

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 726
By: Rodriguez et al.
Finance
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

C.S.S.B. 726 would establish a Judicial Access and Improvement Account to provide funding for basic civil legal aid, indigent defense, and judicial technological support. The bill will alleviate a crisis in funding indigent defense, which resulted from the compounded problem of a struggling economy and a growing number of Americans facing legal problems. Legal aid organizations across the country are battling a severe funding crisis compounded by state and federal budget deficits, historic declines in legal aid funding from Interest on Lawyers' Trust Accounts (IOLTA), and an increased demand for services.

Revenue for the Judicial Access and Improvement Account would be generated through two fees. The first fee would be a \$10 court cost at justice courts and municipal courts on conviction of an offense other than an offense relating to either a pedestrian or the parking of a motor vehicle. These offenses are generally Class C level misdemeanor offenses. The bill would also impose a \$2 document recording fee on non-judicial filings, which would be collected by the county clerk of each county. These include filings such as personal property records, real property records, marriage certificates, and certified and non-certified filings.

C.S.S.B. 726 is expected to raise a net total of \$68.9 million over the biennium, with \$53.2 million coming from justice and municipal court offenses and \$15.7 million coming from non-judicial filing fees.

C.S.S.B. 726 directs how funds should be appropriated. An amount not to exceed \$12 million each year shall be appropriated to the Supreme Court of Texas to phase in electronic filing and retrieval in Texas courts. The Supreme Court may use up to \$1 million of this amount for state law library services. The Supreme Court, in consultation with the Judicial Committee on Information Technology, may enter into an agreement with the Office of Court Administration to implement electronic filing and retrieval in courts of this state, including acquiring necessary technology, software, and data storage. The remainder of the money in the account shall be credited in equal amounts to the basic civil legal services account and the fair defense account.

Justice and municipal courts and county clerks may retain five percent of money collected for local administration. All other money collected shall be remitted to the Texas comptroller of public accounts for deposit into the Judicial Access and Improvement Account. The comptroller may retain two percent of money remitted for deposit in the Judicial Access and Improvement Account to audit fund balances and ensure timely deposit in accounts. The bill contains provisions to protect the dedicated revenue for its intended purpose.

C.S.S.B. 726 amends current law relating to the establishment of the judicial access and improvement account to provide funding for the basic civil legal services, indigent defense, and judicial technical support through certain county service fees and court costs imposed to fund the account.

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 Subchapter A, Chapter 22, Government Code, by adding Section 22.016, as follows:

Sec. 22.016. JUDICIAL ACCESS AND IMPROVEMENT ACCOUNT. (a) Provides that the judicial access and improvement account is an account in the general revenue fund.

(b) Requires money in the judicial access and improvement account to be appropriated only as provided by this section, subject to Subsection (d). Authorizes the Supreme Court of Texas (supreme court) to use an amount determined by the supreme court, which annually is prohibited from exceeding \$12 million, to phase in electronic filing and retrieval in courts in this state. Authorizes the supreme court annually to use up to \$1 million of the appropriated money to provide state law library services. Requires that the remainder of the money in the account be divided as follows:

(1) an amount equal to 70 percent of the remainder is required to be deposited to the credit of the basic civil legal services account of the judicial fund established under Section 51.943 (Basic Civil Legal Services Account) for use in programs approved by the supreme court that provide basic civil legal services to indigents; and

(2) an amount equal to 30 percent of the remainder is required to be deposited to the credit of the fair defense account established under Section 71.058 (Fair Defense Account).

(c) Authorizes the supreme court in consultation with the judicial committee on information technology to enter into an agreement with the Office of Court Administration of the Texas Judicial System to implement the electronic filing and retrieval in courts of this state authorized under Subsection (b), including acquiring the necessary technology, software, and data storage.

(d) Authorizes the comptroller of public accounts (comptroller) to retain two percent of the money remitted to the comptroller for deposit in the judicial access and improvement account. Requires the comptroller to use the money to audit fund balances and to ensure the timely deposit of money in accounts as required by this section.

(e) Provides that Section 403.095 (Use of Dedicated Revenue) does not apply to money dedicated under this section.

SECTION 2. Amends Subchapter F, Chapter 102, Government Code, by adding Section 102.1035, as follows:

Sec. 102.1035. ADDITIONAL COURT COSTS ON CONVICTION IN JUSTICE COURT: LOCAL GOVERNMENT CODE. Requires a clerk of a justice court to collect from a defendant a court cost of \$10 under Section 133.108, Local Government Code, on conviction of an offense, other than an offense relating to a pedestrian or the parking of a motor vehicle.

