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# DEVIN LEMAHIEU

## STATE SENATOR

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DATE: October 28, 2015  
RE: **Testimony on 2015 Senate Bill 114**  
TO: The Senate Committee on Judiciary and Public Safety  
FROM: Senator Devin LeMahieu

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Mr. Chairman and committee members, thank you for taking time today to discuss Senate Bill 114, regarding small claims court fees.

Senate Bill 114 will update our state's small claims court filing fee which hasn't been changed since 1989. In the 2013-15 biennial budget, the Legislature raised the jurisdictional amount for small claims cases from \$5,000 to \$10,000. However, the small claims court filing fee was not raised to account for the increase in court cases. The current system places an unfair burden upon county taxpayers to cover court costs. Updating the filing fee will shift some of the increased costs to those who are using the service.

Currently, our state's small claims court filing fee is \$22.00. Of the \$22.00, \$10.20 of the fee is retained by the county for court costs, while the other \$11.80 is given to the state for the operation of the circuit court automated information system (CCAP). After considering other surcharges, the total cost to file a claim in small claims court today is \$98.00 (except for Milwaukee County).

Senate Bill 114 increases the small claims court filing fee to \$50.00. Under the bill, \$30.00 will be retained for county use and \$20.00 will go to the state for the operation of CCAP. The total cost of filing in small claims court will then be \$126.00.

This proposal is supported by the Wisconsin Counties Association and has received bi-partisan support in both houses. I encourage you to vote yes to SB 114 to update our county court system. Thank you for your consideration.

County	Opened Small Claims Cases 2014	Additional County @ \$30 retained	Additional State @ \$20 retained	Total County + State New Revenue
Marathon	3,609	\$71,458.20	\$29,593.80	\$101,052.00
Marquette	1,083	\$21,443.40	\$8,880.60	\$30,324.00
Menominee	194	\$3,841.20	\$1,590.80	\$5,432.00
Menominee	69	\$1,366.20	\$565.80	\$1,932.00
Milwaukee	35,163	\$696,227.40	\$288,336.60	\$984,564.00
Monroe	1,029	\$20,374.20	\$8,437.80	\$28,812.00
Ontonagon	795	\$15,741.00	\$6,519.00	\$22,260.00
Oneida	937	\$18,552.60	\$7,683.40	\$26,236.00
Outagamie	3,850	\$76,230.00	\$31,570.00	\$107,800.00
Ozaukee	906	\$17,938.80	\$7,429.20	\$25,368.00
Pepin	98	\$1,940.40	\$803.60	\$2,744.00
Pierce	597	\$11,820.60	\$4,895.40	\$16,716.00
Polk	963	\$19,067.40	\$7,896.60	\$26,964.00
Portage	1,353	\$26,789.40	\$11,094.60	\$37,884.00
Price	285	\$5,643.00	\$2,337.00	\$7,980.00
Racine	5,100	\$100,980.00	\$41,820.00	\$142,800.00
Richland	331	\$6,553.80	\$2,714.20	\$9,268.00
Rock	3,969	\$78,586.20	\$32,545.80	\$111,132.00
Rusk	350	\$6,930.00	\$2,870.00	\$9,800.00
Sauk	1,675	\$33,165.00	\$13,735.00	\$46,900.00
Sawyer	337	\$6,672.60	\$2,763.40	\$9,436.00
Shawano	943	\$18,671.40	\$7,732.60	\$26,404.00
Sheboygan	2,896	\$57,340.80	\$23,747.20	\$81,088.00
St. Croix	1,564	\$30,967.20	\$12,824.80	\$43,792.00
Taylor	452	\$8,949.60	\$3,706.40	\$12,656.00
Trempealeau	634	\$12,553.20	\$5,198.80	\$17,752.00
Vernon	610	\$12,078.00	\$5,002.00	\$17,080.00
Vilas	388	\$7,682.40	\$3,181.60	\$10,864.00
Walworth	1,827	\$36,174.60	\$14,981.40	\$51,156.00
Washburn	343	\$6,791.40	\$2,812.60	\$9,604.00
Washington	1,925	\$38,115.00	\$15,785.00	\$53,900.00
Waukesha	5,452	\$107,949.60	\$44,706.40	\$152,656.00
Waupaca	1,059	\$20,968.20	\$8,683.80	\$29,652.00
Waushara	446	\$8,830.80	\$3,657.20	\$12,488.00
Winnebago	4,059	\$80,368.20	\$33,283.80	\$113,652.00
Wood	1,816	\$35,956.80	\$14,891.20	\$50,848.00
Totals	134,742	\$2,667,891.60	\$1,104,884.40	\$3,772,776.00



