

SUBJECT: Indexing local fines and fees and providing collection and refund methods

COMMITTEE: Government Reform — committee substitute recommended

VOTE: 5 ayes — Callegari, Pitts, Berman, Leibowitz, Miles

0 nays

2 absent — Rodriguez, W. Smith

WITNESSES: For — April Bacon, Texas Association of County Auditors; (*Registered, but did not testify*: Paul Sugg, Texas Association of Counties)

Against — None

BACKGROUND: Local Government Code, Title 4, subtitle B sets requirements for the management of county finances and budget processes. Counties derive their revenue from a variety of sources, including property taxes, sales taxes, and various fees and fines set by the Legislature.

Government Code, ch. 403 defines the duties and powers of the state comptroller to help manage state tax collections and accounting of state revenues.

DIGEST: CSHB 3299 would amend Government Code, ch. 403 to allow the comptroller to index the amount of any fee collected by a court for a civil or criminal matter, including fees paid upon conviction, or any other fee set by the Legislature. The comptroller would be allowed annually to adjust the fee based on:

- a uniform escalator that would consider workload, capacity, technology, and labor increases and that could applied equally and fairly to all fees collected statewide; or
- a fee increase factor determined by an increase in state's population or the increase of consumer price index for the most recent available calendar year.

The adjustment determination would be required to be completed by July 1 of each year, and a revised schedule of fees would be published on the

comptroller's web site by July 31 of each year. The proposed fees would go into effect on September 1.

The bill also would allow a county officer who was uncertain about the legality of a fee or fine to request a written directive from the comptroller regarding its legality. For county fees or fines based on a state fee or fine, the county commissioners court would make the determination of the legality of the county fee or fine.

CSHB 3299 also would amend the Local Government Code to provide procedures for:

- legal actions to collect debts owned to the county;
- refunds of mistakenly collected fees or fines; and
- protests of county fees and fines.

The requirement that the comptroller review and index fees and fines would take effect on January 1, 2008. Otherwise, the bill would take effect on September 1, 2007.

**SUPPORTERS
SAY:**

CSHB 3299 would be part of a continuing effort to reduce unfunded mandates on local governments. Counties are empowered to collect a series of fees and fines to maintain operations of the court system. That amount is not intended to fund the courts completely but to reduce some of the burden upon county property owners. Fees and fines are reviewed and adjusted on an ad hoc basis, and CSHB 3299 would provide a consistent and equitable way to review fees and fines.

The bill would provide a means to answer questions and clarify potential confusion about state-imposed fees and fines. Currently, the Legislature adjusts fees and fines, and there is no one who can provide definitive guidance in the interim when the Legislature is out of session. The bill provides that the comptroller or commissioners courts, in case of county fees and fines, would have the legal authority to provide an answer about the legality of a fee or fine or to clarify points of uncertainty.

The process would be transparent and accountable to citizens. The revised fee schedule would be published on the comptroller's web site each July 31. The bill also provides for refunds and appeals procedures for those taxpayers who believed that a certain fee or fine had been assessed unfairly.

OPPONENTS
SAY:

The Legislature should continue to review and adjust fees and fines. Allowing for annual adjustments based on some formula could result in setting the fees at an unreasonable and inequitable level. The adjustment at least should be subject to review by the Legislative Budget Board or subject to Sunset review to allow legislative input.