

COURT FEES FOR POLITICAL SUBDIVISIONS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel W. Thatcher

House Sponsor: _____

LONG TITLE

General Description:

This bill provides that an agency or political subdivision shall pay a defendant's court costs under certain conditions.

Highlighted Provisions:

This bill:

▶ provides that if a defendant substantially prevails on appeal for a violation of an ordinance, there is a rebuttable presumption that the agency or political subdivision shall pay the defendant's court costs; and

▶ provides a benchmark for "substantially prevails."

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78A-2-301, as last amended by Laws of Utah 2012, Chapter 247

78A-2-301.5, as enacted by Laws of Utah 2012, Chapter 205

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **78A-2-301** is amended to read:



28 **78A-2-301. Civil fees of the courts of record -- Courts complex design.**

29 (1) (a) The fee for filing any civil complaint or petition invoking the jurisdiction of a
30 court of record not governed by another subsection is \$360.

31 (b) The fee for filing a complaint or petition is:

32 (i) \$75 if the claim for damages or amount in interpleader exclusive of court costs,
33 interest, and attorney fees is \$2,000 or less;

34 (ii) \$185 if the claim for damages or amount in interpleader exclusive of court costs,
35 interest, and attorney fees is greater than \$2,000 and less than \$10,000;

36 (iii) \$360 if the claim for damages or amount in interpleader is \$10,000 or more;

37 (iv) \$310 if the petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter
38 4, Separate Maintenance;

39 (v) \$35 for a motion for temporary separation order filed under Section 30-3-4.5; and

40 (vi) \$125 if the petition is for removal from the Sex Offender and Kidnap Offender
41 Registry under Subsection 77-27-21.5(32).

42 (c) The fee for filing a small claims affidavit is:

43 (i) \$60 if the claim for damages or amount in interpleader exclusive of court costs,
44 interest, and attorney fees is \$2,000 or less;

45 (ii) \$100 if the claim for damages or amount in interpleader exclusive of court costs,
46 interest, and attorney fees is greater than \$2,000, but less than \$7,500; and

47 (iii) \$185 if the claim for damages or amount in interpleader exclusive of court costs,
48 interest, and attorney fees is \$7,500 or more.

49 (d) The fee for filing a counter claim, cross claim, complaint in intervention, third party
50 complaint, or other claim for relief against an existing or joined party other than the original
51 complaint or petition is:

52 (i) \$55 if the claim for relief exclusive of court costs, interest, and attorney fees is
53 \$2,000 or less;

54 (ii) \$150 if the claim for relief exclusive of court costs, interest, and attorney fees is
55 greater than \$2,000 and less than \$10,000;

56 (iii) \$155 if the original petition is filed under Subsection (1)(a), the claim for relief is
57 \$10,000 or more, or the party seeks relief other than monetary damages; and

58 (iv) \$115 if the original petition is filed under Title 30, Chapter 3, Divorce, or Title 30,

59 Chapter 4, Separate Maintenance.

60 (e) The fee for filing a small claims counter affidavit is:

61 (i) \$50 if the claim for relief exclusive of court costs, interest, and attorney fees is
62 \$2,000 or less;

63 (ii) \$70 if the claim for relief exclusive of court costs, interest, and attorney fees is
64 greater than \$2,000, but less than \$7,500; and

65 (iii) \$120 if the claim for relief exclusive of court costs, interest, and attorney fees is
66 \$7,500 or more.

67 (f) The fee for depositing funds under Section 57-1-29 when not associated with an
68 action already before the court is determined under Subsection (1)(b) based on the amount
69 deposited.

70 (g) The fee for filing a petition is:

71 (i) \$225 for trial de novo of an adjudication of the justice court or of the small claims
72 department; and

73 (ii) \$65 for an appeal of a municipal administrative determination in accordance with
74 Section 10-3-703.7.

