28.2401, 28.241, 34.041, 45.035, 55.505, 61.14, 316.193, 318.14, 318.15, 318.18, 322.245, 327.35, 327.73, 379.401, 713.24, 721.83, 744.365, 744.3678, 766.104, and 938.05, Florida Statutes, are remedial and clarifying in nature and apply retroactively to July 1, 2008.

The bill also makes the attorney fees provision of CS/CS/HB 7065, providing the exclusive means by which a party to assignment of benefits litigation resulting in a judgment may recover attorney fees, effective upon becoming law instead of July 1, 2019, the effective date of that bill.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The court system currently does not have Florida-specific data to identify cases by the amount in controversy and thereby cannot determine with certainty the number of circuit court cases that would move to county court under the proposal and the number of appeals that would be affected.²⁷ The fiscal impact of this component of the bill is indeterminate at this time.

The bill requires the Office of the State Courts Administrator to file a report on court jurisdiction by February 1, 2021; however, it is anticipated this report can be completed using existing resources and therefore will not have a fiscal impact.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The clerks of court may have an increased workload due to formatting and programming updates to the Florida Courts E-Filing Portal, as well as fee collection and distribution systems.²⁸

²⁷ Office of the State Court Administrator, *2019 Judicial Impact Statement – CS/HB 337* (March 30, 2019).

²⁸ *Id.*

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill authorizes the clerks of court to retain certain excess filing fees, fines, services charges, and costs in 2020, 2021, and 2022. This will have an indeterminate negative impact on the General Revenue Fund depending on the amount of filing fees, fines, and service charges collected by the clerks of court.

The provisions of the bill amending the sections of statute which were amended by Chapter 2008-111, Laws of Florida, to codify the amount of filing fees that must be remitted to General Revenue, will not have an impact on the clerks or the General Revenue Fund because these revenues are currently remitted to the General Revenue Fund.