

SUBJECT: Retention of \$22.50 court cost upon conviction for intoxication offenses

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 9 ayes — Gallego, Christian, Fletcher, Kent, Miklos, Moody, Pierson, Riddle, Vaught

0 nays

2 absent — Hodge, Vo

SENATE VOTE: On final passage, March 19 — 31-0, on Local and Uncontested Calendar

WITNESSES: For — Craig Pardue, Dallas County; Terry Robinson, Dallas County Institute of Forensic Sciences; (*Registered, but did not testify*: Mark Mendez, Tarrant County; Cindy Segovia, Bexar County Commissioners Court)

Against — None

On — (*Registered, but did not testify*: Randall Beaty, Texas Department of Public Safety, Forensic Breath Alcohol Laboratory)

BACKGROUND: Local Government Code, sec. 133.102 — which requires a person convicted of an offense to pay certain court costs, including \$133 on conviction of a felony, \$83 on conviction of a Class A or Class B misdemeanor, or \$40 on conviction of a nonjailable misdemeanor offense — replaced Code of Criminal Procedure, Art. 102.075, which had provided for certain court costs but was repealed by the 78th Legislature in 2003.

Code of Criminal Procedure, Art. 102.016 allows cities and counties that maintain a certified breath alcohol testing program but do not use the services of a certified technical supervisor employed by DPS to retain \$22.50 of each court cost collected under Art. 102.075, the repealed provision.

According to the Legislative Budget Board, DPS provides a certified technical supervisor for breath alcohol testing for 234 out of Texas's 254 counties. The remaining 20 counties do not use a DPS supervisor.

DIGEST: SB 333 would authorize the custodian of a municipal or county treasury in a county that maintained a certified breath alcohol testing program without the assistance of a DPS-employed certified technical supervisor to retain \$22.50 of each court cost collected from a person upon the person's conviction of an intoxication or alcoholic beverage-related offense under Penal Code, ch. 49, other than a Class C misdemeanor.

The bill would take effect September 1, 2009, and would apply only to a court cost collected on or after that date.

SUPPORTERS SAY: SB 333 would restore needed funding to counties that manage their own certified breath alcohol testing programs without the assistance of DPS technical supervisors. The bill would correct an apparent oversight by the 78th Legislature in 2003, which repealed and consolidated the fee provisions of Code of Criminal Procedure, Art. 102.075 into Local Government Code, ch. 133 but did not amend Code of Criminal Procedure, art. 102.016 to refer to the consolidated provisions. As a result, counties that provided self-funded breath testing programs to law enforcement lost the ability to retain funds to defray the costs of maintaining these programs. SB 333 would carry out the Texas Judicial Council's recommendation that the Legislature enact the needed statutory change to correct Code of Criminal Procedure, Art. 102.016.

OPPONENTS SAY: No apparent opposition.