

1-1 By: Hunter, Thompson of Harris H.B. No. 2302
 1-2 (Senate Sponsor - West)
 1-3 (In the Senate - Received from the House April 29, 2013;
 1-4 April 29, 2013, read first time and referred to Committee on
 1-5 Jurisprudence; May 13, 2013, reported adversely, with favorable
 1-6 Committee Substitute by the following vote: Yeas 5, Nays 0;
 1-7 May 13, 2013, sent to printer.)

1-8 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-9				
1-10	X			
1-11	X			
1-12	X			
1-13			X	
1-14	X			
1-15			X	
1-16	X			

1-17 COMMITTEE SUBSTITUTE FOR H.B. No. 2302 By: West

1-18 A BILL TO BE ENTITLED
 1-19 AN ACT

1-20 relating to signing electronic or digital court documents, to the
 1-21 electronic filing system established by the Texas Supreme Court, to
 1-22 the statewide electronic filing system fund, to certain court fees
 1-23 and court costs, and to recovery of electronic filing fees by taxing
 1-24 units; imposing and authorizing certain fees.

1-25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-26 SECTION 1. Chapter 21, Government Code, is amended by
 1-27 adding Section 21.011 to read as follows:

1-28 Sec. 21.011. ELECTRONIC OR DIGITAL SIGNATURE. A judge or
 1-29 justice presiding over a court in this state may sign an electronic
 1-30 or digital court document, including an order, judgment, ruling,
 1-31 notice, commission, or precept, electronically, digitally, or
 1-32 through another secure method. The document signed in that manner
 1-33 is the official document issued by the court.

1-34 SECTION 2. Chapter 51, Government Code, is amended by
 1-35 adding Subchapter I-1 to read as follows:

1-36 SUBCHAPTER I-1. ELECTRONIC FILING FEE

1-37 Sec. 51.851. ELECTRONIC FILING FEE. (a) In this section,
 1-38 "conviction" has the meaning assigned by Section 133.101, Local
 1-39 Government Code.

1-40 (b) In addition to other fees authorized or required by law,
 1-41 the clerk of the supreme court, a court of appeals, a district
 1-42 court, a county court, a statutory county court, or a statutory
 1-43 probate court shall collect a \$20 fee on the filing of any civil
 1-44 action or proceeding requiring a filing fee, including an appeal,
 1-45 and on the filing of any counterclaim, cross-action, intervention,
 1-46 interpleader, or third-party action requiring a filing fee to be
 1-47 used as provided by Section 51.852.

1-48 (c) In addition to other fees authorized or required by law,
 1-49 the clerk of a justice court shall collect a \$10 fee on the filing of
 1-50 any civil action or proceeding requiring a filing fee, including an
 1-51 appeal, and on the filing of any counterclaim, cross-action,
 1-52 intervention, interpleader, or third-party action requiring a
 1-53 filing fee to be used as provided by Section 51.852.

1-54 (d) In addition to other court costs, a person shall pay \$5
 1-55 as a court cost on conviction of any criminal offense in a district
 1-56 court, county court, or statutory county court.

1-57 (e) A court may waive payment of a court cost or fee due
 1-58 under this section for an individual the court determines is
 1-59 indigent.

1-60 (f) Court costs and fees due under this section shall be

2-1 collected in the same manner as other fees, fines, or costs in the
2-2 case.

2-3 (g) The clerk of a district court, a county court, a
2-4 statutory county court, a statutory probate court, or a justice
2-5 court shall deposit the court costs and fees collected under this
2-6 section in the appropriate local treasury and remit the court costs
2-7 and fees to the comptroller in the manner provided by Subchapter B,
2-8 Chapter 133, Local Government Code.

2-9 (h) The clerk of the supreme court or of a court of appeals
2-10 shall remit the fees collected under this section to the
2-11 comptroller.

2-12 (i) The comptroller shall deposit the court costs and fees
2-13 received under this section to the credit of the statewide
2-14 electronic filing system fund established under Section 51.852.

2-15 (j) The comptroller may audit the records of a county
2-16 related to costs and fees collected under this section.

2-17 (k) Money spent from costs and fees collected under this
2-18 section is subject to audit by the state auditor.

