

SUBJECT: Refunding full amount of bail bond if defendant found not guilty

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 6 ayes — Keel, Riddle, Ellis, Hodge, Pena, Talton
0 nays
3 absent — Denny, Dunnam, P. Moreno

WITNESSES: None

BACKGROUND: Registry funds are monies relating to a matter before a given court that are given to a county or district clerk for deposit in the registry of that court. Under Local Government Code, sec. 117.055, county or district clerks must deduct accounting and administrative costs incurred by the handling of noninterest-bearing registry funds at a rate of 5 percent of the value of the funds, not to exceed \$50. Registry funds include cash bail bonds.

Code of Criminal Procedure, art. 17.02 requires that bail bonds be refunded to defendants if and when they comply with the conditions of the bond and upon order of the court.

DIGEST: HB 2256 would require the custodian of funds of a court in which a criminal prosecution was pending to refund the full amount of a bail bond if the defendant was found not guilty of the crime.

The bill would take effect September 1, 2003.

SUPPORTERS SAY: HB 2796 would remedy an unfair provision in current law that authorizes a court to withhold up to \$50 of a bail bond for accounting and administrative expenses in all cases, even when a defendant has been found not guilty. Although the Code of Criminal Procedure states that a bond should be refunded in certain situations, a provision of the Local Government Code that was enacted after the Code of Criminal Procedure requirement allows the withholding. HB 2796 would remedy this by stating clearly that bail bonds should be refunded in full if a defendant was found not guilty.

It is unfair to penalize people financially if they have complied with the conditions of their bond and have been exonerated. Refunding the full amount of a bail bond can be especially important in criminal cases, since many defendants have limited financial means.

According to the fiscal note, HB 2796 would have no significant implication for units of local government. It would apply only to the small percentage of cases in which someone puts up a bond and then is found not guilty. Counties still could retain a percentage of other bail bonds and other types of funds.

**OPPONENTS
SAY:**

Even when criminal defendants have been found not guilty, courts incur administrative and accounting expenses in keeping track of bail bonds. It could be unfair to counties, especially small and rural ones that may have limited sources of income, to eliminate this source of income for their court offices.