

## **BILL ANALYSIS**

Senate Research Center  
82R11196 TJB-F

S.B. 1607  
By: Carona  
Jurisprudence  
3/25/2011  
As Filed

### **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. S.B. 1607 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 \$1.00 fee to be used for expenses in connection with the preservation of vital statistics records maintained by the county. S.B. 1607 would allow 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. S.B. 1607 would clarify 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.

As proposed, S.B. 1607 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 each year, rather than annually, to 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 criteria, including that the person has legal custody of a child younger than 12, rather 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:

(1) preserving, rather than the preservation of, vital statistics records maintained by the registrar or county clerk, including birth, death, fetal death, marriage, divorce, and annulment records;

(2) training registrar or county clerk employees regarding vital statistics records; and

(3) ensuring the safety and security of vital statistics records.

(i) Creates this subsection from existing text. Makes no further changes.

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 duties included.

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 among other fees a District Court Records Archive Fee of \$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 to collect a district court records archive fee of not more than \$5, if adopted by the commissioners court, 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 check verified electronically 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 check verified electronically.

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

SECTION 12. (a) Provides that Section 51.607 (Implementation of New or Amended Court Costs and Fees), 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) Provides that the change in law made by this Act applies only to the imposition of a fee on a filing in a civil action or proceeding made on or after the effective date of an order of a commissioners court authorizing imposition of the fee. Provides that the imposition of a fee on a filing made before that date is governed by the law in effect on the date the filing was made, and the former law is continued in effect for that purpose.

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