

## **BILL ANALYSIS**

C.S.H.B. 2302  
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Judiciary & Civil Jurisprudence  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

A recent order of the Supreme Court of Texas mandates electronic filing, or e-filing, in civil cases by attorneys in appellate courts, district courts, statutory county courts, constitutional county courts, and statutory probate courts based on an implementation schedule that is determined by county population. Interested parties observe that under the current system, a fee is charged each time an attorney electronically files any document related to a civil action. C.S.H.B. 2302 seeks to further offset the cost of implementing the statewide e-filing system while also providing for attorney cost savings by, among other provisions, implementing a per-case filing fee for civil cases that will be deposited, along with an additional court cost collected on certain criminal convictions, in a newly created fund for use in supporting certain court technology projects and implementing the supreme court's e-filing order.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Supreme Court of Texas in SECTION 2 of this bill.

### **ANALYSIS**

C.S.H.B. 2302 amends the Government Code to establish the statewide electronic filing system fund as an account in the general revenue fund. The bill limits appropriation of money in the fund to the Office of Court Administration of the Texas Judicial System for use in supporting a statewide electronic filing technology project for courts in Texas, providing grants to counties to implement components of the project, or supporting court technology projects that have a statewide impact as determined by the office of court administration.

C.S.H.B. 2302 requires the clerk of the Texas Supreme Court, a court of appeals, a district court, a county court, a statutory county court, or a statutory probate court, in addition to other fees authorized or required by law, to collect a \$20 statewide electronic filing system fund fee on the filing of any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee. The bill requires the clerk of a justice court, in addition to other fees authorized or required by law, to collect a \$10 statewide electronic filing system fund fee on such a filing. The bill requires a person, in addition to other court costs, to pay \$5 as a court cost on conviction of any criminal offense in a district court, county court, or statutory county court.

C.S.H.B. 2302 authorizes a court to waive payment of such a court cost or fee for an individual the court determines is indigent. The bill requires such court costs and fees to be collected in the same manner as other fees, fines, or costs in the case. The bill requires the clerk to send the collected court costs and fees to the comptroller of public accounts not later than the last day of the month following each calendar quarter and requires the comptroller to deposit these costs and fees to the credit of the statewide electronic filing system fund. The bill authorizes the comptroller to audit the records of a county related to such costs and fees and makes money spent from such costs and fees subject to audit by the state auditor.

C.S.H.B. 2302 requires the office of court administration, as authorized by supreme court rule or order, to implement an electronic filing system for use in the courts of Texas. The bill adds a temporary provision, set to expire September 1, 2019, to authorize a local government or appellate court that uses the electronic filing system to charge a fee of \$2 for each electronic filing transaction if the fee is necessary to recover the actual system operating costs reasonably incurred by the local government or appellate court to accept electronic payment methods or interface with other technology information systems; if the fee does not include an amount to recover local government or appellate court employee costs, other than costs for directly maintaining the system; if the governing body of the local government or the appellate court approves the fee using the local government or appellate court's standard approval process for fee increases; and if the local government or appellate court annually certifies to the office on a form prescribed by the office that the amount of the fee is necessary to recover the actual system operating costs incurred by the local government or appellate court. The bill authorizes a local government or appellate court that uses the electronic filing system to accept electronic payment methods, including payments made with credit and debit cards. The bill prohibits a governmental entity not otherwise required to pay a filing fee under any other law from being required to pay a fee established by a local government or appellate court for electronic filing transactions. The bill requires a court to waive payment of any such fee for an individual the court determines is indigent. The bill authorizes the comptroller to audit the records of a county or municipality relating to such fees and makes money spent from such fees subject to audit by the state auditor.

C.S.H.B. 2302 amends the Local Government Code to prohibit a county from retaining a service fee on the collection of the electronic filing system fund fee added under the bill's provisions.

C.S.H.B. 2302 amends the Family Code to make a conforming change.

C.S.H.B. 2302 exempts the imposition of a fee assessed under the bill's provisions from Government Code provisions relating to the identification, publication, and implementation of new or amended court costs and fees following each regular legislative session.

C.S.H.B. 2302 requires the office of court administration, not later than December 1, 2018, to file a report with the lieutenant governor, the speaker of the house of representatives, and the presiding officers of the standing committees of each house of the legislature with jurisdiction over the judiciary detailing the number of local governments and appellate courts collecting an electronic filing system fee and the necessity of the local governments and appellate courts to continue collecting the fee.

### **EFFECTIVE DATE**

September 1, 2013.

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

While C.S.H.B. 2302 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. Chapter 51, Government Code, is amended by adding Subchapter I-1 to read as follows:

SUBCHAPTER I-1. ELECTRONIC FILING FEE

#### HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Chapter 51, Government Code, is amended by adding Subchapter I-1 to read as follows:

SUBCHAPTER I-1. ELECTRONIC FILING FEE

Sec. 51.851. ELECTRONIC FILING FEE.

