



**THE ATTORNEY GENERAL
OF TEXAS**

**JIM MATTON
ATTORNEY GENERAL**

May 16, 1990

Honorable Joe Rubio
District Attorney
49th Judicial District
P. O. Box 1343
Laredo, Texas 78042-1343

L0-90-25

Dear Mr. Rubio:

You ask whether the Webb County Bail Board may charge a \$15 fee on each bail bond that is executed by a licensed bondsman. You state that the purpose of the fee is to "provide funding for the salary of a Bail Bond Clerk to manage and keep record of all bonds and all judgments nisi incidental thereto."

Numerous opinions of this office have concluded that the rule-making power of the county bail bond board is limited to the making and setting of bail bonds in the county, and the board is not authorized to impose qualifications upon an applicant for a license or upon the operation of a bail bond business that are not enumerated by statute. E.g., Attorney General Opinions JM-1057, JM-1012 (1989).

You suggest that the scenario you have detailed is distinguishable from a fee or condition (not authorized by statute) imposed on an applicant to qualify for a bondsman's license by county bail bond board. In support of this position you call attention to Robinson v. Hill, 507 S.W.2d 521 (Tex. 1974) and Schilb v. Kuebel, 404 U.S. 357 (1971).

In Robinson the court held that the fee that must accompany an original application for a license as a bail bondsman and the fee for renewal of such license are fees imposed in exercise of the police power and are not violative of the Texas Constitution. The fees in question are expressly authorized by article 2372p-3, V.T.C.S. Section 8(b) of article 2372p-3 provides that all fees collected by the board shall be deposited in the general fund of the county for use and enforcement of this article and may be disbursed to the board for reasonable expenses.

In Schilb the United States Supreme Court held that there had not been shown any denial of due process or of equal protection of the law by an Illinois bail bond statute authorizing a deposit of 10 percent of the bail, all but 10 percent of which (amounting to one percent of the bail) is returned on performance of the bond conditions.

In both Robinson and Schilb the fees imposed were statutorily authorized. The fee to be assessed by the board in the situation you describe has no statutory underpinning.

Administrative agencies may not impose additional burdens, conditions, or restrictions in excess of or inconsistent with statutory provisions. Reiss v. Appraisal Dist. of Williamson County, 735 S.W.2d 633 (Tex. App. - Austin 1987, writ denied); Texas Fire & Casualty Co. v. Harris County Bail Bond Bd., 684 S.W.2d 177 (Tex. App. - Houston [14th Dist.] 1984, writ ref'd n.r.e.).

The Webb County Bail Bond Board is not statutorily authorized to charge a \$15 fee on each bail bond that is executed by a licensed bail bondsman.

Very truly yours,



Tom G. Davis
Assistant Attorney General
Opinion Committee

APPROVED: Rick Gilpin, Chairman
Opinion Committee

Sarah Woelk, Chief
Letter Opinion Section

TGD/mc

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