

July 11, 2011

Hidalgo County Commissioner's Court
Hidalgo County Courthouse Administration Annex.
Edinburg, Texas 78539

Re: Law Library Fee
Request for Increase
\$5.00 per case (To maximum amount of \$35.00 per case)

Gentlemen:

On the behalf of the Law Library Committee for the Hidalgo County Bar Association, I am at this time requesting that you place us on your next meeting agenda so that I may make a formal request and presentation in reference to an increase in the Library Fee to \$35.00.

The Law Library Committee unanimously requested that the Hidalgo County Bar Association strongly consider requesting your Honorable Court to authorize an increase in the Law Library Fee from \$30.00 to the allowable \$35.00. After giving this matter consideration, the Bar Association agreed this increase was of the upmost necessity if the Law Library was to continue adequately serving the Attorneys and legal community.

Article 323.023 (a) of the Local Government Code of the Texas Annotated Code States:
(As Amended by the legislature in 1999 taking effect on September 1, 1999):

- (a) A sum set by the Commissioner's Court not to exceed \$35.00 shall be taxed, collected, and paid as other costs in each civil case filed in a County or District Court, except suits for delinquent taxes.
- (b) The Clerks of the respective Courts shall collect the costs and pay them to the County Treasurer, for deposit in a special fund known as "LAW LIBRARY FUND." The fund may only be used for the purpose of purchasing library materials, maintaining the Library, or acquiring furniture, shelving, or equipment for the Law Library.
- (c) The County Law Library shall be administered by or under the direction of the Commissioner's Court.

At present the Law Library in the Courthouse is one of, if not the best, maintained and updated in South Texas. During the last few years (10), the trend has been toward the

publication of new law books to aid the Attorneys in the specialized areas and in the continuance of the legal education.

We have also been forced to go into the on-line/internet storage and retrieval of books, documents forms, and purchase additional computer terminals and printers.

I am enclosing a copy of Article 323.023 (a) of The Local Government Code from the Texas Annotation Code and also including a copy of the Law Library Budget for the last year 2010 and this 2011.

As you can see, we have always spent more than we took in. We have also had to drastically increase the amount budgeted for books each year. We have tried the past four budget years to barley get by. That is no longer possible. We have had to go into the surplus balance we at one time had accumulated. Our last three budgets were cut back drastically due to insufficient funds in the proposed projection for income plus surplus balance.

We receive fees from each civil case filed in the District and County Courts. The Law allows a sum of up to \$35.00 per case. In 1999 we asked for an increase from \$20.00 to \$35.00 and you allowing us an increase to \$30.00 which we have been at for the last ten years.

At present Hidalgo County is now the eighth largest county in the state. I am enclosing a list of some of the counties in the state that already charging and collecting the \$35.00 per case.

We have been fortunate to be self-supporting and not be a drain on the county general fund. We have tried to have a fund balance able to support the budget. The last year we were able to that was in the year 2007. In 2008, we dipped into the fund balance (which can only be used for Law Library Expenses) for \$30,135.06 in 2009 we had to go back and dip into the (reserve/Surplus/Savings) Fund Balance for \$34,071.38. And in 2010 we had to once again dip into our Fund Balance for \$42,887.51. At this rate we will eventually expend our Fund Balance and are therefore having to ask for a \$5.00 increase in filing fees to \$35.00 per case filed which will generate an additional \$40,000.00 to \$45,000.00.

The majority of law book publishers have merged and formed three main publishing companies monopolizing the increase in costs. We are also being faced with new and increased cost for the software and CD-Rom, computer filed books and case law.

Everyone will benefit from a well supplied and organized Law Library. Since the last filing fee increase towards Law Library funds, (which was over 10 (ten) years ago, the county has grown immensely and we have added new districts and county court at law courts. Many of the state counties have already increasing their fees.

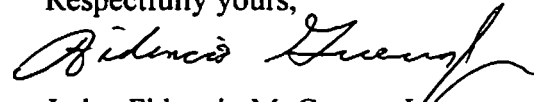
I am therefore, respectfully requesting that you approve and set an increase of filing fees to \$35.00 (thirty-five dollars) per filed case and that it be effective starting September 1, 2011 when most the state fees take effect, this will still allow sufficient time for the clerks to adjust the court cost filing fees with proper notification.

Please, this a very serious and delicate matter and this in fact an EMERGENCY request for this appropriation amendment. Your consideration and cooperation are urgently needed and most appreciated.

At present we have virtually run out of space and doing the best we can with the limited space and funds available. The increase will give us some breathing space temporarily.

