

SUBJECT: Rules for justice and small claims court

COMMITTEE: Civil Practices — committee substitute recommended

VOTE: 6 ayes — Bosse, Janek, Clark, Hope, Martinez Fischer, Nixon
1 nay — Zbranek
2 absent — Dutton, Smithee

WITNESSES: For — John H. Williams, Constable Association of Texas
Against — None

BACKGROUND: Government Code, ch. 27 establishes justice courts, which are presided over by justices of the peace. Government Code, ch. 28 establishes at least one small claims court for each county, also presided over by the justice of the peace. The rules for justice courts are contained in the Texas Rules of Civil Procedure, part 5, rules 523-592a. The rules set the time a defendant must make an answer to a suit filed in justice and small claims courts at 10 days after the Monday following service of the complaint.

DIGEST: CSHB 284 would extend the time in which the defendant had to make an answer to a suit filed in justice and small claims courts from 10 days to 20 days after the Monday following service of the complaint. The bill also would modify the rules for the citation that must be served on a defendant sued in justice court to include a statement explaining the meaning of the citation to the defendant and that certain kinds of suits require a written and sworn answer. The new rules would not apply to forcible entry and detainer (*i.e.*, eviction) cases, and the Supreme Court would not be permitted to amend or adopt rules that conflicted with the bill's provisions.

The bill would take effect on September 1, 2001, and would apply only to citations issued on or after the effective date of the bill.

SUPPORTERS SAY: Suits brought in justice and small claims court used to be very informal and relatively simple, and parties rarely hired an attorney. However, the

jurisdiction of justice courts has expanded, so that the cases these courts hear are more complex and more likely to require an attorney. Both of these factors justify increasing the amount of time for a defendant to answer a complaint. Increasing the time to answer to match the time permitted in county and district courts would be appropriate and fair.

OPPONENTS
SAY:

It would set a bad precedent to remove current rules for justice courts, which properly are left to the Texas Supreme Court's rulemaking process, from the court's purview. The court's rulemaking procedure allows for broader input from attorneys, judges, and legal scholars than does the legislative process, which leads to better rules.

NOTES:

The committee substitute eliminated the original bill's requirement that the defendant's answer be in writing.