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WAYS AND MEANS**

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To: Ways and Means Public Safety Subcommittee

From: Steve Bender, Legislative Fiscal Office

Date: May 6, 2013

Subject: HB 2561 – Relating to fees for electronic court services

Background

The Oregon Judicial Department is currently in the process of implementing the Oregon eCourt Program. eCourt will ultimately replace a number of the Department's electronic systems, including the legacy case management system (Oregon Judicial Information Network [OJIN]). Current law authorizes the Chief Justice to establish fees for the use of OJIN. There is no authority, however, to establish fees for other electronic systems, including eCourt.

HB 2561

HB 2561 authorizes the Chief Justice to establish fees for other state court electronic applications and systems. The bill also requires such fees to be reasonable.

FISCAL IMPACT OF PROPOSED LEGISLATION

Measure: HB 2561

Seventy-Seventh Oregon Legislative Assembly – 2013 Regular Session
Legislative Fiscal Office

*Only Impacts on Original or Engrossed
Versions are Considered Official*

Prepared by: John Terpening
Reviewed by: Steve Bender
Date: 3-13-2013

Measure Description:

Authorizes Chief Justice of Supreme Court to establish reasonable fees for use of state court electronic applications and systems.

Government Unit(s) Affected:

Judicial Department

Summary of Revenue Impact: See Analysis

Summary of Expenditure Impact: See Analysis

Local Government Mandate:

This bill does not affect local governments' service levels or shared revenues sufficient to trigger Section 15, Article XI of the Oregon Constitution.

Analysis:

The measure authorizes the Chief Justice of the Supreme Court to establish reasonable fees for the use of state court applications and systems.

Currently, statute allows for the Oregon Judicial Department (OJD) to charge fees to third parties for the access and use of data and reports from the Oregon Judicial Information Network (OJIN). This measure would allow for OJD to establish fees for other state court electronic applications and systems like the Oregon eCourt Initiative that is expected to be fully implemented by 2016. OJD anticipates that the applications that currently are operated on OJIN, and for which OJD charges fees, will be transferred to the eCourt program.

The revenue impact to OJD is indeterminate. The measure provides OJD with more flexibility to establish fees, but the types of fees and their respective amounts that may be established are unknown.

There is no expenditure impact to OJD as a result of this measure.

REVENUE: No revenue impact

FISCAL: Fiscal statement issued

Action:	Do Pass and Be Referred to the Committee on Ways and Means by Prior Reference
Vote:	9 - 0 - 0
Yeas:	Barton, Cameron, Garrett, Hicks, Krieger, Olson, Tomei, Williamson, Barker
Nays:	0
Exc.:	0
Prepared By:	Anna Braun, Counsel
Meeting Dates:	3/13, 3/27

WHAT THE MEASURE DOES: Allows Chief Justice to set reasonable fees for electronic applications. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- Provisions of the measure

EFFECT OF COMMITTEE AMENDMENT: No amendment.

BACKGROUND: ORS 1.002 currently allows the Chief Justice of the Supreme Court to set fees for the Oregon Judicial Information Network (OJIN). New electronic applications under Oregon eCourt are replacing the OJIN system. House Bill 2561 clarifies that the Chief Justice has the authority to set reasonable fees for the new electronic applications.

House Bill 2561

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Judiciary for Judicial Department)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Authorizes Chief Justice of Supreme Court to establish reasonable fees for use of state court electronic applications and systems.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to fees for electronic court services; amending ORS 1.002; and declaring an emergency.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 1.002 is amended to read:

5 1.002. (1) The Supreme Court is the highest judicial tribunal of the judicial department of gov-
6 ernment in this state. The Chief Justice of the Supreme Court is the presiding judge of the court
7 and the administrative head of the judicial department of government in this state. The Chief Justice
8 shall exercise administrative authority and supervision over the courts of this state consistent with
9 applicable provisions of law and the Oregon Rules of Civil Procedure. The Chief Justice, to facilitate
10 exercise of that administrative authority and supervision, may:

11 (a) Make rules and issue orders appropriate to that exercise.

12 (b) Require appropriate reports from the judges, other officers and employees of the courts of
13 this state and municipal courts.

14 (c) Pursuant to policies approved by the Judicial Conference of the State of Oregon, assign or
15 reassign on a temporary basis all judges of the courts of this state to serve in designated locations
16 within or without the county or judicial district for which the judge was elected.

17 (d) Set staffing levels for all courts of the state operating under the Judicial Department and for
18 all operations in the Judicial Department.

19 (e) Establish time standards for disposition of cases.

20 (f) Establish budgets for the Judicial Department and all courts operating under the Judicial
21 Department.

