

**SUBJECT:** Creating court fees and costs to fund statewide e-filing in the civil courts

**COMMITTEE:** Judiciary and Civil Jurisprudence — committee substitute recommended

**VOTE:** 9 ayes — Lewis, Farrar, Farney, Gooden, Hernandez Luna, Hunter, K. King, Raymond, S. Thompson

0 nays

**WITNESSES:** For — Gary Fitzsimmons, Dallas County District Clerk; (*Registered, but did not testify*: George Allen, Texas Apartment Association; Jason Byrd Texas Trial Lawyers Association; Randall Chapman, Texas Legal Services Center; Mike Hull, Texans for Lawsuit Reform; Jim Jackson and Craig Pardue, Dallas County; Lisa Kaufman, Texas Civil Justice League; Steve Perry, Chevron USA; Kaci Sohrt, Travis County District Clerks Office; Rick Thompson; Texas Association of Counties)

Against — None

On — John Dahill, Texas Conference of Urban Counties; Wallace B. Jefferson, Supreme Court of Texas; David Slayton, Office of Court Administration

**DIGEST:** CSHB 2302 would establish filing fees to pay for a new, statewide electronic case filing system.

**Fee for electronic filing system fund.** CSHB 2302 would direct the Supreme Court, appeals courts, district courts, county courts, statutory county courts, and statutory probate courts to collect a \$20 fee on the filing of a civil action. Justice courts would collect a \$10 fee on the filing of a civil action.

The bill would also require a person to pay a \$5 court cost upon criminal conviction in a district, county, or statutory county court.

The comptroller could audit the records of a county related to the collection of these fees and costs and would deposit remitted fees and costs into the statewide electronic filing system fund established by the bill.

**Statewide electronic filing system fund.** CSHB 2302 would establish the statewide electronic filing system fund. Money from the fund would be appropriated to the Office of Court Administration (OCA) to:

- support a statewide electronic filing technology project for Texas courts;
- provide grants to counties to implement components of a project; or
- support court technology projects that had a statewide impact.

The bill would define “electronic filing system” to mean the filing system established by Supreme Court rule or order for the electronic filing of documents in this state. It would define “electronic filing transaction” as the simultaneous electronic filing of one or more documents related to a proceeding before a court in Texas.

A local government or appellate court that used the electronic filing system could charge a \$2 fee for each electronic filing transaction if:

- the fee was necessary to recover the actual system operating costs incurred to accept electronic payment methods or interface with other technology information systems;
- the fee did not include an amount to recover employee costs, other than costs for directly maintaining the system;
- the governing body of the local government or appellate court approved the fee using their standard approval process; and
- the local government or appellate court annually certified to OCA that the amount of the fee was necessary to recover the actual system operating costs incurred by the local government or appellate court.

A local government or appellate court would be allowed to use electronic payment methods to collect this fee. A governmental entity that was not otherwise required to pay a filing fee would not be required to pay this fee. A court would be required to waive the fee for an indigent individual. The comptroller would be able to audit the collection and remittance of this fee, which would expire September 1, 2019.

**Report.** The bill would require OCA to file a report with the lieutenant governor, speaker of the House, and the chairs of the Senate Jurisprudence and House Judiciary and Civil Jurisprudence committees detailing the

number of local governments and appellate courts collecting this fee and the necessity of appellate courts to continue collecting it. The report would be due by December 1, 2018.

The bill would take effect September 1, 2013, and would apply only to a fee incurred on or after that date.

**SUPPORTERS  
SAY:**

CSHB 2302 would be an integral component for establishing an effective statewide e-filing system. Beginning in 2003, Texas courts began piecemeal e-filing. In December 2012, the Texas Supreme Court issued an order mandating e-filing for the vast majority of civil courts in Texas. Once fully implemented, e-filing would increase efficiency and transparency across the judicial branch. It would save countless hours currently spent dealing with paper, including stamping, stapling, tracking, delivering, archiving, shredding, and searching through file cabinets.

CSHB 2302 would allow the judiciary to pay for the statewide transition to e-filing. Under current law, e-filing is done on a per-document, “toll-road” model. Each time an attorney files a document related to a civil action, a fee is charged. This fee currently is determined by vendors. The bill would do away with this system by imposing a single set of fees to be collected across Texas for the benefit of the entire state.

The fees and costs implemented by CSHB 2302 would not price litigants out of filing civil actions. Many litigants would pay less to file all of their documents under the bill than they do under the status quo. This is because the various fees set by current vendors often represent a higher final cost than would the set of fees and costs proposed by the bill. Further, the bill would allow courts to exempt indigents from paying most of the filing fees and would require the exemption of indigents from paying the \$2 fee that local governments and appellate courts would be allowed to charge. This would protect access of the truly poor to the courts.

It would be appropriate to increase costs and fees on those who use the court system because they directly benefit from the courts’ time and resources. It costs money to run the courts, and filing fees are an appropriate and established way of paying for them. Further, these litigants would save money under the bill — e-filing would save them postage, printing, and other costs.

**OPPONENTS**

CSHB 2302 would continue the steady increase of fees piled onto civil

SAY: litigants. Eventually, these fees will rise to point where civil justice is unavailable to the public.

Further, the bill would extend the dangerous policy of paying for the court system in Texas with fees and costs. It is inappropriate to fund the courts on a “user pays” system because all of society benefits from the rule of law in Texas that our courts both provide and safeguard.

NOTES: According to the fiscal note, the fees established by CSHB 2302 would raise \$17.7 million per fiscal year in general revenue dedicated funds for the statewide electronic filing system fund, all of which would be spent to support e-filing initiatives in the courts.

CSHB 2302 differs from the bill as filed in that it would:

- increase the court filing fees in Section 1 to \$20 rather than \$15 and to \$10 rather than \$5;
- allow courts to charge a \$2 court filing fee and require the OCA to file a report with state leaders on this measure; and
- authorize the comptroller to audit the collection of fees.

The companion bill, SB 1146 by West, was reported favorably as substituted from the Senate Jurisprudence Committee on April 3 and recommended for the local and uncontested calendar.