

BILL ANALYSIS

Senate Research Center
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S.B. 1378
By: Armbrister
Finance
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DIGEST AND PURPOSE

Currently, the structure of state and local court costs, fees, and fines is a complex one for cities and counties in Texas. The administration of those fees has become a time-consuming and burdensome task, particularly for those with limited resources and manual systems. Municipalities are responsible for up to 20 state court costs, and counties are responsible for up to 33 state court costs, fees, and fines. To report only the state court costs and fees to the state comptroller, a city uses up to six different report forms, and a county uses up to twelve different report forms. In addition to state court costs, cities and counties are responsible for approximately 30 additional local court costs, fees and fines, many of which are applied according to specific guidelines and/or local option. This can result in a city or county being responsible for collecting and allocating 30 to 40 court costs, fees, and fines on any one violation.

Effective September 1, 1997, a Consolidated Court Cost was created, rolling ten funds together for reporting purposes. This consolidation has now been in place for two full fiscal years, and a study by the comptroller has revealed that the allocation was on target and revenue levels have not been adversely impacted by the consolidation. The study also included various recommended changes to the court costs system. As proposed, S.B. 1378 implements recommendations from the comptroller's study and continues court cost consolidation.

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 Title 4C, Local Government Code, by adding Chapter 133, as follows:

CHAPTER 133. CRIMINAL AND CIVIL FEES PAYABLE TO THE COMPTROLLER

Sec. 133.001. PURPOSE. Provides findings of purpose.

Sec. 133.002. DEFINITIONS. Defines "fee," "indigent," and "treasurer."

Sec. 133.003. CRIMINAL FEES. Provides that this chapter applies to certain criminal fees.

Sec. 133.004. CIVIL FEES. Provides that this chapter applies to certain civil fees.

[Reserves Sections 133.005 - 133.050 for expansion]

SUBCHAPTER B. REPORTING, COLLECTION, AND REMISSION OF FEES

Sec. 133.051. COLLECTION AND REMISSION OF FEES. Requires a municipality or county to collect, record, account for, and remit to the comptroller all fees in the manner

provided by this subchapter.

Sec. 133.052. DEPOSIT OF FEES. Requires an officer collecting a fee in a case in municipal court to deposit the money in the municipal treasury. Requires an officer collecting a fee in a justice, county, or district court to deposit the money in the county treasury. Requires a municipal or county clerk collecting a fee to deposit the money in the municipal or county treasury, as appropriate.

Sec. 133.053. INTEREST-BEARING ACCOUNT. Authorizes the treasurer to deposit fees in an interest-bearing account. Authorizes the municipality or county to retain any interest accrued on the money the treasurer deposited in the treasury under certain conditions.

Sec. 133.054. RECORDS. Requires an officer or clerk collecting a fee to keep a record of the money collected and requires the treasurer to keep a record of the money collected and that is on deposit in the treasury.

Sec. 133.055. QUARTERLY REMISSION OF FEES TO THE COMPTROLLER. Requires the treasurer, on or before the last day of the month following each calendar quarter, to perform certain functions.

Sec. 133.056. QUARTERLY REPORT FOR CRIMINAL FEES. Requires the treasurer, on the last day of the month following a calendar quarter, to report the criminal fees collected for the preceding calendar quarter. Requires a municipality or county, for fees collected for convictions occurring on or after January 1, 2002, to report the fees collected for a quarter categorized according to the fund. Authorizes a municipality or county, for fees collected for convictions occurring on or after January 1, 2002, to report the total of fees collected for a quarter categorized according to the time period collected.

Sec. 133.057. QUARTERLY REPORT FOR CIVIL FEES. Requires the treasurer, on the last day of the month following a calendar quarter, to report the civil fees collected for the preceding calendar quarter.

Sec. 133.058. PORTION OF FEE RETAINED. Authorizes a municipality or county to retain certain percentages of fees under certain conditions.