22 (g) Assign or reassign all court staff of courts operating under the Judicial Department.

23 (h) Pursuant to policies approved by the Judicial Conference of the State of Oregon, establish
24 personnel rules and policies for judges of courts operating under the Judicial Department.

25 (i) Establish procedures for closing courts in emergencies.

26 (j) Establish standards for determining when courts are closed for purposes of ORCP 10, ORS
27 174.120 and other rules and laws that refer to periods of time when courts are closed.

28 (k) Take any other action appropriate to the exercise of the powers specified in this section and
29 other law, and appropriate to the exercise of administrative authority and supervision by the Chief
30 Justice over the courts of this state.

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (2) The Chief Justice may make rules for the use of electronic applications in the courts, in-
 2 cluding but not limited to rules relating to:

3 (a) Applications based on the use of the Internet and other similar technologies;

4 (b) The use of an electronic document, or use of an electronic image of a paper document in lieu
 5 of the original paper copy, for a document, process or paper that is served, delivered, received, filed,
 6 entered or retained in any action or proceeding;

7 (c) The use of electronic signatures or another form of identification for any document, process
 8 or paper that is served, delivered, received, filed, entered or retained in any action or proceeding
 9 and that is required by any law or rule to be signed;

10 (d) The use of electronic transmission for the service of documents in a proceeding, other than
 11 service of a summons or service of an initial complaint or petition;

12 (e) Payment of statutory or court-ordered monetary obligations through electronic media;

13 (f) Electronic storage of court documents;

14 (g) Use of electronic citations in lieu of the paper citation forms as allowed under ORS 153.770,
 15 including use of electronic citations for parking ordinance violations that are subject to ORS 221.333
 16 or 810.425;

17 (h) Public access through electronic means to court documents that are required or authorized
 18 to be made available to the public by law; and

19 (i) Transmission of open court proceedings through electronic media.

20 (3) The Chief Justice may make rules relating to the data that state courts may require parties
 21 and other persons to submit for the purpose of distinguishing particular persons from other persons.
 22 If the rules require the submission of data that state or federal law does not require that the courts
 23 make public, the rules may also require courts to keep the data confidential and not release the data
 24 except pursuant to a court order issued for good cause shown. Data that is made confidential under
 25 the rules is not subject to disclosure under ORS 192.410 to 192.505.

26 (4) Rules adopted by the Chief Justice under subsection (2) of this section must be consistent
 27 with the laws governing courts and court procedures, but any person who serves, delivers, receives,
 28 files, enters or retains an electronic document, or an electronic image of a paper document in lieu
 29 of the original paper copy, in the manner provided by a rule of the Chief Justice under subsection
 30 (2) of this section shall be considered to have complied with any rule or law governing service, de-
 31 livery, reception, filing, entry or retention of a paper document.

32 (5) Rules made and orders issued by the Chief Justice under this section shall permit as much
 33 variation and flexibility in the administration of the courts of this state as are appropriate to the
 34 most efficient manner of administering each court, considering the particular needs and circum-
 35 stances of the court, and consistent with the sound and efficient administration of the judicial de-
 36 partment of government in this state.

37 (6) The Chief Justice may establish **reasonable** fees for the use of the Oregon Judicial Infor-
 38 mation Network **and other state court electronic applications and systems**.

39 (7) The judges, other officers and employees of the courts of this state shall comply with rules
 40 made and orders issued by the Chief Justice. Rules and orders of a court of this state, or a judge
 41 thereof, relating to the conduct of the business of the court shall be consistent with applicable rules
 42 made and orders issued by the Chief Justice.

43 (8) The Chief Judge of the Court of Appeals and the presiding judge of each judicial district of
 44 this state are the administrative heads of their respective courts. They are responsible and ac-
 45 countable to the Chief Justice of the Supreme Court in the exercise of their administrative authority

1 and supervision over their respective courts. Other judges of the Court of Appeals or court under
2 a presiding judge are responsible and accountable to the Chief Judge or presiding judge, and to the
3 Chief Justice, in respect to exercise by the Chief Justice, Chief Judge or presiding judge of admin-
4 istrative authority and supervision.

5 (9) The Chief Justice may delegate the exercise of any of the powers specified by this section
6 to the presiding judge of a court, and may delegate the exercise of any of the administrative powers
7 specified by this section to the State Court Administrator, as may be appropriate.

8 (10) This section applies to justices of the peace and the justice courts of this state solely for
9 the purpose of disciplining of justices of the peace and for the purpose of continuing legal education
10 of justices of the peace.

11 **SECTION 2. This 2013 Act being necessary for the immediate preservation of the public**
12 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**
13 **on its passage.**

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