

SUBJECT: Raising district court filing fees for certain types of actions

COMMITTEE: Judicial Affairs — committee substitute recommended

VOTE: 8 ayes — Thompson, Hartnett, Capelo, Deshotel, Garcia, Hinojosa, Solis, Uresti  
0 nays  
1 present, not voting — Talton

WITNESSES: For — Sherry Griffis, County & District Clerk Association; Mike Ramsey, Texas Trial Lawyers Association; *Registered but did not testify*: Robert Barbour, Harris County District Clerk; Jim Allison, County Judges and Commissioners of Texas; Randy Sims, County Judges and Commissioners Association, Brazos County  
Against — None

BACKGROUND: Government Code, sec. 51.317 sets the fees that district clerks may collect at the time a suit or action is filed. Sec. 51.701 allows the district clerk to collect a filing fee to be used for court-related purposes for judiciary support.

DIGEST: CSHB 1884 would amend Government Code, sec 51.317, to increase the fee for filing a suit, including an appeal from an inferior court, from \$45 to \$55. It would strike the provision regarding the filing fee for a petition for pre-conviction writ of habeas corpus.  
  
Filing fees for a cross-action, counterclaim, intervention, contempt action, motion for new trial, or third-party petition would be increased from \$15 to \$45. Filing fees for issuing a citation or other writ or process not otherwise provided for, including one copy, would be raised from \$8 to \$12.  
  
CSHB 1884 would set graduated fees for certain multiple-party suits, including appeals from inferior courts, at:

- ! \$70, for suits with 11 to 25 plaintiffs;
- ! \$95, for suits with 26 to 100 plaintiffs;
- ! \$120, for suits with 101 to 500 plaintiffs;
- ! \$145, for suits with 501 to 1,000 plaintiffs; and
- ! \$170, for suits with more than 1,000 plaintiffs.

In addition to the fees outlined above, a district clerk could collect from a plaintiff joining or intervening in a pending suit a fee equal to the difference between the amount that would have been collected had each plaintiff in the pending suit been named as a plaintiff when the suit was filed, and the amount actually collected at the time the suit was filed.

The fee collected by the district clerk for court-related purposes for judiciary support also would be increased from \$40 to \$50.

The bill would take effect September 1, 2001, and would apply only to fees that become due on or after the effective date.

**SUPPORTERS  
SAY:**

CSHB 1884 would alleviate some of the burden on taxpayers by allocating costs to those persons who actually use the services of the district clerks. It has been at least 10 years since a fee for the district clerk's office was raised. Yet, costs have greatly increased due to increases in salary, office procedures, office supplies, workload, customer service expectations, technology improvements, among other things.

CSHB 1884 would help ensure that filing fees cover actual expenses. Overall court costs have increased over the past years due to fees for dedicated state purposes. However, the base filing fee that is deposited in the court county general account has not been increased in over a decade. District clerks' offices are funded from this account. Thus, while district clerks offices' expenses have increased over the years, their allocation of the general funds remained at the same level.

CSHB 1884 would help smaller counties where increased expenses can take their greatest toll. If a very large multi-party suit is filed in a small county, it can deplete many of the office's resources and staff. CSHB 1884 would help smaller counties by making more funds available. It also would increase county revenues statewide by millions of dollars each year.

By raising filing fees for all actions and for multiple-party actions, the increased costs would be more evenly distributed rather than putting the burden of increased costs on only one type of action. Multiple-party suits expend more of the district clerks offices' services and funds. The costs for these suits should increase with the number of plaintiffs in order to pay for the increased work and costs.

CSHB 1884 also would increase state revenue by increasing the additional fee that is collected for the support of the judiciary. This provision is necessary to fund HB 2300 by Thompson, which would increase the state salary supplement for county-level judges and court maintenance costs. The enactment of HB 2300 is contingent on enactment of CSHB 1884, which would provide the vehicle for additional funding needed by county courts at law and constitutional courts.

CSHB 1884 would not prevent access to the courts for low-income persons. The new fees would be set at levels reached by compromise among all concerned parties. The fees would be set at levels high enough to help raise the needed revenue, but not so high that the fees would be unaffordable for low-income persons.

CSHB 1884 would implement recommendations made during the 76th Legislative interim by the Office of Court Administration, which conducted a study of the added expenses associated with multiple-plaintiff lawsuits. It recommended that filing fees for multiple-plaintiff lawsuits be increased to help cover the additional expenses.

**OPPONENTS  
SAY:**

This bill would increase the burden on those filing lawsuits by raising fees, including the state fee used to pay for salary supplements for judges. Higher fees could make it more difficult for low-income persons to access the courts because they would not be able to afford the increased costs. A person who is unable to afford the increased fees, but who does not qualify for a pauper's affidavit, could be prevented from filing a suit or action. If higher fees force more people to file pauper's affidavits, then these costs would be transferred to local taxpayers.

NOTES:

The committee substitute changed the increase in filing fees for a suit to \$55 instead of \$60 in the original version of the bill. It also increased filing fees for cross-actions, counterclaims, interventions, contempt actions, motions for new trials, third party petitions, and citations or writ processes. The filing fees for the different classes of multiple parties each were decreased by \$5 from the fees proposed in the original version.

The substitute added the provision that the district clerk collect fees from persons joining or intervening in a pending suit. It also provided the method for calculating what those fees would be.

The substitute also would increase by \$10 the additional filing fee a district clerk is required to collect for court-related purposes for judiciary support.

According to the fiscal note for CSHB 1884, the \$10 additional filing fee for judiciary support would raise an additional \$3,873,900 for Judicial Fund 0573.

HB 2300 by Thompson, which would increase the state salary supplement for statutory and constitutional county judges, would take effect only if HB 1884 is enacted. HB 2300 was reported favorably, as substituted, by the House Judicial Affairs Committee on March 19.