

**TESTIMONY ON HB 2177  
BEFORE HOUSE JUDICIARY CIVIL LAW SUBCOMMITTEE  
MARCH 10, 2021**

**PRESENTED BY: PHILLIP LEMMAN, DEPUTY STATE COURT ADMINISTRATOR  
OREGON JUDICIAL DEPARTMENT**

Chair Power, Vice Chair Wallan, and Members of the Committee:

My name is Phillip Lemman and I am here representing the Oregon Judicial Department in support of House Bill 2177.

HB 2177 was introduced by the Chief Justice to address a projected funding shortfall in the State Court Technology Fund, which pays for most of OJD's technology support services. It is the latest in a series of funding proposals OJD has presented to the legislature to adequately fund the state court technology services that not only form the central nervous system of court operations but provide operational benefits and efficiencies to the agencies that make up our criminal justice partners. Those services include electronic filing of case documents, electronic access to court case documents, data integrations with the Oregon State Police and the Motor Vehicles Division, systems to collect the revenue that supports public safety services, and others.

Before I begin explaining the bill and why the Chief Justice introduced it, let me acknowledge that it is difficult to ask partners in the criminal justice system to contribute to the support of OJD's technology services. We introduced the bill after proposing many other options to the legislature to fund these critical services.

OJD is projecting a \$3.3 million shortfall in the fund in the 2021-23 biennium, and we have been working with the Legislative Fiscal Office and legislative leadership to find alternatives to General Fund support for the shortfall. In the current biennium we faced a similar shortfall and received a combination of General Fund support and anticipated funding from a proposal similar to HB 2177. That proposal, 2019 HB 2241, did not become law. We planned on requesting funding from the Emergency Board to address that shortfall, but were able to utilize savings from reduced jury trials to cover those costs this biennium. However, simply managing around a shortfall of that magnitude is not a sustainable strategy.

The main sources of the project shortfall is a \$3.3 million contractual maintenance fee to our Oregon eCourt vendor. The Oregon eCourt system has provided a multitude of benefits to the courts, litigants, and the public and private entities that rely on court information. Private-sector users of the court system support court technology services in two major ways. First, by statute a portion of the filing fees private litigants pay to file cases support eFiling and other technology services. In addition, OJD charges subscription fees to lawyers and businesses for online access to court documents and information.

The same is not true for public-sector users. Public entities file about three-quarters of all circuit court cases, but are exempt from paying statutory filing fees. About three-fourths of the 9,000 subscribers for document access work for public-sector agencies, and are not charged for that service.

OJD has presented a variety of proposals in previous years to address the pending shortfall – increasing violation fines, an assessment on state agencies, and in 2019 specifically authorizing the Chief Justice to impose fees on public-sector users of OJD technology systems for document access and eFiling.

HB 2177 would authorize the Chief Justice to collect from counties a technology fee for state court technology services. While the fee would be based on the number of felony and misdemeanor cases filed by the district attorney, it would support other county entities that use state court technology, including district attorneys, sheriffs' offices, community corrections, and juvenile departments. It also would help pay for the data integration that sends court data to the Law Enforcement Data System (LEDS) used to help enforce laws and protect officer safety.

The bill places limits on the proposed fee. It would only be charged to a county in which the district attorney had filed 500 or more felony cases in the previous year. The fee would be imposed and collected in the year following the case filings, to help counties build the fee into their regular budget process. The fee could not exceed the statutory filing fee to file a small claims case in circuit court. It could not be passed along to criminal defendants as a cost or other charge.

Criminal cases rely on court technology services for eFiling pleadings, electronic document access, calendar access, and electronic notices, in addition to the core case management functions that court staff perform in criminal cases. While constituting about 10% of case filings, felony and misdemeanor cases create about 36% of court workload. That means numerous appearances, hearings, and trials, sending notices, and creating documents – all of which rely on state court technology systems. In addition, the criminal histories relied on in certain charging and sentencing decisions come from the Law Enforcement Data System, which relies on automated transmission of court conviction information.

We recognize that we are part of a system, and consistently have advocated for adequate and balanced funding for all elements of that system. We realize that the pandemic has created new and unexpected demands on public-sector budgets in all levels of government.

Approving this bill would move it to the Ways & Means Committee, where it would undergo additional review. I would be glad to answer questions.