



LEGISLATIVE FISCAL OFFICE
Fiscal Note

Fiscal Note On: HB 325 HLS 17RS 974
Bill Text Version: REENGROSSED
Opp. Chamb. Action:
Proposed Amd.:
Sub. Bill For.: REVISED

Date: May 30, 2017 8:30 AM
Dept./Agy.: Clerks of Court
Subject: Provides relative to repayment of unused court costs
Author: THIBAUT
Analyst: Alan M. Boxberger

CLERKS OF COURT RE DECREASE GF RV See Note Page 1 of 2
Provides relative to the repayment or retention of unused court costs

Present law requires clerks of district courts to collect advance deposits from plaintiffs in each ordinary suit; provides that if a period of 5 years elapse without any pleadings being filed during which time the suit is inactive, the clerk shall refund any unused balance; provides for presumptions of abandonment and transfer to the state treasurer; and provides for refund of unused balances upon written notification.

Proposed law requires the clerk to refund unused advance deposits in excess of \$10 within 90 days of written verification of final termination, judgment of dismissal based on abandonment, or no file action for more than 5 years; requires for refund payment by the clerk and provides that after publishing a notice of intent, the district court order that any unused balance remaining after six months to be transferred to the clerk's operating account; provides for clerk liability for unclaimed funds; and authorizes the clerk to retain balances under \$10.

Table with 7 columns: EXPENDITURES, 2017-18, 2018-19, 2019-20, 2020-21, 2021-22, 5 -YEAR TOTAL. Rows include State Gen. Fd., Agy. Self-Gen., Ded./Other, Federal Funds, Local Funds, and Annual Total.

Table with 7 columns: REVENUES, 2017-18, 2018-19, 2019-20, 2020-21, 2021-22, 5 -YEAR TOTAL. Rows include State Gen. Fd., Agy. Self-Gen., Ded./Other, Federal Funds, Local Funds, and Annual Total.

EXPENDITURE EXPLANATION

Proposed law will result in an increase in LF expenditures associated with the requirement that clerks of court advertise a notice of intent to utilize unclaimed, unused balances from deposits associated with advance court costs by any party in each ordinary suit. For clerk offices that process high volumes of ordinary suits and advance court cost deposits, the cost of advertising could potentially be significant. Proposed law requires that for any civil proceeding initiated by ordinary suit, with the exception of a succession proceeding, the clerk shall Expenditure Explanation Continued on Page 2

REVENUE EXPLANATION

Proposed law will result in a significant SGF revenue decrease beginning in FY 18 by allowing the clerks of district courts to move unclaimed funds held in advance deposit accounts into the clerk's operating account after complying with certain requirements and exempting the clerks from compliance with the Uniform Unclaimed Property Act (UUPA), R.S. 9:151 et seq., with regard to unclaimed advance deposit funds.

The Treasury reports that over the past five years, the 21 clerks of court that historically complied with the UUPA have remitted an annual average of \$610,549.12 to the Unclaimed Property Fund (5 of the 21 have recently ceased reporting and the remaining 43 have not consistently reported historically). This total includes monies paid from the Clerks' Registry of Court, the Jury Commission and advance deposits. Proposed law would allow clerks to transfer proceeds from advance deposits into their operating accounts rather than to the Unclaimed Property Fund, which would result in an equal decrease of deposits into the SGF. While the Treasury is unable to confirm the portion of the total remittance that is derived from advance deposits, the Louisiana Clerks of Court Association estimates the portion of the annual average remittance that is attributable to advance deposits is approximately \$160,000. Proposed law appears to conflict with requirements detailed in R.S. 9:165.1 mandating that the legislature may not discontinue or decrease revenues pledged to the payment of authorized unclaimed property bonds or permit to be discontinued or decreased the revenues in anticipation of the collection of which such bonds have been issued. Currently, the state makes bond payments of approximately \$15 M annually from the aggregated revenue sources deposited under the provisions of the UUPA.

Proposed law will result in an indeterminable increase in LF revenues for district clerks of court. Proposed law requires that clerks of district courts shall demand or receive from all parties in each ordinary suit not less than \$20 (or such amount as may be fixed by law) for advanced costs, while present law only requires such deposits for the plaintiff or plaintiffs. Currently unused advance deposit balances associated with an ordinary suit that has been inactive for five years must be refunded to the person making the original deposit. Proposed law allows the clerk to transfer unused advance deposit balances less than \$10 to his or her operating account after specified time periods unless relevant parties request a refund, and provides for transfer of balances in excess of \$10 after specified time periods and publication of a public notice of intent. The Louisiana Clerks of Court Association reports there is no central repository or database from which unused advance deposit balances can be determined and the net impact to individual clerks of court may vary based on balances, activity level and choices made by individuals associated with individual ordinary suits.

Senate Dual Referral Rules
13.5.1 >= \$100,000 Annual Fiscal Cost {S&H}
13.5.2 >= \$500,000 Annual Tax or Fee Change {S&H}

House
6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S}
6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S}

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CONTINUED EXPLANATION from page one:
Expenditure Explanation Continued from Page 1

refund to the person who made a deposit for courts costs any unused balance in excess of \$10, after paying all fees or other charges of the suit that are considered legally enforceable under any of the following circumstances: within 90 days of written verification of final termination of the proceeding, upon issuance of a judgment dismissing the case where no appeal has been lodged and for which the balance remains unclaimed for a period of at least six months from such judgment, or where no pleading or other document has been filed in the proceeding in excess of five years.

Upon any of the three triggers detailed above, the clerk shall comply with the refund procedure by sending payment of any unused balance to the last known address of the person who made the deposit. If the unused balance thereafter remains unclaimed for a period of 6 months, the clerk shall move for an order from the district court to transfer the unclaimed funds to the clerk's operating account after first advertising the notice of the intention to so utilize the unclaimed funds by publication in the official journal for the parish of the clerk. The clerk shall remain liable for the full amount of any such unclaimed funds for 1 year following transfer of funds into his or her operating account, after which time the clerk shall be relieved of all liability for the funds. In cases where the unused balance in the advance deposit fund is \$10 or less, the clerk is not required to refund the unused balance and if the person making the deposit does not claim the balance with prescribed time periods the clerk is not obligated to refund the balance and may transfer all such funds to the clerk's operating account.

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