2-19 Sec. 51.852. STATEWIDE ELECTRONIC FILING SYSTEM FUND. (a)
2-20 The statewide electronic filing system fund is an account in the
2-21 general revenue fund.

2-22 (b) Money in the statewide electronic filing system fund may
2-23 only be appropriated to the Office of Court Administration of the
2-24 Texas Judicial System and used to:

2-25 (1) support a statewide electronic filing technology
2-26 project for courts in this state;

2-27 (2) provide grants to counties to implement components
2-28 of the project; or

2-29 (3) support court technology projects that have a
2-30 statewide impact as determined by the office of court
2-31 administration.

2-32 SECTION 3. Subchapter C, Chapter 72, Government Code, is
2-33 amended by adding Section 72.031 to read as follows:

2-34 Sec. 72.031. ELECTRONIC FILING SYSTEM. (a) In this
2-35 section:

2-36 (1) "Appellate court" means the supreme court, the
2-37 court of criminal appeals, or a court of appeals.

2-38 (2) "Electronic filing system" means the filing system
2-39 established by supreme court rule or order for the electronic
2-40 filing of documents in courts of this state.

2-41 (3) "Electronic filing transaction" means the
2-42 simultaneous electronic filing of one or more documents related to
2-43 a proceeding before a court in this state.

2-44 (4) "Local government" means a county or municipality.

2-45 (b) The office as authorized by supreme court rule or order
2-46 may implement an electronic filing system for use in the courts of
2-47 this state.

2-48 (c) A local government or appellate court that uses the
2-49 electronic filing system may charge a fee of \$2 for each electronic
2-50 filing transaction if:

2-51 (1) the fee is necessary to recover the actual system
2-52 operating costs reasonably incurred by the local government or
2-53 appellate court to:

2-54 (A) accept electronic payment methods; or
2-55 (B) interface with other technology information
2-56 systems;

2-57 (2) the fee does not include an amount to recover local
2-58 government or appellate court employee costs, other than costs for
2-59 directly maintaining the system;

2-60 (3) the governing body of the local government or the
2-61 appellate court approves the fee using the local government or
2-62 appellate court's standard approval process for fee increases; and

2-63 (4) the local government or appellate court annually
2-64 certifies to the office on a form prescribed by the office that the
2-65 amount of the fee is necessary to recover the actual system
2-66 operating costs incurred by the local government or appellate
2-67 court.

2-68 (c-1) This subsection and Subsection (c) expire September
2-69 1, 2019.

3-1 (d) A local government or appellate court that uses the
 3-2 electronic filing system may accept electronic payment methods,
 3-3 including payments made with credit and debit cards.

3-4 (e) A governmental entity not otherwise required to pay a
 3-5 filing fee under any other law may not be required to pay a fee
 3-6 established under this section.

3-7 (f) A court shall waive payment of any fee due under this
 3-8 section for an individual the court determines is indigent.

3-9 SECTION 4. Subchapter B, Chapter 101, Government Code, is
 3-10 amended by adding Section 101.0211 to read as follows:

3-11 Sec. 101.0211. ADDITIONAL SUPREME COURT FEES: GOVERNMENT
 3-12 CODE. The clerk of the supreme court shall collect a statewide
 3-13 electronic filing system fund fee of \$20 under Section 51.851,
 3-14 Government Code.

3-15 SECTION 5. Subchapter C, Chapter 101, Government Code, is
 3-16 amended by adding Section 101.0411 to read as follows:

3-17 Sec. 101.0411. ADDITIONAL COURT OF APPEALS FEES: GOVERNMENT
 3-18 CODE. The clerk of a court of appeals shall collect a statewide
 3-19 electronic filing system fund fee of \$20 under Section 51.851,
 3-20 Government Code.

3-21 SECTION 6. Subchapter D, Chapter 101, Government Code, is
 3-22 amended by adding Section 101.06118 to read as follows:

3-23 Sec. 101.06118. ADDITIONAL DISTRICT COURT FEES: GOVERNMENT
 3-24 CODE. The clerk of a district court shall collect a statewide
 3-25 electronic filing system fund fee of \$20 under Section 51.851,
 3-26 Government Code.