Civil Court Filings 2014

County	Opened Small Claims Cases 2014	Additional County @ \$30 retained	Additional State @ \$20 retained	Total County + State New Revenue
Adams	651	\$12,889.80	\$5,338.20	\$18,228.00
Ashland	405	\$8,019.00	\$3,321.00	\$11,340.00
Barron	1,314	\$26,017.20	\$10,774.80	\$36,792.00
Bayfield	255	\$5,049.00	\$2,091.00	\$7,140.00
Brown	6,632	\$131,313.60	\$54,382.40	\$185,696.00
Buffalo	205	\$4,059.00	\$1,681.00	\$5,740.00
Burnett	383	\$7,583.40	\$3,140.60	\$10,724.00
Calumet	656	\$12,988.80	\$5,379.20	\$18,368.00
Chippewa	1,223	\$24,215.40	\$10,028.60	\$34,244.00
Clark	495	\$9,801.00	\$4,059.00	\$13,860.00
Columbia	1,375	\$27,225.00	\$11,275.00	\$38,500.00
Crawford	377	\$7,464.60	\$3,091.40	\$10,556.00
Dane	8,701	\$172,279.80	\$71,348.20	\$243,628.00
Dodge	1,731	\$34,273.80	\$14,194.20	\$48,468.00
Door	509	\$10,078.20	\$4,173.80	\$14,252.00
Douglas	1,250	\$24,750.00	\$10,250.00	\$35,000.00
Dunn	772	\$15,285.60	\$6,330.40	\$21,616.00
Eau Claire	2,092	\$41,421.60	\$17,154.40	\$58,576.00
Florence	55	\$1,089.00	\$451.00	\$1,540.00
Fond du Lac	2,903	\$57,479.40	\$23,804.60	\$81,284.00
Forest	227	\$4,494.60	\$1,861.40	\$6,356.00
Grant	760	\$15,048.00	\$6,232.00	\$21,280.00
Green	508	\$10,058.40	\$4,165.60	\$14,224.00
Green Lake	377	\$7,464.60	\$3,091.40	\$10,556.00
Iowa	378	\$7,484.40	\$3,099.60	\$10,584.00
Iron	109	\$2,158.20	\$893.80	\$3,052.00
Jackson	557	\$11,028.60	\$4,567.40	\$15,596.00
Jefferson	1,521	\$30,115.80	\$12,472.20	\$42,588.00
Juneau	895	\$17,721.00	\$7,339.00	\$25,060.00
Kenosha	4,215	\$83,457.00	\$34,563.00	\$118,020.00
Kewaunee	330	\$6,534.00	\$2,706.00	\$9,240.00
La Crosse	2,419	\$47,896.20	\$19,835.80	\$67,732.00
Lafayette	170	\$3,366.00	\$1,394.00	\$4,760.00
Langlade	579	\$11,464.20	\$4,747.80	\$16,212.00
Lincoln	831	\$16,453.80	\$6,814.20	\$23,268.00
Mantowoc	1,775	\$35,145.00	\$14,555.00	\$49,700.00

# Increase in Small Claims Filing Fee: Analysis of Fiscal Effects

Increase of Small Claims Filing Fee to \$50.00  
 Distribution of \$50.00 filing fee is \$30.00 to county general fund and \$20.00 to state general fund for use by CCAP

Small Claims	Current Law	AB 139	Difference
	Each Case	Each Case	
	148,146 Cases	148,146 Cases	
<b>Revenue</b>			
Filing Fee	\$22.00	\$50.00	\$4,148,088.00
CSSS	\$51.00	\$51.00	\$0.00
JISS	\$21.50	\$21.50	\$0.00
<b>Total Collected</b>	\$94.50	\$122.50	\$4,148,088.00
<b>Distribution</b>			
County General Fund	\$10.20	\$30.00	\$2,933,290.80
State General Fund	\$52.00	\$52.00	\$0.00
CCAP	\$17.80	\$26.00	\$1,214,797.20
JISS	\$14.50	\$14.50	\$0.00
<b>Total Distributed</b>	\$94.50	\$122.50	\$4,148,088.00

