

- SUBJECT:** Increasing filing fees for civil actions to fund basic legal aid services
- COMMITTEE:** Judiciary and Civil Jurisprudence — favorable, without amendment
- VOTE:** 9 ayes — Hunter, Hughes, Alonzo, Hartnett, Leibowitz, Lewis, Madden, Martinez, Woolley
- 0 nays
- 2 absent — Branch, Jackson
- WITNESSES:** For — Jeff Edwards, Texas Access to Justice Commission; (*Registered, but did not testify:* Randall Chapman, Texas Legal Services Center; Cindy Segovia, Bexar County Commissioners Court; Betty Torres, Texas Access to Justice Foundation)
- Against — None
- BACKGROUND:** State funding for indigent civil legal services to low-income Texans depends primarily on interest on lawyers' trust accounts, or IOLTA, which has declined in the past two years due to the Federal Reserve's repeated lowering of its benchmark interest rate, now at 0 percent to 0.25 percent. According to the Texas Access to Justice Foundation, IOLTA revenue in 2008 will total \$1.5 million, down from \$20 million in 2007. This will sharply reduce the ability of Texas legal aid service providers to assist low-income Texans with their legal needs.
- In addition to the consolidated civil fee collected on the filing of any civil suit, Local Government Code, sec. 133.153 assesses a small fee on the filing of any civil action or proceeding, including an appeal, to fund civil legal services for the indigent. This fee currently stands at \$5 for statutory and constitutional county courts and \$2 for justice of the peace courts.
- DIGEST:** HB 3637 would increase the filing fee dedicated for the funding of indigent civil legal services to \$10 for filings in statutory and constitutional county courts and to \$6 for filings in justice of the peace courts, up from \$5 and \$2, respectively. The fee would be assessed upon any filing of a civil action or proceeding, including an appeal, counterclaim, cross-action, intervention, interpleader, or third-party action.

HB 3637 would apply only to a fee that became payable on or after the bill's September 1, 2009 effective date.

**SUPPORTERS
SAY:**

HB 3637 would help make up a tremendous shortfall in funding for essential civil legal services for low-income Texans. The small increase for civil filing fees would not impose any additional significant burden on litigants, though it would help ensure continued access to the judicial system for indigent citizens who could not afford a lawyer. For many indigent Texans, legal aid can mean the difference between living in a home or on the streets, or being self-sufficient or needing to rely on public assistance. By shoring up the safety net that legal aid provides, HB 3637 potentially could prevent thousands of Texans from falling further into poverty, which would create an even bigger drain on public resources.

**OPPONENTS
SAY:**

While the provision of legal aid services to the indigent is a worthy endeavor, HB 3637 would impose higher filing fees on top of an already burdensome fee requirement for civil actions. The bill would continue a trend of using fees to raise revenue for various public programs, when the primary function of the civil judicial system should be to adjudicate disputes.

NOTES:

The companion bill, SB 1754 by Wentworth, passed the Senate by 30-1 (Hegar) on April 27 and has been referred to the House Judiciary and Civil Jurisprudence Committee.

According to the fiscal note, HB 3637 would result in an annual increase of approximately \$1.5 million to the state's basic civil legal services account. The anticipated increase would come from \$1.14 million in additional fees collected by justice of the peace courts and from \$409,309 in additional fees collected by county-level courts.