

- SUBJECT:** Reimbursement for county expenses for capital murder cases
- COMMITTEE:** Criminal Jurisprudence — committee substitute recommended
- VOTE:** 7 ayes — Hinojosa, Dunnam, Garcia, Green, Keel, Nixon, Talton  
1 nay — Smith  
1 absent — Wise
- WITNESSES:** For — Lawrence Levine, Hood County; James Mormando, Jr., Bandera County; Joe Folk, Jasper County; J.P. Dodgen, Llano County; Sidney Mabry, Irion County Commissioners Court; Allen Amos, Rural County Judges Association; Jim Allison, County Judges and Commissioners Association of Texas; John Healey  
Against — Sandy Prindle, Justice of the Peace and Constables Association of Texas  
On — Rob Kepple, Texas District and County Attorneys Association; Don Lee, Texas Conference of Urban Counties
- DIGEST:** CSHB 424 would require criminal offenders to pay a fee that would go into a fund that could be distributed to counties that had a capital murder investigation or prosecution. The bill would establish rules about which counties could receive the funds and how they would be distributed.  
Upon final conviction, felony offenders would have to pay a \$5 court fee, and misdemeanor offenders \$1, except for misdemeanants convicted in municipal courts or of violations of the Transportation Code's rules of the road regulating pedestrians and parking. A court could waive the fee if the defendant were indigent.  
The Legislature could appropriate the funds only to the governor's criminal justice division, which would be required to distribute the money. Counties would be eligible to apply for some of the funds if, during the preceding fiscal year:

- ! the county's total expenditures exceeded its total revenue and the county had expenses for the investigation or prosecution of capital murder; or
- ! the county's total revenue exceeded the county's total expenditures and the county had expenses for the investigation or prosecution of capital murder that exceeded 5 percent of the excess.

The governor's criminal justice division could distribute the funds to a county to reimburse expenses incurred during the fiscal year of the capital murder investigation or prosecution. A county's reimbursement could not exceed 5 percent of the difference between the county's total receipts and expenditures for the fiscal year.

Each fiscal year, at least 50 percent of the money distributed would have to go to counties with populations below 50,000 unless those counties applied for less than 50 percent of the money distributed. In this case, only the amounts applied for would have to be distributed.

Court clerks would have to follow standard reporting procedures for money collected for the state. The custodian of the county treasury could deposit the fees in an interest-bearing account. The fees would have to be remitted to the comptroller each calendar quarter, and records would have to be kept concerning the amount of fees collected. Counties could retain 10 percent of the fees and the interest earned by the fees if records were kept and the funds were remitted on time.

The comptroller would have to deposit the funds in a general revenue account called the extraordinary costs of prosecution fund. The comptroller could audit all money collected under CSHB 424, and the state auditor could audit money distributed to counties and expenditures of that money.

CSHB 424 would take effect September 1, 1999. The court fee would be assessed only on offenses committed on or after that date. Counties could apply to the governor's criminal justice division for funds on or after January 1, 2000.

SUPPORTERS  
SAY:

CSHB 424 would provide financial assistance to counties to ensure that decisions to prosecute capital murder cases would not be based on a county's financial resources. Justice demands that decisions about prosecution for capital murder not be skewed by a county's financial status. If counties made

blanket decisions not to prosecute capital murder cases because they could not afford it, questions could arise about the fairness of the statewide justice system. CSHB 424 would be a prudent, fiscally responsible way to help ensure that the state's capital murder statute is applied consistently. Because murder is a serious crime that affects all Texans, not just those within a county's boundaries, the state has an interest in seeing capital murder cases pursued without any consideration of cost.

Capital murder cases can have a significant impact on county budgets because of the tremendous costs associated with these cases. For example, capital murder cases often require increased costs for court-appointed attorneys, expert witnesses, automatic appeals, changes of venue, and courthouse security. Counties have reported spending easily more than \$200,000 for a capital murder cases that they could neither plan for nor anticipate.

Since counties cannot anticipate capital murder trials, they cannot budget for them. Counties generally set their budgets and tax rates once a year. If faced with a capital murder case with expenses that exceed their estimates for court costs, they may have to shift monies from other areas of the budget. This often results in counties having to raise taxes the next year to make up for monies they have shifted or delayed spending. Raising tax rates and shifting spending can be especially hard on small, rural counties that may have total budgets of just a few million dollars. Some counties even could try to plea-bargain these cases only because they do not have the necessary resources.

CSHB 424 would give relief to any county that needed it. If a county's expenses exceeded its revenue and the county had a capital murder trial, it could receive funds. However, even counties with revenue exceeding their expenses could receive funds if they had capital murder investigation or trial expenses that were more than 5 percent of the excess. Since these extraordinary expenses can have a greater impact on smaller counties with small tax bases, it would be appropriate to reserve some of the funds for counties with less than 50,000 population. All counties also could keep 10 percent of the fees and the interest earned by the fees to cover their administrative costs.

OPPONENTS  
SAY:

CSHB 4242 would establish an unfair and inefficient system to reimburse some counties for their criminal justice expenses. Counties should not subsidize each others' criminal justice systems. Even though all counties could apply for funds under CSHB 424, it is unlikely that large urban counties would go into debt because of a capital case. This means they could end up subsidizing capital murder trials for smaller, more rural counties.

CSHB 424 could reduce revenues for some counties. Historically, imposing new court costs often results in a reduction in the amount of fines that counties collect while increasing their workload.

NOTES:

Rep. B. Turner plans to offer a floor amendment that would remove the requirement that offenders pay court fees to fund the program.

An item in the Article 11 "wish list" in the House-passed version of HB 1 by Junell, the general appropriations bill for fiscal 2000-01, would appropriate \$2.5 million to the governor's criminal justice division to reimburse eligible counties for the cost of prosecuting capital murder cases, contingent on enactment of HB 424 or similar legislation.

The original bill would have allowed only counties with populations of less than 50,000 to receive the funds, whereas the committee substitute would allow all counties to receive funds. The committee substitute would require that at least 50 percent of the funds be distributed to counties with less than 50,000 in population.

The companion bill, SB 452 by Armbrister, is scheduled for a public hearing today by the Senate Criminal Justice Committee.