

SUBJECT: Optional program for collecting criminal case court costs, fees, and fines

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 6 ayes — Peña, Vaught, Escobar, Hodge, Mallory Caraway, Pierson

0 nays

3 absent — Riddle, Moreno, Talton

SENATE VOTE: On final passage, May 3 — 31-0, on Local and Uncontested Calendar

WITNESSES: For — (*Registered, but did not testify*: Will Harrell, ACLU, NAACP, LULAC; Janet Marton, Harris County, Harris County Justice Courts; Mark Mendez, Tarrant County; Michael Pitchinson, Texas Conference of Urban Counties; Sheryl Roppolo, JP 3-1, Justice of the Peace Harris County; Celeste Villarreal, Texas Criminal Defense Lawyers Association)

Against — None

BACKGROUND: In 2005, the 79th Legislature enacted SB 1863 by Ogden, which raised or generated certain statutory fees. The bill enacted Code of Criminal Procedure, Art. 103.0033, which requires a county with a population of at least 50,000 and a municipality with a population of at least 100,000 to implement with the Office of Court Administration (OCA) a program to improve collection of court costs, fees, and fines imposed in criminal cases. The comptroller determines the collection rate for each county and municipality. A municipality or county may retain 10 percent of the collection fees as a service fee if it remits the remainder to the comptroller quarterly.

DIGEST: CSSB 280 would amend Code of Criminal Procedure, Art. 103.0033 to make it optional for all counties or municipalities to develop and implement a program to improve the collection of court costs, fee, and fines imposed in criminal cases.

The comptroller, using the methodology developed in cooperation with the Office of Court Administration before September 1, 2007, could

determine the collection rate of a participating county or municipality before the county or municipality implemented the program and one year after the date that the county or municipality implemented the program. Each participating county or municipality would submit monthly to the office and the comptroller a report on collection activity. The report would have to be submitted to the office not later than 20 days after the end of the month covered by the report. The comptroller periodically would audit participating counties and municipalities to verify the reported information.

Under CSSB 280, the office would conduct an annual review to determine whether a participating county or municipality complied with the program requirements. If the office determined that a participating county or municipality was not complying with the program requirements, the county or municipality could request the comptroller to conduct a compliance audit. The comptroller's determination of the county or municipality's compliance with the program requirements would be final.

Each county with a population of 50,000 or more and each municipality with a population of 100,000 or more would submit monthly to the office a report on collection activity, whether or not that county or municipality was participating in the program.

CSSB 280 would amend Family Code provisions on the juvenile probation diversion fund to provide that a county could retain an additional 3 percent of the funds as a service fee.

The bill would amend Local Government Code, sec. 133.058 to add that each participating county or municipality could retain quarterly as a service fee an additional 3 percent of the money collected for specific fees and costs if the municipality or county:

- was found to be in compliance with the program during the most recent review of the program; and
- remitted the remainder of those fees and costs to the comptroller 31 days after the judgment was entered assessing the fine, court costs, or restitution.

The fees and costs of which a municipality or county could retain 3 percent would be:

- the fee for jury reimbursement to counties under the Code of Criminal Procedure;
- the additional costs associated with intoxication convictions;
- the costs on conviction for offenses requiring DNA testing;
- the juvenile probation diversion fee;
- the Felony Prosecutor Supplement Fund and Fair Defense Account; and
- fees upon conviction of a felony, misdemeanor, or a non-jailable misdemeanor offense.

SB 280 would repeal Code of Criminal Procedure, Art. 103.0033(c), (e), and (f) requiring counties and municipalities to develop and implement a collection program and directing the comptroller to determine a collection rate for each county and municipality.

Not later than December 31, 2007, the OCA would make available the requirements for a program on its Internet Website.

The bill would take effect September 1, 2007.

**SUPPORTERS  
SAY:**

CSSB 280 would make the collection improvement program developed by the Office of Court Administration optional for all municipalities and counties, allowing each to become eligible to retain an additional 3 percent of collected costs, fees, and fines as an incentive, and promoting effective collection strategies specific to each jurisdiction. Although the program would be voluntary, counties and cities would have a clear motivation to participate as a source of additional revenue. Under the bill, counties and municipalities still could retain 10 percent of certain criminal court costs, fees, and fines, plus accrued interest as authorized by current law.

CSSB 280 could generate more revenue for both state and local governments without imposing across-the-board requirements regarding staffing levels, case management, and automation. Indications are that collections have improved dramatically in jurisdictions with the programs in place. Larger jurisdictions currently participating in the collection program would have ample reason to continue their existing programs because they already have systems in place and could receive an additional 3 percent of the collected monies.

**OPPONENTS  
SAY:**

Making the collection program for criminal court costs voluntary, as this bill would do, could reduce the number of cities and counties currently

participating . In addition, counties meeting the current criteria have expended large sums on software and other implementation aspects that could be wasted if the program became optional. The 3 percent incentive would not be sufficient encouragement for these jurisdictions to keep their programs.

**NOTES:**

The House committee substitute differs from the Senate-passed version of the bill by specifying that the 3 percent of funds retained as a service fee would be an “additional” 3 percent that could be retained if the remainder of the fees and costs were remitted to the comptroller within a certain period.