

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

April 27, 2021

TO: Honorable Joan Huffman, Chair, Senate Committee on Jurisprudence

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.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for SB41, Committee Report 1st House, Substituted : a negative impact of (\$84,000) through the biennium ending August 31, 2023.

However, there is estimated to be substantial revenue gains to GR-Dedicated accounts and Other Funds.

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	(\$48,000)
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 Statewide Electronic Filing System 5157	Probable Revenue Gain/(Loss) from Jud & Court Training Fd 540
2022	(\$48,000)	\$40,060,000	\$38,986,000	\$9,400,000
2023	(\$36,000)	\$40,542,000	\$38,986,000	\$9,400,000
2024	(\$24,000)	\$40,974,000	\$38,986,000	\$9,400,000
2025	(\$12,000)	\$40,974,000	\$38,986,000	\$9,400,000
2026	(\$6,000)	\$44,974,000	\$38,986,000	\$9,400,000

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 consolidate the following fees into a new \$137 state

consolidated civil filing fee that would be charged on all civil cases in district courts, statutory county courts, and constitutional county courts: the existing state consolidated civil filing fee under Local Government Code Sec. 133.151(a)(1) and (2); the fee to support the judiciary under Local Government Code Sec. 133.154; the judicial support fee under Government Code Secs. 51.702 and 51.703; the indigent services fee in Local Government Code Secs. 133.152 and 133.153; the statewide electronic filing fee under Government Code Sec. 51.851; and the judicial court personnel training fee under Government Code Sec. 51.971.

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 0573; 21.8978 percent to be allocated to General Revenue-Dedicated Account 5157 – Statewide Electronic Filing System; and 3.6497 percent to be allocated to General Revenue-Dedicated Account 540 – Judicial and Court Personnel Training.

The bill would amend the Local Government Code to consolidate the following fees into a new \$21 state civil filing fee that would be charged on all civil cases in the justice courts: the indigent services fee in Local Government Code Secs. 133.152; the statewide electronic filing fee under Government Code Sec. 51.851; and the judicial court personnel training fee under Government Code Sec. 51.971. The bill would require 28.5714 percent of the fee to be allocated to the basic civil legal services account in Judicial Fund 0573; 47.6191 percent to be allocated to General Revenue-Dedicated Account 5157 – Statewide Electronic Filing System; and 23.8095 percent to be allocated to General Revenue-Dedicated Account 540 – Judicial and Court Personnel Training.

The bill would amend the Local Government Code to establish a new \$208 local consolidated civil filing fee that would be charged on all civil cases in the district courts, statutory county courts, and constitutional county courts. The fee would consolidate the appellate judicial system fee charged in 13 of 14 of the courts of appeals and adds the fee for cases filed in the 10th Court of Appeals; the court facility fee that would be charged for cases filed in all counties; the clerk basic filing fee; the records management and preservation fund; court record preservation fund; district clerk record archives fee; the court reporter fees that would be charged for cases filed in all counties; the law library fee; the courthouse security fee, which would be increased to \$20 in all counties; the court interpreter fee which would be charged it in all cases; the jury fee which would be reduced from \$40 to \$10 and charged it in all cases; and the alternative dispute resolution system fee, which would be charged in all counties.

The bill would establish a new \$33 local consolidated civil filing fee that would be charged on all civil cases in the justice courts and consolidates the following existing civil filing fees: the general justice court filing fee; the alternative dispute resolution system fee being charged in some counties and charging the fee for cases filed in all counties; and the court interpreter fee charged in certain cases and charging it in all cases.

The bill would allocate the local consolidated filing fees based upon percentages that produce the same filing fee revenue to each of the funds that were consolidated as are being collected under existing law and would provide that if the county does not have an alternative dispute resolution system, the fees in the county dispute resolution fund must be transferred to the comptroller for deposit in the General Revenue-Dedicated Account 5157 – Statewide Electronic Filing System. The bill would establish the funds where the consolidated civil filing fees are directed and sets out the uses of those funds. The bill would also make conforming amendments to implement the consolidation of the civil filing fees and repeals the existing filing fees that are consolidated.