I am at your service to discuss this matter with you prior to any meeting. Thanking you in advance, I remain

Respectfully yours,



Judge Fidencio M. Guerra, Jr.
Law Library Committee

(Angie Chapa - Law Librarian)

FGJr/az

cc: Law Library Committee
County Commissioners
Hon. Brandy Wingate – Hidalgo County Bar President

ENCL. 4

§ 323.023. Law Library Fund

(a) A sum set by the commissioners court not to exceed \$35 shall be taxed, collected, and paid as other costs in each civil case filed in a county or district court, except suits for delinquent taxes. The county is not liable for the costs.

(b) The clerks of the respective courts shall collect the costs and pay them to the county treasurer, or to any other official who discharges the duties commonly delegated to the county treasurer, for deposit in a fund to be known as the county law library fund. The fund may be used only for:

- (1) establishing the law library after the entry of the order creating it;
- (2) purchasing or leasing library materials, maintaining the library, or acquiring furniture, shelving, or equipment for the library; or
- (3) purchasing or leasing library materials or acquiring library equipment, including computers, software, and subscriptions to obtain access to electronic research networks for use by judges in the county.

(c) Money in the fund may be used for the purposes described by Subsection (b)(3) only if the county's law librarian or, if the county has no law librarian, the person responsible for the county's law library, authorizes the use in consultation with the county auditor.

(d) Expenditures by a county under Subsection (b)(3) may not exceed \$175,000 each year. Any unexpended and unobligated balance allocated by the county for Subsection (b)(3) purposes that remains at the end of the county's fiscal year remains available for use for Subsection (b)(3) purposes during subsequent fiscal years.

(e) The county law library fund shall be administered by or under the direction of the commissioners court.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, § 70(a), eff. Aug. 28, 1989; Acts 1999, 76th Leg., ch. 331, § 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1010, § 1, eff. Sept. 1, 2001.

Historical and Statutory Notes

Section 2 of Acts 1987, 70th Leg., ch. 78 provides:

"This Act takes effect on September 1, 1987, and only applies to fees payable on or after that date."

Section 2 of Acts 1999, 76th Leg., ch. 331 provides:

"This Act applies to a civil case filed in a county or district court on or after the effective date of an action taken by a commissioners court under Section 323.023(a), Local Government Code, as amended by this Act. A civil case filed before the effective date of an action

taken by a commissioners court under Section 323.023(a), Local Government Code, as amended by this Act, is governed by the law in effect when the case was filed, and that law is continued in effect for that purpose."

Prior Laws:

- Acts 1951, 52nd Leg., p. 777, ch. 429.
- Acts 1979, 66th Leg., p. 234, ch. 121, § 1.
- Acts 1987, 70th Leg., ch. 78, § 1.
- Vernon's Ann.Civ.St. art. 1702h, §§ 4, 7, 8.
- Acts 1989, 71st Leg., ch. 1, § 70(b).

Library References

- Counties ⇄ 161.
- Westlaw Topic No. 104.
- C.J.S. Counties § 195.

Research References

Treatises and Practice Aids

Brooks, 35 Tex. Prac. Series § 16.12, Classification of Funds and Accounts.

Brooks, 36 Tex. Prac. Series § 22.32, County Law Library.

Notes of Decisions

In general 1

Time of collection 2

1. In general

Under Vernon's Ann.Civ.St. art. 1702h (repealed; see, now, this section) the County Law Library Fund could be expended only for library purposes and for the needs of judges and litigants; the fund could not be used to buy books owned by the county. Op.Atty.Gen.1979, No. MW-9.

Dallas County Law Library funds may be used to implement a computer information system. Op.Atty.Gen.1981, No. MW-399.

The county law library fund may not be used to pay the salary, in whole or in part, of a deputy sheriff who escorts a prisoner from the jail to the county law library. Op.Atty.Gen. 1998, LO 98-104.

A commissioners court may use fees collected under section 323.023 of the Texas Local Government Code to provide online legal research services for the general public, judges, and attorneys, and incidental benefit to private attorneys would not render the expenditure unconstitutional under article III, section 52(a) of the Texas Constitution. Op.Atty.Gen.2003, No. GA-0078.

2. Time of collection

Because law library fee supports a continuing service, county performs this service when litigant files suit and thus, district clerk is authorized to collect law library fee at time of filing. Dallas County v. Sweitzer (App. 5 Dist. 1994) 881 S.W.2d 757, rehearing denied, writ denied, rehearing of writ of error overruled. Clerks Of Courts ⇨ 17

§ 323.024. Management

(a) The commissioners court of a county that has established a law library under this subchapter shall adopt rules for the use of books in the county law library.

(b) The commissioners court may vest management of the library in a committee selected by the county bar association. Actions of the committee are subject to approval by the commissioners court.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987.