SECTION 3. Amends Subchapter G, Chapter 102, Government Code, by adding Section 102.1215, as follows:

Sec. 102.1215. ADDITIONAL COURT COSTS ON CONVICTION IN MUNICIPAL COURT: LOCAL GOVERNMENT CODE. Requires a clerk of a municipal court to collect from a defendant a court cost of \$10 under Section 133.108, Local Government Code, on conviction of an offense, other than an offense relating to a pedestrian or the parking of a motor vehicle.

SECTION 4. Amends Subchapter B, Chapter 403, Government Code, by adding Section 403.0306, as follows:

Sec. 403.0306. FEES AND COSTS ASSESSED FOR JUDICIAL ACCESS AND IMPROVEMENT ACCOUNT. Provides that, notwithstanding any other law, if in any state fiscal biennium the legislature:

(1) does not appropriate any money to the judicial access and improvement account for the purposes provided by Section 22.016:

(A) the comptroller and the office of court administration are required to notify each county clerk and each clerk of a justice or municipal court, as appropriate, not to assess fees and court costs under Sections 102.1035 and 102.1215 of this code and Sections 118.011(g) and 133.108, Local Government Code, during the state fiscal biennium; and

(B) a county clerk or clerk of a justice or municipal court is prohibited from assessing fees and court costs under Sections 102.1035 and 102.1215 of this code and Sections 118.011(g) and 133.108, Local Government Code, during the state fiscal biennium; or

(2) appropriates only a portion of the money to the judicial access and improvement account for the purposes provided by Section 22.016:

(A) the comptroller and the office of the court administration are required to proportionally adjust the amount of the fees and court costs to be assessed under Sections 102.1035 and 102.1215 of this code and Sections 118.011(g) and 133.108, Local Government Code, during the state fiscal biennium and to notify each county clerk and each clerk of a justice or municipal court, as appropriate, of the amount of the fees and court costs to be assessed under Sections 102.1035 and 102.1215 of this code and Sections 118.011(g) and 133.108, Local Government Code, during the state fiscal biennium; and

(B) a county clerk or clerk of a justice or municipal court is required to assess the amount of the fees and court costs determined by the comptroller under Paragraph (A) during the state fiscal biennium.

SECTION 5. Amends Section 118.011, Local Government Code, by adding Subsection (g), as follows:

(g) Requires the county clerk of a county, in addition to any other fee collected under this section, to collect a document recording fee of \$2 at the time of the filing of a document in the records of the office of the clerk. Requires the clerk to send the fee to the comptroller for deposit as provided by Section 22.016, Government Code, except the clerk may retain five percent of the money collected as a fee under this subsection.

SECTION 6. Amends Section 133.003, Local Government Code, to provide that this chapter applies to certain criminal fees, including the cost on conviction imposed under Section 133.108.

SECTION 7. Amends Section 133.058, Local Government Code, by adding Subsection (c-1), to authorize a municipality or county to retain five percent of the money collected as a fee under Section 133.108.

SECTION 8. Amends Subchapter C, Chapter 133, Local Government Code, by adding Section 133.108, as follows:

Sec. 133.108. FEE FOR JUDICIAL ACCESS AND IMPROVEMENT. (a) Requires a person convicted in a municipal or justice court of an offense, other than an offense

relating to a pedestrian or the parking of a motor vehicle, to pay as a court cost, in addition to other costs, a fee of \$10 to be used to fund basic civil legal services and criminal defense for indigents and electronic filing in courts in this state through the judicial access and improvement account established under Section 22.016, Government Code.

(b) Requires the treasurer to remit the fees collected under this section to the comptroller in the manner provided by Subchapter B (Reporting, Collection, and Remittance of Fees). Requires the comptroller to credit the remitted fees to the credit of the judicial access and improvement account established under Section 22.016, Government Code.

SECTION 9. (a) Provides that Section 51.607 (Implementation of New or Amended Court Costs and Fees), Government Code, does not apply to the imposition of a court cost or fee under this Act.

(b) Provides that if this Act receives a vote of two-thirds of all members elected to each house as required for immediate effect, the change in law made by this Act applies to the costs imposed on or after September 1, 2011, for conviction of an offense that occurs on or after the effective date of this Act. Provides that if this Act does not receive a vote of two-thirds of all members elected to each house, the change in law made by this Act applies to the costs imposed on or after January 1, 2012, for conviction of an offense that occurs on or after September 1, 2011.

(c) Provides that, for purposes of Subsection (b), an offense is committed before the date specified by that subsection if any element of the offense occurs before the specified date. Provides that court costs imposed on conviction of an offense committed before that specified date are governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose.

SECTION 10. Effective date: upon passage or September 1, 2011.