

Testimony in Support of HB 2795
Before the Ways and Means Subcommittee on Public Safety

June 29, 2017

The Oregon State Bar continues to support the Oregon eCourt program which has proven to be one of the most successful I.T. projects in Oregon. The Bar understands the need for the use of some filing fee revenue to help offset the costs of maintaining the system. We believe that, to the extent possible, the eCourt system should generate enough revenue from a variety of sources to offset a significant portion of the operating costs.

The Oregon State Bar has consistently relied on principles by which filing fees should be judged. These principles, set forth below, are as applicable to the proposed Oregon eCourt filing fees as they are to filing fee issues in general.

- Access to justice. Filing fees should be set at a level that ensures everyone has access to the court system. Filing fee income dedicated to legal services facilitates some access to courts for low income Oregonians.
- 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.

Based on these principles, filing fees should be borne by everyone accessing the court system, including the government entities who make up 60% of eCourt users. The Bar continues to encourage the legislature to consider a DAS assessment on major government users to ensure that costs are being paid by the entities that use the system.

The Bar believes that Oregon eCourt has been a success and has improved access to our court system. However, Bar members are sensitive to court fees as impediments to access to justice. Filing fees charged to pursue a case or defend a claim are paid by regular Oregonians and

businesses. If fees get too high, Oregonians' access to the court system can be delayed or hindered.

According to the Oregon Judicial Department presentation to the Ways and Means Public Safety Subcommittee this year, about 60% of eCourt users are not paying fees to eFile or to access court documents through OJCIN. This includes law enforcement, local governments, the Department of Human Services, and other state agencies. We hope that the legislature will consider a variety of resource streams to fund the eCourt system. Relying on user fees charged primarily to private civil practitioners hinders access to the Oregon eCourt. We would strongly encourage the legislature to consider an assessment on governmental users.

The Bar has participated for over ten years on the Oregon State Bar/Oregon Judicial Department eCourt Implementation Task Force to advise and assist the Chief Justice and the Judicial Department with the practicing Bar's eCourt experience. This task force has considered the fee issue numerous times over the years and consistently advocated for as balanced approach to Oregon eCourt funding as possible.

The Bar looks forward to continuing to work on this issue during sessions to come.