

BILL ANALYSIS

C.S.H.B. 2868
By: Martinez, "Mando"
Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties point out that the Hidalgo County courthouse no longer has the capacity to meet the needs of Hidalgo County. These parties report that the county has begun to plan for construction of a new courthouse and has explored alternative forms of financing the courthouse in addition to adjusting the plans to lower costs. C.S.H.B. 2868 seeks to address this issue.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2868 amends the Government Code to set out provisions relating to an additional filing fee for civil cases in Hidalgo County applicable only to district courts, statutory probate courts, and county courts at law in the county. The bill, except as otherwise provided by its provisions and in addition to all other fees authorized or required by other law, requires the clerk of a court to collect a filing fee of not more than \$20 in each civil case filed in the court to be used for the construction, renovation, or improvement of the facilities that house the county civil courts. The bill requires such court fees to be collected in the same manner as other fees, fines, or costs are collected in the case and requires the clerk to send the collected fees to the county treasurer or to any other official who discharges the duties commonly assigned to the county treasurer at least as frequently as monthly. The bill requires the treasurer or other official to deposit the fees in a special account in the county treasury dedicated to the construction, renovation, or improvement of the facilities that house the courts collecting the fee.

C.S.H.B. 2868 applies only to fees for a 12-month period beginning October 1 if the commissioners court adopts a resolution authorizing a fee of not more than \$20; adopts a resolution requiring the county to spend one dollar for the construction, renovation, or improvement of the court facilities for each dollar spent from the special account dedicated to that purpose; and files the resolutions with the county treasurer or other such official not later than September 1 immediately preceding the first 12-month period during which the fees are to be collected. The bill authorizes the county to make the required matching expenditure at any time regardless of when the expenditure from the special account occurs. The bill continues an adopted resolution from year to year until October 1, 2030, allowing the county to collect fees under applicable terms until the resolution is rescinded. The bill authorizes the commissioners court to rescind a resolution by adopting a resolution rescinding the resolution and submitting the rescission resolution to the county treasurer or other such official not later than September 1

preceding the beginning of the first day of the county fiscal year. The bill authorizes the commissioners court to adopt an additional resolution regarding authorization of the fee after rescinding a previous resolution. The bill abolishes a fee established under a particular resolution on the earlier of the date an adopted resolution is rescinded or October 1, 2030.

C.S.H.B. 2868 amends the Local Government Code to authorize the county clerk of Hidalgo County, if authorized by the commissioners court of the county, to assess an additional fee not to exceed \$10 for real property records filing to fund the construction, renovation, or improvement of court facilities.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2868 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Subchapter H, Chapter 51, Government Code, is amended by adding Section 51.711 to read as follows:

Sec. 51.711. ADDITIONAL FILING FEE FOR CIVIL CASES IN HIDALGO COUNTY. (a) This section applies only to district courts, statutory probate courts, and county courts at law in Hidalgo County.

(b) Except as otherwise provided by this section and in addition to all other fees authorized or required by other law, the clerk of a court shall collect a filing fee of not more than \$25 in each civil case filed in the court to be used for the construction, renovation, or improvement of the facilities that house the Hidalgo County civil courts.

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

(d) The clerk shall send the fees collected under this section to the county treasurer or to any other official who discharges the duties commonly assigned to the county treasurer at least as frequently as monthly. The treasurer or other official shall deposit the fees in a special account in the county treasury dedicated to the construction, renovation, or improvement of the facilities that house the courts collecting the fee.

(e) This section applies only to fees for a 12-month period beginning October 1, if the commissioners court:

(1) adopts a resolution authorizing a fee of

HOUSE COMMITTEE SUBSTITUTE

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

(d) The clerk shall send the fees collected under this section to the county treasurer or to any other official who discharges the duties commonly assigned to the county treasurer at least as frequently as monthly. The treasurer or other official shall deposit the fees in a special account in the county treasury dedicated to the construction, renovation, or improvement of the facilities that house the courts collecting the fee.

(e) This section applies only to fees for a 12-month period beginning October 1, if the commissioners court:

(1) adopts a resolution authorizing a fee of

not more than \$25;

(2) adopts a resolution requiring the county to spend one dollar for the construction, renovation, or improvement of the court facilities for each dollar spent from the special account dedicated to that purpose; and

(3) files the resolutions with the county treasurer or with any other official who discharges the duties commonly assigned to the county treasurer not later than September 1 immediately preceding the first 12-month period during which the fees are to be collected.

(f) A resolution adopted under Subsection (e) continues from year to year until October 1, 2030, allowing the county to collect fees under the terms of this section until the resolution is rescinded.

(g) The commissioners court may rescind a resolution adopted under Subsection (e) by adopting a resolution rescinding the resolution and submitting the rescission resolution to the county treasurer or to any other official who discharges the duties commonly assigned to the county treasurer not later than September 1 preceding the beginning of the first day of the county fiscal year. The commissioners court may adopt an additional resolution in the manner provided by Subsection (e) after rescinding a previous resolution under that subsection.