3-27 SECTION 7. Subchapter E, Chapter 101, Government Code, is
 3-28 amended by adding Section 101.08117 to read as follows:

3-29 Sec. 101.08117. ADDITIONAL STATUTORY COUNTY COURT FEES:
 3-30 GOVERNMENT CODE. The clerk of a statutory county court shall
 3-31 collect a statewide electronic filing system fund fee of \$20 under
 3-32 Section 51.851, Government Code.

3-33 SECTION 8. Subchapter F, Chapter 101, Government Code, is
 3-34 amended by adding Section 101.10116 to read as follows:

3-35 Sec. 101.10116. ADDITIONAL STATUTORY PROBATE COURT FEES:
 3-36 GOVERNMENT CODE. The clerk of a statutory probate court shall
 3-37 collect a statewide electronic filing system fund fee of \$20 under
 3-38 Section 51.851, Government Code.

3-39 SECTION 9. Subchapter G, Chapter 101, Government Code, is
 3-40 amended by adding Section 101.12126 to read as follows:

3-41 Sec. 101.12126. ADDITIONAL COUNTY COURT FEES: GOVERNMENT
 3-42 CODE. The clerk of a county court shall collect a statewide
 3-43 electronic filing system fund fee of \$20 under Section 51.851,
 3-44 Government Code.

3-45 SECTION 10. Subchapter H, Chapter 101, Government Code, is
 3-46 amended by adding Section 101.1411 to read as follows:

3-47 Sec. 101.1411. ADDITIONAL JUSTICE COURT FEES: GOVERNMENT
 3-48 CODE. The clerk of a justice court shall collect a statewide
 3-49 electronic filing system fund fee of \$10 under Section 51.851,
 3-50 Government Code.

3-51 SECTION 11. Subchapter C, Chapter 102, Government Code, is
 3-52 amended by adding Section 102.0415 to read as follows:

3-53 Sec. 102.0415. ADDITIONAL COURT COSTS ON CONVICTION IN
 3-54 DISTRICT COURT: GOVERNMENT CODE. The clerk of a district court
 3-55 shall collect from a defendant a court cost on conviction of \$5
 3-56 under Section 51.851, Government Code.

3-57 SECTION 12. Subchapter D, Chapter 102, Government Code, is
 3-58 amended by adding Section 102.0615 to read as follows:

3-59 Sec. 102.0615. ADDITIONAL COURT COSTS ON CONVICTION IN
 3-60 STATUTORY COUNTY COURT: GOVERNMENT CODE. The clerk of a statutory
 3-61 county court shall collect from a defendant a court cost on
 3-62 conviction of \$5 under Section 51.851, Government Code.

3-63 SECTION 13. Subchapter E, Chapter 102, Government Code, is
 3-64 amended by adding Section 102.082 to read as follows:

3-65 Sec. 102.082. ADDITIONAL COURT COSTS ON CONVICTION IN
 3-66 COUNTY COURT: GOVERNMENT CODE. The clerk of a county court shall
 3-67 collect from a defendant a court cost on conviction of \$5 under
 3-68 Section 51.851, Government Code.

3-69 SECTION 14. Section 103.027, Government Code, is amended to

4-1 read as follows:

4-2 Sec. 103.027. MISCELLANEOUS FEES AND COSTS: GOVERNMENT
4-3 CODE. (a) Fees and costs shall be paid or collected under the
4-4 Government Code as follows:

4-5 (1) filing a certified copy of a judicial finding of
4-6 fact and conclusion of law if charged by the secretary of state
4-7 (Sec. 51.905, Government Code) . . . \$15;

4-8 (2) cost paid by each surety posting the bail bond for
4-9 an offense other than a misdemeanor punishable by fine only under
4-10 Chapter 17, Code of Criminal Procedure, for the assistant
4-11 prosecutor supplement fund and the fair defense account (Sec.
4-12 41.258, Government Code) . . . \$15, provided the cost does not
4-13 exceed \$30 for all bail bonds posted at that time for an individual
4-14 and the cost is not required on the posting of a personal or cash
4-15 bond;

4-16 (3) to participate in a court proceeding in this
4-17 state, a nonresident attorney fee (Sec. 82.0361, Government Code)
4-18 . . . \$250 except as waived or reduced under supreme court rules for
4-19 representing an indigent person;

