

HOUSE BILL REPORT

E2SSB 5454

As Passed House - Amended:

April 24, 2005

Title: An act relating to court operations.

Brief Description: Revising trial court funding provisions.

Sponsors: Senators Hargrove, Kline, Delvin, Thibaudeau, Johnson, Shin, Stevens, Rockefeller and Kohl-Welles; by request of Board For Judicial Administration.

Sponsors: By Senate Committee on Ways & Means (originally sponsored by Senators Hargrove, Kline, Delvin, Thibaudeau, Johnson, Shin, Stevens, Rockefeller and Kohl-Welles; by request of Board For Judicial Administration).

Brief History:

Committee Activity:

Judiciary: 3/30/05, 3/31/05 [DPA];

Appropriations: 4/2/05 [DPA(JUDI)].

Floor Activity:

Passed House - Amended: 4/13/05, 87-9.

Senate Refuses to Concur.

Passed House - Amended: 4/24/05, 84-11.

Brief Summary of Engrossed Second Substitute Bill (As Amended by House)

- Increases superior and district court filing fees and other court fees.
- Requires the revenue to the state from the increased fees to be deposited in the newly-created equal justice subaccount of the Public Safety and Education Account to be used for: (a) trial-level criminal indigent defense; (b) parent representation in dependency and termination cases; (c) civil legal services; and (d) district court judges' and elected municipal court judges' salary contributions.
- Requires 25 percent of the revenue collected in the 2005-07 fiscal biennium, less \$1 million, to go towards the judges' salary contributions, and requires that percentage to be increased to 50 percent in the subsequent bienniums.
- Appropriates \$2.3 million dollars for criminal indigent defense, with \$1 million being used for a pilot program; \$5 million for parent representation; \$3 million for civil legal services; and \$2.4 million for judges' salary contributions.

- Requires cities and counties that receive state contribution to judges' salaries to establish local trial court improvement accounts and deposit into those accounts an amount equal to 100 percent of the state's contribution.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended. Signed by 10 members: Representatives Lantz, Chair; Flannigan, Vice Chair; Williams, Vice Chair; Priest, Ranking Minority Member; Rodne, Assistant Ranking Minority Member; Campbell, Kirby, Serben, Springer and Wood.

Staff: Trudes Tango Hutcheson (786-7384).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended by Committee on Judiciary. Signed by 28 members: Representatives Sommers, Chair; Fromhold, Vice Chair; Alexander, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; McDonald, Assistant Ranking Minority Member; Bailey, Buri, Clements, Cody, Conway, Darneille, Dunshee, Grant, Haigh, Hinkle, Hunter, Kagi, Kenney, Kessler, Linville, McDermott, McIntire, Miloscia, Pearson, Priest, Schual-Berke, Talcott and Walsh.

Staff: Nona Snell (786-7153).

Background:

Funding for district and municipal courts is provided by local jurisdictions. Funding of superior courts is primarily provided by local jurisdictions, except for the constitutionally required obligation of the state to provide for one-half of the superior court judges' salaries and benefits.

Local jurisdictions collect various fees in the trial court system and share some of the fees with the state.

Court Fees

The filing fee for a civil cause of action in superior court is \$110 and \$31 in district court. Currently, there is no filing fee when a party files a counter claim, cross-claim, or third-party claim in civil actions. Courts also impose other fees, set by statute, for various services. For example, fees are imposed for: jury demands; criminal convictions in superior court; appeals filed in superior court from a lower court; filing a petition to contest a will; preparing transcripts; and other services.

Generally, 46 percent of the money collected from superior court fees and 32 percent of the money collected from district court fees are deposited in the state's Public Safety and Education Account (PSEA) and the local jurisdictions retain the rest.

Criminal Indigent Defense and Dependencies and Termination Proceedings

Both the federal and state Constitutions contain guarantees of the right to legal representation for an accused person in a criminal prosecution. Court decisions at both the federal and state levels have construed these provisions to require public funding of indigent legal representation in criminal prosecutions in which the accused's liberty is at stake. Statutes and court decisions have also extended the right to publicly funded counsel to other cases, such as involuntary commitments, dependency and termination proceedings, and juvenile cases.