(a) In addition to other fees authorized or required by law, the clerk of the supreme court, a court of appeals, a district court, a county court, a statutory county court, or a statutory probate court shall collect a \$15 fee on the filing of any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee to be used as provided by Section 51.852.

(b) In addition to other fees authorized or required by law, the clerk of a justice court shall collect a \$5 fee on the filing of any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee to be used as provided by Section 51.852.

(c) In addition to other court costs, a person shall pay \$5 as a court cost on conviction of any criminal offense in a district court, county court, statutory county court, or justice court, including cases in which probation or deferred adjudication is granted. A conviction that arises under Chapter 521, Transportation Code, or a conviction under Subtitle C, Title 7, Transportation Code, is included, except that a conviction arising under any law that regulates pedestrians or the parking of motor vehicles is not included.

(d) A court may waive payment of a court cost or fee due under this section for an individual the court determines is indigent.

(e) Court costs and fees due under this section shall be collected in the same manner as other fees, fines, or costs in the case.

(f) The clerk shall send the court costs and fees collected under this section to the comptroller not later than the last day of the month following each calendar quarter.

(g) The comptroller shall deposit the court costs and fees received under this section to the credit of the statewide electronic filing system fund established under Section 51.852.

Sec. 51.851. ELECTRONIC FILING FEE.

(a) In this section, "conviction" has the meaning assigned by Section 133.101, Local Government Code.

(b) In addition to other fees authorized or required by law, the clerk of the supreme court, a court of appeals, a district court, a county court, a statutory county court, or a statutory probate court shall collect a \$20 fee on the filing of any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee to be used as provided by Section 51.852.

(c) In addition to other fees authorized or required by law, the clerk of a justice court shall collect a \$10 fee on the filing of any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee to be used as provided by Section 51.852.

(d) In addition to other court costs, a person shall pay \$5 as a court cost on conviction of any criminal offense in a district court, county court, or statutory county court.

(e) A court may waive payment of a court cost or fee due under this section for an individual the court determines is indigent.

(f) Court costs and fees due under this section shall be collected in the same manner as other fees, fines, or costs in the case.

(g) The clerk shall send the court costs and fees collected under this section to the comptroller not later than the last day of the month following each calendar quarter.

(h) The comptroller shall deposit the court costs and fees received under this section to the credit of the statewide electronic filing system fund established under Section 51.852.

(i) The comptroller may audit the records of

a county related to costs and fees collected under this section.

(j) Money spent from costs and fees collected under this section is subject to audit by the state auditor.

Sec. 51.852. STATEWIDE ELECTRONIC FILING SYSTEM FUND.

Sec. 51.852. STATEWIDE ELECTRONIC FILING SYSTEM FUND.

No equivalent provision.

SECTION 2. Subchapter C, Chapter 72, Government Code, is amended by adding Section 72.031 to read as follows:

Sec. 72.031. ELECTRONIC FILING SYSTEM. (a) In this section:

(1) "Appellate court" means the supreme court, the court of criminal appeals, or a court of appeals.

(2) "Electronic filing system" means the filing system established by supreme court rule or order for the electronic filing of documents in courts of this state.

(3) "Electronic filing transaction" means the simultaneous electronic filing of one or more documents related to a proceeding before a court in this state.

(4) "Local government" means a county or municipality.

(b) The office as authorized by supreme court rule or order may implement an electronic filing system for use in the courts of this state.

(c) A local government or appellate court that uses the electronic filing system may charge a fee of \$2 for each electronic filing transaction if:

(1) the fee is necessary to recover the actual system operating costs reasonably incurred by the local government or appellate court to:

(A) accept electronic payment methods; or

(B) interface with other technology information systems;

(2) the fee does not include an amount to recover local government or appellate court employee costs, other than costs for directly maintaining the system;

(3) the governing body of the local government or the appellate court approves the fee using the local government or appellate court's standard approval process for fee increases; and

(4) the local government or appellate court annually certifies to the office on a form prescribed by the office that the amount of

the fee is necessary to recover the actual system operating costs incurred by the local government or appellate court.

(c-1) This subsection and Subsection (c) expire September 1, 2019.

(d) A local government or appellate court that uses the electronic filing system may accept electronic payment methods, including payments made with credit and debit cards.

(e) A governmental entity not otherwise required to pay a filing fee under any other law may not be required to pay a fee established under this section.

(f) A court shall waive payment of any fee due under this section for an individual the court determines is indigent.

(g) The comptroller may audit the records of a county or municipality relating to fees collected under this section. Money spent from fees collected under this section is subject to audit by the state auditor.

