

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1378
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Finance
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Committee Report (Substituted)

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 determined that the allocation is 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. C.S.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 state criminal and civil

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 or custodian of the treasury for a municipality or a county, 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 class of offense. Requires a municipality or county, for fees collected for convictions occurring before 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 and provides that the money spent is subject to audit by the state auditor.

[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 money collected under this section for offenses on or after January 1, 2002, to be in certain distributed amounts and allocated according to certain percentages. Requires the specified amounts and percentages, if any new court costs are added or the amounts changed under this section, to change accordingly. Sets forth guidelines for the distribution of money collected for offenses before January 1, 2002. Requires the comptroller to allocate the fees received under this section to certain accounts and funds so that each receives to the extent practicable, utilizing

historical data as applicable, the same amount of money the account or fund would have received if the accounts and fees had been collected and reported separately, except that the accounts and funds are prohibited from receiving less than certain percentages.

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 reserve the 10 percent for and 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 DISTRICT COURT FOR BASIC CIVIL LEGAL SERVICES FOR INDIGENTS.** Requires the clerk of a district court, in addition to other fees authorized or required by law, to collect certain fees in addition to other fees authorized or required by law. 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 deposit the fees to the credit of the basic civil legal services account of the judicial fund for certain purposes.

Sec. 133.153. **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 deposit fees collected under this section to be sent (rather than to remit the fee) to the comptroller as provided by Chapter 133B, Local Government Code.

SECTION 3. Amends Section 19(f), Article 42.12, Code of Criminal Procedure, to require a community corrections and supervision department to deposit (rather than remit) fees collected under section to be sent to the comptroller as provided by Chapter 133B, Local Government Code. Deletes

reference to Subsection (e).

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 provide that a defendant is considered to have discharged not less than \$50 (rather than \$100) of fines or costs for each eight hours of community service performed under this article.

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 a population of 400,000 or more.

SECTION 9. Amends Article 102.075, Code of Criminal Procedure, by amending Subsection (m) and adding Subsection (n), as follows:

(m) Requires a person convicted of an offense described by Subsection (a), in addition to the cost on conviction already imposed, to pay 50 (rather than 25) cents on conviction of the offense.

(n) Requires a person convicted of an offense described by Subsection (a), in addition to the cost on conviction already imposed by Subsections (a) and (m), to pay 50 cents on conviction of the offense. Requires the comptroller to deposit money received under this subsection to the credit of an account in the state treasury to be used only for certain purposes. Provides that Subsection (h) does not apply to money received under this subsection.

SECTION 10. 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 11. Amends Section 51.703(d), Government Code, to make conforming changes.

SECTION 12. Amends Section 51.704(c), Government Code, to make conforming changes.

SECTION 13. 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) Requires the clerk to send the fees collected under this section to the comptroller not later than the last day of the month following (rather than the 10th day after the end

of) each calendar quarter.

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

SECTION 15. Amends Section 118.018(c), Local Government Code, to make a conforming change.

SECTION 16. 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 17. Amends Section 542.403, Transportation Code, by adding Subsection (c), to define the term "conviction" for this section.

SECTION 18. 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 19. Amends Sections 706.007(a), (b), and (c), Transportation Code, to make conforming changes regarding Chapter 133B, Local Government Code.

SECTION 20. 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); and

Article 102.019 (Costs on Conviction for Fugitive Apprehension).

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); and

Section 61.003 (Donation of Reimbursement).

SECTION 21. (a) Effective date: January 1, 2002.

(b) Makes application of this Act prospective regarding any fees collected.

(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.

(d) Makes application of the change in law made by Section 9 of this Act prospective regarding court costs imposed on conviction of an offense. Provides that, for the purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SUMMARY OF COMMITTEE CHANGES

Amends As Filed S.B. 1378 as follows:

SECTION 1. Amends proposed Chapter 133, Title 4C, Local Government Code, as follows:

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

Sec. 133.004. Omits original inclusion of a certain administrative fee under civil fees applicable under this chapter.

Sec. 133.051. Requires a municipality or county to collect, record, account for, and remit to the comptroller all state criminal and civil fees in the manner provided by this subchapter.

Sec. 133.055. Adds the text “or custodian of the treasury for a municipality or a county.”

Sec. 133.056. Replaces the text “ according to the fund” with “according to the class of offense.” Requires, rather than authorizes, a municipality or county, for fees collected for convictions occurring before (rather than on or after) January 1, 2002, to report the total of fees collected for a quarter categorized according to the time period collected.

Sec. 133.059. Provides that the money spent is subject to audit by the state auditor.

Sec. 133.102. Makes nonsubstantive changes. Requires money collected under this section for offenses on or after January 1, 2002, to be in certain distributed amounts and allocated according to certain percentages. Requires the specified amounts and percentages, if any new court costs are added or the amounts changed under this section, to change accordingly. Sets forth guidelines for the distribution of money collected for offenses before January 1, 2002. Prohibits the accounts or funds from receiving less than certain percentages of the fees received under this section. Adds to the list of accounts and funds required to receive funds received under this section.

Sec. 133.103. Requires the county or municipality to reserve the 10 percent of the fee required to be deposited in the entity’s general fund for the judicial officer who collected the fees when making expenditures under this section.

Sec. 133.104. Makes a nonsubstantive change.

Sec. 133.151. Replaces the text “any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross action, intervention, interpleader, or third-party action requiring a filing fee” with “any civil suit.”

Sec. 133.152. Omits original text and adds a new Section 133.152.

Adds a new Section 133.153, with text redesignated from original Section 133.152. No changes in text.

SECTION 2. Amends text to require the clerk of a court that collects a fee imposed under Subsection

(c)(2) to deposit fees collected under this section to be sent (rather than to remit the fee) to the comptroller as provided by Chapter 133B, Local Government Code (rather than by the last day of the month following each calendar quarter).

SECTION 3. Amends text to require a community corrections and supervision department to deposit (rather than remit) fees collected under this section to be sent to the comptroller as provided by Chapter 133B, Local Government Code (rather than by the last day of the month following each calendar quarter). Deletes reference to Subsection (e).

SECTION 4. No change.

SECTION 5. Amends text to replace “discharged \$50” with “discharged not less than \$50.”

SECTIONS 6 - 7. No change.

SECTION 8. Restores the text “and shall be assessed only in a municipality,” which was originally proposed for deletion.

SECTION 9. Omits original SECTION 9. Adds a new SECTION 9.

Original SECTIONS 9 - 11 redesignated as SECTIONS 10 - 12, respectively.

SECTION 13. Omits original SECTION 13. Redesignates original SECTION 12 as SECTION 13. Amends text to require the clerk to send the fees collected under this section to the comptroller not later than the last day of the month following (rather than the 10th day after the end of) each calendar quarter.

Original SECTIONS 13 - 18 redesignated as SECTIONS 14 - 19, respectively.

SECTION 20. Omits original SECTION 20. Redesignates original SECTION 19 as SECTION 20. Amends text to omit the original proposed repeal of Article 102.075 (Court Costs for Special Services), Code of Criminal Procedure.

Adds a new SECTION 21, redesignated from original SECTION 20. Deletes the text “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.” Adds new Subsection (d).