

# MISSISSIPPI

## Court Assessment County Review

July 2020

**SHAD WHITE**

**State Auditor**

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# Executive Summary

## **\$624,128 in Court Assessment Fees were not Submitted to the State Treasury in Accordance with State Law**

### **A Review of Mississippi County Court Fees for Fiscal Years 2015-2018**

County courts collect money from the public for civil and criminal fines in three separate courts. These fines are known as court assessment fees. The four county level courts include the circuit courts, county courts, justice courts, and chancery courts. By law, the chancery clerk is required to deposit all state assessments according to procedures established by the Office of the State Auditor. All assessment fees should be settled monthly and paid as a lump-sum to the State Treasury via the Department of Finance and Administration (DFA). Chancery clerks are required to report to DFA the total number of violations incurred each month. DFA has authority to collect fees from counties, but requested assistance from the Office of the State Auditor (OSA). DFA reported thirty-one (31) counties to OSA as being delinquent.

#### **Key Conclusions**

Some county courts are delinquent in submitting court assessment fees to the State Treasury. The Department of Finance and Administration should be holding county courts accountable for submission. Auditors found that:

- \$624,128 in court assessment fees were not submitted for payment to DFA
- 11 of 31 (35%) counties in the audit population were delinquent in submitting court assessment fees during the review period
- 20 of 31 (65%) counties in the audit population were up-to-date, but did not follow statutory requirements or regulatory guidelines for the submission of payments which resulted in an unorganized paper trail that led DFA to question their payment history

To reach these conclusions, auditors conducted interviews, analyzed payment documentation, and confirmed payment receipts and reconciliations with the Department of Finance and Administration.

#### **Recommendations Summary**

The review provides one (1) recommendation to Chancery Clerks; three (3) recommendations to DFA; one (1) recommendation to the Mississippi Judicial College; one (1) recommendation for OSA to update the *Court Assessment Guide* that outlines procedures for submission of court assessment fees; and one (1) matter for legislative consideration.

Recommendations include, but are not limited to:

- ensuring Court Clerks are in compliance with State law and guidelines established by OSA;
- ensuring DFA is remitting monthly payments to the State Treasury by holding counties accountable for submission of fees;
- pursuing the collection of delinquent fees by DFA;
- reporting suspected fraud, waste, or abuse of funds by DFA to the State Auditor's Office, Investigations division; and
- updating the *Court Assessment Guide* to require monthly submission of the *Court Assessment/Fine Settlement Form* regardless of whether fees were collected.

# \$624,128 in Delinquent Court Fees Collected

## Chancery Clerks are Submitting Late or Erroneous Payments to the State Treasury

### **Criteria:**

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#### **Court of the Clerk Duties (Circuit, Justice, Chancery)**

- Promptly collect all state assessments, Miss. Code Ann. § 99-19-73 (10) (a)
- Justice clerks must submit collected fees to the clerk of the board of supervisors (Chancery Clerk) monthly, Miss. Code Ann. § 9-11-19
- Statute does not specify that Circuit Clerks must submit collected fees to the Chancery Clerk monthly. However, the legislative intent of Miss. Code Ann. § 99-19-73 implies Circuit Clerks should be submitting fees on a monthly basis to the Chancery Clerk.

#### **County Chancery Clerk Duties**

- Deposit all state assessments collected by the circuit and justice clerks on a monthly basis with the State Treasurer per procedures established by the State Auditor, Miss. Code Ann. § 99-19-73 (10) (b).
  - Use *Court Assessment/Fine Settlement Form* to deposit all state assessments collected during the month (*OSA Court Assessment Guide*)
  - One check should accompany the settlement and be payable to “State Treasurer” (*OSA Court Assessment Guide*)
  - The completed form and check should be mailed to the Department of Finance and Administration (*OSA Court Assessment Guide*)
- Report to the Department of Finance and Administration the total number of violations during the month, § 99-19-73 (10) (b)

#### **Department of Finance and Administration Duties**

- Deposit on a monthly basis all state assessments into the State General Fund or proper special fund in the State Treasury, Miss. Code Ann. § 99-19-73 (11)
- Provide assistance to any state agency, department or institution in collecting a fee or other valid obligation that another agency, department, or institution has failed to pay, Miss. Code Ann. § 27-104-3 (d)

