

By: Carona

S.B. No. 1607

A BILL TO BE ENTITLED

AN ACT

relating to the duties and responsibilities of certain county officials and the functions of county government.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 51.305(b), Government Code, is amended to read as follows:

(b) The commissioners court of a county may 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 district court or statutory county court, if the court exercises concurrent jurisdiction over the suit with a district court, in the county as part of the county's annual budget. The fee must be set and itemized in the county's budget as part of the budget preparation process and must be approved in a public meeting. The fee is for preservation and restoration services performed in connection with maintaining a district court records archive.

SECTION 2. Section 51.605(c), Government Code, is amended to read as follows:

(c) A clerk must each year [~~annually~~] complete 20 hours of continuing education courses including at least one hour of continuing education courses regarding registry funds handled under Chapter 117, Local Government Code, in the performance of the

1 duties of office. The 20 hours of required continuing education
2 courses must include at least one hour of continuing education
3 regarding fraudulent court documents and fraudulent document
4 filings.

5 SECTION 3. Section 62.106(a), Government Code, is amended
6 to read as follows:

7 (a) A person qualified to serve as a petit juror may
8 establish an exemption from jury service if the person:

9 (1) is over 70 years of age;

10 (2) has legal custody of a child younger than 12 [~~15~~]
11 years of age and the person's service on the jury requires leaving
12 the child without adequate supervision;

13 (3) is a student of a public or private secondary
14 school;

15 (4) is a person enrolled and in actual attendance at an
16 institution of higher education;

17 (5) is an officer or an employee of the senate, the
18 house of representatives, or any department, commission, board,
19 office, or other agency in the legislative branch of state
20 government;

21 (6) is summoned for service in a county with a
22 population of at least 200,000, unless that county uses a jury plan
23 under Section 62.011 and the period authorized under Section
24 62.011(b)(5) exceeds two years, and the person has served as a petit
25 juror in the county during the 24-month period preceding the date
26 the person is to appear for jury service;

27 (7) is the primary caretaker of a person who is an

1 invalid unable to care for himself;

2 (8) except as provided by Subsection (b), is summoned
3 for service in a county with a population of at least 250,000 and
4 the person has served as a petit juror in the county during the
5 three-year period preceding the date the person is to appear for
6 jury service; or

7 (9) is a member of the United States military forces
8 serving on active duty and deployed to a location away from the
9 person's home station and out of the person's county of residence.

10 SECTION 4. Subchapter E, Chapter 101, Government Code, is
11 amended by adding Section 101.08118 to read as follows:

12 Sec. 101.08118. ADDITIONAL STATUTORY COUNTY COURT FEES:
13 LOCAL GOVERNMENT CODE. The clerk of a statutory county court shall
14 collect a district court records archive fee of not more than \$5
15 under Section 118.068, Local Government Code, if adopted by the
16 county commissioners court.

17 SECTION 5. Subchapter F, Chapter 101, Government Code, is
18 amended by adding Section 101.10117 to read as follows:

19 Sec. 101.10117. ADDITIONAL STATUTORY PROBATE COURT FEES:
20 LOCAL GOVERNMENT CODE. The clerk of a statutory probate court shall
21 collect a district court records archive fee of not more than \$5
22 under Section 118.068, Local Government Code, if adopted by the
23 county commissioners court.

24 SECTION 6. Section 191.0045, Health and Safety Code, is
25 amended by amending Subsection (h) and adding Subsection (i) to
26 read as follows:

27 (h) In addition to other fees collected under this section,

1 a local registrar or county clerk may collect a fee not to exceed \$1
2 for:

3 (1) preserving [the preservation of] vital statistics
4 records maintained by the registrar or county clerk, including
5 birth, death, fetal death, marriage, divorce, and annulment
6 records;

7 (2) training registrar or county clerk employees
8 regarding vital statistics records; and

9 (3) ensuring the safety and security of vital
10 statistics records.

11 (i) A fee under this section shall be collected by the
12 registrar or county clerk on the issuance of a vital statistics
13 record, including a record issued through a Remote Birth Access
14 site.

15 SECTION 7. Section 118.051, Local Government Code, is
16 amended to read as follows:

17 Sec. 118.051. CLERICAL DUTIES. Except as provided by
18 Sections [Section] 118.067 and 118.068, the fees listed in this
19 subchapter for county civil court dockets under Section 118.052(1)
20 and county probate court dockets under Section 118.052(2) are fees
21 for all clerical duties performed in connection with the docket,
22 including:

23 (1) filing, registering or recording, docketing, and
24 taxing costs for an application, will, complaint, petition, return,
25 document, or proceeding;

26 (2) issuing and recording the return of a citation,
27 notice, subpoena, commission to take depositions, execution while

1 the docket is still open (civil docket), garnishment before
2 judgment (civil docket), order, writ, process, or any other
3 document authorized or required to be issued by the clerk on which a
4 return must be recorded;

5 (3) attendances in court as clerk of the court;

6 (4) impaneling a jury (civil docket);

7 (5) swearing witnesses;

8 (6) approving bonds involved in court action; and

9 (7) administering oaths.

