

House Bill 2561

Chief Justice authority to set fees for Oregon eCourt

The legislature is currently considering HB 2561, which would give the Chief Justice authority to set fees for the use of the Oregon eCourt system. The Oregon Judicial Department has distributed a preliminary fee concept, which includes a \$10 transaction fee for each eFiling/eService transaction and a credit card processing fee for each such transaction. The fee concept also includes a monthly subscription fee for remote access to documents and an alternative per document fee for non-subscribers. As an organization comprised of all lawyers in the state, the Oregon State Bar is keenly interested in a fair, balanced and transparent filing fee system.

Principles

The bar participated in legislative consideration of filing fee re-structuring during the 2009-'11 and 2011-'13 interims, forming an Oregon State Bar Court Fees Task Force in 2010. This task force developed principles by which filing should be judged, which are as applicable to proposed Oregon eCourt fees as they are to filing fee issues in general.

- Access to justice. Filing fees should be set at a level that everyone has access to the court system. Filing fee income dedicated to legal services ensures some access to courts for low income Oregonians.
- Strong courts build strong communities.
- Courts are a core function of government.
- Constitutional and statutory mandates require the courts to resolve all disputes brought to them, some within certain time constraints.
- Revenue generation is an appropriate factor to consider in setting filing fees, but revenue generated from such fees alone will never fund the court system adequately.
- Balance. A healthy fee structure balances generation of revenue and access to justice.
- Fee structure should be transparent, simple and understandable:
 - Fees should not impede reasonable access to justice.
 - Fees should be uniform across the state.
 - Fees should be cost-effective and transaction costs minimized.
- Fee waivers and deferrals should be granted in appropriate cases.
- Revenue neutrality. Court fees should not become more of a revenue source for courts than they already are.

OSB Recommendations

Given that eCourt will be rolled out across the state over the next three years and the fact that eFiling will not become mandatory for some time, the OSB supports the grant of authority to the Chief Justice to set and adjust eCourt fees. OSB members have a strong interest in the development of an eCourt funding system that is consistent with the principles articulated above, and believe that eFiling and eService can provide benefits to the Bar. To that end, the Oregon Judicial Department and the Bar have agreed to convene a broad-based group of lawyers and specialty bar associations or organizations to refine the OJD's eFee concept. With input from this group, the OSB is confident that the Chief Justice's discretion regarding eCourt fees and ongoing adjustments to the system as more comprehensive data regarding its usage develops can be exercised in a manner that provides benefits to the courts, the Bar, and the public while providing adequate revenue, generating significant efficiencies and ensuring reasonable access to justice.

Respectfully submitted