

SUBJECT: Establishment of process server certification fees

COMMITTEE: Judiciary and Civil Jurisprudence — favorable, without amendment

VOTE: 10 ayes — Jackson, Lewis, Castro, S. Davis, Hartnett, Madden, Raymond, Scott, Thompson, Woolley

0 nays

1 absent — Bohac

WITNESSES: For — Kathy Burrow, Eric Johnson, Texas Process Servers Association (TPSA); Kirk French, TPPA; Carl Weeks, Texas Supreme Court, Process Server Review Board; (*Registered, but did not testify*: Juanita Aleman; Brenda Atteberry; Steve Bresnen, Texas Family Law Foundation; Dan Brouillette, Texas Process Servers Association; Mark Burrow; Jana Cates; Mark Gillespie; Terry Hendrick; Jacklynn Henry; Amy Keeney; Rick Keeney, Michael Shapiro, Professional Civil Process of Texas, Inc.; Andrew Manger; Barbara Manger; Tobin McDowell; Paul Schuder; Scott Thomas, Thomas Process, TPSA; David Willms, Easy-Serve)

Against — Rick Habecker; Dana McMichael, Tod Pendergrass, Civil Process Servers Association of Texas; John Weigel; Ann Marie Whitmore; (*Registered, but did not testify*: William “Frank” McCurry)

On — Kennon Peterson, Supreme Court of Texas; (*Registered, but did not testify*: Carl Reynolds, Office of Court Administration)

BACKGROUND: The Process Server Review Board was established by a Texas Supreme Court order in 2005.

DIGEST: HB 1614 would allow the Process Server Review Board to recommend fees to the Texas Supreme Court that would be charged for process server certification and certification renewal. The Texas Supreme Court would have to approve the recommended fees before the fees could be collected.

Fees would be prorated to cover periods less than a full term. The entire certification renewal fee would be required on the expiration date of the prorated period.

The Office of Court Administration of the Texas Judicial System would be authorized to collect the certification and renewal fees, which then would be sent to the comptroller for deposit into the General Revenue Fund.

The fees established by HB 1614 would apply to persons who held or applied for a process server certification on or after the bill's effective date.

This bill would take effect September 1, 2011.

**SUPPORTERS
SAY:**

HB 1614 would relieve Texas taxpayers of the burden of paying for services provided by the Office of Court Administration. This office has been administering the process server certification program since its inception without requiring fees, meaning that approximately 6,000 process servers benefiting from the program have essentially received free services for the past six years. Fees generated by HB 1614 would pay for the program and would allow process servers to support the regulation of their profession as other professionals do. The costs of staff and tools used to support this program would be offset substantially, and the state would experience tremendous fiscal savings as a result.

The fees would generate new revenue for Texas during current tough economic times and beyond. Process servers receive a three-year license. If an annual fee of \$75 was recommended and approved, the bill could generate over \$1 million in the next year. The same fee would generate approximately \$700,000 to over \$1 million annually, depending on the number of renewals processed. The state would benefit greatly from an additional and appropriate stream of revenue to cover the costs of the certification program.

Many process servers who would be affected by HB 1614 have expressed support for the bill. The Texas Process Servers Association, one of the oldest process servers' organizations in Texas, voted unanimously to support the bill and pay fees associated with processing their certifications, proving that the industry would be willing to fund this bill.

HB 1614 would not affect the actual certification procedures in place for process servers.

**OPPONENTS
SAY:**

HB 1614 would increase the fees for the clients of process servers. This increase then would add to the costs of services for the clients of attorneys and other professionals who use process servers.

Although HB 1614 is backed by a large process server organization, the number of supporters the organization represents relative to the number of process servers who would be affected is very small. The organization's membership of over 1,000 members amounts to a one-sixth representation of all process servers in Texas, and therefore should carry little weight.

**OTHER
OPPONENTS
SAY:**

HB 1614 would allow an unauthorized entity to obtain funding to regulate the process server industry. Since Texas lawmakers did not create the Process Server Review Board by statute, the Legislature cannot fund the board's regulation. This would violate the principle of government separation of powers.

Since the legislative intent has been to allow the process server industry to go unregulated, HB 1614 is unnecessary. Bills similar to HB 1614 were not passed during the past two legislative sessions, so clearly previous lawmakers saw no need to fund this program.

NOTES:

The companion bill, SB 1512 by Deuell, was referred to the Senate Jurisprudence Committee on March 22.

The fiscal note estimates that the fee authorized by the bill would generate \$1,782 million and \$150,000 in costs during fiscal 2012-13 for a net gain of 1.632 million in general revenue.