

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

April 5, 2023

TO: Honorable Jeff Leach, Chair, House Committee on Judiciary & Civil Jurisprudence

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB3403 by Orr (Relating to court administration and costs; increasing certain court costs; authorizing fees.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3403, As Introduced : an impact of \$0 through the biennium ending August 31, 2025.

The bill would make no appropriation and would not require 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>	<i>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</i>
2024	\$0
2025	\$0
2026	\$0
2027	\$0
2028	\$0

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	<i>Probable Savings/(Cost) from Federal Funds</i>
	555
2024	(\$2,292,906)
2025	(\$2,292,906)
2026	(\$2,292,906)
2027	(\$2,292,906)
2028	(\$2,292,906)

Fiscal Analysis

The bill would amend the Estates Code to provide that where a probate proceeding is transferred to a court in another county under Chapter 33 the clerk of the transferring court must send certain documents in a certain manner to the clerk of the court to which the proceeding is transferred. The bill would make similar transfer requirements and changes to Section 1023.006, Estates Code, which relates to the transfer of records in certain guardianship and related proceedings. The bill would amend various sections of the Family Code and Government Code related to the duties and transferee and transferring courts with respect to certain documents. The bill would amend Section 72.037, which requires the Office of Court Administration (OCA) to develop a standardized transfer certificate and index of transferred document forms, to include Sections 33.105

and 1023.006, Estates Code, in the form set.

The bill would amend Section 110.002, Family Code, which relates to court fees in suits affecting the parent-child relationship, to adjust the filing fee a clerk may collect from \$15 to \$80. The bill would eliminate a reference to fees for a motion to transfer. The bill would amend Section 110.005 to adjust the fee for filing a transferred case from \$45 to \$80. The bill would require the fees under Sections 110.002 and 110.005 to be remitted and allocated as provided by Chapters 133 and 135, Local Government Code, as applicable.

The bill would amend Section 51.318, Government Code, which relates to fees due to a district clerk for certain services, to set the fee for a certified copy of a record, judgment, order, pleading, or paper on file or record in the district clerk's office for each page or part of a page printed on paper or that is an electronic copy of an electronic document. The bill would also set a fee for the preparation of the clerk's record of transfer under certain sections of the Estates Code and Family Code. The bill would amend Section 118.011, Local Government Code, which relates to the fees due to a county clerk for certain services, to set the fee for certified papers and noncertified papers converted to an electronic format or that is an electronic copy of an electronic document. The bill would set the fee a county clerk must collect for preparing the clerk's record of transfer under certain sections of the Estates Code, Family Code, and Government Code in civil actions and in probate actions. The bill would permit a commissioners court to set reasonable fees to be charged for service of process, including service of writs.

The bill would amend Section 133.151, Local Government Code, the state consolidated civil fee on filing a civil case. The bill would eliminate the \$45 fee for an appeal collectible under the state consolidated civil fee. The bill would allow certain clerks to collect, under the state consolidated civil fee, a \$45 fee for a motion to reinstate. The bill would allow the clerk of a justice court to collect a \$21 fee for the filing of a motion to reinstate. The bill would amend Section 135.101, the local consolidated civil fee for certain civil cases, to allow certain clerks to collect a \$33 fee for a motion to reinstate.

The bill would retitle the County Records Management and Preservation Fund to the Clerks Records Management and Preservation Fund, and make conforming changes.

The bill would repeal the remainder of Section 291.008, Local Government Code, which requires the county and district clerks to collect a \$1 fee for filing any document not subject to certain filing fees.

Methodology

Based on information provided by the Office of the Attorney General (OAG), this analysis assumes the OAG would be required to pay additional federal pass-through funds to counties as filing fees and transfer fees in the amounts reflected in the table above.

The OAG Child Support Division (CSD) is designated as the state child support program which assists parents in obtaining financial support for children pursuant to the Code of Federal Regulations (45 CFR 302) and the Texas Family Code (Chapter 231). For the purposes of this analysis, legal actions taken from fiscal year 2021-22 from the OAG-CSD's internal case management system were considered and only those actions impacted by the proposed fee increase were included in the total. Total OAG costs are limited to the 66% Federal Financial Participation (FFP) reimbursement to counties. The rounded average of projected filings totaled 53,100 and Motions to Transfer totaled 1,130 during fiscal years 2021-22. Using the respective increased filing fees of \$65 and \$20, court costs total \$3,474,100 for fiscal years 2024-2028. Assuming 34% of filing fees would be paid by counties, the FFP rate of 66% would require OAG to pay \$2,292,906 for fiscal years 2024-2028.

Based on the analysis of the Comptroller of Public Accounts, implementing the provisions of the bill would have no state revenue implications.

Local Government Impact

The fiscal implications of the bill would have a positive but indeterminate impact to local units of government. While increased revenues from fees are anticipated to be realized, the amount and timing of those fees cannot be determined.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General, 304
Comptroller of Public Accounts

LBB Staff: JMc, KDw, MW, JPa