

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 27, 2021

TO: Honorable Dan Patrick, Lieutenant Governor, Senate

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: SB41 by Zaffirini (Relating to the consolidation and allocation of state civil court costs; increasing certain civil court costs; authorizing fees.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for SB41, As Passed 2nd House : a negative impact of (\$68,000) through the biennium ending August 31, 2023.

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:

<i>Fiscal Year</i>	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2022	(\$32,000)
2023	(\$36,000)
2024	(\$24,000)
2025	(\$12,000)
2026	(\$6,000)

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	Probable Revenue Gain/(Loss) from General Revenue Fund 1	Probable Revenue Gain/(Loss) from Judicial Fund 573	Probable Revenue Gain/(Loss) from Jud & Court Training Fd 540
2022	(\$32,000)	\$8,255,000	(\$476,000)
2023	(\$36,000)	\$22,412,000	(\$714,000)
2024	(\$24,000)	\$24,286,000	(\$714,000)
2025	(\$12,000)	\$24,286,000	(\$714,000)
2026	(\$6,000)	\$24,286,000	(\$714,000)

Fiscal Analysis

The bill would consolidate various civil filing fees, repeal various court fees and costs, and make conforming changes across several codes.

The bill would amend the Local Government Code to create a new \$137 filing fee that would be charged on civil, probate, guardianship, or mental health cases in district courts, statutory county courts, statutory probate courts, and county courts. The bill would require 59.854 percent of the civil fees to be allocated to the Judicial Fund 573 for court-related purposes for the support of the judiciary; 14.5985 percent to be allocated to the basic civil legal services account in Judicial Fund 573; 21.8978 percent to be allocated to General Revenue-

Dedicated Account 5157 – Statewide Electronic Filing System (GR-D Account 5157); and 3.6497 percent to be allocated to General Revenue-Dedicated Account 540 – Judicial and Court Personnel Training (GR-D Account 540).

The bill would create a \$45 fee which would be imposed on any action other than an original action subject to the \$137 fee, including an appeal and any counterclaim, cross-action, intervention, contempt action, adverse probate action, interpleader, motion for new trial, or third-party action. The bill would require 22.2222 percent of the fee to be allocated to the basic civil legal services account in Judicial Fund 573, 66.6667 percent to be allocated to GR-D Account 5157 and 11.1111 percent to be allocated to GR-D Account 540.

The bill would create a \$21 fee on any justice court filing of any civil case and on any action other than an original action for the civil case, including an appeal and any counterclaim, cross-action, intervention, contempt action, adverse probate action, interpleader, motion for new trial, or third-party action. The bill would require 28.5714 percent of the fee to be allocated to the basic civil legal services account in Judicial Fund 573; 47.6191 percent to be allocated to GR-D Account 5157; and 23.8095 percent to be allocated to GR-D Account 540.

The bill would amend the Local Government Code to establish a new \$213 local consolidated civil filing fee that would be charged on any civil case except a probate, guardianship, or mental health case in the district courts, statutory county courts, and county courts and a new fee of \$35 on any action other than an original action subject to the \$213 fee, including an appeal and any counterclaim, cross-action, intervention, contempt action, interpleader, motion for new trial, or third-party action.

The bill would establish a new \$223 local civil filing fee that would be charged on any probate, guardianship, or mental health case in a statutory county court, statutory probate court, or county court. The bill would also establish a \$75 fee on filing any action other than an original action for a case subject to the \$223 filing fee (including an adverse probate action, contest, or suit in a probate court, other than the filing of a claim against an estate) in which the movant or applicant filing the intervention pleading seeks any affirmative relief.

The bill would also establish a local consolidated filing fee of \$33 on any civil case in a justice court and on any action other than an original action for a civil case, including an appeal and any counterclaim, cross-action, intervention, contempt action, interpleader, motion for new trial, or third-party action.

The bill would establish an appellate judicial system fund for each court of appeals. Under the bill's provisions the appellate judicial system would be funded by a portion of the \$213 and \$223 local filing fees.

The bill would modify the fee for several services performed by clerks to establish parity between the services performed by district clerks and county clerks, including: the fee for issuing a subpoena by a county clerk is increased from \$4 to \$8; the fee for issuing an abstract of judgment by a county clerk is increased from \$5 to \$8; the fee for issuing a citation, writ of execution or order of sale, writ of injunction, garnishment, attachment, sequestration, and any other writ or process issued by a county clerk is increased from \$5 to \$8; the fee for issuing another document after judgment not listed by a county clerk is increased from \$4 to \$8; the fee for searching for files or records without a cause number being provided by a county clerk is set at \$5; the fee for approval of bonds by a district or county clerk is increased from \$4 (district clerk) and \$3 (county clerk) to \$5; the fee for certified copy by a district clerk is increased from not to exceed \$1 to \$5; the fee for a paper copy of filed document by a district or county clerk is set at \$1 per page; the fee for an electronic copy of a document that is converted to electronic format by a district or county clerk is set at \$1 per page; the fee for an electronic copy of a document that was not converted from a paper format by a district or county clerk is set at \$0.10 per page with a minimum of \$1; and the fee for the preparation of the appellate record by a district or county clerk is set at \$1 per page.

The bill would remove the \$45 civil fee imposed on family law cases and the \$50 civil fee imposed on cases other than family law cases. The bill would require certain fees collected by the clerk of a court of appeals in a civil case to be deposited to Judicial Fund 573.

