

BILL ANALYSIS

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

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

A recent order of the Supreme Court of Texas mandates electronic filing (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 or "toll-road" model.

C.S.H.B. 2302 seeks to 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 and an additional court cost for certain criminal convictions that will be deposited in a newly created fund for use in supporting certain court technology projects and implementing the supreme court's e-filing order. C.S.H.B. 2302 also authorizes local governments to collect a transaction processing fee in order to recoup costs associated with the statewide implementation of e-filing; and clarifies that certain governmental filers will not be assessed these costs, similar to the existing practice for other court costs and filing fees.

C.S.H.B. 2302 amends current law relating to signing electronic or digital court documents, to the electronic filing system established by the Texas Supreme Court, to the statewide electronic filing system fund, to certain court fees and court costs, and to recovery of electronic filing fees by taxing units; and imposes and authorizes certain fees.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Supreme Court of Texas in SECTION 3 (Section 72.031, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 21, Government Code, by adding Section 21.011, as follows:

Sec. 21.011. ELECTRONIC OR DIGITAL SIGNATURE. Authorizes a judge or justice presiding over a court in this state to sign an electronic or digital court document, including an order, judgment, ruling, notice, commission, or precept, electronically, digitally, or through another secure method. Provides that the document signed in that manner is the official document issued by the court.

SECTION 2. Amends Chapter 51, Government Code, by adding Subchapter I-1, as follows:

SUBCHAPTER I-1. ELECTRONIC FILING FEE

Sec. 51.851. ELECTRONIC FILING FEE. (a) Defines, in this section, "conviction."

(b) Requires the clerk of the Supreme Court of 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 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) Requires the clerk of a justice court, in addition to other fees authorized or required by law, to 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) 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.

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

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

(g) Requires the clerk of a district court, a county court, a statutory county court, a statutory probate court, or a justice court to deposit the court costs and fees collected under this section in the appropriate local treasury and remit the court costs and fees to the comptroller of public accounts of the State of Texas (comptroller) in the manner provided by Subchapter B (Reporting, Collection, and Remittance of Fees), Chapter 133 (Criminal and Civil Fees Payable to the Comptroller), Local Government Code.

(h) Requires the clerk of the supreme court or of a court of appeals to remit the fees collected under this section to the comptroller.

(i) Requires the comptroller to 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.

(j) Authorizes the comptroller to audit the records of a county related to costs and fees collected under this section.

(k) Provides that 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. (a) Provides that the statewide electronic filing system fund is an account in the general revenue fund.

(b) Authorizes money in the statewide electronic filing system fund to only be appropriated to the Office of Court Administration of the Texas Judicial System (OCA) and used to support a statewide electronic filing technology project for courts in this state; provide grants to counties to implement components of the project; or support court technology projects that have a statewide impact as determined by OCA.

SECTION 3. Amends Subchapter C, Chapter 72, Government Code, by adding Section 72.031, as follows:

Sec. 72.031. ELECTRONIC FILING SYSTEM. (a) Defines, in this section, “appellate court,” “electronic filing system,” “electronic filing transaction,” and “local government.”

(b) Authorizes OCA, as authorized by supreme court rule or order, to implement an electronic filing system for use in the courts of this state.

(c) Authorizes a local government or appellate court that uses the electronic filing system to 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 accept electronic payment methods or 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 OCA on a form prescribed by OCA 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) Provides that this subsection and Subsection (c) expire September 1, 2019.

(d) 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.

(e) Prohibits a governmental entity not otherwise required to pay a filing fee under any other law from being required to pay a fee established under this section.

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

SECTION 4. Amends Subchapter B, Chapter 101, Government Code, by adding Section 101.0211, as follows:

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

SECTION 5. Amends Subchapter C, Chapter 101, Government Code, by adding Section 101.0411, as follows:

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

SECTION 6. Amends Subchapter D, Chapter 101, Government Code, by adding Section 101.06118, as follows:

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

SECTION 7. Amends Subchapter E, Chapter 101, Government Code, by adding Section 101.08117, as follows:

Sec. 101.08117. **ADDITIONAL STATUTORY COUNTY COURT FEES: GOVERNMENT CODE.** Requires the clerk of a statutory county court to collect a

statewide electronic filing system fund fee of \$20 under Section 51.851, Government Code.

