

- SUBJECT:** Increased fees for courthouse security in certain civil and criminal cases
- COMMITTEE:** County Affairs — favorable, without amendment
- VOTE:** 8 ayes — R. Allen, W. Smith, Casteel, Coleman, Laney, Naishtat, Olivo, Otto
- 0 nays
- 1 absent — Farabee
- WITNESSES:** For — Jim Allison, County Judges and Commissioners Association of Texas; Mark Evans, Trinity County; Donald Lee, Texas Conference of Urban Counties; Craig Pardue and Sarah Smaardyk, Dallas County; (*Registered, but did not testify:* Veronica de Lafuente, Office of the Cameron County Judge Gilberto Hinojosa; Mark Mendez, Tarrant County Commissioners Court)
- Against — None
- BACKGROUND:** In 1993, the 73rd Legislature allowed county commissioners courts to assess a fee of up to \$5 on all civil case filings in a county court, county court at law, or district court (Local Government Code, sec. 291.008). The monies collected are used to provide security in offices where judicial activity occurs, such as in courthouses. Code of Criminal Procedure, art. 102.017 also requires that defendants convicted of felonies in district court pay a \$5 security fee, while defendants convicted of misdemeanor offenses in a county court, county court at law, or district court must pay a \$3 fee.
- DIGEST:** HB 667 would allow county commissioners courts to increase the security fee to as much as \$10 in civil case filings. It also would increase the security fee to \$10 for defendants convicted of a felony offense in district court.
- The bill would take effect September 1, 2005, 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, attacks on judges and courthouse personnel, terrorist attacks, and other 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The Legislature originally enacted security fees to protect against violent outbursts by disgruntled litigants, a concern that clearly remains relevant in light of several recent attacks on judges, their families, and courthouse personnel in this state and around the country. However, the Oklahoma City bombing and 9/11 terrorist attacks have changed our security needs. Courthouses are obvious targets for terrorism, and security efforts now must focus on protecting buildings 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 convictions, however, would be mandatory. 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. For example, in Dallas County, the fee raises \$1.2 million annually, but in fiscal 2004, the county spent about \$8 million to pay for courthouse security. Raising the security fees both for civil and felony cases would help counties more properly to meet their courthouse security needs.

Increasing the costs of filing would not reduce access to the courts because filing a case would remain relatively inexpensive, even after a \$5 increase. Moreover, courts may waive fees for indigent persons or allow some persons to undertake certain actions in lieu of fees, such as community service or jail time.

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 file civil suits. Court costs in Texas already are excessively high, creating a particular burden for the poor. Fee increases could reduce access to the courts 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.

OTHER  
OPPONENTS  
SAY:

The \$10 cap on courthouse security fees still would not raise enough money for some courts to cover their security costs. Courts should be authorized to set security fees at the level necessary to recover their security costs.

NOTES:

The fiscal note reflects a positive impact to local governments, although it would vary by court, and therefore by county, depending on the amount at which each court were to set the fee for civil case filings and the collection rate in felony cases. The Legislative Budget Board estimates that the change could increase annual county revenue by about \$3 million statewide.

The companion bill, SB 210 by Carona, has been referred to the Senate Criminal Justice Committee.

Last session, two similar bills, HB 494 by J. Jones and HB 1037 by Ritter et al., passed the House and were referred to the Senate Jurisprudence Committee, which took no further action.