Sec. 133.059. AUDIT. Authorizes the comptroller to audit the records of a county or municipality relating to fees collected under this chapter.

[Reserves Sections 133.060-133.100 for expansion]

SUBCHAPTER C. CRIMINAL FEES

Sec. 133.101. MEANING OF CONVICTION. Defines the terms under which a person is considered to have been convicted in a case.

Sec. 133.102. CONSOLIDATED FEES ON CONVICTIONS. Requires a person convicted of an offence to pay certain costs. Requires the fees under this section to be collected and remitted to the comptroller in the manner provided by Subchapter B. Requires the comptroller to allocate the fees received under this section to certain accounts and funds for certain purposes.

Sec. 133.103. TIME PAYMENT FEE. Requires a person convicted of an offense to pay, in addition to all other costs, a fee of \$25, if certain requirements are met. Requires the treasurer to send 50 percent of the fees collected under this section to the comptroller and requires the comptroller to deposit the fees received to the credit of the general revenue fund. Requires the

treasurer to deposit 10 percent of the fees collected under this section in the general fund of the county or municipality for certain purposes. Requires the county or municipality to prioritize the needs of the judicial officer who collected the fees when making expenditures under this section. Requires the treasurer to deposit the remainder of the fees collected under this section in the general revenue account of the county or municipality.

Sec. 133.104. FEES FOR SERVICES OF PEACE OFFICERS EMPLOYED BY THE STATE. Requires certain fees to be forwarded to the comptroller after deducting a certain amount from certain fees, in a manner directed by the comptroller. Requires the comptroller to credit fees received under this section to the general revenue fund.

[Reserves Sections 133.105-133.150 for expansion]

SUBCHAPTER D. CIVIL FEES

Sec. 133.151. CONSOLIDATED CIVIL FEE ON FILING IN DISTRICT COURTS. Requires the clerk of a district court, in addition to each fee collected under Section 51.317(b)(1), Government Code, to collect certain other fees. Requires the fees under this section to be collected and remitted to the comptroller in the manner provided by Subchapter B. Requires the comptroller to allocate the fees received under this section to certain accounts and funds for certain purposes.

Sec. 133.152. FILING FEES IN COURTS OTHER THAN DISTRICT COURT FOR BASIC CIVIL LEGAL SERVICES FOR INDIGENTS. Requires the clerk of a court other than a district court, the courts of appeals, or the supreme court, to collect certain stated fees in addition to other fees authorized or required by law. Requires the fees to be collected and remitted to the comptroller in the manner provided by Subchapter B. Requires the comptroller to deposit the fees to the credit of the basic civil legal services account of the judicial fund for certain purposes.

SECTION 2. Amends Section 14(e), Article 42.12, Code of Criminal Procedure, to require the clerk of a court that collects a fee imposed under Subsection (c)(2) to remit the fee to the comptroller by the last day of the month following each calendar quarter.

SECTION 3. Amends Section 19(f), Article 42.12, Code of Criminal Procedure, to require a community corrections and supervision department to remit fees collected under Subsection (e) of this section to the comptroller not later than the last day of the month following each calendar quarter.

SECTION 4. Amends Article 45.048, Code of Criminal Procedure, to require a defendant placed in jail on account of failure to pay the fine and costs to be discharged on habeas corpus by showing that the defendant has remained in jail a sufficient length of time to satisfy the fine and costs, at the rate of not less than \$50 (rather than \$100) for each day or part of a day of jail time served.

SECTION 5. Amends Article 45.049(e), Code of Criminal Procedure, to make a conforming change.

SECTION 6. Amends Article 102.004, Code of Criminal Procedure, by adding Subsection (c), to define "conviction" within this article.

SECTION 7. Amends Article 102.011, Code of Criminal Procedure, by adding Subsection (j), to define "conviction" within this article.

SECTION 8. Amends Article 102.014(c), Code of Criminal Procedure, to delete text regarding municipalities with a population of 400,000 or more.

