

SUBJECT: Increasing cap on courthouse security fee collected in civil cases

COMMITTEE: County Affairs — favorable, without amendment

VOTE: 7 ayes — Lewis, W. Smith, Casteel, Chisum, Farabee, Flynn, Quintanilla
0 nays
2 absent — Farrar, Olivo

WITNESSES: For — Jim Allison, County Judges and Commissioners Association of Texas;
Donald Lee, Texas Conference of Urban Counties
Against — None

BACKGROUND: Under Local Government Code Sec. 291.008, a county commissioner's court may assess a fee of up to five dollars to be assessed on all civil case filings. The county is not liable for these costs. The monies collected are used for providing security in offices where judicial activity occurs, such as courthouses.

Sec. 102.017 of the Code of Criminal Procedure provides for a similar fee to be assessed against convicted criminal defendants.

DIGEST: HB 1037 would allow commissioner's courts to increase the security fee to \$10 in civil case filings.

The bill would take effect September 1, 2003.

SUPPORTERS SAY: While the courthouse security fee has not increased since its enactment in 1993, the cost of security has risen since then due to inflation, terrorist attacks, and other domestic security concerns. An increase today is necessary to ensure that our courthouses remain safe, especially in light of new and terrible threats to our public institutions.

The fee originally was enacted to protect against violent outbursts by disgruntled litigants. However, the Oklahoma City bombing and 9/11 terrorist

attacks have changed our security needs. Courthouses clearly are targets for terrorism, and security efforts now must focus upon protecting the building itself as well as the people inside. The State Capitol complex currently is protected by security barriers and other measures, and additional funds are needed for the similar protection of courthouses. Not only are expensive screening devices such as metal detectors needed, but older courthouses may require extensive renovation to be made more secure. It is an unfortunate consequence of our times that it is necessary to raise more money to increase security in public places, and local officials need more resources to meet this responsibility.

Although security fees already exist for criminal convictions, they often are not collected because many defendants are indigent or otherwise unable to pay fines. As a result, there is not enough money to properly fund county security systems, a situation that this bill would remedy.

This fee is permissive, allowing counties to determine whether they need it to cover security costs and to set the amount of the fee up to the maximum if appropriate. The monies raised would have to be used to fund security measures to protect our public servants and those they serve.

The funds raised from fees in civil cases would continue to protect equally both justice of the peace (JP) courts and district courts. Increasing the costs of filing would not reduce access to JP courts because filing a case would remain relatively inexpensive even after a \$5 fee increase. The fee for criminal cases would not be increased because a larger proportion of criminal defendants are indigent, and a higher fee would be more difficult to collect.

**OPPONENTS
SAY:**

It is the responsibility of counties to provide courthouse security, but this bill would shift even more of that burden to those who file civil suits. Court costs in Texas already are excessively high, creating a particular burden for the poor. The proposed fee increase could reduce access to the courts, especially JP courts involving smaller amounts, because fewer people would be able to afford the costs of litigation. This fee essentially would be another tax. Security is important, but the counties should be responsible for funding it.

JP courts generate more revenue from fees than they spend on security while the opposite is true for district courts. As a result, following the fee increase,

counties might be tempted to siphon money away from the JP courts at the expense of adequate security for those courts.

NOTES:

According to the fiscal note, if all counties charged the current \$5 maximum fee for filing civil cases, the total amount raised would be \$3.3 million. Raising the maximum fee to \$10 could raise an additional \$3.3 million.