Generally, the funding of trial-level criminal indigent defense costs are a local responsibility. In dependency and termination proceedings, the state pays for prosecution and the counties fund the defense costs for the parents.

Civil Legal Services

Various organizations, such as Columbia Legal Services, the Northwest Justice Project, and volunteer attorney programs, provide civil (not criminal) legal services to low-income people in Washington. State funding for civil legal services generally comes from the PSEA.

Law Libraries

Each county with a population of 8,000 or more is required to maintain a county law library. State law provides that \$12 of every new probate or civil filing fee collected in superior court and \$6 of every civil filing fee collected in district court are to be used for the support of the county law library. Upon approval of the library board of trustees and the county legislative authority, the \$12 contribution amount may be increased to \$15.

Summary of Amended Bill:

Superior and district court filing fees and other fees are increased, as provided in the table below. The revenue to the state from the increased fees are to be deposited into the newly-created equal justice sub-account of the PSEA and must be used for trial-level criminal indigent defense, representation of parents in dependencies and termination proceedings, civil legal services, and district and elected municipal court judges' salary contributions.

For the 2005-07 fiscal biennium, an amount equal to 25 percent of the revenue deposited in the equal justice subaccount, less \$1 million, must be appropriated to the administrator for the courts for judges' salary contributions. For the 2007-09 fiscal biennium and subsequent fiscal biennia, an amount equal to 50 percent must be appropriated for judges' salary contributions. A city qualifies for state contribution of elected municipal court judges' salaries if the city has established by ordinance that the judge is compensated at a rate equivalent to 95-100 percent of a district court judge's salary.

Appropriates \$2.3 million for criminal indigent defense, with \$1 million being used for a pilot program; \$5 million for parent representation; \$3 million for civil legal services; and \$2.4 million for judges' salary contributions.

Cities and counties receiving state contribution to judges' salaries must establish local trial court improvement accounts and deposit into those accounts an amount equal to 100 percent of the state's contribution.

The revenue from fee increases is deemed to be complete reimbursement from the state for the states's share of benefits paid to the superior court judges prior to the effective date of the bill, and the state must not be liable for benefits for prior periods.

Funding for county law libraries is increased. The portion of each superior court civil filing fee which is distributed to county law libraries is increased from \$12 to \$17. That amount may be increased up to \$20 and up to \$30 in counties with multiple library sites. The portion of each district court civil filing fee distributed to county law libraries is increased from \$6 to \$7. These distributions will also be made from filing fees for counterclaims, cross-claims, and third-party claims.

Court Fees

Fees in district and superior courts are amended as follows:

District Court (subject to PSEA split)	Current	E2SSB 5454
Filing fee	\$31	\$43
Filing counterclaim, cross-claim, or third-party claims	No provision	\$43 + dispute resol. center fee authorized by county
Issuing writs	\$6	\$12
Filing supplemental proceedings	\$12	\$20
Demanding jury in civil case	\$50	\$125
Preparing transcripts of judgments	\$6	\$20
Upon conviction or guilty plea court may impose fee	No provision	\$43
Jury fee (criminal cases)	\$25	\$125
Jury fee (civil cases)	\$25	\$125
Small claims court filing	\$10	\$14
Small claims counter, cross, and third-party claims	No provision	\$14 + dispute resol. center fee authorized by county
Superior Court Fees (subject to PSEA split)	Current	E2SSB 5454
Civil filing fee	\$110	\$200

Filing counter, cross, and third-party claims	No provision	\$200
Initial unlawful detainer filing	\$30	\$45
Civil appeal from lower court	\$110	\$200
Filing petition for review of administrative act	\$110	\$200
Filing unlawful harassment petition	\$41	\$53
Filing notice of debt due for crime victim comp.	\$110	\$200
Instituting probate proceedings	\$110	\$200
Filing petition to contest will in probate	\$110	\$200
Upon criminal conviction	\$110	\$200
Filing a judgment from a different court	\$15	\$20
To proceed with an unlawful detainer action	\$80	\$112
Filings in a nonjudicial probate dispute	\$2	\$20 (if it is filed within an existing case in the same court)
Transferring venue	No provision	\$20
Superior Court Fees (not subject to PSEA split)	Current	E2SSB 5454
Filing petition for modification of a dissolution or paternity decree	\$20	\$36
Jury fee for 6 person jury (criminal)	\$50	\$125
Jury fee for 12 person jury (criminal)	\$100	\$250
Preparing certified copies w/ seal	\$2 first page \$1 add. pages	\$5 \$1
Authenticating a document	\$1 per seal	\$2

