

## BILL ANALYSIS

Senate Research Center

H.B. 3637  
By: Hughes (Wentworth)  
Administration  
5/15/2009  
Engrossed

### 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.

H.B. 3637 increases filing fees in justice of the peace courts and county courts.

### 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 102, Code of Criminal Procedure, by adding Article 102.0619, as follows:

Art. 102.0169. COURT COSTS; COUNTY AND DISTRICT COURT TECHNOLOGY FUND. (a) Requires a defendant convicted of a criminal offense in a county court, statutory county court, or district court to pay a \$4 county and district court technology fee as a cost of court.

(b) Provides that in this article, a person is considered convicted if a sentence is imposed on the person, the person receives community supervision, including deferred adjudication, or the court defers final disposition of the person's case.

(c) Requires the clerks of the courts described by Subsection (a) to collect the costs and pay them to the county treasurer or to any other official who discharges the duties commonly delegated to the county treasurer, as appropriate, for deposit in a fund to be known as the county and district court technology fund.

(d) Authorizes a fund designated by this article to be used only to finance the cost of continuing education and training for county court, statutory county court, or district court judges and clerks regarding technological enhancements for those courts; and the purchase and maintenance of certain technological enhancements for a county court, statutory county court, or district court.

(e) Requires the county and district court technology fund to be administered by or under the direction of the commissioners court of the county.

SECTION 2. Amends Section 117.111, Local Government Code, as follows:

Sec. 117.111. New heading: SUBCHAPTER APPLICABLE TO COUNTY WITH POPULATION OF 1.3 MILLION OR MORE. Provides that this subchapter applies only to a county with a population of 1.3 million or more, rather than 2.4 million or more.

SECTION 3. Amends the heading to Subchapter E, Chapter 117, Local Government Code, to read as follows:

SUBCHAPTER E. SPECIAL PROVISIONS APPLYING TO FUNDS PAID INTO COURT  
REGISTRY IN COUNTY WITH POPULATION OF MORE THAN 1.3 MILLION

SECTION 4. 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 5. 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 6. Amends Subchapter A, Chapter 25, Government Code, by adding Section 25.0020, as follows:

Sec. 25.0020. APPOINTMENT OF COUNSEL IN CERTAIN APPEALS. (a) Authorizes the county court or county court at law in which an appeal of the suit is filed, on a written application of any party to an eviction suit, to appoint any qualified attorney who is willing to provide pro bono services in the matter or counsel from a list provided by a pro bono legal services program of counsel willing to be appointed to handle appeals under this section to attend to the cause of a party who was in possession of the residence at the time the eviction suit was filed in the justice court and has perfected the appeal on a pauper's affidavit approved in accordance with Rule 749a, Texas Rules of Civil Procedure.

(b) Requires the appointed counsel to represent the individual in the proceedings of the suit in the county court or county court at law. Provides that at the conclusion of those proceedings, the appointment terminates.

(c) Authorizes the court to terminate representation appointed under this section for cause.

(d) Prohibits appointed counsel from receiving attorney's fees unless the recovery of attorney's fees is provided for by contract, statute, common law, court rules, or other regulations. Provides that the county is not responsible for payment of attorney's fees to appointed counsel.

(e) Requires the court to provide for a method of service of written notice on the parties to an eviction suit of the right to request an appointment of counsel on perfection of appeal on approval of a pauper's affidavit.

SECTION 7. Amends Subchapter A, Chapter 26, Government Code, by adding Section 26.010, as follows:

Sec. 26.010. APPOINTMENT OF COUNSEL IN CERTAIN APPEALS. (a) The county court or county court at law in which an appeal of the suit is filed, on a written application of any party to an eviction suit, to appoint any qualified attorney who is willing to provide pro bono services in the matter or counsel from a list provided by a pro bono legal services program of counsel willing to be appointed to handle appeals under this section to attend to the cause of a party who was in possession of the residence at the time the eviction suit was filed in the justice court and has perfected the appeal on a

pauper's affidavit approved in accordance with Rule 749a, Texas Rules of Civil Procedure.

(b) Requires the appointed counsel to represent the individual in the proceedings of the suit in the county court or county court at law. Provides that at the conclusion of those proceedings, the appointment terminates.

(c) Authorizes the court to terminate representation appointed under this section for cause.

(d) Prohibits appointed counsel from receiving attorney's fees unless the recovery of attorney's fees is provided for by contract, statute, common law, court rules, or other regulations. Provides that the county is not responsible for payment of attorney's fees to appointed counsel.

(e) Requires the court to provide for a method of service of written notice on the parties to an eviction suit of the right to request an appointment of counsel on perfection of appeal on approval of a pauper's affidavit.

SECTION 8. Amends Subchapter H, Chapter 51, Government Code, by adding Section 51.708, as follows:

Sec. 51.708. ADDITIONAL FILING FEE FOR CIVIL CASES IN CERTAIN COURTS. (a) Requires the clerk of a county court, statutory county court, or district court, in addition to all other fees authorized or required by other law, to collect a filing fee of not more than \$10 in each civil case filed in the court to be used for court record preservation for the courts in the county.

