

**SUBJECT:** Increasing some prosecutors' fees for collecting bad checks

**COMMITTEE:** Criminal Jurisprudence — favorable, without amendment

**VOTE:** 8 ayes — Talton, Dunnam, Farrar, Galloway, Hinojosa, Keel, Nixon, A. Reyna

0 nays

1 absent — Place

**WITNESSES:** For — Ed Jones; Barry Macha

Against — None

On — Rob Kepple, Texas District and County Attorneys Association

**DIGEST:** HB 1323 would raise some of the fees that county attorneys, district attorneys, and criminal district attorneys may collect for collecting and processing bad checks or similar sight orders if issuing the check or sight order constituted the criminal offense of theft, theft of service, or issuance of a bad check or if the check were forged. The following fees would be raised:

- from \$5 to \$10 for checks written for \$10 or less; and
- from \$10 to \$15 for checks written for at least \$10 but less than \$100.

HB 1323 would take effect September 1, 1997.

**SUPPORTERS SAY:** HB 1323 would increase slightly the fee that local prosecutors can charge for collecting some bad checks to reflect increases in the administrative costs of collecting the checks. The costs of collecting bad checks has risen as personnel, equipment, certified mail, and other costs have risen, but the fee that prosecutors can charge for collecting the checks has not risen since 1979. Sometimes, prosecutors do not even recoup their costs for collecting bad checks written for less than \$100 because current law sets the fees for collecting on these checks at only \$5 or \$10.

HB 1323 would allow prosecutors to offset their costs by raising fees only on checks written for less than \$100, the category that includes approximately 75 to 90 percent of bad checks. Dallas County could increase its revenues by about \$71,250 per year, and Denton County by about \$75,000 annually, according to HB 1323's fiscal note. Current fees for checks worth more than \$100, determined by a sliding scale, would not be changed.

These fees are paid by the criminal who wrote the check and who have committed the Penal Code offenses of theft, theft of service, issuance of a bad check, or forgery. The \$5 increase proposed by HB 1324 would be a fair, reasonable amount that would not overburden bad check writers.

HB 1323 would not hurt persons who mistakenly write a bad check because generally these persons are given a chance by the merchant or other check holder to make the check good before the case is handed over to prosecutors.

**OPPONENTS  
SAY:**

HB 1323 could set prosecutors' fees for collecting bad checks so high that it is unfair to some check writers. For example, someone writing a bad check for \$10 could be charged a \$10 fee — the same as the value of the check. Someone writing a bad \$20 check could be charged \$15 — 75 percent of the value of the check. This could be especially onerous because many persons who write bad checks, especially those for small amounts, do so by accident, and the fees raised by this bill would be on top of bank or merchant penalties.

**NOTES:**

A similar bill, SB 174 by Brown, would allow prosecutors to charge a \$10 fee for all checks less than \$100. SB 174 passed the Senate on March 13 and has been referred to the House Criminal Jurisprudence Committee.