

**Testimony on House Bill 4066**  
**Before the House Judiciary Committee**  
**February 6, 2014**  
**Presented by Phillip Lemman, Oregon Judicial Department**

House Bill 4066 was introduced by the Oregon Judicial Department to provide sufficient and continuous funding support for Oregon court technology systems. It is very similar to provisions in a bill that received a do-pass recommendation from this committee in the 2013 session, but which was amended in Ways and Means to provide an alternative method for temporarily funding a part of the system for the interim. This bill continues those elements and provides the necessary authority to provide flexibility for the longer term.

The bill has two elements, which I will address separately. The first element, in Section 1, clarifies that the Chief Justice has specific statutory authority to adopt fees for subscriber use of new court technology systems, a definitional expansion to his statutory authority for OJIN fees. The primary system used by the Judicial Department is known as OJIN -- the Oregon Judicial Information Network -- which is nearly 30 years old. OJD is currently using a new electronic case management system in its appellate courts, and is in the process of rolling out a separate system into the state's circuit courts. These systems are known as the Appellate Court Case Management System (ACMS) and the Oregon eCourt Information system (OECI). Collectively, these three systems are known as the Oregon Judicial Court Information System (OJCIN).

As noted, the Chief Justice currently has specific statutory authority in ORS 1.002(6) to establish fees to use OJIN. These fees currently are charged for online services or to subscribe to special query OJIN reports. OJD is seeking to clarify that the Chief Justice has similar authority for OJCIN, the old and new online court information systems. The bill, on page 3, establishes that authority, but adds a new process to involve court stakeholders in the fee discussion before it comes to the legislature.

The bill requires that any fees established by the Chief Justice be reasonable, and be reasonably calculated to recover or offset court technology costs. It also requires that the Chief Justice provide notice to interested persons and an opportunity to comment before adopting or increasing any fee, and provides that the Chief Justice will issue a Chief Justice Order to flesh out those requirements. Finally, fees adopted under this provision would be statutorily dedicated to court technology purposes, and not used for general court operations.

These provisions are in addition to the existing requirement that the Legislature act to approve these fees in order for them to continue in effect.

OJD plans to give the public free online web access to the case register in OECl, the trial court case management system, as the public does now at a public terminal in the courthouse. The fee issue arises in regard to subscriptions for other expanded online services, such as to court documents online which require resources to support and controls that must be provided especially for certain types of cases.

Stakeholders have raised some questions about how this modified authority would affect public entities. The Judicial Department intends to continue its current policy, so that subscriber entities currently not being charged to use OJIN online— including the Department of Justice, district attorneys, law enforcement, and criminal defense attorneys whose practice is 50 percent or more court-appointed cases – would not be charged for online OJCIN system access or document access.

Another question raised was whether attorneys of record in a case would be charged for online access to documents filed in that case. Attorneys of record have free electronic access to documents that they eFile or are eFiled by others in that case. This access occurs through the File-and-Serve system for 180 days, and not through regular document access online into the trial court OECl System. Any documents not filed through File-and-Serve – including court orders – would not be accessible through this eFile method, but could be accessed through an online subscription service (as they pay for currently for the docket access in OJIN). Attorneys also will still have access to hard copies of all documents, either that are in their possession or available at the courthouse.

The second element of the bill, in Sections 2-13, repeals the sunset on increases in all statutory court fees enacted by the 2013 legislature, a portion of which was set aside to fund free electronic filing and electronic service of documents filed in courts using the new OECl system. OJD in 2013 had proposed a transaction fee to accomplish this, so individual users would pay for their use and support of the system. Stakeholders however preferred, and the legislature adopted, a broader funding system using increased statutory filing fees for various case types and other actions to fund, in part, this File-and-Serve system. The legislature made those fee increases temporary, to allow additional examination by the courts, stakeholders and the legislature of the impacts to the system. Both the courts and stakeholders are satisfied with this method to support the system, and ask that the legislature now make it permanent.

OJD will continue to work with court stakeholders to refine the bill as it moves through the process. We will be seeking amendments to clarify the document access provision, and to provide authority so the Chief Justice can establish temporary fees in order to provide a desired service, without having to wait the full notice and comment period to run.

The Judicial Department asks that you move this bill to the Ways & Means Committee.

I would be glad to answer your questions.