

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. NO.: 3500-01
BILL NO.: HB 1580
SUBJECT: Circuit Clerks: Counties, Recorder of Deeds
TYPE: Original
DATE: February 25, 2000

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
General Revenue	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
State Court Administrator Recorder's Special	\$0	\$0	\$0
Total Estimated Net Effect on <u>All</u> State Funds	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
Local Government	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 6 pages.

FISCAL ANALYSIS

ASSUMPTION

State Courts Administrator officials stated that there would be no appreciable state costs or savings.

Officials stated that Section 59.333 provides for an additional \$10 fee for recording any instrument. The fees would be paid to the State Courts Administrator, who would receive and hold the monies in a fund outside the state's treasury with records - tracking receipts by county. Money would be returned only to those counties that adopt or have adopted a system of appointed Circuit Clerks as provided for in Section 483.015 RSMo, or section 483.018 RSMo. Money received from a county would be paid back to the county, 20% going to the Recorders Fund and 80% going to a special fund established within the county's treasury to provide for the operation of the Recorder of Deeds Office.

Monies that would not be returned to counties that have not adopted the provisions of this proposal would build up in the State Court Administrator's special fund and after a year would be transferred to the state's General Revenue Fund.

Officials stated that they obtained information from the Recorder of Deeds organization that about 1.3 million instruments are recorded annually, which would yield about \$13,000,000 annually.

Oversight assumes the State Court Administrators office would be able to handle additional administrative duties at current appropriation levels.

Office of Administration-Division of Accounting officials assume no fiscal impact.

Office of the State Treasurer assumes no fiscal impact to their office.

In response to almost identical legislation, (fiscal note #3010-01; SB 697), counties issued the following statements:

The **Taney County Clerk** stated that their county would be changing to first class and a split of the Circuit Clerk and Recorder of Deeds would occur. Officials assumed no fiscal impact.

Officials estimated that the \$10 fee would generate \$37,000 annually.

The **McDonald County Circuit Clerk and Ex-Officio Recorder** stated that the proposed

ASSUMPTION (continued)

increase in recording fees would more than offset the costs of funding the Recorder of Deeds office. Officials assume no fiscal impact.

The **Washington County Circuit Clerk and Ex-Officio Recorder** stated that they now have a separate office for the Recorder and it is maintained by the county. The current employees would be the same. Officials assume fiscal impact would be minimal.

The **Court Administrator of Jackson County** assumes no fiscal impact on the Circuit Court of Jackson County.

The **Macon County Circuit Clerk and Ex-Officio Recorder** stated that in 1998 their office recorded 3,389 instruments, which would generate \$33,890 based on the proposed \$10 recording fee. Officials stated that separating the Recorders Office would have a positive fiscal impact.

Oversight assumes that in counties where the Circuit Clerk is elected, the question of making the Circuit Clerk position an appointed position would require voter approval. Those counties which choose to put the question on a ballot would have election costs.

<u>FISCAL IMPACT - State Government</u>	FY 2001 (6 Mo.)	FY 2002	FY 2003
GENERAL REVENUE FUND			
<u>Income to GR Fund</u>			
From Court Administrator (Undistributed Fees)*	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown

***The amount of undistributed fees transferred to General Revenue would depend upon the number of counties that would not adopt the system of having an appointed Circuit Clerk, and the amount of fees collected in those counties.**

**STATE COURT ADMINISTRATOR'S
RECORDER'S FUND**

<u>Income</u> - \$10 recording fees	\$6,500,000	\$13,000,000	\$13,000,000
<u>Cost</u> - Up to 20% to County Recorder's Funds	(\$0 to \$1,300,000)	(\$0 to \$2,600,000)	(\$0 to \$2,600,000)
<u>Cost</u> - Up to 80% to County General Revenue Funds	(\$0 to \$4,200,000)	(\$0 to \$10,400,000)	(\$0 to \$10,400,000)
<u>Cost</u> - Transfer to General Revenue Fund	(\$0 to Unknown)	(\$0 to Unknown)	(\$0 to Unknown)
ESTIMATED NET EFFECT ON STATE	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

COURTS ADMINISTRATOR RECORDERS' FUND*

*Any amounts not distributed to county funds would be transferred to the state's General Revenue Fund.

<u>FISCAL IMPACT - Local Government</u>	FY 2001 (6 Mo.)	FY 2002	FY 2003
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COUNTIES

<u>Income</u> - \$10 Recorder Fees	\$6,500,000	\$13,000,000	\$13,000,000
<u>Cost</u> - Transfer of Fees to state courts	(\$6,500,000)	(\$13,000,000)	(\$13,000,000)
<u>Income</u> - Transfers from State Courts Administrator Recorders' Special Fund	\$0 to \$6,500,000	\$0 to \$13,000,000	\$0 to \$13,000,000
<u>Cost</u> - Recorders' Administration	(\$0 to \$6,500,000)	(\$0 to \$13,000,000)	(\$0 to \$13,000,000)
NET EFFECT ON COUNTIES WITH APPOINTED CIRCUIT CLERKS	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

Small businesses would have fiscal impact to the extent that they would pay an additional \$10 fee when recording instruments.

DESCRIPTION

This act changes the procedures for separating the offices of recorder of deeds and circuit court clerk by combining them with procedures to make the circuit clerk appointed. All counties will have the option to have a recorder. Current law limits recorders to just 1st, 2nd and certain 3rd class counties. The option can be exercised by voting to have an appointed circuit clerk. An

DESCRIPTION(continued)

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affirmative vote accomplishes both appointment procedures and separation of the recorder's and clerk's offices. The county election to make clerks appointed may be set by the county commission, or by petition of 5% of the voters.

A charge of \$10 on recorded instruments relating to property is imposed after January 1, 2001. Every county collects the \$10 and pools it through the Office of the State Courts Administrator. Only counties with an appointed clerk receive the money back - 20% directly to the recorder to pay for certain office costs, and 80% to the county treasury to be used only for the recorder's office. Money from counties that have an elective circuit clerk are passed on to the state's general revenue.

Geographic limitations (state residency, jurisdictional residency) are removed from both elected and appointed clerks. Section 483.010, RSMo, further states that clerks are judicial employees of the circuit court under which they serve.

Current law remains that circuit clerks in St. Louis City, and the counties of St. Louis, St. Charles and Jackson will take office pursuant to the charter of these respective entities. If the clerk's office is made appointive, then the state will pay the portion of the clerk's salary that would be paid for a county of such size.

Vacancies of all clerks are filled by the circuit court. Currently, they would be filled by the Governor. In elected counties, the appointment would last until the next election.

Circuit clerk staff may still be appointed by the circuit clerk, but now is subject to appropriations and the administrative rules of the Supreme Court. Beginning January 1, 2003, circuit clerk salaries will be fixed by the Supreme Court.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

State Treasurer's Office

RWB:VLW:LR:OD:005 (9-94)

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State Courts Administrator
Office of Administration
McDonald County Circuit Clerk
Washington County Circuit Clerk
Jackson County Court Administrator
Macon County Circuit Clerk
Taney County Clerk

A handwritten signature in black ink, appearing to read "Jeanne Jarrett". The signature is written in a cursive style with a large initial "J".

Jeanne Jarrett, CPA
Director
February 25, 2000