**Estimated Net Fiscal Impact for AB 139:**

County General Funds	\$2,933,290.80
State General Fund	\$0.00
CCAP	\$1,214,797.20
JISS	\$0.00
<b>Total</b>	<b>\$4,148,088.00</b>

Abbreviations:  
 CSSS = Court Support Services Surcharge  
 CCAP = Consolidated Court Automation Programs  
 JISS = Justice Information System Surcharge

## Midwest States Small Claims Fees

Illinois \$96 to \$161

Iowa \$85

Indiana \$76

Michigan \$45 to \$65

Minn. \$150- \$160

Source: National Center for State Courts  
Mike McCabe and Bill Raftery  
as of March 17, 2015

Public Hearing – October 28, 2015, 10:00 a.m., State Capitol-300 Northeast  
Committee on Judiciary and Public Safety  
2015 Assembly Bill 139 / 2015 Senate Bill 114

Committee Members: Senator Wanggaard (Chair), Senator Vukmir (Vice-Chair), Senator Lasee, Senator Risser, Senator L. Taylor

Good morning Senators and thank you for allowing me this opportunity to speak to you in support of 2015 Senate Bill 114 which essentially increases the base filing fee on small claims cases filed in the Circuit Courts. My name is Kathleen Madden and I am the Clerk of Circuit Court for Waukesha County.

In 2011, the general jurisdictional limit in small claims actions changed from a maximum of \$5,000 to \$10,000 through the final wrap up motion of the 2011-12 State Budget. At that time, there was no increase to the filing fee for small claims actions despite the jurisdictional limit increase. At the time the jurisdictional limit changed, there was a bill, 2011 Assembly Bill 106/Senate Bill 70, that would have increased both the small claim limit and also increased the filing fee. The limit ended up in the budget bill, however the filing fee change did not. Since that time, myself and others have been advocating for a filing fee increase and I am very pleased and very appreciative that you are taking the time to consider this Bill to address this important funding issue.

When the limit increased in 2011, it meant that cases once filed as large claim cases could now be filed as a small claims case at a lower filing fee. I immediately realized that this would create a revenue loss to the circuit court system, to the State's General Fund, and to the justice system programs supported by surcharges that are added on to these filing fees.

The base filing fee for a small claim lawsuit is \$22. Of the \$22 small claims filing fee, Counties retain \$10.20.

When there is a large claim lawsuit filed, there is a \$75 large claim filing fee and the Counties retain \$30.

The Counties essentially lost \$19.80 for each small claims case that would have been filed as a large claim case under the old jurisdictional limit of \$5000.

The State's General Fund lost \$33.20 for each one of these cases since July of 2011.

Since implementing this change, Waukesha County has tracked all cases over \$5001 that are now filed as small claims cases. Since the date of the limit increase through October 27<sup>th</sup> of this year, our County alone has lost \$58,231 in filing fee revenue on 2,941 cases. The State General Fund has lost \$97,641 from these Waukesha cases alone. But this is not a Waukesha County issue. This affects 72 counties, the State's General Fund, and justice programs supported through surcharges.

I know opponents to the fee increase will indicate there is an access to justice concern and higher fees would make it difficult for someone to access the court system to resolve their disputes. Access to justice is a fundamental right to our citizens and one of the primary purposes and goals of our Court system. I would like to point out that any party wishing to utilize the circuit courts to resolve their disputes can file a petition for waiver of fees if they are unable to pay the fees associated with a case filing. The Court gives all who appear before it the opportunity to participate without undue hardship or inconvenience. This is what we strive to do each and every day and fees should never create a barrier for any citizen to utilize their court system. Any citizen can ask the court to waive fees if they are unable to pay them and this is done on a daily basis.

Others may oppose a fee increase simply because they do not want to pay a higher filing fee because it costs their business more money on the front end to bring an action. I understand that. As a landlord myself, while a fee increase may not make me happy personally, I know it is the cost of doing business and I also know that if I have a legitimate claim and win my lawsuit, the costs and fees associated with bringing that lawsuit are recoverable to me from the debtor. This is dictated through Chapter 814 of the Wisconsin Statutes.