Historical and Statutory Notes

Prior Laws:

Acts 1951, 52nd Leg., p. 777, ch. 429.

Acts 1979, 66th Leg., p. 234, ch. 121, § 1.
Vernon's Ann.Civ.St. art. 1702h, §§ 5, 7.

Library References

Counties ⇨107.
Westlaw Topic No. 104.
C.J.S. Counties § 147.

Research References

Treatises and Practice Aids

Brooks, 36 Tex. Prac. Series § 22.32, County Law Library.

8/31/10

Vernon's
TEXAS CODES
ANNOTATED



Volume 4

LOCAL GOVERNMENT CODE
Sections 281.001 to 340

2010

Cumulative Annual Pocket Part

Replacing 2009 pocket part supplementing 2005 main volume

For Use In 2010-2011

Includes

Laws through the 2009 First Called Session
of the 81st Legislature
Court Constructions through 305 S.W.3d 908

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91

§ 323.023. Law Library Fund

Cross References

County court fees and costs: local government code, see V.T.C.A., Government Code § 101.1214.
District court fees and costs: local government code, see V.T.C.A., Government Code § 101.0615.

Statutory probate court fees and costs: local government code, see V.T.C.A., Government Code § 101.1013.

Research References

Encyclopedias

TX Jur. 3d Costs § 55, Court Costs.

Treatises and Practice Aids

Brooks, 36 Tex. Prac. Series § 22.32, County Law Library.

§ 323.024. Management

Research References

Treatises and Practice Aids

Brooks, 36 Tex. Prac. Series § 22.32, County Law Library.

SUBCHAPTER C. ADDITIONAL LIBRARY AUTHORITY

§ 323.051. Acquisition and Location of Library

Research References

Encyclopedias

TX Jur. 3d Municipalities § 325, Powers With Respect to Parks, Museums and Libraries.

Treatises and Practice Aids

Brooks, 36 Tex. Prac. Series § 33.17, Libraries--Maintenance and Improvements.

§ 323.052. County Library Bonds

Research References

Treatises and Practice Aids

Brooks, 35 Tex. Prac. Series § 17.4, Purposes for Bond Issues.

CHAPTER 324. PARK AND RECREATION DISTRICT AND PARK BONDS: COUNTIES WITH FRONTAGE ON GUADALUPE AND COMAL RIVERS

SUBCHAPTER E. BONDS, TAXES, AND OTHER FINANCIAL MATTERS

Section	
324.099.	Imposition and Collection of Taxes; Criminal Penalty.
324.0995.	Tax Exemptions.

Section
SUBCHAPTER F. ANNEXATION, INCORPORATION, DISSOLUTION

324.122. Effect of Incorporation or Annexation.

References

Municipality

References

Established Library

Library, the commissioners court of a county an established library.

When an established library assume the functions of including municipalities in the county. The library annually to the established library out of amount on which the parties may agree. terminate it by giving to the other party six months. Property acquired under the contract is contract on terms specified in the contract. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 81st Leg., ch. 983, § 25, eff. Sept. 1, 2009.

References

Treatises and Practice Aids

Brooks, 36 Tex. Prac. Series § 33.19, Libraries--Contract for Library Services.

Library

References

COUNTY LAW LIBRARY

Maintenance

References

Treatises and Practice Aids

Brooks, 36 Tex. Prac. Series § 22.32, County Law Library.

Law Library Filing Fees of Texas Counties

<u>County (County Seat)</u>	<u>District Clerks</u>
Cameron (Brownsville)	\$35.00
Starr (Rio Grande City)	\$35.00
Webb (Laredo)	\$35.00
Travis (Austin)	\$35.00
Tarrant (Fort Worth)	\$35.00
Potter (Amarillo)	\$35.00
El Paso (El Paso)	\$35.00
Brazoria (Angleton)	\$35.00
Victoria (Victoria)	\$35.00
Kerr (Kerrville)	\$35.00

* Sources include the Texas Attorney's/Secretary's Handbook and online research data

