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LEGISLATIVE ACTION

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| Senate | . | House |
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| Floor: AD/CR | . | |
| 03/09/2012 03:18 PM | . | |
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The Conference Committee on SB 1964 recommended the following:

1 **Senate Conference Committee Amendment (with title**
2 **amendment)**

3
4 Delete everything after the enacting clause
5 and insert:

6 Section 1. Section 28.2457, Florida Statutes, is created to
7 read:

8 28.2457 Mandatory monetary assessments.—

9 (1) (a) Except as otherwise provided by law, a monetary
10 assessment mandated by statute shall be imposed and included in
11 the judgment without regard to whether the assessment is
12 announced in open court.

13 (b) When an assessment mandated by statute prescribes a



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14 minimum assessment and a maximum assessment, or prescribes
15 solely a minimum assessment, the minimum assessment is presumed
16 and shall be imposed and included in the judgment, unless the
17 court specifies a greater amount.

18 (2) The clerks of court, through their association and in
19 consultation with the Office of the State Courts Administrator,
20 shall develop by October 1, 2012, a uniform form for the
21 identification and imposition of all assessments mandated by
22 statute. The clerks shall submit the form by that date, and by
23 October 1 every year thereafter if necessary to reflect changes
24 in the law, to the Supreme Court for approval. Upon approval of
25 the form by the Supreme Court, all circuit and county courts
26 shall use the form.

27 (3) As used in this section, the term "monetary assessment"
28 or "assessment" includes, but is not limited to, a fine or other
29 monetary penalty, fee, service charge, or cost.

30 Section 2. Section 28.246, Florida Statutes, is amended to
31 read:

32 28.246 Payment of court-related fines or other monetary
33 penalties, fees, charges, and costs; partial payments;
34 distribution of funds.-

35 (1) The clerk of the circuit court shall report the
36 following information to the Legislature and the Florida Clerks
37 of Court Operations Corporation on a form, and using guidelines
38 developed by the clerks of court, through their association and
39 in consultation with the Office of the State Courts
40 Administrator ~~Department of Financial Services:~~

41 (a) The total amount of mandatory fees, service charges,
42 and costs; ~~the total amount actually assessed;~~ the total amount



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43 underassessed, if any, which is the amount less than the minimum
44 amount required by law to be discharged, waived, or otherwise
45 not assessed; and the total amount collected.

46 (b) The total amount of discretionary fees, service
47 charges, and costs assessed; ~~the total amount discharged;~~ and
48 the total amount collected.

49 (c) The total amount of mandatory fines and other monetary
50 penalties; ~~the total amount assessed;~~ the total amount
51 underassessed, if any, which is the amount less than the minimum
52 amount required by law to be discharged, waived, or otherwise
53 not assessed; and the total amount collected.

54 (d) The total amount of discretionary fines and other
55 monetary penalties assessed; ~~the amount discharged;~~ and the
56 total amount collected.

57
58 ~~If provided to the clerk of court by the judge,~~ The clerk, in
59 reporting to the Legislature and corporation amount assessed,
60 shall separately identify the monetary amount assessed and
61 subsequently discharged or converted pursuant to s. 938.30 as
62 community service,; assessed by reducing the amount to a
63 judgment or lien, or to; satisfied by time served; or other. The
64 form developed by the clerks Chief Financial Officer shall
65 include separate entries for recording the amount discharged and
66 the amount converted these amounts. If a court waives, suspends,
67 or reduces an assessment as authorized by law, the portion
68 waived, suspended, or reduced may not be deemed assessed or
69 underassessed for purposes of the reporting requirements of this
70 section. The clerk also shall report a collection rate for
71 mandatory and discretionary assessments. In calculating the



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72 rate, the clerk shall deduct amounts discharged or converted
73 from the amount assessed. The clerk shall submit the report on
74 an annual basis 90 ~~60~~ days after the end of the county fiscal
75 year. The clerks and the courts shall develop by October 1,
76 2012, the form and guidelines to govern the accurate and
77 consistent reporting statewide of assessments as provided in
78 this section. The clerk shall use the new reporting form and
79 guidelines in submitting the report for the county fiscal year
80 ending September 30, 2013, and for each year thereafter.

81 (2) The clerk of the circuit court shall establish and
82 maintain a system of accounts receivable for court-related fees,
83 charges, and costs.

84 (3) Court costs, fines, and other dispositional assessments
85 shall be enforced by order of the courts, collected by the
86 clerks of the circuit and county courts, and disbursed in
87 accordance with authorizations and procedures as established by
88 general law.

89 (4) The clerk of the circuit court shall accept partial
90 payments for court-related fees, service charges, costs, and
91 fines in accordance with the terms of an established payment
92 plan. An individual seeking to defer payment of fees, service
93 charges, costs, or fines imposed by operation of law or order of
94 the court under any provision of general law shall apply to the
95 clerk for enrollment in a payment plan. The clerk shall enter
96 into a payment plan with an individual who the court determines
97 is indigent for costs. A monthly payment amount, calculated
98 based upon all fees and all anticipated costs, is presumed to
99 correspond to the person's ability to pay if the amount does not
100 exceed 2 percent of the person's annual net income, as defined



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101 in s. 27.52(1), divided by 12. The court may review the
102 reasonableness of the payment plan.

103 (5) When receiving partial payment of fees, service
104 charges, court costs, and fines, clerks shall distribute funds
105 according to the following order of priority:

106 (a) That portion of fees, service charges, court costs, and
107 fines to be remitted to the state for deposit into the General
108 Revenue Fund.

