

BILL ANALYSIS

Senate Research Center
82R18831 TJB-F

H.B. 2717
By: Darby (Carona)
Jurisprudence
5/13/2011
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Some district courts and statutory county courts have concurrent jurisdiction. Under current law, district courts are authorized to assess a records archive fee from a party filing a lawsuit; however, statutory county courts are not currently authorized to assess such a fee. As a result, parties are disproportionately filing their suits in statutory county courts to avoid payment of the fee. H.B. 2717 gives statutory county courts the same authority to assess a records archive fee that district courts currently have.

Counties are also currently authorized to assess a \$1 fee to be used for expenses in connection with the preservation of vital statistics records maintained by the county. H.B. 2717 allows proceeds from the fee to be used for training related to maintenance of vital statistics records and for security measures in connection with maintaining such records. The bill further authorizes the county to process checks issued for payment of the fee electronically.

Under current law, county clerks are required to complete 20 hours of continuing education each year, including at least one hour of course education related to the handling of court registry funds. H.B. 2717 clarifies that the one hour requirement for courses relating to handling of court registry fees must be completed within the first 12 months of taking office and during each term of office thereafter. H.B. 2717 also aligns the exemption from petit jury service to care for children with the same exemption for grand jury service.

H.B. 2717 amends current law relating to the duties and responsibilities of certain county officials and the functions of county government.

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 51.305(b), Government Code, to authorize the commissioners court of a county to adopt a district court records archive fee of not more than \$5 for the filing of a suit, including an appeal from an inferior court, or a cross-action, counterclaim, intervention, contempt action, motion for new trial, or third-party petition, in a district court or statutory county court, if the court exercises concurrent jurisdiction over the suit with a district court, in the county as part of the county's annual budget.

SECTION 2. Amends Section 51.605(c), Government Code, to require a clerk to each year, rather than annually, complete 20 hours of continuing education courses including at least one hour of continuing education courses regarding registry funds handled under Chapter 117 (Depositories for Certain Trust Funds and Court Registry Funds), Local Government Code, in the performance of the duties of office.

SECTION 3. Amends Section 62.106(a), Government Code, to authorize a person qualified to serve as a petit juror to establish an exemption from jury service if the person meets certain requirements, including that the person has legal custody of a child younger than 12 years of age,

rather than younger than 15 years of age, and the person's service on the jury requires leaving the child without adequate supervision.

SECTION 4. Amends Subchapter E, Chapter 101, Government Code, by adding Section 101.08118, as follows:

Sec. 101.08118. ADDITIONAL STATUTORY COUNTY COURT FEES: LOCAL GOVERNMENT CODE. Requires the clerk of a statutory county court to collect a district court records archive fee of not more than \$5 under Section 118.068, Local Government Code, if adopted by the county commissioners court.

SECTION 5. Amends Subchapter F, Chapter 101, Government Code, by adding Section 101.10117, as follows:

Sec. 101.10117. ADDITIONAL STATUTORY PROBATE COURT FEES: LOCAL GOVERNMENT CODE. Requires the clerk of a statutory probate court to collect a district court records archive fee of not more than \$5 under Section 118.068, Local Government Code, if adopted by the county commissioners court.

SECTION 6. Amends Section 191.0045, Health and Safety Code, by amending Subsection (h) and adding Subsection (i), as follows:

(h) Authorizes a local registrar or county clerk, in addition to other fees collected under this section, to collect a fee not to exceed \$1 for preserving vital statistics records maintained by the registrar or county clerk, including birth, death, fetal death, marriage, divorce, and annulment records; training registrar or county clerk employees regarding vital statistics records; and ensuring the safety and security of vital statistics records. Makes nonsubstantive changes.

(i) Creates this subsection from existing text. Requires that a fee under this section be collected by the registrar or county clerk on the issuance of a vital statistics record, including a record issued through a Remote Birth Access site.

SECTION 7. Amends Section 118.051, Local Government Code, as follows:

Sec. 118.051. CLERICAL DUTIES. Provides that, except as provided by Sections 118.067 (Supplemental Court-Initiated Guardianship Fee) and 118.068, the fees listed in this subchapter for county civil court dockets under Section 118.052(1) (Civil Court Actions) and county probate court dockets under Section 118.052(2) (Probate Court Actions) are fees for all clerical duties performed in connection with the docket. Sets forth the clerical duties. Makes a nonsubstantive change.

SECTION 8. Amends Section 118.052, Local Government Code, to require each clerk of a county court to collect certain fees for services rendered to any person, including a District Court Records Archive Fee . . . \$5.00.

SECTION 9. Amends Subchapter C, Chapter 118, Local Government Code, by adding Section 118.068, as follows:

Sec. 118.068. DISTRICT COURT RECORDS ARCHIVE FEE. (a) Requires the clerk of a county court, if adopted by the commissioners court, to collect a district court records archive fee of not more than \$5 when a person files a suit in a statutory county court for which the court exercises concurrent jurisdiction with a district court, including an appeal from an inferior court, or a cross-action, counterclaim, intervention, contempt action, motion for new trial, or third-party petition.

(b) Provides that the fee imposed under this section does not apply to a filing by a state agency.

(c) Requires the county clerk, after collecting a fee under this section, to pay the fee to the county treasurer, or to an official who discharges the duties commonly delegated to the county treasurer, for deposit to the district court records technology fund established under Section 51.305 (District Court Records Technology Fund), Government Code.

SECTION 10. Amends Section 132.002(a), Local Government Code, as follows:

(a) Authorizes the commissioners court of a county to authorize a county or precinct officer who collects fees, fines, court costs, or other charges on behalf of the county or the state to accept payment by credit card or electronic means of a fee, fine, court costs, or other charge. Authorizes the commissioners court to also authorize a county or precinct officer to collect and retain a fee for processing the payment by credit card or electronic means.

SECTION 11. Repealer: Section 191.030 (Records Filed With County), Health and Safety Code.

SECTION 12. (a) Provides that Section 51.607, Government Code, does not apply to a fee imposed under Section 118.068, Local Government Code, as added by this Act, or Section 101.08118 or 101.10117, Government Code, as added by this Act.

(b) Makes application of the change in law made by this Act prospective.

SECTION 13. Effective date: upon passage or September 1, 2011.