



## Legislative Fiscal Bureau

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May 2, 2007

Joint Committee on Finance

Paper #748

### **Circuit Court Automated Information Systems Fee (Supreme Court)**

#### *Bill Agency*

[LFB 2007-09 Budget Summary: Page 523, #7]

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#### **CURRENT LAW**

The circuit court automation programs (CCAP) provides uniform software applications to counties, including circuit court case management, jury management, financial management, court calendaring, and training on the computer system. Counties have the option of using the state CCAP system and receiving hardware, software, technical support, and training from the state or having their own system and receiving reimbursement from the state. The case and financial management systems have been installed in all 72 counties, however, Portage County only uses CCAP for its office of the register in probate, using its own operating system for other court operations.

#### **GOVERNOR**

Modify statutory language to allow the Director of State Courts Office to establish and charge fees for use of the circuit court automated information systems. According to the Governor's Executive Budget, the new fee would be for users of an electronic case filing system being implemented by the courts.

#### **DISCUSSION POINTS**

1. The Director of State Courts Office (DSCO) is currently operating a pilot program in two counties for designing and developing an electronic filing system. Under the program, two participating law firms may electronically file small claims money judgment complaints in

Washington and Kenosha Counties. Small claims cases were selected because they are high volume, fairly routine, and largely forms-based. According to the DSCO:

"A secure, dedicated website was created that allows filers to receive and post documents. Once filings are submitted, CCAP routes them to the proper Clerk of Circuit Courts' office. When accepted by the clerk, documents are file stamped and electronically signed. Documents that are e-filed with the circuit court are reviewed by court staff, but no manual entries into the CCAP case management system are required. . .

The e-filing system is technically sophisticated, as data can be extracted from the filings and automatically entered into the CCAP case management system, without a clerk having to manually enter case information."

2. According to the DSCO, a statewide e-filing system for all case types would increase court efficiencies and data accuracy. Clerks of Court staff spend a significant amount of time receiving and processing court filings, as well as processing requests for court records by attorneys and litigants. With an e-filing system, individuals who electronically file would have immediate access to case information, including case status, filed motions, and other court documents.

3. In order to expand the e-filing system beyond the current pilot program to all counties and all types of cases, additional resources would be necessary for design and development of programming and website enhancements. In addition to allowing the DSCO to establish and charge a fee for e-filing, the Supreme Court's budget request included a request for \$341,600 PR in 2007-08 and \$705,800 PR in 2008-09 for developing the system.

4. Under Senate Bill 40 (SB 40), the DSCO would be authorized to establish and charge fees for use of the circuit court automated systems. The bill does not limit the fee to e-filing, and provides no additional funding to expand the e-filing system. However, in her remarks to the Joint Committee on Finance, Chief Justice Shirley S. Abrahamson stated that revenue from the fees would be utilized to maintain the current e-filing system only.

5. Although the intent of the language is to allow the DSCO to establish and charge fees for the electronic filing system, the actual language would provide broader authority to the DSCO to charge fees in other situations. The Director of State Courts submitted a letter to the Committee on March 15, 2007, reiterating that the intent of the fee was to support voluntary e-filing of court documents, and suggesting modification of the bill in order to clarify this intent.

6. In addition, on March 19, 2007, the Department of Administration submitted a letter to the Committee Co-Chairs identifying modifications to correct errors in the bill. The Department recommended amending provisions related to the CCAP user fee to specify that the fee would only apply to users of the courts' e-filing capability.

7. Considering the Chief Justice's comments and the Department of Administration's

errata letter, the Committee may wish to modify the bill to specify the DSCO may establish and charge fees for use of "electronic filing of court documents under" the circuit court automated information systems.

8. According to the DSCO, without additional revenues from a CCAP user fee, any e-filing system development would require the use of existing staff and other priority projects would be delayed: "It is critical to any e-filing development effort that the language to allow the Director of State Courts to implement e-filing convenience fees be retained in the biennial budget. Without such authority, e-filing development could not continue."

9. Concerns have, however, been raised as to the advisability for creating a fee to use CCAP. While a charge may be assessed only against an individual voluntarily using e-filing, there may be limited direct benefit to the user if others involved in a particular action still choose to use paper filing, thus delaying the benefit of immediate access to case information. It could be argued that the benefits of e-filing accrue mainly to the court system in terms of increased efficiency and use of clerk of court staff resources. Further, it could be argued that administrative improvements to CCAP should be supported as an on-going portion of the program, not through a user fee.

10. Some have indicated that it is difficult to evaluate the need for any such fee without knowing the amount of the fee, how much revenue will be generated, upon whom the fee will be assessed, and under what circumstances will it be imposed. Given these general concerns, the Committee may wish to delete the authority for a CCAP. Once the courts have more definitively identified the parameters of the CCAP fee, the issue may be more thoroughly evaluated.

## **ALTERNATIVES TO BILL**

1. Approve the Governor's recommendation to modify statutory language to allow the Director of State Courts Office to establish and charge fees for use of the circuit court automated information systems.

2. Modify the Governor's recommendation and modify statutory language to allow the Director of State Courts Office to establish and charge fees for use of electronic filing of court documents under the circuit court automated information systems.

3. Delete provision.

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