

STORAGE NAME: h1937a.frc.doc
DATE: April 24, 2001

HOUSE OF REPRESENTATIVES
FISCAL RESPONSIBILITY COUNCIL
ANALYSIS

BILL #: HB 1937

RELATING TO: State revenues collected by clerks of the court

SPONSOR(S): Procedural & Redistricting Council and Representative Byrd

TIED BILL(S): HB 1939

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) PROCEDURAL & REDISTRICTING COUNCIL YEAS 15 NAYS 0
 - (2) FISCAL RESPONSIBILITY COUNCIL YEAS 22 NAYS 0
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

This bill provides for the electronic remittance of state revenues collected by the clerks of the court to the Department of Revenue for deposit into specified trust funds of agencies receiving the revenues.

Except as otherwise provided, the effective date of this bill is March 1, 2002.

This bill has an anticipated one-time fiscal impact of \$150,000.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|--|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

Less Government: This bill would increase the work load of the Department of Revenue but will decrease the workload on court clerks.

B. PRESENT SITUATION:

The clerks of the court collect and manually submit court fines and fees to the state from a variety of sources. Current disbursement procedures for such fines and fees to state agencies are costly, inefficient, and labor intensive, with many manual processes involved. According to information provided by the *Florida Association of Court Clerks*, this manual distribution of fines and fees for eventual deposit to state agency accounts currently takes from 11 to 14 days from the time the clerk mails the check until the time the check is posted to the state agency account. No statewide or individualized electronic disbursement is made by counties to state agencies except for the monthly electronic disbursement of child support payments made by the Department of Revenue. In addition to court costs, the clerks of the court also collect for the state, the Class C Intangible Personal Property Tax, and the Documentary Stamp Tax pursuant to Chapters 199 and 200, Florida Statutes.

In Auditor General Report No. 01-062, *Assessment and Collection of Court Costs Authorized by Chapter 938, Florida Statutes*, published in November 2000, one of the several recommendations made to improve the economy and efficiency of the processes established by law for the assessment, collection, remittance, and distribution of court costs established by Chapter 938, F.S., is to establish a single state clearing trust fund into which the collected monies would be deposited.

C. EFFECT OF PROPOSED CHANGES:

This bill amends, creates, or repeals the following sections of the Florida Statutes: 213.13, 27.52, 28.101, 28.2401, 28.241, 34.041, 44.108, 316.192, 318.18, 318.21, 329.73, 372.7015, 372.72, 382.023, 741.01, 775.0835, 938.01, 938.03, 938.04, 938.06, 938.07, 938.25, 938.27, and 960.17. See Section by Section Analysis below for further explanation.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. The bill creates s. 213.13, F.S., providing for the electronic remittance and distribution of funds collected by the clerks of the court to the Department of Revenue for deposit into specified trust funds of agencies receiving the funds. The Department of Revenue is directed to establish procedures requiring the electronic transmittal of funds and associated return information submitted by clerks of the

court. These procedures must be developed in conjunction with the clerks of the court, and the department shall adopt rules necessary to implement the procedures contained in this section.

The funds to be transmitted electronically by the clerks to the department include proceeds from the taxes imposed by Florida Statutes chapter 199, Class C Intangibles Tax; Florida Statutes chapter 201, Documentary Stamp Tax; and all other fees, fines, reimbursements, court costs, or other court-related funds that the clerks must remit to the state pursuant to law. At a minimum, these electronic remittance procedures must include:

- a. The prescribed reporting frequency and time period for the clerks to remit such funds and the prescribed time period in which the department must electronically deposit the funds received to the appropriate state and local funds and accounts;
- b. The electronic format and type of debit remittance system to be used by the clerks to remit the required information; and
- c. The information that must be submitted with such remittance.

The clerks shall submit return information with the electronic payments required by this section in a manner that is initiated through electronic means.

The department must deposit the revenues electronically received from the clerks in a correct and timely manner. Agencies that are statutorily authorized to receive such revenue deposits are required to grant the department electronic access to their appropriate funds and accounts.

Section 2. Notwithstanding any other provision of law, all moneys collected by the clerks of the court for subsequent distribution to a state agency or to the Supreme Court must be transmitted to the Department of Revenue for appropriate distribution. A uniform remittance form provided by the department detailing the specific amounts due each fund must accompany each submission.

Sections 3 – 25. Make the necessary changes to various statutes (see below) to provide for the electronic remittance of court costs collected by the clerks of the court to the Department of Revenue for deposit into specified trust funds of the agencies receiving the revenues.

Section 3. Amends s. 27.52, F.S., related to court-assessed fees or costs paid by indigent defendants.

Section 4. Amends s. 28.101, F.S., related to additional charges for dissolution of marriage.

Section 5. Amends s. 28.2401, F.S., related to service charges in probate matters.

Section 6. Amends s. 28.241, F.S., related to filing charges for trial and appellate proceedings.

Section 7. Amends s. 34.041, F.S., related to an additional charge for filing a civil case.

