

## **BILL ANALYSIS**

Senate Research Center  
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C.S.S.B. 1146  
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Jurisprudence  
3/26/2013  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

In December 2012, the Supreme Court of Texas (supreme court) issued an order implementing a mandatory electronic or "e-filing" system for civil cases, including family and probate cases, by attorneys in appellate courts, district courts, statutory county courts, constitutional county courts, and statutory probate courts based on an implementation schedule, as determined by population. As it currently exists, electronic filing is on the per document or "toll-road" model—each time an attorney files any document related to a civil action, a fee is charged.

C.S.S.B. 1146 seeks to eliminate the current per document fee and instead implement a per case filing fee. This will result in substantial cost savings for attorneys statewide. The bill also establishes an additional court cost on criminal convictions, except certain parking offenses, in district courts, county courts, statutory county courts, and justice courts in order to further offset the cost of the statewide e-filing system. Finally, C.S.S.B. 1146 creates the Statewide Electronic Filing Fee Fund to be distributed by the Office of Court Administration. The fund will support statute electronic filing technology and assist county governments with securing the necessary resources to implement the supreme court order.

C.S.S.B. 1146 amends current law relating to the establishment of the statewide electronic filing system fund and to certain court fees and court costs to fund the account, and imposes fees.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. 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, 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 \$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.

(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 to send the court costs and fees collected under this section to the comptroller of public accounts of the State of Texas (comptroller) not later than the last day of the month following each calendar quarter.

(h) 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.

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 2. 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 3. 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 4. 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 5. 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 6. 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 7. 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 8. 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 \$5 under Section 51.851, Government Code.

SECTION 9. 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 10. 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 11. 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 12. Amends Section 133.058(d), Local Government Code, to prohibit a county from retaining a service fee on the collection of a fee for the judicial fund, under Sections 14 (Child Abusers and Family Violence Offenders; Special Conditions) and 19 (Fees), Article 42.12, Code of Criminal Procedure, or under Section 51.851, Government Code.

SECTION 13. 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 expenses in a suit to collect a delinquent tax, including all usual court costs, including the cost of serving process and electronic filing fees.

SECTION 14. 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), a taxing unit is not liable in a suit to collect taxes for court costs, including any fees for service of process, electronic filing, an attorney ad litem, arbitration, or mediation, and is prohibited from being required to post security for costs.

SECTION 15. 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 16. (a) Provides that Section 51.607 (Implementation of New or Amended Court Costs and Fees), 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 16. Effective date: September 1, 2013.