SECTION 2. Subchapter B, Chapter 101, Government Code, is amended by adding Section 101.0211 to read as follows:

Sec. 101.0211. ADDITIONAL SUPREME COURT FEES: GOVERNMENT CODE. The clerk of the supreme court shall collect a statewide electronic filing system fund fee of \$15 under Section 51.851, Government Code.

SECTION 3. Subchapter C, Chapter 101, Government Code, is amended by adding Section 101.0411 to read as follows:

Sec. 101.0411. ADDITIONAL COURT OF APPEALS FEES: GOVERNMENT CODE. The clerk of a court of appeals shall collect a statewide electronic filing system fund fee of \$15 under Section 51.851, Government Code.

SECTION 4. Subchapter D, Chapter 101, Government Code, is amended by adding Section 101.06118 to read as follows:

Sec. 101.06118. ADDITIONAL DISTRICT COURT FEES: GOVERNMENT CODE. The clerk of a district court shall collect a statewide electronic filing system fund fee of \$15 under Section 51.851, Government Code.

SECTION 3. Subchapter B, Chapter 101, Government Code, is amended by adding Section 101.0211 to read as follows:

Sec. 101.0211. ADDITIONAL SUPREME COURT FEES: GOVERNMENT CODE. The clerk of the supreme court shall collect a statewide electronic filing system fund fee of \$20 under Section 51.851, Government Code.

SECTION 4. Subchapter C, Chapter 101, Government Code, is amended by adding Section 101.0411 to read as follows:

Sec. 101.0411. ADDITIONAL COURT OF APPEALS FEES: GOVERNMENT CODE. The clerk of a court of appeals shall collect a statewide electronic filing system fund fee of \$20 under Section 51.851, Government Code.

SECTION 5. Subchapter D, Chapter 101, Government Code, is amended by adding Section 101.06118 to read as follows:

Sec. 101.06118. ADDITIONAL DISTRICT COURT FEES: GOVERNMENT CODE. The clerk of a district court shall collect a statewide electronic filing system fund fee of \$20 under Section 51.851, Government Code.

SECTION 5. Subchapter E, Chapter 101, Government Code, is amended by adding Section 101.08117 to read as follows:

Sec. 101.08117. ADDITIONAL STATUTORY COUNTY COURT FEES: GOVERNMENT CODE. The clerk of a statutory county court shall collect a statewide electronic filing system fund fee of \$15 under Section 51.851, Government Code.

SECTION 6. Subchapter F, Chapter 101, Government Code, is amended by adding Section 101.10116 to read as follows:

Sec. 101.10116. ADDITIONAL STATUTORY PROBATE COURT FEES: GOVERNMENT CODE. The clerk of a statutory probate court shall collect a statewide electronic filing system fund fee of \$15 under Section 51.851, Government Code.

SECTION 7. Subchapter G, Chapter 101, Government Code, is amended by adding Section 101.12126 to read as follows:

Sec. 101.12126. ADDITIONAL COUNTY COURT FEES: GOVERNMENT CODE. The clerk of a county court shall collect a statewide electronic filing system fund fee of \$15 under Section 51.851, Government Code.

SECTION 8. Subchapter H, Chapter 101, Government Code, is amended by adding Section 101.1411 to read as follows:

Sec. 101.1411. ADDITIONAL JUSTICE COURT FEES: GOVERNMENT CODE. The clerk of a justice court shall collect a statewide electronic filing system fund fee of \$5 under Section 51.851, Government Code.

SECTION 9. Subchapter C, Chapter 102, Government Code, is amended.

SECTION 10. Subchapter D, Chapter 102, Government Code, is amended.

SECTION 6. Subchapter E, Chapter 101, Government Code, is amended by adding Section 101.08117 to read as follows:

Sec. 101.08117. ADDITIONAL STATUTORY COUNTY COURT FEES: GOVERNMENT CODE. The clerk of a statutory county court shall collect a statewide electronic filing system fund fee of \$20 under Section 51.851, Government Code.

SECTION 7. Subchapter F, Chapter 101, Government Code, is amended by adding Section 101.10116 to read as follows:

Sec. 101.10116. ADDITIONAL STATUTORY PROBATE COURT FEES: GOVERNMENT CODE. The clerk of a statutory probate court shall collect a statewide electronic filing system fund fee of \$20 under Section 51.851, Government Code.

SECTION 8. Subchapter G, Chapter 101, Government Code, is amended by adding Section 101.12126 to read as follows:

Sec. 101.12126. ADDITIONAL COUNTY COURT FEES: GOVERNMENT CODE. The clerk of a county court shall collect a statewide electronic filing system fund fee of \$20 under Section 51.851, Government Code.

SECTION 9. Subchapter H, Chapter 101, Government Code, is amended by adding Section 101.1411 to read as follows:

Sec. 101.1411. ADDITIONAL JUSTICE COURT FEES: GOVERNMENT CODE. The clerk of a justice court shall collect a statewide electronic filing system fund fee of \$10 under Section 51.851, Government Code.