Section 8. Amends s. 44.108, F.S., related to a service charge, on court proceedings, for mediation and arbitration.

Section 9. Amends s. 316.192, F.S., related to a additional fine for reckless driving.

Section 10. Amends s. 318.14, F.S., related to assessed court costs for certain noncriminal traffic infractions.

Section 11. Amends s. 318.18, F.S., related to civil penalties for noncriminal dispositions.

Section 12. Amends s. 318.21, F.S., related to disposition of civil penalties received by county courts.

Section 13. Effective July 1, 2002, amends s. 318.21, F.S., as amended by chapters 97-235, 98-280, 98-403, and 2000-139, Laws of Florida, related to disposition of civil penalties received by county courts.

Section 14. Amends s. 327.35, F.S., related to penalties for boating under the influence.

Section 15. Amends s. 327.73, F.S., related to fees and civil penalties for violations involving vessels.

Section 16. Amends s. 372.7015, F.S., related to wildlife fines.

Section 17. Amends s. 372.72, F.S., related to fines and penalties resulting from certain violations involving endangered or threatened species.

Section 18. Amends s. 382.022, F.S., related to marriage application fees.

Section 19. Amends s. 382.023, F.S., related to a portion of dissolution-of-marriage fees.

Section 20. Amends s. 569.11, F.S., related to civil penalties received by a county court for violations by minors possessing tobacco products.

Section 21. Amends s. 741.01, F.S., related to a portion of the marriage license fee.

Section 22. Amends s. 775.0835, F.S., related to fines for certain misdemeanors which resulted in the injury or death of another person.

Section 23. Amends s. 938.01, F.S., related to an additional court cost assessment against every person convicted for violation of a state penal or criminal statute or of a municipal or county ordinance.

Section 24. Amends s. 938.03, F.S., related to mandatory court costs in cases involving felony, misdemeanor, or delinquent acts; criminal traffic offenses; and certain ordinance violations.

Section 25. Amends s. 938.04, F.S., related to an additional court cost surcharge with respect to criminal fines and bail bonds.

Section 26. Amends s. 938.06, F.S., related to additional assessments for crime stoppers programs.

Section 27. Amends s. 938.07, F.S., related to an additional fine for driving under the influence.

Section 28. Amends s. 938.23, F.S., related to additional assessments for certain alcohol-related offenses, for alcohol and other drug abuse programs.

Section 29. Amends s. 938.25, F.S., related to an additional assessment for violations involving controlled substances.

Section 30. Amends s. 938.27, F.S., related to certain investigative costs in criminal cases recovered on behalf of a state agency.

Section 31. Amends s. 960.17, F.S., related to certain domestic violence payments remitted to the clerks of the court.

Section 32. Authorizes the Department of Revenue to prepare the forms and adopt the rules and procedures necessary for the administration of the act.

Section 33. This act takes effect March 1, 2002, except Section 13, which takes effect July 1, 2002.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill should result in a one-time speed up of revenues deposited into various state trust funds.

2. Expenditures:

See Fiscal Comments below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See Section IV below.

2. Expenditures:

This bill is expected to reduce local government expenditures related to remitting various moneys to the state by electronic funds transfer.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The Department of Revenue estimates the cost to develop and maintain a web-based system that will enable the clerks of the court to submit a report of all fines and fees collected and remit payment in a single, automated transaction, to be \$150,000 – a non-recurring \$100,000 in programming costs and a recurring \$50,000 to cover the costs of maintaining the web-site and distribution of revenues.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill may trigger the provisions of Article 7, Section 18, of the Florida Constitution if it reduces the revenue raising authority of counties by decreasing the time money would be on deposit and potentially earn interest. If it does trigger such provision it meets the exception for an "insignificant fiscal impact" as the maximum interest earnings are estimated at \$1,250,000 annually.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

The 67 clerks of the court will be able to submit a report of all court fines and fees collected and remit payment in a single, automated transaction. In addition, clerks will have the ability to file both their Class C Intangibles Tax and Documentary Stamp Tax electronically. Electronic filing will significantly enhance the economy and efficiency of the collection, remittance, and distribution of state court costs by reducing the number of remittances and transfers required. The cost of collection and remittance should decrease for the clerks of the court.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

Amendment 1. Title Amendment. Corrects a scrivener's error (329.73 should have been 327.73), adds 5 statutory references to the title that were omitted and further conforms the title to the text of the bill.

Amendment 2: Removes the deletion of subsection 318.21(2)(i), F.S., on page 11, lines 19 through 27, nullifying the deletions and leaving present law intact.

VII. SIGNATURES:

PROCEDURAL & REDISTRICTING COUNCIL:

Prepared by:

Eric Haug, J.D.

Staff Director:

P.K. Jameson, J.D.

AS REVISED BY THE FISCAL RESPONSIBILITY COUNCIL:

Prepared by:

Richard Herring

Staff Director:

David Coburn