### **Condition, Cause, and Effect:**

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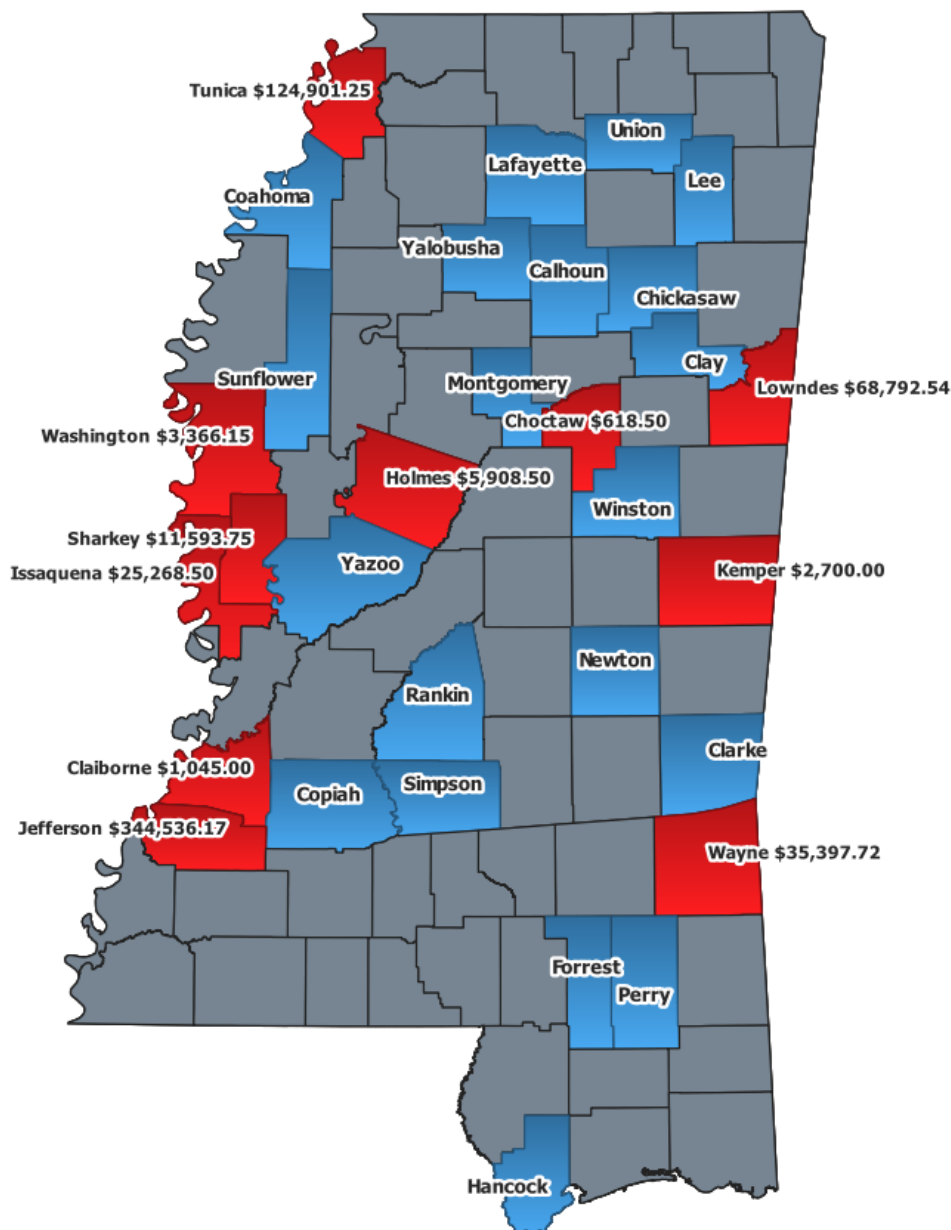
Auditors reviewed thirty-one (31) counties’ court assessment fees for fiscal years 2015-2018 and found that 35% (11 of 31) of the audit population was delinquent in remitting court assessment fees in the amount of \$624,128. The other counties reviewed 65% (20 of 31) submitted their monthly court assessments with incorrect settlement codes or missing monthly data with incorrect collection amounts. The counties with delinquent payments were provided guidance based on the *Court Assessment Guide* established by the OSA in order to collect the fees according to the requirements set forth in the *Guide* and statute. All delinquent fees discovered by auditors have been submitted to DFA for remittance to the State Treasury.

According to Chancery Clerks, late and/or erroneous payments of court assessment fees were due to the following:

- 1) misunderstanding in reporting (courts were filing multiple months on one DFA form);
- 2) lack of training for employees;
- 3) internal controls not established within the courts;
- 4) county employees occupied with other tasks; and
- 5) lack of oversight by county administrators.

Un-submitted court assessment fees held by counties decrease the funds available for State Government programs that benefit the citizens of Mississippi and may be misappropriated resulting in fraud, waste, or abuse of taxpayer dollars. The map below displays the counties reviewed.

