

## **BILL ANALYSIS**

Senate Research Center  
78R822 JJT-D

S.B. 502  
By: Armbrister  
Finance  
4/4/2003  
As Filed

### **DIGEST AND PURPOSE**

Upon conviction on a municipal ordinance, misdemeanor, or felony, an offender is ordered to pay state and local court costs, fees, and fines. The current structure of state and local court costs, fees, and fines may be a time-consuming and burdensome task for municipalities or counties with limited resources and manual systems. In 1997, eleven of the court fees were consolidated into one fee to be reported and remitted each quarter to the comptroller of public accounts. The comptroller's report to the 77th Texas Legislature recommended consolidating the remaining four fees into the existing consolidated fee structure. According to the report, fee consolidation, simplified collection, and reporting by municipal courts could lead to significant savings in time and money. As proposed, S.B. 502 amends provisions relating to the collection, remittance, and distribution of consolidated criminal and civil fees.

### **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

##### SUBCHAPTER A. GENERAL PROVISIONS

Sec. 133.001. PURPOSE. Provides that the purpose of this chapter is to consolidate and standardize certain criminal and civil fees remitted to the comptroller of public accounts.

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 REMITTANCE OF FEES

Sec. 133.051. COLLECTION AND REMITTANCE 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. (a) Requires an officer collecting a fee in a case in municipal court to deposit the money in the municipal treasury.

(b) Requires an officer collecting a fee in a justice, county, or district court to deposit the money in the county treasury.

(c) 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. (a) Authorizes the treasurer to deposit fees in an interest-bearing account.

(b) Authorizes the municipality or county to retain any interest accrued on the money the treasurer deposited in the treasury if the treasurer remits the funds to the comptroller within the period prescribed by Section 133.055(a).

Sec. 133.054. RECORDS. (a) Requires an officer or clerk collecting a fee to keep a record of the money collected.

(b) Requires the treasurer to keep a record of the money collected and on deposit in the treasury.

Sec. 133.055. QUARTERLY REMITTANCE OF FEES TO THE COMPTROLLER. (a) Requires the treasurer, on or before the last day of the month following each calendar quarter, to perform certain tasks.

(b) Requires the treasurer, if the treasurer does not collect any fees during a calendar quarter, to file the report required for the quarter in the regular manner. Requires the report to state that no fees were collected.

Sec. 133.056. QUARTERLY REPORT FOR CRIMINAL FEES. (a) 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.

(b) Requires a municipality or county, for fees collected for convictions of offenses committed on or after January 1, 2004, to report the fees collected for a calendar quarter categorized according to the class of offense.

(c) Requires a municipality or county, for fees collected for convictions of offenses committed before January 1, 2004, to report the total of fees collected for a calendar quarter categorized according to the time period during which the offenses occurred.

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. (a) Authorizes a municipality or county, except as otherwise provided by this section, to retain 10 percent of the money collected from fees as a service fee for the collection if the municipality or county remits the remainder of the fees to the comptroller within the period prescribed by Section 133.055(a).

(b) Authorizes a municipality or county to retain an amount greater than 10 percent of the money collected from fees if retention of the greater amount is authorized by law.

(c) Authorizes a county to retain five percent of the money collected as a service fee on the basic civil legal service for indigents filing fee.

(d) Provides that a county may not retain a service fee on the collection of a fee for the judicial fund.

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

(b) Provides that money spent from fees collected under this chapter 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. Provides that in this subchapter, a person is considered to have been convicted in a case if certain criteria are met.

Sec. 133.102. CONSOLIDATED FEES ON CONVICTION. (a) Requires a person convicted of an offense to pay as a court cost, in addition to all other costs certain fees for convictions.

(b) Requires the court costs under Subsection (a) to be collected and remitted to the comptroller in the manner provided by Subchapter B.

(c) Requires the money collected under this section as court costs imposed on offenses committed on or after January 1, 2004, to be allocated according to the percentages provided in Subsection (e).

(d) Requires the money collected as court costs imposed on offenses committed before January 1, 2004, to be distributed using historical data so that each account or fund receives the same amount of money the account or fund would have received if the court costs for the accounts and funds had been collected and reported separately.

