

BILL ANALYSIS

Senate Research Center
81R34789 KLA-D

C.S.H.B. 3637
By: Hughes (Wentworth)
Administration
5/19/2009
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Due to cuts in federal interest rates, interest on legal trust accounts (IOLTA) funding has decreased to about \$1.3 million, when original projections were \$28 million. Since 40 percent of legal aid funding comes from IOLTA, this has had a devastating effect on legal aid services statewide. Increasing the filing fee in justice of the peace courts from \$2 to \$6 and the filing fee in county courts from \$5 to \$10 could generate as much as \$5.4 million for legal aid services.

C.S.H.B. 3637 amends current law relating to filing fees for civil actions or proceedings in a district, county, justice, or small claims court.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 133.152(a), Local Government Code, to require the clerk of a district court, in addition to other fees collected under Section 133.151(a) (relating to the clerk being required to collect certain fees) or otherwise authorized or required by law, to collect certain fees on the filing of any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee.

SECTION 2. Amends Section 133.153(a), Local Government Code, to require the clerk of a court other than a district court, the courts of appeals, or the supreme court, in addition to other fees authorized or required by law, to collect the following fees on the filing of certain actions and proceedings requiring a filing fee:

- (1) \$10, rather than \$5, for statutory and constitutional county courts; and
- (2) \$6, rather than \$2, for justice of the peace courts.

SECTION 3. (a) Amends Section 101.0814, Government Code, to conform to the amendments made to Section 101.081, Government Code, by Chapter 399 (S.B. 819), Acts of the 80th Legislature, Regular Session, 2007, and to conform to the amendments made to Section 101.083, Government Code, by Chapter 1301 (S.B. 600), Acts of the 80th Legislature, Regular Session, 2007, and further amends it, as follows:

Sec. 101.0814. STATUTORY COUNTY COURT FEES AND COSTS: LOCAL GOVERNMENT CODE. Requires the clerk of a statutory county court to collect fees and costs under the Local Government Code for certain actions, including:

- (3) filing an inventory and appraisal (Secs. 118.052 (Fee Schedule) and 118.056(d) (relating to a certain filing fee), Local Government Code), rather than filing an inventory and appraisal after the 120th day after the date of the initial filing of the action;

- (5) additional filing fee for filing any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim,

cross-action, intervention, interpleader, or third-party action requiring a filing fee, to fund civil legal services for the indigent (Sec. 133.153, Local Government Code)...\$10, rather than \$5; and

(6) on the filing of a civil suit, an additional filing fee to be used for court-related purposes for the support of the judiciary (Sec. 133.154, Local Government Code)...\$42, rather than \$37.

(b) Repealer: Section 101.083 (Statutory County Court Fees: Additional Filing Fee for Support of Judiciary), Government Code.

SECTION 4. Amends Section 101.1013, Government Code, to conform to the amendments made to Section 101.101, Government Code, by Chapter 399 (S.B. 819), Acts of the 80th Legislature, Regular Session, 2007, and further amends it, as follows:

Sec. 101.1013. STATUTORY PROBATE COURT FEES AND COSTS: LOCAL GOVERNMENT CODE. Requires the clerk of a statutory probate court to collect certain fees and costs under the Local Government Code, including:

(1) an additional filing fee for filing any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee to fund civil legal services for the indigent (Sec. 133.153, Local Government Code)...\$10, rather than \$5; and

(3)(B) filing an inventory and appraisal (Secs. 118.052 and 118.056(d), Local Government Code), rather than filing an inventory and appraisal after the 120th day after the date of the initial filing of the action.

SECTION 5. (a) Amends Section 101.1214, Government Code, to conform to the amendments made to Section 101.121, Government Code, by Chapter 399 (S.B. 819), Acts of the 80th Legislature, Regular Session, 2007, and to conform to the amendments made to Section 101.123, Government Code, by Chapter 1301 (S.B. 600), Acts of the 80th Legislature, Regular Session, 2007, and further amends it, as follows:

Sec. 101.1214. COUNTY COURT FEES AND COSTS: LOCAL GOVERNMENT CODE. Requires the clerk of a county court to collect certain fees and costs under the Local Government Code, including:

(3)(B) filing an inventory and appraisal (Secs. 118.052 and 118.056(d), Local Government Code)...\$25, rather than filing an inventory and appraisal after the 120th day after the date of the initial filing of the action, \$25;

(10) an additional filing fee for filing any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee, to fund civil legal services for the indigent (Sec. 133.153, Local Government Code)...\$10, rather than \$5; and

(11) on the filing of a civil suit an additional filing fee to be used for court-related purposes for the support of the judiciary (Sec. 133.154, Local Government Code)...\$42, rather than \$37.

(b) Repealer: Section 101.123 (County Court Fees: Additional Filing Fee for Support of Judiciary), Government Code.

SECTION 6. Amends Section 101.141(b), Government Code, as amended by Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular Session, 2007, to conform to the amendments made to Section 101.141(a), Government Code, by Chapter 1046 (H.B. 2094), Acts of the 80th Legislature, Regular Session, 2007, and further amends it, as follows:

(b)(2) Requires a clerk of a justice court to collect fees and costs under other laws for additional filing fees for filing any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee, to fund civil legal services for the indigent (Sec. 133.153, Local Government Code)...\$6, rather than \$2; and

(4) fee for hearing on probable cause for removal of a vehicle and placement in a storage facility if assessed by the court (Sec. 2308.457, Occupations Code, rather than Sec. 685.008, Transportation Code)...\$20.

SECTION 7. Makes application of this Act prospective.

SECTION 8. Effective date: September 1, 2009.