

SUBJECT: Increasing fees for courthouse security in certain civil and criminal cases

COMMITTEE: County Affairs — committee substitute recommended

VOTE: 8 ayes — Lewis, W. Smith, Casteel, Chisum, Farabee, Flynn, Olivo, Quintanilla

0 nays

1 absent — Farrar

WITNESSES: For — Jim Allison, County Judges and Commissioners Association of Texas; Ryan Brown, Dallas County; Craig Pardue, Dallas County

Against — None

BACKGROUND: In 1993, the 73rd Legislature enacted SB 243 by Leedom, allowing a county commissioners court to assess a fee of up to \$5 on all civil case filings (Local Government Code, sec. 291.008). The monies collected are used for providing security in offices where judicial activity occurs, such as courthouses.

SB 243 also amended Code of Criminal Procedure, sec. 102.017 to provide that defendants convicted of felonies in district court pay a \$5 security fee. A \$3 security fee is collected from defendants convicted of misdemeanor offenses in a county court, county court at law, or district court.

DIGEST: CSHB 494 would allow county commissioners courts to increase the security fee to as much as \$10 in civil case filings. It would increase the security fee to \$10 for defendants convicted of a felony offense in district court. The bill also would impose a \$10 security fee on defendants convicted of misdemeanor offenses in a county court, county court at law, or district court.

The bill would take effect September 1, 2003, and would apply only to civil cases filed or convictions for offenses committed on or after that date.

SUPPORTERS SAY: While courthouse security fees have not increased since their enactment in 1993, the cost of security has risen since then due to inflation, terrorist

attacks, and other domestic security concerns. An increase is necessary now to ensure that our courthouses remain safe, especially in light of new and terrible threats to our public institutions.

The Legislature originally enacted security fees to protect against violent outbursts by disgruntled litigants.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 similar protection at our 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 tighten security in public places.

The security fee in civil cases would be permissive, allowing counties to determine whether they needed it to cover security costs and to set the amount of the fee up to the maximum, if appropriate. The security fee for felony or misdemeanor convictions, however, would be mandatory. Courthouse security fees have been exceptionally effective in reducing deadly incidents in Texas courtrooms, and all the monies raised would be used for the essential purpose of funding security.

The current fee amounts are not sufficient to support adequate security because many criminal defendants are indigent or otherwise unable to pay fines. By raising the security fees both for civil and criminal cases, CSHB 494 would allow counties to collect enough fees to properly meet their courthouse security needs.

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 increase.

In this time of additional threats, CSHB 494 would enact fee increases that are necessary after 10 years. Raising the ceiling for the civil security fee and the amount of the criminal security fee would provide much-needed revenue

in order to achieve new security objectives.

**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 were convicted of offenses and those who filed civil suits. Court costs in Texas already are excessively high, creating a particular burden for the poor. It costs between \$120 and \$170 just to file a civil suit in district court, not counting process service, and jury cases usually increase that amount by \$30. Fee increases could reduce access to the courts, especially JP courts involving smaller amounts, because fewer people would be able to afford the costs of litigation.

These fees essentially would be another tax to be imposed in addition to a clerk's fee, law library fee, mediation fund fee, record management fee, appellant fund fee, court reporter service fee, and more. A \$10 fee might seem insignificant, but the Legislature should consider carefully the total impact that so many small-dollar fees would have on someone involved in a case. Security is important, but so is minimizing the tax burden shouldered by Texas citizens who must use the courts.

NOTES:

The committee substitute differs from the bill as introduced by allowing the security fee collected from a defendant convicted of a misdemeanor offense in a justice court, county court, county court at law, or district court to increase from \$3 to \$10.

The identical companion bill, SB 190 by Carona, was heard on April 9 by the Senate Jurisprudence Committee, where it still is pending.

A similar bill, HB 1037 by Ritter et al, which would allow commissioners courts to increase the courthouse security fee to as much as \$10 in civil cases, passed the House on April 23 and has been referred to the Senate Jurisprudence Committee.

The fiscal note reflects a positive impact to local governments, although it would vary per court, and therefore per county, depending on the amount of the fee set for civil case filings and the collection rate in criminal cases. The

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Legislative Budget Board estimates a collection of approximately \$11.9 million statewide.