

## **BILL ANALYSIS**

Senate Research Center  
77R8118 JMC-D

H.B. 1220  
By: Hartnett (West)  
Jurisprudence  
5/3/2001  
Engrossed

### **DIGEST AND PURPOSE**

Under current law, a clerk of a statutory probate court is required to collect a \$40 filing fee paid by the litigants in each probate, guardianship, mental health, or civil case filed in the court in counties whose commissioners courts have authorized this fee. For each county that collects this fee, the state is required to annually compensate the county in an amount equal to \$40,000 for each statutory probate court judge in the county. At the end of the year, the state returns additional amounts to the counties on a proportional basis. Currently, that excess amount is paid to a county's general fund with the limitation that the excess fund can be used only for court-related purposes for the support of the judiciary. The intent of creating the \$40 filing fee may have been to provide additional funding, above and beyond that already earmarked by the commissioners court, to support the operations of the statutory probate courts exclusively. There is some concern, however, that counties may have decreased general fund expenditures that were historically allocated in the county budget for the support of the statutory probate courts and are relying on the \$40 filing fee to make up the shortfall. In addition, a county may rely upon the statute's language "for the support of the judiciary" to justify the county's use of the filing fee generated by the statutory probate court for the support of other courts in the county. H.B. 1220 requires the \$40 filing fee to be paid into a contributions fund in a county treasury, rather than a county's general fund, and provides that the money in the fund is to be used only for court-related purposes for the support of the statutory probate courts in a county.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 25.00211(b), Government Code, to require the amount to be paid to the county treasury for deposit in the contributions fund created under Section 25.00213, rather than to the county's salary fund, to be paid in equal monthly installments from funds appropriated from the judicial fund.

SECTION 2. Amends Section 25.00212, Government Code, to require at the end of each state fiscal year the comptroller to determine the amounts deposited in the judicial fund under Section 51.704, rather than 51.703, and the amounts paid to the counties under Section 25.00211. Deletes text that required the amount remitted under this section to be paid to the county's general fund to be used only for court related purposes for the support of the judiciary as provided by Section 21.006. Makes a conforming change.

SECTION 3. Amends Chapter 25B, Government Code, by adding Section 25.00213, as follows:

Sec. 25.00213. CONTRIBUTIONS FUND. Provides that a contributions fund is created in the county treasury of each county that collects the additional fees under Section 51.704. Authorizes money in a contributions fund created under this section to be used only for court-related purposes for the support of the statutory probate courts in the county. Prohibits a

county from reducing the amount of funds provided for the support of the statutory probate courts in the county because of the availability of funds from the county's contributions fund.

SECTION 4. Requires any amount that was paid to a county's salary fund under Section 25.00211, Government Code, or to a county's general fund under Section 25.00212, Government Code, on or after October 1, 1999, and before the effective date of this Act and that is on deposit in the respective fund on the effective date of this Act to be transferred to the county's contributions fund created under Section 25.00213, Government Code, as added by this Act.

SECTION 5. Effective date: upon passage or September 1, 2001.