(h) A fee established under a particular resolution is abolished on the earlier of:

(1) the date a resolution adopted under Subsection (e) is rescinded as provided by Subsection (g); or

(2) October 1, 2030.

(i) The county may make the required expenditure described by Subsection (e)(2) at any time, regardless of when the expenditure from the special account occurs.

SECTION 2. Subchapter D, Chapter 101, Government Code, is amended by adding Section 101.061192 to read as follows:

Sec. 101.061192. ADDITIONAL DISTRICT COURT FEES FOR COURT FACILITIES: GOVERNMENT CODE.

The clerk of a district court in Hidalgo County shall collect an additional filing fee of not more than \$25 under Section 51.711, Government Code, in civil cases to fund the construction, renovation, or improvement of

not more than \$20;

(2) adopts a resolution requiring the county to spend one dollar for the construction, renovation, or improvement of the court facilities for each dollar spent from the special account dedicated to that purpose; and

(3) files the resolutions with the county treasurer or with any other official who discharges the duties commonly assigned to the county treasurer not later than September 1 immediately preceding the first 12-month period during which the fees are to be collected.

(f) A resolution adopted under Subsection (e) continues from year to year until October 1, 2030, allowing the county to collect fees under the terms of this section until the resolution is rescinded.

(g) The commissioners court may rescind a resolution adopted under Subsection (e) by adopting a resolution rescinding the resolution and submitting the rescission resolution to the county treasurer or to any other official who discharges the duties commonly assigned to the county treasurer not later than September 1 preceding the beginning of the first day of the county fiscal year. The commissioners court may adopt an additional resolution in the manner provided by Subsection (e) after rescinding a previous resolution under that subsection.

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(1) the date a resolution adopted under Subsection (e) is rescinded as provided by Subsection (g); or

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(i) The county may make the required expenditure described by Subsection (e)(2) at any time, regardless of when the expenditure from the special account occurs.

SECTION 2. Subchapter D, Chapter 101, Government Code, is amended by adding Section 101.061192 to read as follows:

Sec. 101.061192. ADDITIONAL DISTRICT COURT FEES FOR COURT FACILITIES: GOVERNMENT CODE.

The clerk of a district court in Hidalgo County shall collect an additional filing fee of not more than \$20 under Section 51.711, Government Code, in civil cases to fund the construction, renovation, or improvement of

court facilities, if authorized by the county commissioners court.

SECTION 3. Subchapter E, Chapter 101, Government Code, is amended by adding Section 101.081191 to read as follows:

Sec. 101.081191. ADDITIONAL STATUTORY COUNTY COURT FEES FOR COURT FACILITIES: GOVERNMENT CODE. The clerk of a statutory county court in Hidalgo County shall collect an additional filing fee of not more than \$25 under Section 51.711, Government Code, in civil cases to fund the construction, renovation, or improvement of court facilities, if authorized by the county commissioners court.

SECTION 4. Subchapter F, Chapter 101, Government Code, is amended by adding Section 101.10119 to read as follows:

Sec. 101.10119. ADDITIONAL STATUTORY PROBATE COURT FEES FOR COURT FACILITIES: GOVERNMENT CODE. The clerk of a statutory probate court in Hidalgo County shall collect an additional filing fee of not more than \$25 under Section 51.711, Government Code, in civil cases to fund the construction, renovation, or improvement of court facilities, if authorized by the county commissioners court.

No equivalent provision.

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SECTION 3. Subchapter E, Chapter 101, Government Code, is amended by adding Section 101.081191 to read as follows:

Sec. 101.081191. ADDITIONAL STATUTORY COUNTY COURT FEES FOR COURT FACILITIES: GOVERNMENT CODE. The clerk of a statutory county court in Hidalgo County shall collect an additional filing fee of not more than \$20 under Section 51.711, Government Code, in civil cases to fund the construction, renovation, or improvement of court facilities, if authorized by the county commissioners court.

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Sec. 101.10119. ADDITIONAL STATUTORY PROBATE COURT FEES FOR COURT FACILITIES: GOVERNMENT CODE. The clerk of a statutory probate court in Hidalgo County shall collect an additional filing fee of not more than \$20 under Section 51.711, Government Code, in civil cases to fund the construction, renovation, or improvement of court facilities, if authorized by the county commissioners court.

SECTION 5. Section 118.011, Local Government Code, is amended by adding Subsection (g) to read as follows:

(g) The county clerk of a county shall, if the commissioners court of the county adopts the fee, collect the following fee from any person:

Real Property Records Filing (Sec. 118.0131) not more than \$10

SECTION 6. Subchapter B, Chapter 118, Local Government Code, is amended by adding Section 118.0131 to read as follows:

Sec. 118.0131. OPTIONAL RECORDING FEES FOR COURT FACILITIES: HIDALGO COUNTY. The county clerk of Hidalgo County may assess an additional fee not to exceed \$10 for real property

records filing to fund the construction, renovation, or improvement of court facilities, if authorized by the commissioners court of the county.

No equivalent provision.

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

SECTION 7. The changes in law made by this Act apply only to a fee that becomes payable on or after the effective date of this Act. 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 8. Same as introduced version.