

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

April 15, 2013

TO: Honorable Tryon D. Lewis, Chair, House Committee on Judiciary & Civil Jurisprudence

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2302 by Hunter (Relating to the electronic filing system establishment by the Texas Supreme Court, to the statewide electronic filing system fund, and to certain court fees and court costs; imposing and authorizing certain fees.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2302, Committee Report 1st House, Substituted: an impact of \$0 through the biennium ending August 31, 2015.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

| Fiscal Year | Probable Net Positive/(Negative) Impact to General Revenue Related Funds |
|--------------------|---|
| 2014 | \$0 |
| 2015 | \$0 |
| 2016 | \$0 |
| 2017 | \$0 |
| 2018 | \$0 |

All Funds, Five-Year Impact:

| Fiscal Year | Probable Savings/(Cost) from New General Revenue Dedicated Statewide Electronic Filing System Account | Probable Revenue Gain/(Loss) from New General Revenue Dedicated Statewide Electronic Filing System Account |
|--------------------|--|---|
| 2014 | (\$17,719,000) | \$17,719,000 |
| 2015 | (\$17,719,000) | \$17,719,000 |
| 2016 | (\$17,719,000) | \$17,719,000 |
| 2017 | (\$17,719,000) | \$17,719,000 |
| 2018 | (\$17,719,000) | \$17,719,000 |

Fiscal Analysis

The bill would amend the Government Code, Chapter 51 to create a \$20 filing fee for civil cases at the probate, county, district and appellate courts and the Supreme Court. The bill would create a \$10 filing fee for civil cases at the justice courts. The bill would also create a \$5 court cost for criminal convictions from the county and district courts. The bill would permit a judge to waive these fees if the individual is indigent. The bill would require the counties to remit the entire fee to the state and require the Comptroller of Public Accounts to deposit the fees to a Statewide Electronic Filing Fund as an account within the General Revenue Fund that can be appropriated to the Office of Court Administration for an electronic filing system.

This bill would amend the Government Code, Chapter 72 to permit an appellate court or local government that uses the electronic filing system to charge up to \$2 for each electronic transaction for cost recovery. The bill would also permit these entities to accept electronic payment methods, including payments made with credit and debit cards. The bill sets a September 2019 expiration date for the \$2 fee and requires OCA to file a report with certain legislative members in 2018 on the number of local governments collecting the fee and the necessity of continuing it.

Since revenue deposited into the new account consists of fees on civil cases, the Comptroller of Public Accounts may construe use of balances in the account for non-court related purposes as a potential violation of the open courts provision of the Texas Constitution (Art. I, Sec. 13).

The bill would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

The criminal court cost created by the bill applies only to an offense committed on or after the effective date of the bill. The bill applies only to a fee made payable on or after September 1, 2013. The bill would take effect September 1, 2013.

Methodology

The Comptroller of Public Accounts (CPA) indicated a state revenue gain to General Revenue-Dedicated funds from the civil and criminal fees created by the bill of \$17.7 million per fiscal year. The agency uses criminal convictions and civil case statistics from the Office of Court Administration as the basis of its estimate.

For the \$5 criminal court cost, the agencies multiply the number of convictions by the fee amounts and an estimated collection rate. The OCA uses an estimated 40 percent for county and district courts. The agency reported 516,639 convictions in county and district with \$1,033,278 in state revenue anticipated for per fiscal year.

For the filing fees for civil cases, utilizing historical revenue collections in a similar civil filing fee, the OCA estimated that every \$1 of this type of civil filing fee raises \$418,209 in revenue at the justice courts, \$190,728 in the county courts, \$395,428 and in the district courts, \$4,891 in the intermediate appellate courts, and \$990 in the Supreme Court. The agency estimates a per fiscal year civil case revenue of \$4.2 million from the justice courts for a \$10 filing fee. For the \$20 filing fee, the OCA also estimates per fiscal year revenue of \$3.8 million from the county courts

and \$7.9 million from the district courts. The agency estimates a per fiscal year revenue of \$97,820 from the intermediate appellate courts and \$19,800 from the Supreme Court. In addition, the CPA included in its revenue estimates amounts for the \$2 transaction fee permitted by the bill.

The OCA signed a new contract for an electronic filing system in November 2012, with full rollout scheduled in 2013. Additionally, the Supreme Court has mandated electronic filing for civil cases with a staggered implementation by the courts beginning in January 2014. Based on continuing negotiations between the agency and the vendor, it is assumed for this analysis that the total contract costs will not exceed revenues from fees authorized by the bill.

The CPA indicates that there would be costs associated with implementation of the bill. It is assumed the costs could be absorbed within current resources.

Technology

According to the OCA, the expenditures relating to changes made by this bill will be to the vendor managing and maintaining the electronic filing software and therefore, all of the expenditures are for technology purposes.

Local Government Impact

The bill would authorize cities and counties to charge a \$2 fee for each electronic filing transaction to offset expenses reasonably incurred to accept electronic payment methods or interface with other technology information systems. The bill would also allow money from the fund to be used to provide grants to counties to implement components of the e-filing project. While there will be revenue from these two sources to counties and municipalities, it will only be available up to the amount expended by the county or municipality to implement e-filing. Therefore, no significant fiscal impact is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304
Comptroller of Public Accounts

LBB Staff: UP, JJO, CL, ZS, JP, AM, TB, KKR