

- SUBJECT:** Creation of a support fund for the Ninth Court of Appeals
- COMMITTEE:** Judiciary — committee substitute recommended
- VOTE:** 7 ayes — Hartnett, Homer, Hopson, Alonzo, R. Cook, Gonzales, Goolsby
0 nays
2 absent — Hughes, Krusee
- WITNESSES:** For — Steve McKeithen, Ninth Court of Appeals
Against — None
- BACKGROUND:** The Ninth Court of Appeals was created by the Legislature in 1915 and currently has jurisdiction over cases in 10 Southeast Texas counties: Hardin, Jasper, Jefferson, Liberty, Montgomery, Orange, Newton, Polk, San Jacinto, and Tyler. While the Ninth court primarily sits in Beaumont, it may transact its business in the county seat of any county in the district. Jefferson County currently pays about \$52,000 a year in salary supplements and benefits to the Ninth court judges.
- DIGEST:** CSHB 1126 would create an appellate judicial system to assist the Ninth Court of Appeals. This system would be implemented by each county over which the Ninth court has jurisdiction. The system would assist the Ninth court in:
- processing appeals from county courts, county courts at law, probate courts, and district courts;
 - defraying costs and expenses incurred by any county in which the Ninth court does business; and
 - reimbursing Jefferson County for the supplemental salaries and annual benefits paid to the justices of the Ninth court.
- To fund the system, CSHB 1126 would direct the commissioners court of each county in the Ninth court's jurisdiction to set a fee of \$5 for each civil suit filed in a county court, county court at law, probate court, or district court. Each county would deposit the fees in a separate appellate judicial system fund and would send the fees collected each month to the

chief justice of the Ninth court. The Ninth court could use the funds to pay for expenditures associated with its judicial system, including the reimbursement of Jefferson County for supplemental salaries and annual benefits paid to the justices.

The bill would take effect September 1, 2007.

**SUPPORTERS
SAY:**

CSHB 1126 would authorize the collection of court fees by counties served by the Ninth Court of Appeals to offset the cost of the appellate system and expenses the counties face in hosting the court. Currently, even though the justices serve a 10-county area, only Jefferson County pays supplemental salaries and annual benefits to the justices of the Ninth court. This court fee equitably would distribute the costs associated with operating the appellate system among all the counties served by the Ninth Court of Appeals.

Eight of the 14 courts of appeal in Texas already have a funding mechanism similar to the one proposed in CSHB 1126, and those districts have found the additional funding helpful in offsetting the costs they face in hosting the courts of appeal. All of the appeals courts that are larger than the Ninth court in terms of docket size and number of justices have appellate judicial systems in place. In fiscal 2006, more than 50,000 civil cases were filed in the Ninth court. As the number case filings continues to rise in the coming years, due in large part to population growth in Montgomery County just north of Houston, more funds will be needed to maintain the Ninth court. The additional salary supplements are necessary to attract and retrain quality judges, who likely would be able to earn much more in private practice.

**OPPONENTS
SAY:**

The increased fee on civil filings in CSHB 1126 would be a further cost for those seeking to exercise their right to access the court system. Litigants should not bear a disproportionate share of the burden for funding programs intended to serve the public good. Also, any increase in the number of individual fees assessed to court users might make the system overly complex and confusing to the public, attorneys, and court personnel. Finally, revenue for funding the salaries of justices should not depend upon the unreliable volume of civil filings that might pass through the courts.

NOTES:

According the Legislative Budget Board, based on the number of civil cases filed in fiscal 2006, the fee authorized by CSHB 1126 would raise

\$252,050 per fiscal year to maintain the Ninth court appellate judicial system.

In addition to creating the appellate judicial system, HB 1126 as introduced also would have established two locations of the Ninth Court of Appeals. One would have been in the Beaumont and the other would have been in Conroe, the seat of Montgomery County. The Ninth court, while in the Beaumont, would have given preference to the hearing of cases originating in Jefferson, Orange, and Hardin counties. While in Conroe, it would have given preference to the hearing of cases originating in Montgomery County. The original bill also would have taken effect October 1, instead of September 1, 2007.

CSHB 1126 was withdrawn from the Local, Consent, and Resolutions Calendar on March 28 and transferred to the Calendars Committee.

The companion bill, SB 325 by Williams, passed the Senate on the Local and Uncontested Calendar on March 14. The House Judiciary Committee reported SB 325 favorably, without amendment, on April 5 and recommended it to the Local and Consent Calendars Committee, making it eligible to be considered in lieu of HB 1126.