10 SECTION 8. Section 118.052, Local Government Code, is
11 amended to read as follows:

12 Sec. 118.052. FEE SCHEDULE. Each clerk of a county court
13 shall collect the following fees for services rendered to any
14 person:

15 (1) CIVIL COURT ACTIONS

16 (A) Filing of Original Action (Sec. 118.053):

17 (i) Garnishment after judgment . . . \$15.00

18 (ii) All others . . . \$40.00

19 (B) Filing of Action Other than Original (Sec.
20 118.054) . . . \$30.00

21 (C) Services Rendered After Judgment in Original
22 Action (Sec. 118.0545):

23 (i) Abstract of judgment . . . \$ 5.00

24 (ii) Execution, order of sale, writ, or
25 other process . . . \$ 5.00

26 (2) PROBATE COURT ACTIONS

27 (A) Probate Original Action (Sec. 118.055):

- 1 (i) Probate of a will with independent
- 2 executor, administration with will attached, administration of an
- 3 estate, guardianship or receivership of an estate, or muniment of
- 4 title . . . \$40.00
- 5 (ii) Community survivors . . . \$40.00
- 6 (iii) Small estates . . . \$40.00
- 7 (iv) Declarations of heirship . . . \$40.00
- 8 (v) Mental health or chemical dependency
- 9 services . . . \$40.00
- 10 (vi) Additional, special fee (Sec. 118.064)
- 11 . . . \$ 5.00
- 12 (B) Services in Pending Probate Action (Sec.
- 13 118.056):
- 14 (i) Filing an inventory and appraisement as
- 15 provided by Section 118.056(d) . . . \$25.00
- 16 (ii) Approving and recording bond . . .
- 17 \$3.00
- 18 (iii) Administering oath . . . \$ 2.00
- 19 (iv) Filing annual or final account of
- 20 estate . . . \$25.00
- 21 (v) Filing application for sale of real or
- 22 personal property . . . \$25.00
- 23 (vi) Filing annual or final report of
- 24 guardian of a person . . . \$10.00
- 25 (vii) Filing a document not listed under
- 26 this paragraph after the filing of an order approving the inventory
- 27 and appraisement or after the 120th day after the date of the

1 initial filing of the action, whichever occurs first, if more than
2 25 pages . . . \$25.00

3 (C) Adverse Probate Action (Sec. 118.057) . . .
4 \$40.00

5 (D) Claim Against Estate (Sec. 118.058) . . .
6 \$2.00

7 (E) Supplemental Court-Initiated Guardianship
8 Fee in Probate Original Actions and Adverse Probate Actions (Sec.
9 118.067) . . . \$20.00

10 (3) OTHER FEES

11 (A) Issuing Document (Sec. 118.059):
12 original document and one copy . . . \$ 4.00
13 each additional set of an original and one copy
14 . . . \$ 4.00

15 (B) Certified Papers (Sec. 118.060):
16 for the clerk's certificate . . . \$ 5.00
17 plus a fee per page or part of a page of . . . \$1.00

18 (C) Noncertified Papers (Sec. 118.0605):
19 for each page or part of a page . . . \$ 1.00

20 (D) Letters Testamentary, Letter of
21 Guardianship, Letter of Administration, or Abstract of Judgment
22 (Sec. 118.061) . . . \$ 2.00

23 (E) Safekeeping of Wills (Sec. 118.062) . . .
24 \$5.00

25 (F) Mail Service of Process (Sec. 118.063) . . .
26 same as sheriff

27 (G) Records Management and Preservation Fee

1 . . . \$ 5.00

2 (H) District Court Records Archive Fee . . .
3 \$5.00

4 SECTION 9. Subchapter C, Chapter 118, Local Government
5 Code, is amended by adding Section 118.068 to read as follows:

6 Sec. 118.068. DISTRICT COURT RECORDS ARCHIVE FEE. (a) If
7 adopted by the commissioners court, the clerk of a county court
8 shall collect a district court records archive fee of not more than
9 \$5 when a person files a suit in a statutory county court for which
10 the court exercises concurrent jurisdiction with a district court,
11 including an appeal from an inferior court, or a cross-action,
12 counterclaim, intervention, contempt action, motion for new trial,
13 or third-party petition.

14 (b) The fee imposed under this section does not apply to a
15 filing by a state agency.

16 (c) The county clerk, after collecting a fee under this
17 section, shall pay the fee to the county treasurer, or to an
18 official who discharges the duties commonly delegated to the county
19 treasurer, for deposit to the district court records technology
20 fund established under Section 51.305, Government Code.

21 SECTION 10. Section 132.002(a), Local Government Code, is
22 amended to read as follows:

23 (a) The commissioners court of a county may authorize a
24 county or precinct officer who collects fees, fines, court costs,
25 or other charges on behalf of the county or the state to accept
26 payment by credit card or check verified electronically of a fee,
27 fine, court costs, or other charge. The commissioners court may

1 also authorize a county or precinct officer to collect and retain a
2 fee for processing the payment by credit card or check verified
3 electronically.

4 SECTION 11. Section 191.030, Health and Safety Code, is
5 repealed.

6 SECTION 12. (a) Section 51.607, Government Code, does not
7 apply to a fee imposed under Section 118.068, Local Government
8 Code, as added by this Act, or Section 101.08118 or 101.10117,
9 Government Code, as added by this Act.

10 (b) The change in law made by this Act applies only to the
11 imposition of a fee on a filing in a civil action or proceeding made
12 on or after the effective date of an order of a commissioners court
13 authorizing imposition of the fee. The imposition of a fee on a
14 filing made before that date is governed by the law in effect on the
15 date the filing was made, and the former law is continued in effect
16 for that purpose.

17 SECTION 13. This Act takes effect immediately if it
18 receives a vote of two-thirds of all the members elected to each
19 house, as provided by Section 39, Article III, Texas Constitution.
20 If this Act does not receive the vote necessary for immediate
21 effect, this Act takes effect September 1, 2011.