LAW LIBRARY
1247-412-50-100-001

Object #	Object Code Description	2010 Original Budget	2011 Budget Request	2011 Adopted Budget
113	PERMANENT FULL-TIME EMPLOYEES	\$67,485.60	\$68,157.00	\$68,157.00
114	PERMANENT PART-TIME EMPLOYEES	\$34,974.00	\$34,974.00	\$34,974.00
115	LONGEVITY PAY	\$1,080.00	\$1,140.00	\$1,140.00
211	HEALTH INSURANCE	\$8,121.00	\$10,800.00	\$10,800.00
212	LIFE INSURANCE	\$81.00	\$81.00	\$81.00
220	SOCIAL SECURITY CONTRIBUTIONS (FICA)	\$7,921.00	\$7,977.00	\$7,977.00
230	RETIREMENT CONTRIBUTIONS	\$9,857.00	\$10,011.00	\$10,011.00
250	UNEMPLOYMENT COMPENSATION	\$517.00	\$520.00	\$520.00
260	WORKERS COMPENSATION	\$0.00	\$0.00	\$0.00
342	INFORMATION AND CREDIT SERVICES	\$90,000.00	\$90,000.00	\$90,000.00
350	OTHER CONTRACTED SERVICES	\$3,500.00	\$3,000.00	\$3,000.00
431	BUILDING REPAIR & MAINTENANCE SERVICES	\$500.00	\$300.00	\$300.00
432	EQUIPMENT REPAIR & MAINTENANCE SERVIC	\$1,000.00	\$500.00	\$500.00
442	RENTAL OF EQUIPMENT AND VEHICLES	\$5,000.00	\$3,000.00	\$3,000.00
452	BUILDING ADDITIONS & RENOVATIONS	\$500.00	\$500.00	\$500.00
524	GENERAL INSURANCE	\$500.00	\$300.00	\$300.00
529	SURETY AND NOTARY BONDS	\$150.00	\$150.00	\$150.00
531	TELEPHONE AND TELEGRAPH	\$1,000.00	\$750.00	\$750.00
534	INTERNET	\$0.00	\$0.00	\$0.00
535	POSTAGE AND EXPRESS MAIL CHARGES	\$500.00	\$300.00	\$300.00
540	ADVERTISING	\$150.00	\$100.00	\$100.00
550	PRINTING AND BINDING	\$2,500.00	\$2,000.00	\$2,000.00
581	IN-COUNTY EMPLOYEE TRAVEL	\$500.00	\$500.00	\$500.00
583	OUT-OF-COUNTY EMPLOYEE TRAVEL	\$2,500.00	\$2,500.00	\$2,500.00
584	REGISTRATION FEES	\$500.00	\$500.00	\$500.00
601	OFFICE SUPPLIES	\$4,500.00	\$3,000.00	\$3,000.00
602	PAPER SUPPLIES	\$0.00	\$0.00	\$0.00
604	DRUGS AND MEDICINES	\$150.00	\$50.00	\$50.00
607	CLEANING AND SANITATION SUPPLIES	\$50.00	\$50.00	\$50.00
631	BOTTLED WATER	\$150.00	\$100.00	\$100.00
640	BOOKS AND PERIODICALS	\$150,000.00	\$150,000.00	\$150,000.00
661	MINOR OFFICE EQUIPMENT	\$4,000.00	\$2,000.00	\$2,000.00
664	OTHER MINOR EQUIPMENT	\$500.00	\$500.00	\$500.00
665	MINOR COMPUTER EQUIPMENT	\$500.00	\$500.00	\$500.00
667	MINOR SOFTWARE	\$500.00	\$500.00	\$500.00
671	BUILDING REPAIR AND MAINTENANCE SUPPL	\$2,500.00	\$1,500.00	\$1,500.00
679	OTHER REPAIR AND MAINTENANCE SUPPLIES	\$1,000.00	\$500.00	\$500.00
720	BUILDINGS	\$1,500.00	\$500.00	\$500.00
743	OFFICE EQUIPMENT	\$3,000.00	\$2,000.00	\$2,000.00
745	COMPUTER EQUIPMENT	\$4,500.00	\$4,050.00	\$4,050.00
748	OTHER EQUIPMENT	\$1,500.00	\$1,050.00	\$1,050.00
780	CAPITAL LEASES	\$2,500.00	\$2,500.00	\$2,500.00
810	DUES AND MEMBERSHIPS	\$500.00	\$500.00	\$500.00
890	OTHER	\$1,000.00	\$1,000.00	\$1,000.00
899	CONTINGENCY	\$500.00	\$500.00	\$500.00
	TOTALS	\$417,686.60	\$408,860.00	\$408,860.00
	SALARY EXPENSES	\$130,036.60	\$133,660.00	\$133,660.00
	OPERATING EXPENSES	\$287,650.00	\$275,200.00	\$275,200.00

GRAPH ON SURPLUS AND BUDGET

	<u>FUND BALANCE</u>	<u>BUDGET</u>	<u>Amount Drawn FB</u>
2007	\$467,054.14	\$387,338.32	
2008	\$436,919.08	\$402,191.93	- \$30,135.06
2009	\$402,847.76	\$425, 636.93	- \$34, 071.38
2010	\$359,960.19	\$417,686.60	- \$42,887.51
2011		\$408, 860.00	