4-20 (4) on a party's appeal of a final decision in a
4-21 contested case, the cost of preparing the original or a certified
4-22 copy of the record of the agency proceeding, if required by the
4-23 agency's rule, as a court cost (Sec. 2001.177, Government Code)
4-24 . . . as assessed by the court, all or part of the cost of
4-25 preparation;

4-26 (5) compensation to a referee in juvenile court in
4-27 Wichita County taxed as costs if the judge determines the parties
4-28 are able to pay the costs (Sec. 54.403, Government Code) . . . as
4-29 determined by the judge; and

4-30 (6) the expense of preserving the record as a court
4-31 cost in Brazos County if imposed on a party by the referring court
4-32 or magistrate (Sec. 54.1111, Government Code) . . . actual cost.

4-33 (b) Any fee of \$2 charged by a local government or appellate
4-34 court for an electronic filing transaction as authorized under
4-35 Section 72.031(c), Government Code, shall be collected. This
4-36 subsection expires September 1, 2019.

4-37 SECTION 15. Section 231.202, Family Code, is amended to
4-38 read as follows:

4-39 Sec. 231.202. AUTHORIZED COSTS AND FEES IN TITLE IV-D
4-40 CASES. In a Title IV-D case filed under this title, including a
4-41 case filed under Chapter 159, the Title IV-D agency shall pay only
4-42 the following costs and fees:

4-43 (1) filing fees and fees for issuance and service of
4-44 process as provided by Chapter 110 of this code and by Sections
4-45 51.317(b)(1), (2), and (3) and (b-1), 51.318(b)(2), and 51.319(2),
4-46 Government Code;

4-47 (2) fees for transfer as provided by Chapter 110;

4-48 (3) fees for the issuance and delivery of orders and
4-49 writs of income withholding in the amounts provided by Chapter 110;

4-50 (4) the fee for services provided by sheriffs and
4-51 constables, including:

4-52 (A) a fee authorized under Section 118.131, Local
4-53 Government Code, for serving each item of process to each
4-54 individual on whom service is required, including service by
4-55 certified or registered mail; and

4-56 (B) a fee authorized under Section 157.103(b) for
4-57 serving a capias;

4-58 (5) the fee for filing an administrative writ of
4-59 withholding under Section 158.503(d);

4-60 (6) the fee for issuance of a subpoena as provided by
4-61 Section 51.318(b)(1), Government Code; and

4-62 (7) a fee authorized by Section 72.031, Government
4-63 Code, [under a local rule] for the electronic filing of documents
4-64 with a clerk.

4-65 SECTION 16. Section 231.204, Family Code, is amended to
4-66 read as follows:

4-67 Sec. 231.204. PROHIBITED FEES IN TITLE IV-D CASES. Except
4-68 as provided by this subchapter, an appellate court, a clerk of an
4-69 appellate court, a district or county clerk, sheriff, constable, or

5-1 other government officer or employee may not charge the Title IV-D
5-2 agency or a private attorney or political subdivision that has
5-3 entered into a contract to provide Title IV-D services any fees or
5-4 other amounts otherwise imposed by law for services rendered in, or
5-5 in connection with, a Title IV-D case, including:

- 5-6 (1) a fee payable to a district clerk for:
 - 5-7 (A) performing services related to the estates of
 - 5-8 deceased persons or minors;
 - 5-9 (B) certifying copies; or
 - 5-10 (C) comparing copies to originals;
- 5-11 (2) a court reporter fee, except as provided by
- 5-12 Section 231.209;
- 5-13 (3) a judicial fund fee;
- 5-14 (4) a fee for a child support registry, enforcement
- 5-15 office, or domestic relations office;
- 5-16 (5) a fee for alternative dispute resolution services;
- 5-17 [~~and~~]
- 5-18 (6) a filing fee or other costs payable to a clerk of
- 5-19 an appellate court; and
- 5-20 (7) a statewide electronic filing system fund fee.

5-21 SECTION 17. Section 133.058(d), Local Government Code, is
5-22 amended to read as follows:

5-23 (d) A county may not retain a service fee on the collection
5-24 of a fee:

- 5-25 (1) for the judicial fund; [~~or~~]
- 5-26 (2) under Sections 14 and 19, Article 42.12, Code of
- 5-27 Criminal Procedure; or
- 5-28 (3) under Section 51.851, Government Code.