Preparing copies of documents w/o seal	\$2 first page \$1 add. pages	\$0.50 per page \$0.35 per page if document is in electronic format
Copies of documents on CD	No provision	\$20
Filing supplemental proceedings	No provision	\$20
Filing of oaths and affirmations	\$20	language removed
Filing a disclaimer of interest	\$2	language removed
Registering land titles	\$5	\$20
Issuing extension of judgments	\$110	\$200
Family law facilitator program fee (at discretion of county)	\$10	\$20
Filing frivolous mechanic and materialmen's lien	No provision	\$35
Filing a will or codicil	No provision	\$20
Law Libraries	Current	E2SSB 5454
For every superior court civil filing fee, county must deposit in law library fund	\$12 (up to \$15 if approved by county)	\$17 (up to \$20 if approved and up to \$30 in counties with multiple library sites)
For every district court civil filing fee, county must deposit	\$6	\$7

Appropriation: \$2.3 million for criminal indigent defense, with \$1 million being used for a pilot program; \$5 million for parent representation; \$3 million for civil legal services; and \$2.4 million for judges' salary contributions.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: (Judiciary) This bill represents a fundamental reform of how this state funds its trial courts. The state's contribution to the judges' salaries will be identical to the state's obligation under the Constitution to pay for half of the superior court judges' salaries. The state needs to recognize the importance of trial courts and how these courts impact millions of citizens. District and municipal courts are taking more and more of the cases and are integral to the justice system. These courts are closer to the people than any level of other state court. The state needs to give the cities and counties funds to improve its services. Washington is one of the last in the nation when it comes to state funding of trial courts. The Legislature sets the number of district court judges and passes laws that increase the work load on district courts. Money from the state would be used by counties and cities to do things like continue drug courts, extend their hours of operations, and fill positions that have been empty due to lack of funding. The increase in filing fees are appropriate and across-the-board. Courts can always review an individual's financial circumstances and waive the fees if necessary so that justice is not denied.

(In support with concerns) This bill increases the judges' pensions but current pensions are not adequately funded.

Testimony For: (Appropriations) None.

(With concerns) The Chief Justice of the Supreme Court has concerns about the bill as it was amended by the House Judiciary Committee but wants the bill to pass out of Appropriations.

The Court Funding Task Force proposed the idea for the bill to the Board of Judicial Administration. The intention of the bill is to change the fundamental structure of the court system from local to a shared state/local responsibility. Before the bill was amended, it required that district and elected municipal judges receive one-half of their salaries from the state, the same as superior court judges. The bill would generate enough revenue to pay half these salaries. However, as amended, the bill does not require the state to pay half of district and municipal judges salaries.

Local courts have difficulty meeting responsibilities. If the state paid one-half of the salaries, the savings could be applied to other needs that support state laws.

Testimony Against: (Judiciary) None.

Testimony Against: (Appropriations) None.

Persons Testifying: (Judiciary) (In support) Gerry Alexander, Chief Justice of the Washington State Supreme Court, Board for Judicial Administration; Judge Eileen Kato, District and Municipal Court Judges' Association, Board for Judicial Administration; Judge Leonard Costello, Superior Court Judges Association, Board for Judicial Administration; Mark Gjurasic, Washington Apartment Association, Manufactured Housing Communities of Washington, Institute for Real Estate Management, Rental Housing Association; Darlene Pennock, Washington Apartment Association, Manufactured Housing Communities of Washington; Kris Tefft, Association of Washington Business; Sophia Byrd, Association of Counties; and Jeff Hall, Board for Judicial Administration.

(In support with concerns) Pat Thompson, County and City Employees.

Persons Testifying: (Appropriations) (Concerns) Gary Alexander, Chief Justice of the Supreme Court; Sophia Byrd, Association of Counties; and Jeff Hall, Board for Judicial Administration.

Persons Signed In To Testify But Not Testifying: (Judiciary) None.

Persons Signed In To Testify But Not Testifying: (Appropriations) None.