SECTION 8. Amends Subchapter F, Chapter 101, Government Code, by adding Section 101.10116, as follows:

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

SECTION 9. Amends Subchapter G, Chapter 101, Government Code, by adding Section 101.12126, as follows:

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

SECTION 10. Amends Subchapter H, Chapter 101, Government Code, by adding Section 101.1411, as follows:

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

SECTION 11. Amends Subchapter C, Chapter 102, Government Code, by adding Section 102.0415, as follows:

Sec. 102.0415. ADDITIONAL COURT COSTS ON CONVICTION IN DISTRICT COURT: GOVERNMENT CODE. Requires the clerk of a district court to collect from a defendant a court cost on conviction of \$5 under Section 51.851, Government Code.

SECTION 12. Amends Subchapter D, Chapter 102, Government Code, by adding Section 102.0615, as follows:

Sec. 102.0615. ADDITIONAL COURT COSTS ON CONVICTION IN STATUTORY COUNTY COURT: GOVERNMENT CODE. Requires the clerk of a statutory county court to collect from a defendant a court cost on conviction of \$5 under Section 51.851, Government Code.

SECTION 13. Amends Subchapter E, Chapter 102, Government Code, by adding Section 102.082, as follows:

Sec. 102.082. ADDITIONAL COURT COSTS ON CONVICTION IN COUNTY COURT: GOVERNMENT CODE. Requires the clerk of a county court to collect from a defendant a court cost on conviction of \$5 under Section 51.851, Government Code.

SECTION 14. Amends Section 103.027, Government Code, as follows:

Sec. 103.027. MISCELLANEOUS FEES AND COSTS: GOVERNMENT CODE. (a) Creates this subsection from existing text and makes no further change.

(b) Requires that any fee of \$2 charged by a local government or appellate court for an electronic filing transaction as authorized under Section 72.031(c), Government Code, to be collected. Provides that this subsection expires September 1, 2019.

SECTION 15. Amends Section 231.202, Family Code, as follows:

Sec. 231.202. AUTHORIZED COSTS AND FEES IN TITLE IV-D CASES. Requires the Title IV-D agency, in a Title IV-D case filed under this title, including a case filed under Chapter 159 (Uniform Interstate Family Support Act), to pay only the following costs and fees:

(1)-(6) Makes no change to these subdivisions; and

(7) a fee authorized by Section 72.031, Government Code, for the electronic filing of documents with a clerk, rather than a fee authorized under a local rule for the electronic filing of documents with a clerk.

SECTION 16. Amends Section 231.204, Family Code, as follows:

Sec. 231.204. PROHIBITED FEES IN TITLE IV-D CASES. Prohibits an appellate court, a clerk of an appellate court, a district or county clerk, sheriff, constable, or other government officer or employee, except as provided by this subchapter, from charging the Title IV-D agency or a private attorney or political subdivision that has entered into contract to provide Title IV-D services any fees or other amounts otherwise imposed by law for services rendered in, or in connection with, a Title IV-D case, including:

(1)-(4) Makes no change to these subdivisions;

(5)-(6) Makes nonsubstantive changes; and

(7) a statewide electronic filing system fund fee.

SECTION 17. Amends Section 133.058(d), Local Government Code, as follows:

(d) Prohibits a county from retaining a service fee:

(1)-(2) Makes nonsubstantive changes; or

(3) under Section 51.851, Government Code.

SECTION 18. Provides that 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. Provides that 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. Provides that, 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 19. Amends Section 33.48(a), Tax Code, to entitle a taxing unit, in addition to other costs authorized by law, to recover certain costs and expense in a suit to collect a delinquent tax, including all usual court costs, including the cost of serving process and electronic filing fees.

SECTION 20. Amends Section 33.49(a), Tax Code, to provide that, except as provided by Subsection (b) (relating to requiring a taxing unit to pay the cost of publishing citations, notices of sale, or other notices from the unit's general fund as soon as practicable after receipt of the publisher's claim for payment), a taxing unit is not liable in a suit to collect taxes for court costs, including any fees for service of process and electronic filing fees, an attorney at litem, arbitration, or mediation, and is prohibited from being required to post security for costs.

SECTION 21. (a) Provides that 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) Provides that the changes in law made by this Act apply only to a fee that becomes payable on or after September 1, 2013. Provides that 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 22. Requires OCA, 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 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 23. Effective date: September 1, 2013.