5-29 SECTION 18. The imposition of a cost of court on conviction
5-30 under Section 51.851, Government Code, as added by this Act,
5-31 applies only to an offense committed on or after the effective date
5-32 of this Act. An offense committed before the effective date of this
5-33 Act is covered by the law in effect when the offense was committed,
5-34 and the former law is continued in effect for that purpose. For
5-35 purposes of this section, an offense was committed before the
5-36 effective date of this Act if any element of the offense was
5-37 committed before that date.

5-38 SECTION 19. Section 33.48(a), Tax Code, is amended to read
5-39 as follows:

5-40 (a) In addition to other costs authorized by law, a taxing
5-41 unit is entitled to recover the following costs and expenses in a
5-42 suit to collect a delinquent tax:

- 5-43 (1) all usual court costs, including the cost of
- 5-44 serving process and electronic filing fees;
- 5-45 (2) costs of filing for record a notice of lis pendens
- 5-46 against property;
- 5-47 (3) expenses of foreclosure sale;
- 5-48 (4) reasonable expenses that are incurred by the
- 5-49 taxing unit in determining the name, identity, and location of
- 5-50 necessary parties and in procuring necessary legal descriptions of
- 5-51 the property on which a delinquent tax is due;
- 5-52 (5) attorney's fees in the amount of 15 percent of the
- 5-53 total amount of taxes, penalties, and interest due the unit; and
- 5-54 (6) reasonable attorney ad litem fees approved by the
- 5-55 court that are incurred in a suit in which the court orders the
- 5-56 appointment of an attorney to represent the interests of a
- 5-57 defendant served with process by means of citation by publication
- 5-58 or posting.

5-59 SECTION 20. Section 33.49(a), Tax Code, is amended to read
5-60 as follows:

5-61 (a) Except as provided by Subsection (b), a taxing unit is
5-62 not liable in a suit to collect taxes for court costs, including any
5-63 fees for service of process and electronic filing fees, an attorney
5-64 ad litem, arbitration, or mediation, and may not be required to post
5-65 security for costs.

5-66 SECTION 21. (a) Section 51.607, Government Code, does not
5-67 apply to the imposition of a fee assessed under:

- 5-68 (1) Section 51.851, Government Code, as added by this
- 5-69 Act;

- 6-1 (2) Section 101.0211, Government Code, as added by
- 6-2 this Act;
- 6-3 (3) Section 101.0411, Government Code, as added by
- 6-4 this Act;
- 6-5 (4) Section 101.06118, Government Code, as added by
- 6-6 this Act;
- 6-7 (5) Section 101.08117, Government Code, as added by
- 6-8 this Act;
- 6-9 (6) Section 101.10116, Government Code, as added by
- 6-10 this Act;
- 6-11 (7) Section 101.12126, Government Code, as added by
- 6-12 this Act;
- 6-13 (8) Section 101.1411, Government Code, as added by
- 6-14 this Act;
- 6-15 (9) Section 102.0415, Government Code, as added by
- 6-16 this Act;
- 6-17 (10) Section 102.0615, Government Code, as added by
- 6-18 this Act; or
- 6-19 (11) Section 102.082, Government Code, as added by
- 6-20 this Act.

6-21 (b) The changes in law made by this Act apply only to a fee
 6-22 that becomes payable on or after September 1, 2013. A fee that
 6-23 becomes payable before that date is governed by the law in effect
 6-24 when the fee became payable, and the former law is continued in
 6-25 effect for that purpose.

6-26 SECTION 22. Not later than December 1, 2018, the Office of
 6-27 Court Administration of the Texas Judicial System shall file a
 6-28 report with the lieutenant governor, the speaker of the house of
 6-29 representatives, and the presiding officers of the standing
 6-30 committees of each house of the legislature with jurisdiction over
 6-31 the judiciary detailing the number of local governments and
 6-32 appellate courts collecting a fee under Section 72.031(c),
 6-33 Government Code, as added by this Act, and the necessity of the
 6-34 local governments and appellate courts to continue collecting the
 6-35 fee.

6-36 SECTION 23. This Act takes effect September 1, 2013.

6-37 * * * * *