

SUBJECT: Raising maximum civil court costs to support alternative dispute resolution

COMMITTEE: Civil Practices —favorable, without amendment

VOTE: 7 ayes — Nixon, Rose, Madden, Martinez Fischer, Strama, Talton,  
Woolley

0 nays

2 absent — P. King, Raymond

WITNESSES: For — Kris Donley, DRC Directors' Council

Against — None

On — John Fleming, State Bar Alternative Dispute Resolution Section;  
Susan Schultz, Center for Public Policy Dispute Resolution; Jan Summer,  
Center for Public Policy Dispute Resolution

BACKGROUND: Civil Practice and Remedies Code, sec. 152.002 allows counties to establish Dispute Resolution Centers (DRCs) to resolve citizen disputes. County commissioners courts may set civil court costs not to exceed \$10 to establish and maintain DRCs as a surcharge on civil suit filing fees for most cases filed in county or district court in the county. In Harris County only, the county may set a court cost of up to \$3 for DRCs applied to most civil cases filed in justice courts. The fees have been in place since the mid-1980s.

DIGEST: HB 282 would allow counties to raise the maximum DRC fee applied to civil cases filed in a county or district court in the county from \$10 to \$15. The bill also would raise from \$3 to \$5 the maximum DRC fee for civil cases filed in justice courts and allow any county to authorize the fee.

The bill would take effect September 1, 2005.

**SUPPORTERS  
SAY:**

DRCs no longer can meet increasing demands while operating on fees set almost 18 years ago. The \$10 and \$3 maximum fees established in the 1980s are not sufficient to fund the current needs of DRCs, let alone the expansion of important services they provide. HB 282 would allow counties the discretion to set fees at a level necessary to support DRCs.

DRCs provide alternative dispute resolution services to citizens of their respective counties free or at a nominal cost to the client. Texas currently has 17 DRCs located in most of the state's major cities. DRCs often mediate cases involving parties with ongoing relationships, such as family members; neighbors; landlords and tenants; merchants and consumers; and employers and employees. Impartial third-party mediators at DRCs help parties resolve their disputes outside the courtroom.

Mediating disputes through DRCs is a more cost-effective way to resolve disputes than going to court. DRCs save taxpayers millions of dollars each year by keeping cases that could be resolved through mediation out of courts. Providing more resources for DRCs would increase the savings to taxpayers.

DRCs provide mediation services to those who cannot afford the costs of going to court. Increasing the potential funding to DRCs would allow for the expansion of mediation services to low-income clients.

Any fee increases up to the higher cap would be optional, leaving the decision about whether to increase fees up to the commissioners courts of individual counties. A county would increase fees only if it were necessary to support the maintenance or development of a DRC in that county. The fee increases would not affect the entire state, only counties that need more funding for alternative dispute resolution services.

Expanding the number of DRCs would not pose a threat to law firms. DRCs do not cut into the business of private practices because the majority of cases handled by DRCs would not have otherwise been destined for private mediation. Volunteers at DRCs often include attorneys who are employed by or who own private practices.

**OPPONENTS  
SAY:**

Higher fees limit access to courts by individuals without the financial means to pay the fees. The effectiveness of the judicial system can be judged in part by the accessibility of the courts to ordinary citizens. Rather than constantly increasing court fees, the Legislature should

consider other means of funding important programs and services. Court costs are skyrocketing, and it is unclear where the money is being spent. As often as court fees are increased, the state would seem to have the resources to maintain and even expand judicial services to the public. Instead of increasing the financial burden on civil litigants, the state should evaluate the cost effectiveness of the services it currently provides.

**OTHER  
OPPONENTS  
SAY:**

The bill would not increase fees enough to meet all of the financial needs of DRCs. DRCs have been operating off of inadequate funding for many years and need more than a \$5 increase in fees to support their services.

**NOTES:**

The companion bill, SB 168 by Wentworth, was reported favorably, without amendment, by the Senate Jurisprudence Committee on February 28 by 5 ayes, 1 nay (West).