SECTION 10. Same as introduced version.

SECTION 11. Same as introduced version.

SECTION 11. Subchapter E, Chapter 102, Government Code, is amended.

SECTION 12. Same as introduced version.

SECTION 12. Subchapter F, Chapter 102, Government Code, is amended by adding Section 102.1025 to read as follows:

Sec. 102.1025. ADDITIONAL COURT COSTS ON CONVICTION IN JUSTICE COURT: GOVERNMENT CODE. The clerk of a justice court shall collect from a defendant a court cost on conviction of \$5 under Section 51.851, Government Code.

No equivalent provision.

No equivalent provision.

SECTION 13. Section 231.202, Family Code, is amended to read as follows:

Sec. 231.202. AUTHORIZED COSTS AND FEES IN TITLE IV-D CASES. In a Title IV-D case filed under this title, including a case filed under Chapter 159, the Title IV-D agency shall pay only the following costs and fees:

- (1) filing fees and fees for issuance and service of process as provided by Chapter 110 of this code and by Sections 51.317(b)(1), (2), and (3) and (b-1), 51.318(b)(2), and 51.319(2), Government Code;
- (2) fees for transfer as provided by Chapter 110;
- (3) fees for the issuance and delivery of orders and writs of income withholding in the amounts provided by Chapter 110;
- (4) the fee for services provided by sheriffs and constables, including:
  - (A) a fee authorized under Section 118.131, Local Government Code, for serving each item of process to each individual on whom service is required, including service by certified or registered mail; and
  - (B) a fee authorized under Section 157.103(b) for serving a capias;
- (5) the fee for filing an administrative writ of withholding under Section 158.503(d);
- (6) the fee for issuance of a subpoena as provided by Section 51.318(b)(1), Government Code; and
- (7) a fee authorized [~~under a local rule~~] for the electronic filing of documents with a clerk.

SECTION 13. Section 133.058(d), Local Government Code, is amended.

SECTION 14. Same as introduced version.

SECTION 14. The imposition of a cost of court on conviction under Section 51.851, Government Code, as added by this Act, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

SECTION 15. (a) Section 51.607, Government Code, does not apply to the imposition of a fee assessed under:

- (1) Section 51.851, Government Code, as added by this Act;
- (2) Section 101.0211, Government Code, as added by this Act;
- (3) Section 101.0411, Government Code, as added by this Act;
- (4) Section 101.06118, Government Code, as added by this Act;
- (5) Section 101.08117, Government Code, as added by this Act;
- (6) Section 101.10116, Government Code, as added by this Act;
- (7) Section 101.12126, Government Code, as added by this Act;
- (8) Section 101.1411, Government Code, as added by this Act;
- (9) Section 102.0415, Government Code, as added by this Act;
- (10) Section 102.0615, Government Code, as added by this Act;
- (11) Section 102.082, Government Code, as added by this Act; or
- (12) Section 102.1025, Government Code, as added by this Act.

(b) The changes in law made by this Act apply only to a fee that becomes payable on or after September 1, 2013. A fee that becomes payable before that date is governed by the law in effect when the fee became payable, and the former law is continued in effect for that purpose.

No equivalent provision.

SECTION 15. Same as introduced version.

SECTION 16. (a) Section 51.607, Government Code, does not apply to the imposition of a fee assessed under:

- (1) Section 51.851, Government Code, as added by this Act;
- (2) Section 101.0211, Government Code, as added by this Act;
- (3) Section 101.0411, Government Code, as added by this Act;
- (4) Section 101.06118, Government Code, as added by this Act;
- (5) Section 101.08117, Government Code, as added by this Act;
- (6) Section 101.10116, Government Code, as added by this Act;
- (7) Section 101.12126, Government Code, as added by this Act;
- (8) Section 101.1411, Government Code, as added by this Act;
- (9) Section 102.0415, Government Code, as added by this Act;
- (10) Section 102.0615, Government Code, as added by this Act; or
- (11) Section 102.082, Government Code, as added by this Act.

(b) The changes in law made by this Act apply only to a fee that becomes payable on or after September 1, 2013. A fee that becomes payable before that date is governed by the law in effect when the fee became payable, and the former law is continued in effect for that purpose.

SECTION 17. Not later than December 1, 2018, the Office of Court Administration of



the Texas Judicial System shall file a report with the lieutenant governor, the speaker of the house of representatives, and the presiding officers of the standing committees of each house of the legislature with jurisdiction over the judiciary detailing the number of local governments and appellate courts collecting a fee under Section 72.031(c), Government Code, as added by this Act, and the necessity of the local governments and appellate courts to continue collecting the fee.

SECTION 16. This Act takes effect September 1, 2013.

SECTION 18. Same as introduced version.