109 (b) That portion of fees, service charges, court costs, and
110 fines ~~which are~~ required to be retained by the clerk of the
111 court or deposited into the Clerks of the Court Trust Fund
112 within the Justice Administrative Commission.

113 (c) That portion of fees, service charges, court costs, and
114 fines payable to state trust funds, allocated on a pro rata
115 basis among the various authorized funds if the total collection
116 amount is insufficient to fully fund all such funds as provided
117 by law.

118 (d) That portion of fees, service charges, court costs, and
119 fines payable to counties, municipalities, or other local
120 entities, allocated on a pro rata basis among the various
121 authorized recipients if the total collection amount is
122 insufficient to fully fund all such recipients as provided by
123 law.

124
125 To offset processing costs, clerks may impose either a per-month
126 service charge pursuant to s. 28.24(26) (b) or a one-time
127 administrative processing service charge at the inception of the
128 payment plan pursuant to s. 28.24(26) (c).

129 (6) A clerk of court shall pursue the collection of any



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130 fees, service charges, fines, court costs, and liens for the
131 payment of attorney ~~attorney's~~ fees and costs pursuant to s.
132 938.29 which remain unpaid after 90 days by referring the
133 account to a private attorney who is a member in good standing
134 of The Florida Bar or collection agent who is registered and in
135 good standing pursuant to chapter 559. In pursuing the
136 collection of such unpaid financial obligations through a
137 private attorney or collection agent, the clerk of the court
138 must have attempted to collect the unpaid amount through a
139 collection court, collections docket, or other collections
140 process, if any, established by the court, find this to be cost-
141 effective and follow any applicable procurement practices. The
142 collection fee, including any reasonable attorney's fee, paid to
143 any attorney or collection agent retained by the clerk may be
144 added to the balance owed in an amount not to exceed 40 percent
145 of the amount owed at the time the account is referred to the
146 attorney or agent for collection. The clerk shall give the
147 private attorney or collection agent the application for the
148 appointment of court-appointed counsel regardless of whether the
149 court file is otherwise confidential from disclosure.

150 Section 3. Section 28.42, Florida Statutes, is amended to
151 read:

152 28.42 Manual of ~~court-related~~ filing fees, charges, costs,
153 and fines. ~~No later than July 1, 2004,~~ The clerks of court,
154 through their association and in consultation with the Office of
155 the State Courts Administrator, shall prepare and disseminate a
156 manual of ~~court-related~~ filing fees, service charges, costs, and
157 fines imposed pursuant to state law, ~~organized by county~~ for
158 each type of action and offense, and classified as either



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159 mandatory or discretionary. The manual also shall classify the
160 fee, charge, cost, or fine as court-related revenue or noncourt-
161 related revenue. The clerks, through their association, Office
162 of the State Courts Administrator shall disseminate this manual
163 to the chief judge, state attorney, public defender, and court
164 administrator in each circuit and to the clerk of the court in
165 each county. The clerks, through their association and in
166 consultation with the Office of the State Courts Administrator,
167 shall at a minimum update and disseminate this manual on July 1
168 of each year thereafter.

169 Section 4. Notwithstanding the amendments made by this act
170 to s. 28.246, Florida Statutes, the clerks of court shall use
171 the reporting requirements, standards, and form prescribed in
172 that section before July 1, 2012, for the report due for the
173 county fiscal year ending September 30, 2012. The amendments
174 made by this act to s. 28.246, Florida Statutes, apply beginning
175 with the report for the county fiscal year ending September 30,
176 2013.

177 Section 5. This act shall take effect July 1, 2012.

178
179 ===== T I T L E A M E N D M E N T =====

180 And the title is amended as follows:

181
182 Delete everything before the enacting clause
183 and insert:

184 A bill to be entitled
185 An act relating to court-related assessments; creating
186 s. 28.2457, F.S.; providing for a monetary assessment
187 mandated by statute to be imposed regardless of



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188 whether the assessment is announced in open court;
189 providing guidelines for establishing the amount of a
190 mandatory assessment under certain conditions;
191 requiring the clerks of court to develop a uniform
192 form to be used in identifying and imposing mandatory
193 assessments; providing for the clerks to consult with
194 the Office of the State Courts Administrator;
195 providing for the Supreme Court to approve the form;
196 defining terms; amending s. 28.246, F.S.; revising
197 requirements for the clerks of court to report on the
198 assessment and collection of certain fines or other
199 monetary penalties, fees, costs, and charges;
200 prescribing requirements for reporting certain
201 assessments that are waived, suspended, or reduced;
202 requiring the clerks to report collection rates;
203 providing guidelines for calculating the collection
204 rate; revising the timeframe for submitting the
205 report; requiring the clerks, rather than the
206 Department of Financial Services, to develop a
207 reporting form and guidelines; providing for the
208 clerks to consult with the Office of the State Courts
209 Administrator; amending s. 28.42, F.S.; removing an
210 obsolete date; providing for the clerks of court,
211 rather than the Office of the State Courts
212 Administrator, to prepare and disseminate a manual of
213 filing fees, service charges, costs, and fines;
214 revising requirements relating to the content and
215 presentation of information in the manual; providing
216 for the clerks to consult with the Office of the State



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217 Courts Administrator; providing for applicability of
218 amendments made by the act; providing an effective
219 date.