75 (h) The fee for filing a notice of appeal, petition for appeal of an interlocutory order, or
76 petition for writ of certiorari is \$225.

77 (i) The fee for filing a petition for expungement is \$135.

78 (j) (i) Fifteen dollars of the fees established by Subsections (1)(a) through (i) shall be
79 allocated to and between the Judges' Contributory Retirement Trust Fund and the Judges'
80 Noncontributory Retirement Trust Fund, as provided in Title 49, Chapter 17, Judges'
81 Contributory Retirement Act, and Title 49, Chapter 18, Judges' Noncontributory Retirement
82 Act.

83 (ii) Four dollars of the fees established by Subsections (1)(a) through (i) shall be
84 allocated by the state treasurer to be deposited in the restricted account, Children's Legal
85 Defense Account, as provided in Section 51-9-408.

86 (iii) Three dollars of the fees established under Subsections (1)(a) through (e), (1)(g),
87 and (1)(s) shall be allocated to and deposited with the Dispute Resolution Account as provided
88 in Section 78B-6-209.

89 (iv) Fifteen dollars of the fees established by Subsections (1)(a), (1)(b)(iii) and (iv),

90 (1)(d)(iii) and (iv), (1)(g)(ii), (1)(h), and (1)(i) shall be allocated by the state treasurer to be
91 deposited in the restricted account, Court Security Account, as provided in Section 78A-2-602.

92 (v) Five dollars of the fees established by Subsections (1)(b)(i) and (ii), (1)(d)(ii) and
93 (1)(g)(i) shall be allocated by the state treasurer to be deposited in the restricted account, Court
94 Security Account, as provided in Section 78A-2-602.

95 (k) The fee for filing a judgment, order, or decree of a court of another state or of the
96 United States is \$35.

97 (l) The fee for filing a renewal of judgment in accordance with Section 78B-6-1801 is
98 50% of the fee for filing an original action seeking the same relief.

99 (m) The fee for filing probate or child custody documents from another state is \$35.

100 (n) (i) The fee for filing an abstract or transcript of judgment, order, or decree of the
101 Utah State Tax Commission is \$30.

102 (ii) The fee for filing an abstract or transcript of judgment of a court of law of this state
103 or a judgment, order, or decree of an administrative agency, commission, board, council, or
104 hearing officer of this state or of its political subdivisions other than the Utah State Tax
105 Commission, is \$50.

106 (o) The fee for filing a judgment by confession without action under Section
107 78B-5-205 is \$35.

108 (p) The fee for filing an award of arbitration for confirmation, modification, or
109 vacation under Title 78B, Chapter 11, Utah Uniform Arbitration Act, that is not part of an
110 action before the court is \$35.

111 (q) The fee for filing a petition or counter-petition to modify a decree of divorce is
112 \$100.

113 (r) The fee for filing any accounting required by law is:

114 (i) \$15 for an estate valued at \$50,000 or less;

115 (ii) \$30 for an estate valued at \$75,000 or less but more than \$50,000;

116 (iii) \$50 for an estate valued at \$112,000 or less but more than \$75,000;

117 (iv) \$90 for an estate valued at \$168,000 or less but more than \$112,000; and

118 (v) \$175 for an estate valued at more than \$168,000.

119 (s) The fee for filing a demand for a civil jury is \$250.

120 (t) The fee for filing a notice of deposition in this state concerning an action pending in

121 another state under Utah Rule of Civil Procedure 26 is \$35.

122 (u) The fee for filing documents that require judicial approval but are not part of an
123 action before the court is \$35.

124 (v) The fee for a petition to open a sealed record is \$35.

125 (w) The fee for a writ of replevin, attachment, execution, or garnishment is \$50 in
126 addition to any fee for a complaint or petition.

127 (x) (i) The fee for a petition for authorization for a minor to marry required by Section
128 30-1-9 is \$5.

