

BILL ANALYSIS

C.S.H.B. 1530
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Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties observe that the language used in some statutory provisions pertaining to the collection of certain fees by a county clerk or district clerk has caused confusion or inconsistency among county and district clerk offices. C.S.H.B. 1530 seeks to address this situation by clarifying and amending provisions relating to those fees.

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. 1530 amends the Code of Criminal Procedure to require any cash funds deposited under bail bond provisions and refunded to any person named on an issued receipt in the amount reflected on the receipt's face or to the defendant to be refunded in that amount less the administrative fee deducted to compensate a county for accounting and administrative expenses incurred in handling registry funds that have not earned interest. The bill adds to the list of fees required to be paid by a petitioner seeking expunction of a criminal record a \$4 fee for each facsimile or e-mail notice of a hearing date and a \$4 fee for each facsimile or e-mail of a copy of an order of expunction. The bill removes the specification that the conviction occurred in a district court from the requirement that a defendant convicted of a felony offense in a district court pay a \$5 security fee as a court cost.

C.S.H.B. 1530 amends the Government Code to authorize a county commissioners court to adopt a district court records archive fee for the filing of a suit in any court in the county for which the district clerk accepts filings, rather than in a district court in the county. The bill removes the requirement that the fee be set and itemized in the county's budget as part of the budget preparation process and be approved in a public meeting. The bill adds a \$5 security fee on conviction of a felony offense to the fees required to be paid by a defendant on conviction in a county court. The bill specifies that statutory provisions relating to the implementation of new or amended court costs and fees do not apply to the imposition of a court cost or fee under the bill's provisions.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1530 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Article 17.02, Code of Criminal Procedure, is amended.

SECTION 2. Article 102.006(a), Code of Criminal Procedure, is amended.

SECTION 3. Article 102.017(a), Code of Criminal Procedure, is amended to read as follows:

(a) A defendant convicted of a felony offense [~~in a district court~~] shall pay a \$5 security fee as a cost of court.

SECTION 4. Section 51.305(b), Government Code, is amended.

SECTION 5. Section 51.318(b), Government Code, is amended to read as follows:

(b) The fees are:

(1) for issuing a subpoena, including one copy \$8

(2) for issuing a citation, commission for deposition, writ of execution, order of sale, writ of execution and order of sale, writ of injunction, writ of garnishment, writ of attachment, or writ of sequestration not provided for in Section 51.317, or any other writ or process not otherwise provided for, including one copy if required by law \$8

(3) for searching files or records to locate a cause when the docket number is not provided \$5

(4) for searching files or records to ascertain the existence of an instrument or record in the district clerk's office \$5

(5) for abstracting a judgment \$8

(6) for approving a bond \$4

(7) for certifying [~~a certified copy of~~] a record, judgment, order, pleading, or paper on file or of record in the district clerk's office[; ~~including certificate and seal, for each page or part of a page~~]not to exceed ~~\$5~~ [~~\$1~~]

(8) for issuing a record, judgment, order, pleading, or paper on file or of record in the district clerk's office [~~nonecertified copy~~], for each page or part of a page not to exceed \$1.

SECTION 6. Section 101.0611, Government

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Same as introduced version.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.

SECTION 4. Same as introduced version.

No equivalent provision.

No equivalent provision.

Code, is amended to read as follows:

Sec. 101.0611. DISTRICT COURT FEES AND COSTS: GOVERNMENT CODE. The clerk of a district court shall collect fees and costs under the Government Code as follows:

- (1) appellate judicial system filing fees for:
 - (A) First or Fourteenth Court of Appeals District (Sec. 22.2021, Government Code) . . . not more than \$5;
 - (B) Second Court of Appeals District (Sec. 22.2031, Government Code) . . . not more than \$5;
 - (C) Third Court of Appeals District (Sec. 22.2041, Government Code) . . . \$5;
 - (D) Fourth Court of Appeals District (Sec. 22.2051, Government Code) . . . not more than \$5;
 - (E) Fifth Court of Appeals District (Sec. 22.2061, Government Code) . . . not more than \$5;
 - (E-1) Sixth Court of Appeals District (Sec. 22.2071, Government Code) . . . \$5;
 - (E-2) Seventh Court of Appeals District (Sec. 22.2081, Government Code) . . . \$5;
 - (F) Ninth Court of Appeals District (Sec. 22.2101, Government Code) . . . \$5;
 - (G) Eleventh Court of Appeals District (Sec. 22.2121, Government Code) . . . \$5;
 - (G-1) Twelfth Court of Appeals District (Sec. 22.2131, Government Code) . . . \$5; and
 - (H) Thirteenth Court of Appeals District (Sec. 22.2141, Government Code) . . . not more than \$5;
- (2) when administering a case for the Rockwall County Court at Law (Sec. 25.2012, Government Code) . . . civil fees and court costs as if the case had been filed in district court;
- (3) additional filing fees:
 - (A) for each suit filed for insurance contingency fund, if authorized by the county commissioners court (Sec. 51.302, Government Code) . . . not to exceed \$5;
 - (B) to fund the improvement of Dallas County civil court facilities, if authorized by the county commissioners court (Sec. 51.705, Government Code) . . . not more than \$15;
 - (B-1) to fund the improvement of Bexar County court facilities, if authorized by the county commissioners court (Sec. 51.706, Government Code) . . . not more than \$15;
 - (C) to fund the improvement of Hays County court facilities, if authorized by the county commissioners court (Sec. 51.707, Government Code) . . . not more than \$15;

and

(D) to fund the preservation of court records (Sec. 51.708, Government Code) . . . not more than \$10;

