

- SUBJECT:** Revising provisions for an appellate record in civil appeals
- COMMITTEE:** Judiciary & Civil Jurisprudence — committee substitute recommended
- VOTE:** 9 ayes — Leach, Julie Johnson, Davis, Flores, Moody, Murr, Schofield, Slawson, Vasut
- 0 nays
- WITNESSES:** For — (*Registered, but did not testify*: Laura Tamez, Texas Trial Lawyers' Association; Matthew Kita; Ingrid Warren)
- Against — (*Registered, but did not testify*: Jacob Putman, Smith County Criminal District Attorney's Office)
- On — (*Registered, but did not testify*: Cary Roberts, County and District Clerks' Association of Texas; David Gonzalez, Texas Criminal Defense Lawyers Association)
- BACKGROUND:** Concerns have been raised that parties to an appeal are required to pay a fee for court clerks to file and send documents even though the parties already have access to the documents due to statewide mandatory e-filing laws. Some have suggested that allowing a party to file an appendix replacing the clerk's record for the appeal could reduce the cost of appeals and expedite the court's ability to hear cases.
- DIGEST:** CSHB 2431 would authorize a party in a civil suit to notify the trial court and the court of appeals that the party would file an appendix to replace the clerk's record for the appeal within 10 days of the date that the party filed a notice of appeal for the suit.
- The party would be required to file the appendix with the party's appellate brief. Except in an expedited proceeding or by order of the court, the brief and appendix would have to be filed within 30 days of the later of:
- the date that the party provided notice to the trial court and court of

- appeals; or
- the date that a reporter's record, if any, was filed with the court of appeals.

An appendix filed under the bill would need to contain a file-stamped copy of each document required by the Texas Rules of Appellate Procedure for a civil suit and any other item the party intended to reference in the party's brief. The appendix could not contain a document that had not been filed with the trial court except by agreement of the parties to the appeal.

An appendix filed under the bill would become part of the appellate record. A court clerk could not prepare or file a clerk's record or assess a fee for preparing the record if a party filed an appendix.

The bill would take effect September 1, 2023, and would apply only to a party that filed a notice of appeal on or after January 1, 2024.