

- SUBJECT:** Requiring JP court technology fee upon misdemeanor conviction
- COMMITTEE:** Judiciary — committee substitute recommended
- VOTE:** 7 ayes — Hartnett, Hughes, Alonzo, Gonzales, Solis, Straus, Van Arsdale
1 nay — Keel
1 absent — Hopson
- WITNESSES:** For — David M. Cobos, Jim E. Lane, Luz M. Paiz, Justices of the Peace and Constables Association of Texas; Robert Bobby Gonzalez; Russell Smith, Virginia Tanguma, Texas Justice of the Peace and Constables Association; Michael Vasquez, Texas Conference of Urban Counties.
Against — None
- BACKGROUND:** The 77th Legislature in 2001 established the justice court technology fund. Counties may establish a fund and charge defendants convicted in justice court of misdemeanor offenses a maximum \$4 fee for the fund. Money in the fund can be used only to finance the purchase of technological enhancements for a justice court, such as computer systems, networks, hardware, software, imaging systems, electronic kiosks, electronic ticket writers, and docket management systems. This provision is set to expire on September 1, 2005.

In 2000, the Austin Court of Appeals found in *Rylander v. Caldwell*, 23 S.W.3d 132, 135 (Tex. App.—Austin 2000), that a statute allowing counties to charge convicted criminal offenders a fine was constitutional. The plaintiff had alleged that because the fee was not imposed equally across the state, it violated equal protection.
- DIGEST:** CSHB 1418 would repeal the expiration date of the justice court technology fund to allow the fund to continue indefinitely.

The bill also would amend the Code of Criminal Procedure to require, rather than allow, county commissioners courts to create a justice court technology fund and to require defendants convicted of misdemeanor offenses in justice courts to pay a technology fee not to exceed \$4.

In addition to its original purpose, the fund also could be used to pay for continuing education and training for justice court judges and clerks in available technological enhancements for justice courts.

The bill would take effect on September 1, 2005, and would apply only to offenses committed on or after the effective date. An offense would be committed before the effective date of the bill if any element of the offense occurred before that date.

**SUPPORTERS
SAY:**

The justice court technology fund established in 2001 has allowed counties to make long overdue technological enhancements in the justice courts. This fund has been especially important for many small counties that do not generate enough money to afford technological enhancements. It is the only source of income for technological improvements for many of them. If the fund were continued indefinitely, counties could continue to keep up to date with technological changes essential to a well functioning and efficient justice court. CSHB 1418 also would allow the funds to be used to train employees to use the newly purchased technological equipment.

While it is the counties' responsibility to fund the justice courts, it is extremely difficult for small counties to afford basic technology for the justice courts. The state imposes mandates on counties but does not provide the counties with the funds to meet those mandates. For instance, beginning in September 2005, the Department of Public Safety will require justice courts monthly to report all dispositions electronically. However, some justice courts in small counties cannot afford the computers or software to comply. This bill would provide counties with the funds to meet requirements set by the state.

The Legislature already approved this program in the 2001 legislative session. The law was initially temporary not because the purpose was to help counties with start-up costs only, but to enable the Legislature to renew the law if it became necessary.

Because the bill would require all counties to charge this fee, the bill would avoid constitutional problems similar to those raised in *Rylander v. Caldwell*.

OPPONENTS
SAY:

This bill would defy the Legislature's original intent for the justice court technology fund. The fund was established with the condition that it would be a temporary program to help counties with initial start-up costs.

It is the counties' responsibility to set aside money in their budget to pay for these kinds of expenses. Counties already have the authority to generate money from fines imposed on misdemeanor offenders. For instance, a court may charge a class C misdemeanor offender up to \$500. Part of these costs could be used to fund technological enhancements for the justice courts. It is within the counties' capacity and responsibility to generate this money, so counties should not look to the Legislature to do this for them.

NOTES:

HB 1418 as introduced would have repealed the expiration date of the optional technology fund. The substitute would require all counties to create a technology fund and misdemeanor offenders to pay a technology fee. The substitute also would authorize counties to use the collected fee for continuing education and training on technological enhancements.