The bill would repeal the juvenile probation diversion fee under Sec. 54.0411 and the juvenile DNA testing fee under Sec. 54.0462 of the Family Code and Sec. 54.06 of the Family Code relating to costs imposed by a juvenile court in certain cases where a child has been committed to the Texas Juvenile Justice Department

(TJJD).

The bill would repeal the state contribution for judicial salaries required under Sec. 25.00211, civil fees imposed in statutory county courts under Sec. 51.702, civil fees imposed in county courts under Sec. 51.703, additional fees imposed in statutory probate courts under Sec. 51.704, the electronic filing fee imposed under Sec. 51.851(c), the judicial and court personnel training fee imposed under Sec. 51.971 and the fee for orders of nondisclosure under Sec. 411.077 of the Government Code.

The bill would repeal additional filing fees in district courts imposed under Sec. 133.152, additional filing fees in courts other than district courts imposed under Sec. 133.153 and additional filing fee for support of the judiciary imposed under Sec. 133.154 of the Local Government Code.

The bill would take effect January 1, 2022.

Methodology

Costs reflected in the tables above are based on the Comptroller of Public Accounts (CPA) 2022-23 Biennial Revenue Estimate and the analysis provided by the CPA and Office of Court Administration (OCA).

This legislation 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 in, with, or outside of the Treasury, or create a dedicated revenue source. Legislative policy, implemented as Government Code 403.095, consolidated special funds (except those affected by constitutional, federal, or other restrictions) into the General Revenue Fund as of August 31, 1993 and eliminated all applicable statutory revenue dedications as of August 31, 1995. Each subsequent Legislature has reviewed bills that affect funds consolidation. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

The fiscal impact to the General Revenue Fund from the repeal of the juvenile probation diversion fee under Sec. 54.0411 and the juvenile DNA testing fee under Sec. 54.0462 of the Family Code, state contribution for judicial salaries required under Sec. 25.00211, civil fees imposed in statutory county courts under Sec. 51.702, civil fees imposed in county courts under Sec. 51.703, additional fees imposed in statutory probate courts under Sec. 51.704, the judicial and court personnel training fee imposed under Sec. 51.971, the fee for orders of nondisclosure under Sec. 411.077 of the Government Code, additional filing fees in district courts imposed under Sec. 133.152, additional filing fees in courts other than district courts imposed under Sec. 133.153, and additional filing fees for support of the judiciary imposed under Sec. 133.154 of the Local Government Code is reflected in the table above. Analysis provided by the CPA for the same changes also estimates losses to Judicial Fund 573 of \$19,721,000 in fiscal year 2022; \$27,490,000 in fiscal year 2023; and \$25,616,000 in subsequent years. Estimated losses to General Revenue-Dedicated Account 540 – Judicial and Court Personnel Training are \$4,000,000 in fiscal year 2022 and \$6,000,000 in subsequent years.

The bill would repeal Sec. 51.851(c) of the Government Code. Under current statute, two filing fees are collected by state and local courts for funding statewide electronic filing technology projects for courts. A \$30 filing fee collected by 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 and \$10 filing fee collected by the clerk of a justice court. The fee revenue is deposited to GR-D Account 5157. The bill would repeal the \$10 filing fee collected by the clerk of a justice court. Although the repeal of this section would impact state revenue, data which segregates the collected amounts by the type of court is not available; therefore, the impact to state revenue cannot be estimated and is not included in the table above.

The bill would repeal Sec. 51.851(c) of the Government Code. Under current statute, two filing fees are collected by state and local courts for funding statewide electronic filing technology projects for courts. A \$30 filing fee collected by 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 and \$10 filing fee collected by the clerk of a justice court. The bill would repeal the \$10 filing fee collected by the clerk of a justice court. Although the repeal of this section would impact state revenue, data which segregates the collected amounts by the type of court is not available; therefore, the impact to state revenue cannot be estimated and is not included in the table above.

The increase in revenue that would result from the creation of a \$45 fee imposed on subsequent filings cannot

be determined, as the number of filings is unknown.

The fiscal impact of removing the \$45 civil fee imposed on family law cases and the \$50 civil fee imposed on other cases; creating a \$137 civil fee imposed on civil cases filed in a district court, statutory county court, or county court; and creating a \$21 fee imposed on the filing of a civil suit in a justice court includes estimated gains to Judicial Fund 573 of \$27,976,000 in fiscal year 2022 and \$49,902,000 each subsequent year; estimated gains to GR-D Account 5157 of \$15,304,000 in fiscal year 2022 and \$22,955,000 each subsequent year; and estimated gains to GR-D Account 540 of \$3,524,000 in fiscal year 2022 and \$5,286,000 each subsequent year. This analysis assumes the revenue added to GR-D Account 5157 would be sufficient to cover the revenue loss due to the repeal of revenue collected under Sec. 51.851(c) of the Government Code, which is why this account is not included in the table above.

According to TJJD, the agency has not received any revenue under Sec. 54.06 of the Family Code; therefore, this analysis assumes that the repeal of that section would have no impact on state revenue.

Local Government Impact

According to analysis provided by OCA, the bill would result in a positive, but indeterminate, fiscal impact to local governments.

Source Agencies: 212 Office of Court Admin, 304 Comptroller of Public Accounts

LBB Staff: JMc, LBO, MW, BH, SLE, SD, AF