We recently conducted a time study in our county to capture the true cost of processing a small claims case from the simplest small claims case which would be a non-contested, no appearance default judgment to a contested small claims case that is disposed of before a Circuit Court Judge through a de novo review hearing (which means it was appealed to the Judge after a Commissioner hearing). The cost to process these cases range from \$42.71 for the very simplest case type to \$368.08 for the contested cases resolved after a de novo review. These estimates include only salary and very conservative benefits estimates. Many cases are much more complicated and take more court time and those cases are not part of these estimates. Again, the Counties retain just \$10.20 from the current filing fee. That isn't even a quarter of what it costs a County to process the very simplest case type. The rest of that cost is picked up by the tax payers. It seems only logical that the cost to process even the simplest case should be covered by a filing fee. I feel confident with our costs estimates as a neighbor County recently conducted a similar time study and our estimates were nearly identical.



I believe all of us could agree that funding for our Court system has been declining steadily for many years. Many other agencies are able to adjust their fees periodically as needed. But the Clerks of Court have absolutely no authority to create new fee or raise current fees. This can only be done through legislation. Each year we are faced with not only declining revenues, but also increasing costs-to-continue on our bases operations. Year after year we are faced with the reality of cutting more and more positions to meet budget targets. County levy funding has steadily increased while other revenue has decreased. We just cannot afford to loose any source of revenue and this fee revenue is a very important part of our revenue budget. Sentate Bill 114 will help restore some revenue that was lost as a result of increasing the small claim limit in the 2011 budget and I strongly urge your support of this Bill.

I would like thank you for allowing me to speak before you on this very important issue. I am an elected official working in a very conservative county. I don't like fee increases period. But I also do not believe the tax payers should pay for someone else using the court system. The small claims filing fee has not changed since 1985 and I sincerely believe it is time we correct this.

Thank you all very much for your time and consideration today and in the coming weeks as you consider this matter further.

Respectfully,

*Kathleen A. Madden*

Kathleen A. Madden  
Clerk of Circuit Court  
Waukesha County, Wisconsin





# Wisconsin Clerks of Circuit Court Association

*Serving Wisconsin Courts*

## President

CARLO ESQUEDA  
215 S HAMILTON ST,  
ROOM 1000  
MADISON, WI 53703  
Tele: 608-266-4679  
FAX: 608-266-9286

## Vice President

THERESA RUSSELL  
PO BOX 1986  
WEST BEND, WI 53095  
Tele: 262-335-4354  
FAX: 262-335-4776

## Secretary

TINA McDONALD  
PO BOX 110  
LANCASTER, WI 53813  
Tele: 608-723-2752  
FAX: 608-723-7370

## Treasurer

STACY KLEIST  
PO BOX 655  
RICHLAND CENTER, WI  
53581  
Tele: 608-647-3956  
FAX: 608-647-3911

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October 28, 2015

Senate Committee on Judiciary and Public Safety  
Senator Van Wanggaard, Chair  
Room 319 South  
State Capitol  
Madison, WI 53707

Re: Senate Bill 114

Honorable Members of the Committee:

The Wisconsin Clerks of Circuit Court Association supports Senate Bill 114, which would increase the base small claims filing fee from \$22 to \$50, resulting in an increase to the state's general fund of \$8.20 per case filed, and an increase to county-level circuit court funding of \$19.80 per case filed. (In addition to this fee, plaintiffs also pay other mandatory surcharges, bringing the current total fee to \$94.50; this legislation would increase that to \$122.50.) This is a prudent measure which will address the indirect cut to county-level court revenues resulting from the change in the jurisdictional limit for small claims cases (from \$5,000 to \$10,000) that occurred during the biennial budget process of 2011.

We understand that the Committee might be hesitant to endorse any fee increases, but a filing fee is markedly different from other statutory user fees, in that the amount paid by the plaintiff is recoverable by judgment if the action is successful. Given that the small claims filing fee has been static for 22 years (since the passage of 1993 Wisconsin Act 16), an increase actually may be overdue, given that the jurisdictional limit at that time was only \$4,000.

We understand that an amendment or replacement bill may be under consideration that would have the effect of reallocating certain existing court-related surcharge revenue from Wisconsin's general fund to the counties for the purpose of court administration. We wish to make it clear that we do not support such a reallocation. Our concern is that such action would create a hole in the general fund that future legislation may seek to fill, and that it may be filled via a funding cut for a state justice system partner. Justice system funding cuts at the state level often are a driver for increased costs at the county level. Should this occur, we would ultimately realize no benefit at the county level.

Thank you for your time and consideration.

Sincerely,

Carlo Esqueda  
Dane County Clerk of Circuit Court  
President, Wisconsin Clerks of Circuit Court Association