129 (ii) The fee for a petition for emancipation of a minor provided in Title 78A, Chapter 6,
130 Part 8, Emancipation, is \$50.

131 (y) The fee for a certificate issued under Section 26-2-25 is \$8.

132 (z) The fee for a certified copy of a document is \$4 per document plus 50 cents per
133 page.

134 (aa) The fee for an exemplified copy of a document is \$6 per document plus 50 cents
135 per page.

136 (bb) The Judicial Council shall by rule establish a schedule of fees for copies of
137 documents and forms and for the search and retrieval of records under Title 63G, Chapter 2,
138 Government Records Access and Management Act. Fees under this Subsection (1)(bb) shall
139 be credited to the court as a reimbursement of expenditures.

140 (cc) There is no fee for services or the filing of documents not listed in this section or
141 otherwise provided by law.

142 (dd) Except as provided in this section, all fees collected under this section are paid to
143 the General Fund. Except as provided in this section, all fees shall be paid at the time the clerk
144 accepts the pleading for filing or performs the requested service.

145 (ee) ~~[The]~~ Except as provided in Subsection (1)(ee)(ii), filing fees under this section
146 may not be charged to the state, its agencies, or political subdivisions filing or defending any
147 action.

148 (i) In judgments awarded in favor of the state, its agencies, or political subdivisions,
149 except the Office of Recovery Services, the court shall order the filing fees and collection costs
150 to be paid by the judgment debtor.

151 (ii) In cases involving the violation of an ordinance, if, on appeal, the defendant

152 substantially prevails, there is a rebuttable presumption that the agency or political subdivision
153 shall pay the defendant's court costs, including filing fees. The defendant substantially prevails
154 if the final judgment:

155 (A) dismisses the charge; or

156 (B) orders the defendant to pay an amount that is 25% or less of the fine or fee sought
157 by the agency or political subdivision.

158 (iii) The sums collected under this Subsection (1)(ee) shall be applied to the fees after
159 credit to the judgment, order, fine, tax, lien, or other penalty and costs permitted by law.

160 (2) (a) (i) From March 17, 1994 until June 30, 1998, the administrator of the courts
161 shall transfer all revenues representing the difference between the fees in effect after May 2,
162 1994, and the fees in effect before February 1, 1994, as dedicated credits to the Division of
163 Facilities Construction and Management Capital Projects Fund.

164 (ii) (A) Except as provided in Subsection (2)(a)(ii)(B), the Division of Facilities
165 Construction and Management shall use up to \$3,750,000 of the revenue deposited in the
166 Capital Projects Fund under this Subsection (2)(a) to design and take other actions necessary to
167 initiate the development of a courts complex in Salt Lake City.

168 (B) If the Legislature approves funding for construction of a courts complex in Salt
169 Lake City in the 1995 Annual General Session, the Division of Facilities Construction and
170 Management shall use the revenue deposited in the Capital Projects Fund under this Subsection
171 (2)(a)(ii) to construct a courts complex in Salt Lake City.

172 (C) After the courts complex is completed and all bills connected with its construction
173 have been paid, the Division of Facilities Construction and Management shall use any money
174 remaining in the Capital Projects Fund under this Subsection (2)(a)(ii) to fund the Vernal
175 District Court building.

176 (iii) The Division of Facilities Construction and Management may enter into
177 agreements and make expenditures related to this project before the receipt of revenues
178 provided for under this Subsection (2)(a)(iii).

179 (iv) The Division of Facilities Construction and Management shall:

180 (A) make those expenditures from unexpended and unencumbered building funds
181 already appropriated to the Capital Projects Fund; and

182 (B) reimburse the Capital Projects Fund upon receipt of the revenues provided for

183 under this Subsection (2).

184 (b) After June 30, 1998, the administrator of the courts shall ensure that all revenues
185 representing the difference between the fees in effect after May 2, 1994, and the fees in effect
186 before February 1, 1994, are transferred to the Division of Finance for deposit in the restricted
187 account.