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 repeal the juvenile probation diversion fee under Sec. 54.0411 of the Family Code, the juvenile DNA testing fee under Sec. 54.0462 of the Family Code, civil fees imposed in statutory county courts under Sec. 51.702 of the Government Code, civil fees imposed in county courts under Sec. 51.703 of the Government Code, the electronic filing fee imposed under Sec. 51.851 of the Government Code, the judicial and court personnel training fee imposed under Sec. 51.971 Subchapter N of the Government Code, and the fee for orders of nondisclosure under Sec. 411.077 of the Government Code.

The bill would repeal the \$10 filing fee collected by the clerk of a justice court under Subsections 51.851(c) and (g) of the Government Code.

The bill would take effect September 1, 2021.

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).

The fiscal impact to the General Revenue Fund from the repeal of the juvenile probation diversion fee under Sec. 54.0411 of the Family Code; the juvenile DNA testing fee under Sec. 54.0462 of the Family Code; civil fees imposed in statutory county courts under Sec. 51.702 of the Government Code; civil fees imposed in county courts under Sec. 51.703 of the Government Code; the judicial and court personnel training fee imposed under Sec. 51.971 Subchapter N of the Government Code; and the fee for orders of nondisclosure under Sec. 411.077 of the Government Code are reflected in the table above. Analysis provided by the CPA for the same changes also estimates losses to Judicial Fund 573 of \$4,647,000 in fiscal year 2022; \$4,165,000 in fiscal year 2023; and \$3,733,000 in subsequent years. Estimated losses to General Revenue-Dedicated Account 540 – Judicial and Court Personnel Training are \$6,000,000 for fiscal year 2022 and each subsequent year.

The bill would repeal 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). This revenue is deposited in the General Revenue Fund. According to TJJD, the agency has not received any revenue under this statute; therefore, this analysis assumes that the repeal of this section would have no impact on state revenue.

The bill would repeal Sec. 51.851(c) and (g) 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, revenue data segregating 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 above table. The repealed amount would result in a reduction to the estimated increase to revenue deposited to the Statewide Electronic Filing System Fund - 5157 based on other provisions of the bill.

The fiscal impact of removing the \$45 civil fee imposed on family law cases and the \$50 civil fee imposed on cases other than family law cases; creating a \$137 civil fee which would be imposed on civil cases filed in a district court, statutory county court, or county court; and the creation of a \$21 fee on the filing of a civil suit in a justice court includes estimated gains to Judicial Fund 573 of \$44,707,000 in fiscal year 2022 and each subsequent year; estimated gains to General Revenue-Dedicated Account 5157 – Statewide Electronic Filing System of \$38,986,000 in fiscal year 2022 and each subsequent year; and estimated gains to General Revenue-Dedicated Account 540 – Judicial and Court Personnel Training of \$15,400,000 in fiscal year 2022 and each subsequent year.

The provisions of the bill that would require clerks in the 10th Court of Appeals to begin charging filing fees on cases would result in an increase in revenue that would be kept outside the treasury as Chapter 22 funds to the 10th Court of Appeals. However, the fiscal impact due to this change cannot be determined.

This analysis also assumes that the new local consolidated civil filing fees would mostly result in the same amounts as the current civil filing fees being charged in civil cases. However, some fees would be charged in counties which are not charging those fees (i.e. court facility fee, court reporter fee, alternative dispute resolution fee), not charging as much as the amount of the fee under the consolidated fee (i.e. courthouse security fee, law library fee), or not charging the fee in only some cases that will now be charged in all cases (i.e. interpreter fee, jury fee). These changes would result in additional revenue to local government that would vary by jurisdiction based upon the current fees being charged and are not reflected in the table above. Because many counties do not have alternative dispute resolution systems in place, there would be additional revenue to the statewide electronic filing fund, but the amount cannot be determined.

Local Government Impact

According to the County and District Clerks Association of Texas, a significant fiscal impact on counties is not anticipated. The bill's provisions consolidates civil court costs and filing fees to establish a uniform schedule of fees to be collected statewide and addresses current constitutional issues in administering court costs and fees. The bill would eliminate, increase and decrease court fees. However, the extent of the revenue loss or gain to local governments would not be significant.

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

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