SECTION 9. Amends Section 51.702(d), Government Code, to require the clerk to deposit the fees

and costs collected under this section to be sent to the comptroller as provided by Chapter 133B (Reporting, Collection, and Remission of Fees), Local Government Code. Deletes text regarding sending fees at least monthly.

SECTION 10. Amends Section 51.703(d), Government Code, to make conforming changes.

SECTION 11. Amends Section 51.704(c), Government Code, to make conforming changes.

SECTION 12. Amends Section 51.941, Government Code, as follows:

Sec. 51.941. New heading: ADDITIONAL FILING FEE IN APPELLATE COURTS FOR BASIC CIVIL LEGAL SERVICES FOR INDIGENTS. (a) Requires the clerk of the supreme court and courts of appeals to collect a \$25 fee on certain filings, in addition to other fees authorized or required by law. Deletes text regarding certain specific fees for certain filings.

(b) Makes a conforming change.

(c) Makes a conforming change.

(d) Adds redesignated text from existing Subsection (f). Deletes text in existing Subsection (d) regarding the remittance of fees.

(e) Deletes text in existing Subsection (e) authorizing the commissioners court to require the deposit of funds in the county's general revenue account. Redesignates text from existing Subsection (g). Deletes text defining "family law matters."

SECTION 13. Amends Section 118.015(b), Local Government Code, to make a conforming change. Deletes text regarding deductions and remittances from fees.

SECTION 14. Amends Section 118.018(c), Local Government Code, to make a conforming change.

SECTION 15. Amends Section 118.022(a), Local Government Code, to require the county clerk to deposit, as provided by Chapter 133B, Local Government Code, \$12.50 of each fee collected for issuance of a marriage license or declaration of informal marriage to be sent to the comptroller and deposited as provided by Subsection (b). Deletes text regarding a deadline for the deposit.

SECTION 16. Amends Section 542.403, Transportation Code, by adding Subsection (c), to define the term "conviction" for this section.

SECTION 17. Amends Section 706.006(a), Transportation Code, to require the political division, except under certain conditions, to require the person to pay an administrative fee of \$30 for each complaint, citation, or court order (rather than violation) for which the person failed to appear.

SECTION 18. Amends Sections 706.007(a), (b), and (c), Transportation Code, to make conforming changes regarding Chapter 133B, Local Government Code.

SECTION 19. Repealers from the Code of Criminal Procedure:

Article 56.55 (Court Costs);

Article 56.56 (Deposit and Remittance of Court Costs);

Article 56.57 (Deposit by Comptroller; Audit);

Article 56.59 (Attorney General Supervision of Collection of Costs; Failure to Comply);

Article 102.011(f)-(h) (regarding Fees for Services of Peace Officers);

Article 102.019 (Costs on Conviction for Fugitive Apprehension); and

Article 102.075 (Court Costs for Special Services).

Repealers from the Government Code:

Section 51.701 (Additional Filing Fee for Judicial Fund);

Section 51.921 (Time Payment Fee);

Sections 56.001(b)-(h) (regarding Judicial and Court Personnel Training Fund)

Section 61.003 (Donation of Reimbursement)

SECTION 20. (a) Effective date: January 1, 2002.

(b) Provides that this Act applies only to a fee collected on or after the effective date of this Act and that a fee collected before the effective date of this Act is governed by the law applicable to the collection of the fee immediately before the effective date of this Act, and that law is continued in effect for that purpose.

(c) Provides that the change in law made by this Act to Articles 45.048 and 45.049, Code of Criminal Procedure, applies only to conduct that occurs on or after the effective date of this Act and that conduct violating the penal law of this state occurs on or after the effective date of this Act if any element of the violation occurs on or after that date. Provides that conduct that occurs before the effective date of this Act is governed by the law in effect at the time the conduct occurred, and that law is continued in effect for that purpose.