

SUBJECT: Assigned statutory probate court judges ordering compensation

COMMITTEE: Judiciary & Civil Jurisprudence — favorable, without amendment

VOTE: 8 ayes — Leach, Julie Johnson, Davis, Flores, Moody, Murr, Slawson, Vasut

1 nay — Schofield

WITNESSES: For — (*Registered, but did not testify*: Adam Haynes, Conference of Urban Counties; Rick Thompson, County Judges and Commissioners Association of Texas; Elisa M. Tamayo, El Paso County; Guy Herman, Presiding Statutory Probate Judge of Texas; Harold Keeter, Swisher County and County Judge’s and Commissioners Association of Texas; Amy Befeld, Texans for Lawsuit Reform; Craig Hopper; Lauren Hunt)

Against — None

BACKGROUND: Under Estates Code sec. 32.003, in a county in which there is no statutory probate court or county court at law exercising original probate jurisdiction, when a matter in a probate proceeding is contested, the judge of the county may, on the judge’s own motion, or shall, on the motion of any party to the proceeding, request the assignment of a statutory probate court judge to hear the contested matter.

DIGEST: HB 251 would require a statutory probate court judge assigned under Estates Code sec. 32.003, if a party to a probate proceeding filed the motion for the assignment, to:

- to the extent possible, order that the county be reimbursed for any amounts the county paid as compensation and expenses from the estate and from the parties to the probate proceeding; and
- prescribe the amount and manner by which the compensation and expenses were to be equitably apportioned among the estate and parties, as applicable.

The bill would amend Estates Code provisions on certain compensation and expenses to specify that a statutory probate court judge assigned under sec. 32.003, on the motion of a party to the proceeding, could order the estate to reimburse a county for amounts the county paid as compensation and expenses.

The bill would take effect September 1, 2023, and would apply only to motions for the assignment of a statutory probate court judge under Estates Code sec. 32.003 filed on or after that date.

**SUPPORTERS
SAY:**

HB 251 would help the state's many rural counties without statutory probate courts and county courts at law. These counties typically bring probate cases to the constitutional county judge. When disputes arise, parties can exercise several options, including moving the case to a district court or calling on a specialized statutory probate judge based in urban areas to travel to the county to hear the case.

HB 251 would allow counties to recover the costs of having an assigned statutory probate judge hear a case, which often includes travel, lodging, and salary for the duration of the case. This would function similarly to the appointment of a public defender, where the county pays for a service and then seeks reimbursement from requesting parties. Considering that a party has other options and chose to have a specialized statutory probate judge hear the case, it would be fair to provide financial relief to rural county governments, which often have limited budgets.

**CRITICS
SAY:**

HB 251 would allow county governments to pay for a judicial proceeding using the money from an estate. County governments should instead utilize tax dollars to perform such services.