

Fiscal Estimate - 2005 Session

Original
 Updated
 Corrected
 Supplemental

LRB Number 05s0396/1	Introduction Number ASA1-AB680
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Description
 The jurisdictional amount in small claims actions, the court support services surcharge, and circuit court filing fees

Fiscal Effect

State:

<input type="checkbox"/> No State Fiscal Effect	<input checked="" type="checkbox"/> Indeterminate	
<input type="checkbox"/> Increase Existing Appropriations	<input type="checkbox"/> Increase Existing Revenues	<input type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget
<input type="checkbox"/> Decrease Existing Appropriations	<input checked="" type="checkbox"/> Decrease Existing Revenues	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Create New Appropriations		<input type="checkbox"/> Decrease Costs

Local:

<input type="checkbox"/> No Local Government Costs	<input checked="" type="checkbox"/> Indeterminate	
1. <input type="checkbox"/> Increase Costs	3. <input checked="" type="checkbox"/> Increase Revenue	5. Types of Local Government Units Affected
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	<input type="checkbox"/> Permissive <input checked="" type="checkbox"/> Mandatory	
2. <input type="checkbox"/> Decrease Costs	4. <input type="checkbox"/> Decrease Revenue	
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	

Towns Village Cities
 Counties Others
 School Districts WTCS Districts

Fund Sources Affected	Affected Ch. 20 Appropriations
<input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS	

Agency/Prepared By LFB/ Chris Carmichael (608) 266-3847	Authorized Signature Bob Lang (608) 266-3847	Date 1/31/2006
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Fiscal Estimate Narratives

LFB 1/31/2006

LRB Number	05s0396/1	Introduction Number	ASA1- AB680	Estimate Type	Supplemental
Description The jurisdictional amount in small claims actions, the court support services surcharge, and circuit court filing fees					

Assumptions Used in Arriving at Fiscal Estimate

Current Law

Small Claims--- Chapter 799 of the statutes provides for the procedures to be used in small claims actions. Under current law, small claims actions include all of the following:

1. Actions for eviction, regardless of the amount of rent claimed;
2. Actions to recover certain forfeitures;
3. Actions for the return of earnest money tendered pursuant to a contract for purchase of certain real properties, regardless of the amount claimed;
4. Actions for the confirmation, vacation, modification or corrections of an arbitration award where arbitration was in settlement of a controversy arising out of a transaction for the purchase of certain real properties;
5. Actions for replevin (actions for the return of movable goods) where the value of the property claimed does not exceed \$5,000; or
6. Other civil actions where the amount claimed is \$5,000 or less, if the actions or proceedings are: (a) for money judgments only, except for cognovit judgments (default judgments on agreements where the debtor accepted liability); (b) for garnishments or most attachments; or (c) to enforce a lien upon movable assets.

Court Support Services Surcharge--- The court support services surcharge was created in 1993 as a \$20 fee on all forfeiture judgments and most civil court filings. The surcharge has increased over the years and is now applied as follows: (a) \$51 for various small claims filings; (b) \$169 for various large claims filings; and (c) \$68 for forfeiture action judgments, appeals from municipal courts or administrative decisions, and certain court filings not covered under (a) or (b). Revenue generated from the court support services surcharge is deposited to the state's general fund.

In addition to the court support services surcharge, a justice information system surcharge and filing fee are assessed for small and large claim actions. The justice information surcharge is \$12 for both small and large claims and is divided as follows: \$6 to the circuit courts automation programs (CCAP), \$5 to the Department of Administration for its justice information systems, and \$1 to the general fund. For small claims actions, a \$22 filing fee is assessed, with \$11.80 paid to CCAP and \$10.20 paid to the counties. For large claims actions, a \$75 filing fee is assessed, with \$15 paid to CCAP and \$30 each paid to the general fund and to the counties.

ASA 1 to AB 680

Assembly Substitute Amendment 1 to Assembly Bill 680 (ASA 1 to AB 680) would increase the jurisdictional limit in small claims cases from \$5,000 or less to \$10,000 or less. In addition, the \$75 filing fee and \$169 court support services surcharge would apply to small claims actions between \$5,001 and \$10,000, while the \$22 filing fee and \$51 court support services surcharge would continue to apply to small claims actions for \$5,000 or less. Further, ASA 1 to AB 680 would provide that 50% of the revenue generated from the \$169 court support services surcharge, applied to small claims actions between \$5,001 and \$10,000, would be retained by counties.

Fiscal Effect

Increasing the jurisdictional limit for small claims actions will shift cases from the large claims caseload to the small claims caseload. However, it is not possible to predict the amount of the shift. Civil action filings are not classified by specific dollar amounts, and, based on discussions with state and county court officials, many large claim filings do not identify amounts being sought. For instance, under s. 802.02(1m), "the demand for judgment may not specify the amount of money the pleader seeks" for tort actions (the amount may be identified to a jury or the court).

Since the court fees and surcharges assessed to small claims actions are smaller than those assessed in large claims actions, a decrease in large claims actions would likely result in a loss of revenue to the general fund. While ASA 1 to AB 680 provides that the \$169 court support services surcharge and \$75 filing fee apply to small claims actions between \$5,001 and \$10,000 (instead of the \$51 surcharge and \$22 filing fee), the Substitute Amendment also provides that 50% of the \$169 court support services surcharge for small claims actions between \$5,000 and \$10,000 go to the counties, instead of entirely to the general fund.

In 2004, there were 160,228 small claims actions filed with the courts, and 54,959 large claims actions filed. The potential impact on revenue generated from small and large claim actions as a result of ASA 1 to AB 680 would be that for every 1,000 cases filed as a small claim rather than a large claim, state revenues to the general fund would decrease by approximately \$84,400 while counties would realize a corresponding increase in revenue of \$84,400.

Long-Range Fiscal Implications

Under ASA 1 to AB 680, the jurisdictional amount for small claims actions would increase from \$5,000 or less to \$10,000 or less. In addition, the \$75 filing fee and \$169 court support services surcharge currently assessed in large claims actions, would also be assessed on small claims actions between \$5,001 to \$10,000. Further, ASA 1 to AB 680 would split the revenue generated from court support services surcharge for small claims actions between \$5,001 to \$10,000 evenly between the state and counties.

Assuming a corresponding shift in cases from large claims to small claims, while the overall revenue generated from court fees and surcharges would be unchanged, the net effect would be a decrease in state general fund revenue and an increase in revenue to the counties.