**Exhibit 1**  
**Counties Court Assessment Fees Reviewed, 2015-2018**  
■ *Counties Paid in Full, but Not in Compliance with Submission Requirements*  
■ *Counties Delinquent and Amount Collected*



Source: Prepared by auditors using data from chancery clerks, DFA, and the Mississippi Automated Resource Information System (MARIS)

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## ***Recommendations***

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1. Chancery Clerks should actively ensure circuit, county, and justice courts are submitting all assessment fees collected during the month in order to comply with Miss. Code Ann. §99-19-73, which includes following the guidelines established by the Office of the State Auditor in the *Court Assessment Guide*.
2. The Department of Finance and Administration should actively ensure counties have submitted monthly assessment fees as DFA is required to remit these payments to the State Treasurer per Miss. Code Ann. § 99-19-73 (11).
3. DFA should exercise their authority to collect fees from counties that have failed to pay per Miss. Code Ann. § 27-104-3 (d). If a misappropriation of funds is suspected, DFA should report this immediately to the Investigations division of the Office of the State Auditor.
4. OSA, in conjunction with DFA, should update the *Court Assessment Guide* to require the monthly submission of the *Court Assessment/Fine Settlement Form* regardless of whether fees were collected in order to ensure all State money is remitted as required by statute.
5. The Mississippi Judicial College should update the *Handbook for Mississippi Chancery Court Clerks* to include training on Miss. Code Ann. § 99-19-73 as it applies generally to the submission of court assessment fees, as well as the *Court Assessment Guide* established by the Office of the State Auditor per statute.

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## ***Matters for Legislative Consideration***

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1. The Legislature may wish to consider approving statutory language that specifically requires Circuit Clerks to submit their court assessment fees to the Chancery Clerk on a monthly basis by a certain date, similar to Miss. Code Ann. § 9-11-19 which requires Justice Clerks to submit collected fees on a monthly basis to the Chancery Clerk.

# APPENDIX A

## COURT ASSESSMENT/FINE SETTLEMENT FORM

Submit to Department of Finance and Administration

COUNTY OR MUNICIPALITY OF: \_\_\_\_\_

FOR THE MONTH & YEAR OF: \_\_\_\_\_

ASSESSMENT /FINE CODES	CITY COURT	CIRCUIT/ COUNTY COURT	JUSTICE COURT	CHANCERY COURT	TOTAL	ASSESSMENT /FINE CODES
SCEF						SCEF
TV						TV
IC						IC
GF						GF
SL*						SL*
TT						TT
OM						OM
OF						OF
ABF						ABF
VBF						VBF
DVF						DVF
CJF						CJF
CC						CC
DA						DA
HV						HV
MVL						MVL
ADT						ADT
CTF						CTF
CEC						CEC
CLA						CLA
ALA						ALA
POF*						POF*
RCV						RCV
DV						DV
EXP						EXP
JSF						JSF
STV						STV
TOTAL						TOTAL

\*NOTE: "SL" discontinued 07/01/12; "POF" discontinued 07/01/09

REPORT SUBMITTED BY: \_\_\_\_\_ DATE OF REPORT: \_\_\_\_\_ PHONE #: \_\_\_\_\_

*An Explanation and the Assessment and Fine Codes are defined on the back of this form.*

REVISED BY DFA September 25, 2017 / assess18.doc

EXPLANATION OF STATE ASSESSMENT/FINE FORM

# About the Office of the State Auditor and the Performance Audit Division

The Mississippi Constitution grants specific duties and powers related to prescribing systems of accounting, budgeting, and financial reporting for public offices in Mississippi. It also enumerates other statutory responsibilities including study and analysis of existing public managerial policies and practices; pre-audit and post-audit functions; investigation of suspected fiscal violations; recovering misspent and stolen funds; and a variety of related duties and responsibilities. The mission of the Office of the State Auditor is to serve its customers and protect the public's trust by independently assessing state and local governmental and other entities to ensure that public funds are properly received, are legally, effectively, and efficiently spent and are accounted for and reported accurately.

Performance audits provide objective analysis to assist those charged with governance and oversight to improve program performance and operations, reduce costs, facilitate decision making, and contribute to public accountability. The mission of the performance audit division is to provide useful information to the public, program leadership, and elected officials in order to hold state government accountable for its performance by identifying and recommending specific actions to address issues related to the efficiency, effectiveness, and economy of state agencies and programs. Audits by the Performance Audit Division are planned and performed to obtain sufficient, appropriate evidence to provide a reasonable basis for findings and conclusions based on established audit objectives.

This report was produced by the Mississippi Office of the State Auditor in accordance with Mississippi Statute 7-7-211 and is available on the State Auditor's website at [www.osa.ms.gov](http://www.osa.ms.gov).

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