

SUBJECT: Appeal to court of appeals of cases originating in small claims court

COMMITTEE: Judiciary and Civil Jurisprudence — favorable, without amendment

VOTE: 10 ayes — Hunter, Hughes, Alonzo, Branch, Hartnett, Jackson, Leibowitz, Lewis, Madden, Martinez

0 nays

1 absent — Woolley

SENATE VOTE: On final passage, April 2 — 31-0, on Local and Uncontested Calendar

WITNESSES: (*On House companion bill, HB 600:*)  
For — (*Registered, but did not testify:* Lee Parsley, Texans for Lawsuit Reform)

Against — None

BACKGROUND: Under current law, a party who suffers an adverse outcome in a small claims court may appeal the decision to a county court or a county court at law, which then hears the case in an entirely new trial, or “trial *de novo*,” meaning that the appellate court is not bound in any way by the small claims court’s decision. The decision of the county court is considered final and cannot be appealed.

Small claims courts share concurrent jurisdiction with justice courts over most cases involving similar amounts in controversy. The procedures for filing and hearing appeals from decisions made by justice courts are similar to those for small claims courts, except that the outcome of a *de novo* trial heard on appeal from a justice court case may be appealed to a higher appellate court.

Current law also prohibits a person from appealing a final judgment rendered by a district or county court in a civil case in which the judgment or amount in controversy in the lawsuit does not exceed \$100.

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**DIGEST:** SB 408 would allow a person to appeal to the court of appeals the final judgment of a county court or county court at law that disposed of the person's appeal from a small claims court.

The bill also would increase from \$100 to \$250 the minimum amount a judgment or amount in controversy would have to exceed in a civil case for a person to file with the court of appeals an appeal or writ of error of a final judgment of a district or county court.

The bill would apply only to a legal action filed on or after the bill's September 1, 2009, effective date.

**SUPPORTERS SAY:** SB 408 would set consistent appellate procedures for cases appealed from justice courts and small claims courts. Currently, persons eligible to file claims in justice courts or small claims courts have to consider strategically their appellate options before filing. Some of those who file in small claims courts are unaware of their inability to appeal beyond the county court level, and may feel that their legal rights have been unfairly prejudiced. Since justice courts and small claims courts generally handle the same types of small claim cases and share concurrent jurisdiction over most matters, they should also share the same appellate procedures.

Contrary to concerns that SB 408 would increase caseloads and costs for courts of appeals, the Legislative Budget Board anticipates that the bill would impose no additional significant fiscal impact to the state. The added caseload for courts of appeals likely would be relatively small. In general, courts of appeals do not receive frequently appeals over small amounts in controversy, because the costs of pursuing these appeals often far exceeds the original disputed amount. Many persons who file in small claims courts represent themselves and choose not to appeal.

**OPPONENTS SAY:** The existing appellate procedures preserve adequately the legal rights of small claims litigants and do not need to be expanded. By forcing courts of appeals to hear small claims appeals, SB 408 would increase caseloads and could divert judicial resources from more important matters.

**NOTES:** The companion bill, HB 600 by Hughes, passed the House by 149-0 on April 22 on the Local, Consent, and Resolutions Calendar and has been referred to the Senate Administration Committee.