

## **BILL ANALYSIS**

Senate Research Center

H.B. 410  
By: King, Phil et al. (Estes)  
Jurisprudence  
5/8/2013  
Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The Second Court of Appeals needs its statute revised to include a \$5 filing fee in civil cases filed in 11 of their 12 counties. Under the present wording of the statute, Tarrant County is the only county collecting the \$5 fee to support the Second Court's appellate system. The population served by the Second Court has increased by 125 percent over the last 30 years.

Currently, 12 of the 14 appellate courts have the benefit of collecting the \$5 fee from all of their counties. The El Paso 8th Appellate District was the most recent appellate system to add a mandatory filing fee to its counties through the adoption of S.B. 605, 82nd Legislature, Regular Session, 2011.

Specifically, this legislation instructs county and district court clerks to collect a \$5 fee when civil cases are filed (excluding cases involving a government party or an indigent) in all 12 counties within the Second Court's district and to deposit those fees into a fund created for the purpose of defraying costs associated with managing and maintaining the Second Court of Appeals to ensure that cases are heard quickly and efficiently.

H.B. 410 amends current law relating to the administration and operation of the appellate judicial system for the Second Court of Appeals District, and changes an appellate judicial system court costs fee in certain counties.

### **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 22.2031, Government Code, as follows:

Sec. 22.2031. APPELLATE JUDICIAL SYSTEM. (a) Requires, rather than authorizes, the commissioners court of each county in the Second Court of Appeals District by order entered in its minutes to establish an appellate judicial system to assist the court of appeals for the county in the processing of appeals filed with the court of appeals from certain courts, including statutory probate courts and defray costs and expenses incurred in the operation of the court of appeals, rather than expenses incurred by the county under Section 22.203 (Second Court of Appeals).

(b) Requires, rather than authorizes, the commissioners court, to fund the system, to set a court costs fee of \$5, rather than not more than \$5, for each civil suit filed in county court, statutory court, statutory probate court, or district court in the county.

(c) Provides that the court costs fee does not apply to a suit filed by any governmental entity, rather than a suit filed by the county, or to a suit for delinquent taxes.

(d) Requires the county officer who performs the county treasurer's functions to deposit the fee in a separate appellate judicial system, rather than justice system, fund for the court of appeals district. Deletes existing text requiring the commissioners court to establish and maintain the fund to assist the court of appeals district. Makes nonsubstantive changes.

(e) Requires that the funds collected under this section be forwarded monthly to the court of appeals for expenditure by the court of appeals, rather than requiring the commissioners court to annually order the funds collected under this section to be forwarded to the court of appeals for expenditure by the court of appeals for its judicial system.

(f) Provides that the chief justice of the court of appeals is responsible for management of the funds forwarded to the court of appeals under this section and has sole discretion as to the use of the funds, except that the funds must be used for purposes consistent with the purposes of the appellate judicial system as described by Subsection (a), rather than requiring the commissioners court to vest management of the system in the chief justice of the court of appeals. Deletes existing text providing that the commissioners court has the authority necessary to assist the court of appeals in the administration and management of the system and to contract with any private corporation, public corporation, or a combination of those corporations.

SECTION 2. Amends Section 101.0611, Government Code, as follows:

Sec. 101.0611. DISTRICT COURT FEES AND COSTS: GOVERNMENT CODE. Requires the clerk of a district court to collect fees and costs under the Government Code, as follows:

(1) certain appellate judicial system filing fees, including:

(A) Makes no change to this paragraph;

(B) Second Court of Appeals District (Sec. 22.2031 (Appellate Judicial System), Government Code) . . . \$5, rather than not more than \$5; and

(C)-(H) Makes no change to these paragraphs; and

(2)-(20) Makes no change to these subdivisions.

SECTION 3. Amends Section 101.0811, Government Code, as follows:

Sec. 101.0811. STATUTORY COUNTY COURT FEES AND COSTS: GOVERNMENT CODE. Requires the clerk of a statutory county court to collect fees and costs under the Government Code, as follows:

(1) appellate judicial system filing fees:

(A) Makes no change to this paragraph;

(B) Second Court of Appeals District (Sec. 22.2031, Government Code) . . . \$5, rather than not more than \$5; and

(C)-(H) Makes no change to these paragraphs; and

(2)-(11) Makes no change to these subdivisions.

SECTION 4. Amends Section 101.1011, Government Code, as follows:

Sec. 101.1011. STATUTORY PROBATE COURT FEES AND COSTS: GOVERNMENT CODE. Requires the clerk of a statutory probate court to collect fees and costs under the Government Code as follows:

(1) appellate judicial system filing fees:

(A) Makes no change to this paragraph;

(B) Second Court of Appeals District (Sec. 22.2031, Government Code) . . . \$5, rather than not more than \$5;

(C)-(E-2) Makes no change to these paragraphs; and

(2)-(5) Makes no change to these subdivisions.

SECTION 5. Amends Section 101.1212, Government Code, as follows:

Sec. 101.1212. COUNTY COURT FEES AND COSTS: GOVERNMENT CODE. Requires the clerk of a county court to collect the following fees and costs under the Government Code:

(1) appellate judicial system filing fees:

(A) Makes no change to this paragraph;

(B) Second Court of Appeals District (Sec. 22.2021, Government Code) . . . \$5, rather than not more than \$5; and

(C)-(H) Makes no change to these paragraphs; and

(2)-(4) Makes no change to these subdivisions.

SECTION 6. (a) Provides that Section 51.607, Government Code, does not apply to the imposition or change in the amount of a fee assessed under:

(1) Section 22.2031, Government Code, as amended by this Act;

(2) Section 101.0611 (District Court Fees and Costs: Government Code), Government Code, as amended by this Act;

(3) Section 101.0811, Government Code (Statutory County Court Fees and Costs: Government Code), as amended by this Act;

(4) Section 101.1011 (Statutory Probate Court Fees and Costs: Government Code), Government Code, as amended by this Act; or

(5) Section 101.1212 (County Court Fees and Costs: Government Code), Government Code, as amended by this Act.

(b) Provides that the imposition or change in the amount of a fee imposed under a provision listed in Subsection (a) of this section applies only to a civil suit filed in a county court, statutory county court, statutory probate court, or district court on or after the effective date of this Act. Provides that a civil suit filed in a county court, statutory county court, statutory probate court, or district court before that date is governed by the law in effect on the date the suit was filed, and the former law is continued in effect for that purpose.

SECTION 7. Effective date: September 1, 2013.