188 (c) The Division of Finance shall deposit all revenues received from the court
189 administrator into the restricted account created by this section.

190 (d) (i) From May 1, 1995 until June 30, 1998, the administrator of the courts shall
191 transfer \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor
192 Vehicles, in a court of record to the Division of Facilities Construction and Management
193 Capital Projects Fund. The division of money pursuant to Section 78A-5-110 shall be
194 calculated on the balance of the fine or bail forfeiture paid.

195 (ii) After June 30, 1998, the administrator of the courts or a municipality shall transfer
196 \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in
197 a court of record to the Division of Finance for deposit in the restricted account created by this
198 section. The division of money pursuant to Section 78A-5-110 shall be calculated on the
199 balance of the fine or bail forfeiture paid.

200 (3) (a) There is created within the General Fund a restricted account known as the State
201 Courts Complex Account.

202 (b) The Legislature may appropriate money from the restricted account to the
203 administrator of the courts for the following purposes only:

204 (i) to repay costs associated with the construction of the court complex that were
205 funded from sources other than revenues provided for under this Subsection (3)(b)(i); and

206 (ii) to cover operations and maintenance costs on the court complex.

207 Section 2. Section **78A-2-301.5** is amended to read:

208 **78A-2-301.5. Civil fees for justice courts.**

209 (1) The fee for filing a small claims affidavit is:

210 (a) \$60 if the claim for damages or amount in interpleader exclusive of justice court
211 costs, interest, and attorney fees is \$2,000 or less;

212 (b) \$100 if the claim for damages or amount in interpleader exclusive of justice court
213 costs, interest, and attorney fees is greater than \$2,000, but less than \$7,500; and

214 (c) \$185 if the claim for damages or amount in interpleader exclusive of justice court
215 costs, interest, and attorney fees is \$7,500 or more.

216 (2) The fee for filing a small claims counter affidavit is:

217 (a) \$50 if the claim for relief exclusive of justice court costs, interest, and attorney fees
218 is \$2,000 or less;

219 (b) \$70 if the claim for relief exclusive of justice court costs, interest, and attorney fees
220 is greater than \$2,000, but less than \$7,500; and

221 (c) \$120 if the claim for relief exclusive of justice court costs, interest, and attorney
222 fees is \$7,500 or more.

223 (3) The fee for filing a petition for expungement is \$135.

224 (4) The fee for a petition to open a sealed record is \$35.

225 (5) The fee for a writ of replevin, attachment, execution, or garnishment is \$50 in
226 addition to any fee for a complaint or petition.

227 (6) The fee for filing a notice of appeal to a court of record is \$10. This fee covers all
228 services of the justice court on appeal but does not satisfy the trial de novo filing fee in the
229 court of record.

230 (7) The fee for a certified copy of a document is \$4 per document plus 50 cents per
231 page.

232 (8) The fee for an exemplified copy of a document is \$6 per document plus 50 cents
233 per page.

234 (9) The fee schedule adopted by the Judicial Council for copies of documents and
235 forms and for the search and retrieval of records under Title 63G, Chapter 2, Government
236 Records Access and Management Act, shall apply.

237 (10) There is no fee for services or the filing of documents not listed in this section or
238 otherwise provided by law.

239 (11) The filing fees under this section may not be charged to the state, its agencies, or
240 political subdivisions filing or defending any action.

241 (12) Notwithstanding Subsection (11), in cases involving the violation of an ordinance,
242 if, on appeal, the defendant substantially prevails, there is a rebuttable presumption that the
243 agency or political subdivision shall pay the defendant's court costs, including filing fees. The
244 defendant substantially prevails if the final judgment:

245 (a) dismisses the charge; or
246 (b) orders the defendant to pay an amount that is 25% or less of the fine or fee sought
247 by the agency or political subdivision.

Legislative Review Note
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Office of Legislative Research and General Counsel