(b) Requires that court fees due under this section be collected in the same manner as other fees, fines, or costs are collected in the case.

(c) Requires the clerk at least monthly to send the fees collected under this section to the county treasurer or to any other official who discharges the duties commonly assigned to the county treasurer. Requires the treasurer or other official to deposit the fees in a court record preservation account in the county treasury. Authorizes the money in the account to be used only to digitize court records and preserve the records from natural disasters.

(d) Requires that the court record preservation account be administered by or under the direction of the commissioners court of the county.

SECTION 9. Amends Subchapter D, Chapter 101, Government Code, by adding Section 101.06117, as follows:

Sec. 101.06117. ADDITIONAL DISTRICT COURT FEES: GOVERNMENT CODE. Requires the clerk of a district court to collect an additional filing fee not to exceed \$10 under Section 51.708, Government Code, in certain civil cases to fund the preservation of court records.

SECTION 10. Amends Subchapter E, Chapter 101, Government Code, by adding Section 101.08115, as follows:

Sec. 101.08115. ADDITIONAL STATUTORY COUNTY COURT FEES: GOVERNMENT CODE. Requires the clerk of a statutory county court to collect an additional filing fee not to exceed \$10 under Section 51.708, Government Code, in certain civil cases to fund the preservation of court records.

SECTION 11. (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 12. 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 counter claim, 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) for 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 13. Amends Subchapter G, Chapter 101, Government Code, by adding Ssection 101.12124, as follows:

Sec. 101.12124. **ADDITIONAL COUNTY COURT FEES: GOVERNMENT CODE.** Requires the clerk of a county court to collect an additional filing fee not to exceed \$10 under Section 51.708, Government Code, in certain civil cases to fund the preservation of court records.

SECTION 14. (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) for filing an inventory and appraisal (Secs. 118.052 and 118.056(d), Local Government Code)...\$25, rather than for 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 15. 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 16. (a) Amends Section 102.041, Government Code, as amended by Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular Session, 2007, to conform to the amendments made by Chapter 1053 (H.B. 2151), Acts of the 80th Legislature, Regular Session, 2007, to Section 102.041, Government Code, and is further amended to read as follows:

Sec. 102.041. **ADDITIONAL COURT COSTS ON CONVICTION IN DISTRICT COURT: CODE OF CRIMINAL PROCEDURE.** Requires the clerk of a district court to collect, under the Code of Criminal Procedure on conviction of a defendant a county and district court technology fee (Art. 102.0169, Code of Criminal Procedure)...\$4, and a juvenile delinquency prevention and graffiti eradication fee (Art. 102.0171, Code of Criminal Procedure)...\$50, rather than \$5. Makes nonsubstantive changes.

(b) Repealer: Section 102.041, Government Code, as amended by Chapter 1053 (H.B. 2151), Acts of the 80th Legislature, Regular Session, 2007. Provides that Section 102.041, Government Code, as amended by Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular Session, 2007, to reorganize and renumber that section, continues in effect as further amended by this section.

SECTION 17. Amends Section 102.061, Government Code, as reenacted and amended by Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular Session, 2007, to conform to the amendments made to Section 102.061, Government Code, by Chapter 1053 (H.B. 2151), Acts of the 80th Legislature, Regular Session, 2007, as follows:

Sec. 102.061. **ADDITIONAL COURT COSTS ON CONVICTION IN STATUTORY COUNTY COURT: CODE OF CRIMINAL PROCEDURE.** Requires the clerk of a statutory county court to collect under the Code of Criminal Procedure on conviction of a defendant a county and district court technology fee (Art. 102.0169, Code of Criminal Procedure)...\$4 and a juvenile delinquency prevention and graffiti eradication fee (Art.

102.0171, Code of Criminal Procedure)...\$50, rather than \$5. Makes nonsubstantive changes.

SECTION 18. (a) Amends Section 102.081, 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 102.081, Government Code, by Chapter 1053 (H.B. 2151), Acts of the 80th Legislature, Regular Session, 2007, as follows:

Sec. 102.081. ADDITIONAL COURT COSTS ON CONVICTION IN COUNTY COURT: CODE OF CRIMINAL PROCEDURE. Requires the clerk of a county court to collect under the Code of Criminal Procedure on conviction of a defendant a county and district court technology fee (Art. 102.0169, Code of Criminal Procedure)...\$4 and a juvenile delinquency prevention and graffiti eradication fee (Art. 102.0171, Code of Criminal Procedure)...\$50, rather than \$5. Makes nonsubstantive changes.

SECTION 19. Makes application of Sections 25.0020 and 26.010, Government Code, as changed by this Act, prospective.

SECTION 20. Makes application of this Act prospective.

SECTION 21. Makes application of this Act prospective.

SECTION 22. Effective date: September 1, 2009.