(4) for filing a suit, including an appeal from an inferior court:

(A) for a suit with 10 or fewer plaintiffs (Sec. 51.317, Government Code) . . . \$50;

(B) for a suit with at least 11 but not more than 25 plaintiffs (Sec. 51.317, Government Code) . . . \$75;

(C) for a suit with at least 26 but not more than 100 plaintiffs (Sec. 51.317, Government Code) . . . \$100;

(D) for a suit with at least 101 but not more than 500 plaintiffs (Sec. 51.317, Government Code) . . . \$125;

(E) for a suit with at least 501 but not more than 1,000 plaintiffs (Sec. 51.317, Government Code) . . . \$150; or

(F) for a suit with more than 1,000 plaintiffs (Sec. 51.317, Government Code) . . . \$200;

(5) for filing a cross-action, counterclaim, intervention, contempt action, motion for new trial, or third-party petition (Sec. 51.317, Government Code) . . . \$15;

(6) for issuing a citation or other writ or process not otherwise provided for, including one copy, when requested at the time a suit or action is filed (Sec. 51.317, Government Code) . . . \$8;

(7) for records management and preservation (Sec. 51.317, Government Code) . . . \$10;

(7-a) for district court records archiving, if adopted by the county commissioners court (Sec. 51.317(b)(5), Government Code) . . . not more than \$5;

(8) for issuing a subpoena, including one copy (Sec. 51.318, Government Code) . . . \$8;

(9) for issuing a citation, commission for deposition, writ of execution, order of sale, writ of execution and order of sale, writ of injunction, writ of garnishment, writ of attachment, or writ of sequestration not provided for in Section 51.317, or any other writ or process not otherwise provided for, including one copy if required by law (Sec. 51.318, Government Code) . . . \$8;

(10) for searching files or records to locate a cause when the docket number is not provided (Sec. 51.318, Government Code) . . . \$5;

(11) for searching files or records to ascertain the existence of an instrument or record in the district clerk's office (Sec. 51.318, Government Code) . . . \$5;

- (12) for abstracting a judgment (Sec. 51.318, Government Code) . . . \$8;
- (13) for approving a bond (Sec. 51.318, Government Code) . . . \$4;
- (14) for certifying [~~a certified copy of~~] a record, judgment, order, pleading, or paper on file or of record in the district clerk's office[~~;~~ ~~including certificate and seal, for each page or part of a page~~] (Sec. 51.318, Government Code) . . . not to exceed \$1;
- (15) for issuing a record, judgment, order, pleading, or paper on file or of record in the district clerk's office [~~nonecertified copy~~], for each page or part of a page (Sec. 51.318, Government Code) . . . not to exceed \$1;
- (16) fee for performing a service:
 - (A) related to the matter of the estate of a deceased person (Sec. 51.319, Government Code) . . . the same fee allowed the county clerk for those services;
 - (B) related to the matter of a minor (Sec. 51.319, Government Code) . . . the same fee allowed the county clerk for the service;
 - (C) of serving process by certified or registered mail (Sec. 51.319, Government Code) . . . the same fee a sheriff or constable is authorized to charge for the service under Section 118.131, Local Government Code; and
 - (D) prescribed or authorized by law but for which no fee is set (Sec. 51.319, Government Code) . . . a reasonable fee;
- (17) jury fee (Sec. 51.604, Government Code) . . . \$30;
- (18) additional filing fee for family protection on filing a suit for dissolution of a marriage under Chapter 6, Family Code (Sec. 51.961, Government Code) . . . not to exceed \$15;
- (19) at a hearing held by an associate judge in Dallas County, a court cost to preserve the record, in the absence of a court reporter, by other means (Sec. 54.509, Government Code) . . . as assessed by the referring court or associate judge; and
- (20) at a hearing held by an associate judge in Duval County, a court cost to preserve the record (Sec. 54.1151, Government Code) . . . as imposed by the referring court or associate judge.

SECTION 7. Section 102.081, Government Code, is amended.

SECTION 5. Same as introduced version.

SECTION 8. Section 51.607, Government Code, does not apply to the imposition of a court cost or fee under this Act.

SECTION 6. Same as introduced version.

SECTION 9. The change in law made by this Act applies only to a fee that becomes payable on or after the effective date of this Act. A fee that becomes payable before the effective date of this Act is governed by the law in effect when the fee became payable, and the former law is continued in effect for that purpose.

SECTION 7. Same as introduced version.

SECTION 10. To the extent of any conflict, this Act prevails over another Act of the 83rd Legislature, Regular Session, 2013, relating to nonsubstantive additions to and corrections in enacted codes.

No equivalent provision.

SECTION 11. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

SECTION 8. Same as introduced version.