

## **BILL ANALYSIS**

C.S.H.B. 2717  
By: Darby  
County Affairs  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties contend that legislation is needed to address certain matters relating to certain duties, functions, and procedures of county clerks, district clerks, and local registrars. C.S.H.B. 2717 seeks to make statutory changes related to those issues.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 2717 amends the Local Government Code to require the clerk of a county court, if adopted by the commissioners court, to collect a district court records archive fee of not more than \$5 when a person files a suit in a statutory county court for which the court exercises concurrent jurisdiction with a district court, including an appeal from an inferior court, or a cross-action, counterclaim, intervention, contempt action, motion for new trial, or third-party petition. The bill makes the fee inapplicable to a filing by a state agency. The bill requires the county clerk, after collecting the fee, to pay the fee to the county treasurer, or to an official who discharges the duties commonly delegated to the county treasurer, for deposit to the district court records technology fund.

C.S.H.B. 2717 includes among the fees required to be collected by each clerk of a county court for services rendered to any person a district court records archive fee of \$5.

C.S.H.B. 2717 authorizes the commissioners court of a county to authorize a county or precinct officer who collects fees, fines, court costs, or other charges on behalf of the county or the state to accept payment by electronic means, in addition to by credit card, of a fee, fine, court costs, or other charge. The bill authorizes the commissioners court to also authorize a county or precinct officer to collect and retain a fee for processing the payment by electronic means, in addition to by credit card.

C.S.H.B. 2717 amends the Government Code to require the clerk of a statutory county court, and the clerk of a statutory probate court, to collect a district court records archive fee of not more than \$5, as provided by the bill's provisions, if adopted by the county commissioners court.

C.S.H.B. 2717 authorizes the commissioners court of a county to adopt a district court records archive fee of not more than \$5 for the filing of a suit, including an appeal from an inferior court, or a cross-action, counterclaim, intervention, contempt action, motion for new trial, or third-party petition, in a statutory county court, if the court exercises concurrent jurisdiction over the suit with a district court, in addition to such a filing in a district court, in the county as part of the county's annual budget.

C.S.H.B. 2717, in a provision authorizing a person qualified to serve as a petit juror to establish

an exemption from jury service if the person has legal custody of a child and the person's service on the jury requires leaving the child without adequate supervision, lowers the age of the child from younger than 15 years to younger than 12 years.

C.S.H.B. 2717 amends the Health and Safety Code, in provisions relating to the administration of vital statistics records, to authorize a local registrar or county clerk to collect a fee not to exceed \$1 for training registrar or county clerk employees regarding vital statistics records and ensuring the safety and security of vital statistics records, in addition to preserving vital statistics records maintained by the registrar or county clerk, including birth, death, fetal death, marriage, divorce, and annulment records.

C.S.H.B. 2717 repeals provisions relating to a requirement that a local registrar file with the commissioners court or the county auditor a copy of each birth, death, and fetal death certificate filed with the local registrar during the preceding month.

C.S.H.B. 2717 makes Government Code provisions relating to the implementation of new or amended court costs and fees inapplicable to a fee imposed under provisions of the bill relating to a district court records archive fee, additional statutory county court fees regarding the Local Government Code, or additional statutory probate court fees regarding the Local Government Code. The bill makes a change in law made by the bill's provisions applicable only to the imposition of a fee on a filing in a civil action or proceeding made on or after the effective date of an order of a commissioners court authorizing imposition of the fee. The bill establishes that imposition of a fee on a filing made before that date is governed by the law in effect on the date the filing was made, and that the former law is continued in effect for that purpose.

C.S.H.B. 2717 makes conforming and nonsubstantive changes.

C.S.H.B. 2717 repeals Section 191.030, Health and Safety Code.

#### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.

#### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 2717 differs from the original by authorizing the commissioners court of a county to adopt a district court records archive fee of not more than \$5 for certain filings in a statutory county court if the court exercises concurrent jurisdiction over the suit with a district court, whereas the original authorizes the commissioners court to adopt such a fee for such filings in a statutory county court that has concurrent jurisdiction with a district court. The substitute omits a provision included in the original making the fee in relation to such a statutory county court subject to statutory provisions relating to fees of a county clerk other than court fees and to fees of a clerk of a county court in the same manner as other similar fees under those provisions.

C.S.H.B. 2717 omits a provision included in the original, in a provision of law requiring a county clerk, district clerk, or county and district clerk to annually complete at least one hour of continuing education courses regarding registry funds handled under provisions relating to depositories for certain trust funds and court registry funds in the performance of the duties of office and at least one hour of continuing education regarding fraudulent court documents and fraudulent document filings, specifying the completion of such continuing education to be during each term of office and within the first 12 months of taking office.

C.S.H.B. 2717 contains provisions not included in the original requiring the clerk of a statutory county court, and the clerk of a statutory probate court, to collect a district court records archive fee of not more than \$5 if adopted by the county commissioners court.

C.S.H.B. 2717 differs from the original by authorizing a local registrar or county clerk to collect a fee not to exceed \$1 for training registrar or county clerk employees regarding vital statistics records and ensuring the safety and security of vital statistics records, whereas the original authorizes a local registrar or county clerk to collect such a fee for vital statistics training or any other needs of the local registrar or county clerk to ensure the safety and security of vital statistics records. The substitute omits a provision included in the original specifying that a fee required to be collected by the registrar or county clerk on the issuance of a vital statistics record is the fee a local registrar or county clerk is authorized to collect for certain vital statistics records purposes, rather than a fee under broader provisions relating to fees regarding the administration of vital statistics records.

C.S.H.B. 2717 contains a provision not included in the original including among the fees required to be collected by each clerk of a county court for services rendered to any person a district court records archive fee of \$5.

C.S.H.B. 2717 contains provisions not included in the original requiring the clerk of a county court, if adopted by the commissioners court, to collect a district court records archive fee of not more than \$5 when a person files a suit in a statutory county court for which the court exercises concurrent jurisdiction with a district court; making the fee inapplicable to a filing by a state agency; requiring the county clerk to pay the fee to the county treasurer, or to an official who discharges the duties commonly delegated to the county treasurer, for deposit to the district court records technology fund; and making a conforming change.

C.S.H.B. 2717 differs from the original by authorizing the commissioners court of a county to authorize a county or precinct officer who collects fees, fines, court costs, or other charges on behalf of the county or the state to accept payment by electronic means, whereas the original authorizes the commissioners court of a county to authorize such an officer to accept payment by electronic processing of checks.

C.S.H.B. 2717 omits a provision included in the original requiring an application relating to the authority of a district, county, or precinct officer to appoint employees to be accompanied by a statement of the probable receipts from fees, commissions, and compensation to be collected by the office during the budget process, rather than during the fiscal year, in addition to probable disbursements.

C.S.H.B. 2717 contains provisions not included in the original making Government Code provisions relating to the implementation of new or amended court costs and fees inapplicable to a fee imposed under provisions of the bill relating to a district court records archive fee, additional statutory county court fees regarding the Local Government Code, or additional statutory probate court fees regarding the Local Government Code; making a change in law made by the bill's provisions applicable only to the imposition of a fee on a filing in a civil action or proceeding made on or after the effective date of an order of a commissioners court authorizing imposition of the fee; and establishing that imposition of a fee on a filing made before that date is governed by the law in effect on the date the filing was made, and that the former law is continued in effect for that purpose.

C.S.H.B. 2717 differs from the original in nonsubstantive ways by making clarifying changes.