

- SUBJECT:** Raising maximum food-service permit fees under a variable fee scale
- COMMITTEE:** County Affairs — committee substitute recommended
- VOTE:** 5 ayes — Ramsay, B. Brown, Farabee, Salinas, Shields
0 nays
4 absent — G. Lewis, Chisum, Hilderbran, Krusee
- WITNESSES:** For — Glen Garey, Texas Restaurant Association; David Jefferson, Tarrant County Public Health Department; *Registered but did not testify:* Chuck Courtney, Texas Retailers Association; Doug Dubois, Texas Petroleum Marketers and Convenience Store Association; Sue Glover, Texas Association of Counties; Donald Lee, Texas Conference of Urban Counties; Mark Mendez, Tarrant County Commissioners Court; Will Newton, Texas Restaurant Association; Craig Pardue, Dallas County; Donna Warndorf, Bexar County

Against — None
- BACKGROUND:** State law authorizes counties and public health districts to inspect food-service establishments, retail food stores, mobile food units, and roadside food vendors in the unincorporated areas of a county to ensure compliance with state health laws. Health and Safety Code, sec. 437.012 allows the county or public health district to charge a fee for issuing or renewing a food-service permit and sets the maximum fee at \$150 or the highest fee charged by a municipality in the county or public health district, whichever amount is less. It limits the use of the collected fees to performing inspections and issuing permits. Sec. 437.0123 allows a county with a population of at least 2.8 million (Harris County) or a public health district in that county to charge a maximum fee of \$300.
- DIGEST:** CSHB 957 would amend the Health and Safety Code to allow a county or public health district to adopt a variable fee scale for food-service permits and to charge a fee of up to \$300. In setting the variable fee scale, the county or district could consider the size, number of employees, and gross sales of

the food-service provider. Counties and districts that did not adopt a variable fee scale would be limited to a maximum fee of \$150, without regard to the highest fee charged by any city or public health district in the county.

CSHB 957 would take effect September 1, 2001, and would apply only to permits issued or renewed on or after that date.

**SUPPORTERS
SAY:**

CSHB 957 would update a permit fee structure that has not changed since 1987. At that time, the \$150 statutory cap might have been expected to cover the cost of a food-service inspection, but \$150 is inadequate to cover the cost of an inspection program today. Because costs vary with an establishment's physical size, number of employees, and gross sales, a variable fee scale would allow a county or public health district to recoup more of the costs of inspection and permitting. This would provide a strong incentive for counties and districts to adopt a variable fee scale.

A county or public health district that is losing money on inspections could discontinue its inspection program. This would place an additional burden on the Texas Department of Health (TDH) to inspect the food-service providers. Affected businesses would face higher fees, as TDH is not subject to a statutory fee cap and now charges \$325.

The county or public health district would be expected to work with local food-service providers to set the variable fee scale. CSHB 957 would allow a county or district to tailor its fee scale to local conditions more efficiently and effectively than state government can do. Inspection costs for smaller food-service providers probably would decrease.

**OPPONENTS
SAY:**

Counties and public health districts should absorb some of the cost of food-service inspections so that restaurants are not forced to subsidize the cost of this public benefit. Also, CSHB 957 might result in higher fees for small and mid-sized restaurants to cover the entire cost of inspections.

CSHB 957 would give too much discretion to a county or district in designing and implementing a fee scale. Because there would be no lower limit on the range of fees, a county or district could adopt a very narrow scale — for example, from \$290 to \$300. Also, the bill would not require

but merely would allow the county or district to consider the establishment's size, employment, and gross sales in setting the fee scale.

OTHER
OPPONENTS
SAY:

The variable fee scale in CSHB 957 would not apply to Harris County, which is subject to a different section of the Health and Safety Code. There is no reason why Harris County should not be governed by the same rules used throughout the rest of Texas.

NOTES:

The original version of HB 957 would have raised the statutory fee cap from \$150 to \$300 and eliminated the lower alternative fee cap based on the highest fee charged by a city or public health district in the county. The committee substitute added the provision that a county or public health district could charge a fee up to \$300 if it adopted a variable fee scale.

A similar bill, SB 62 by Moncrief, was reported favorably as substituted by the Senate Health and Human Services Committee on February 12. The provisions of CSSB 62 are similar to those of the original version of HB 957.