

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1147
By: West
Jurisprudence
3/26/2013
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In December 2012, the Texas Supreme Court issued an order implementing a mandatory electronic filing (e-filing) system for civil cases, including family and probate cases, by attorneys in appellate courts, district courts, statutory county courts, constitutional county courts, and statutory probate courts based on an implementation schedule, as determined by population. Some local governments have expressed concern that additional resources will be needed to integrate existing case management systems with the new system procured by the Office of Court Administration of the Texas Judicial System (OCA) in order to implement statewide e-filing.

C.S.S.B. 1147 seeks to alleviate some of these concerns by building on the model utilized when the Texas Legislature implemented Texas.gov. Under that system, local governments were authorized to charge a processing fee in order to recoup some of the costs of implementation. C.S.S.B. 1147 mirrors that system by allowing local governments and appellate courts to charge a minimal fee for electronic filing transactions. In order to ensure accountability, the bill requires those entities that assess the fee to annually certify that the fee is necessary to cover costs in a form prescribed by OCA.

C.S.S.B. 1147 amends current law relating to the electronic filing system established by rule or order of the Texas Supreme Court; authorizing fees.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Supreme Court of Texas in SECTION 1 (Section 72.031, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter C, Chapter 72, Government Code, by adding Section 72.031, as follows:

Sec. 72.031. ELECTRONIC FILING SYSTEM. (a) Defines, in this section, "appellate court," "electronic filing system," "electronic filing transaction," and "local government."

(b) Authorizes the Office of Court Administration of the Texas Judicial System (OCA), as authorized by supreme court rule or order, to implement an electronic filing system for use in the courts of this state, and authorizes OCA to set fees for transactions that use the electronic filing system. Prohibits a fee set under this subsection for a transaction from exceeding \$4.

(c) Provides that a fee set by OCA for using the electronic filing system is in addition to any other statutory fee. Requires that the revenue collected from the fees be used to support the electronic filing system, including the recovery of system costs.

(d) Authorizes a local government or appellate court that uses the electronic filing system to charge a fee of \$2 for each electronic filing transaction if:

(1) the fee is necessary to recover the actual system operating costs reasonably incurred by the local government or appellate court to accept electronic payment methods, or interface with other technology information systems;

(2) the fee does not include an amount to recover local government or appellate court employee costs, other than costs for directly maintaining the system;

(3) the governing body of the local government or the appellate court approves the fee using the local government or appellate court's standard approval process for fee increases; and

(4) the local government or appellate court annually certifies to OCA on a form prescribed by OCA that the amount of the fee is necessary to recover the actual system operating costs incurred by the local government or appellate court.

(d-1) Provides that this subsection and Subsection (d) expire September 1, 2019.

(e) Authorizes a local government or appellate court that uses the electronic filing system to accept electronic payment methods, including payments made with credit and debit cards.

(f) Prohibits a governmental entity not otherwise required to pay a filing fee under any other law from being required to pay a fee established under this section.

(g) Requires a court to waive payment of any fee due under this section for an individual the court determines is indigent.

SECTION 2. Amends Section 33.48(a), Tax Code, to entitle a taxing unit, in addition to other costs authorized by law, to recover certain costs and expenses in a suit to collect a delinquent tax, including all usual court costs, including the cost of serving process and electronic filing fees.

SECTION 3. Amends Section 33.49(a), Tax Code, to provide that, except as provided by Subsection (b), a taxing unit is not liable in a suit to collect taxes for court costs, including any fees for service of process and electronic filing fees, an attorney ad litem, arbitration, or mediation, and is prohibited from being required to post security for costs.

SECTION 4. Amends Section 231.202, Family Code, as follows:

Sec. 231.202. AUTHORIZED COSTS AND FEES IN TITLE IV-D CASES. Requires a Title IV-D agency, in a Title IV-D case filed under this title (The Parent-Child Relationship and the Suit Affecting the Parent-Child Relationship), including a case filed under Chapter 159 (Uniform Interstate Family Support Act), to pay only certain costs and fees, including a fee authorized for the electronic filing of documents with a clerk, rather than a fee authorized under a local rule for the electronic filing of documents with a clerk.

SECTION 5. Requires OCA, not later than December 1, 2018, to file a report with the lieutenant governor, the speaker of the house of representatives, and the presiding officers of the standing committees of each house of the legislature with jurisdiction over the judiciary detailing the number of local governments and appellate courts collecting a fee under Section 72.031(d), Government Code, as added by this Act, and the necessity of the local governments and appellate courts to continue collecting the fee.

SECTION 6. Effective date: September 1, 2013.