(e) Requires the comptroller to allocate the court costs 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 court costs for the accounts and funds had been collected and reported separately, except that the account or fund may not receive less than certain percentages.

(f) Provides that of each dollar credited to the law enforcement officers standards and education account under Subsection (e)(5):

(1) 33.3 cents may be used only to pay administrative expenses; and

(2) the remainder may be used only to pay expenses related to continuing education for persons licensed under Chapter 1701, Occupations Code.

Sec. 133.103. TIME PAYMENT FEE. (a) Requires a person convicted of an offense to pay, in addition to all other costs, a fee of \$25 if certain criteria are met.

(b) Requires the treasurer to send 50 percent of the fees collected under this section to the comptroller. Requires the comptroller to deposit the fees received to the credit of the general revenue fund.

(c) Requires the treasurer to deposit 10 percent of the fees collected under this section in the general fund of the county or municipality for the purpose of improving the efficiency of the administration of justice in the county or municipality. Requires the county or municipality to prioritize the needs of the judicial officer who collected the fees when making expenditures under this subsection and use the money deposited to provide for those needs.

(d) 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. (a) Requires fees imposed under Article 102.011, Code of Criminal Procedure, for services performed by peace officers employed by the state to be forwarded to the comptroller after deducting four-fifths of the amount of each fee received for a service performed under Subsection (a)(1) or (a)(2) of that article, in a manner directed by the comptroller.

(b) Requires the comptroller to credit fees received under Subsection (a) 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 A CIVIL SUIT IN DISTRICT COURT. (a) Requires the clerk of a district court, in addition to each fee collected under Section 51.317(b)(1), Government Code, to collect certain fees on the filing of any civil suit.

(b) Requires the fees under Subsection (a) to be collected and remitted to the comptroller in the manner provided by Subchapter B.

(c) 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 fees for the accounts and funds had been collected and reported separately.

Sec. 133.152. ADDITIONAL FILING FEES FOR CERTAIN ACTIONS AND PROCEEDINGS IN DISTRICT COURT FOR BASIC CIVIL LEGAL SERVICES FOR INDIGENTS. (a) Requires the clerk of the district court, in addition to other fees authorized or required by law, to collect certain fees on the filing of 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.

(b) Requires the fees under this section to be collected and remitted to the comptroller in the manner provided by Subchapter B.

(c) Requires the comptroller to deposit the fees to the credit of the basic civil legal services account of the judicial fund for use in programs approved by the supreme court that provide basic civil legal services to an indigent.

Sec. 133.153. ADDITIONAL FILING FEES FOR CERTAIN ACTIONS AND PROCEEDINGS IN COURTS OTHER THAN DISTRICT COURT FOR BASIC CIVIL LEGAL SERVICES FOR INDIGENTS. (a) Requires the clerk of a court other than a district court, the courts of appeals, or the supreme court, in addition to other fees authorized or required by law, to collect certain fees on the filing of 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.

(b) Requires the fees to be collected and remitted to the comptroller in the manner provided by Subchapter B.

(c) Requires the comptroller to deposit the fees to the credit of the basic civil legal services account of the judicial fund for use in programs approved by the supreme court that provide basic civil legal services to an indigent.

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 the fee to be sent to

the comptroller as provided by Chapter 133B, Local Government Code, rather than remit the fee to the comptroller.

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 Subsection (e) of this section to be sent to the comptroller as provided by Chapter 133B, Local Government Code. Requires the comptroller to deposit the fee in the sexual assault program fund under Section 420.008, Government Code.

SECTION 4. Amends Article 45.048, Code of Criminal Procedure, to decrease the rate for each period of time served in order for a defendant to be discharged on habeas corpus to not less than \$50 rather than \$100. Makes a conforming change.

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 provide that in this article, conviction has the meaning assigned by Section 133.101, Local Government Code.

SECTION 7. Amends Article 102.011, Code of Criminal Procedure, by adding Subsection (j) to provide that in this article, conviction has the meaning assigned by Section 133.101, Local Government Code.

SECTION 8. Amends Article 102.014(e), Code of Criminal Procedure, to provide that in this article, a person is considered to have been convicted in a case if the person would be considered to have been convicted under Section 133.101, Local Government Code

SECTION 9. Amends Section 51.702(d), Government Code, to require the clerk to deposit, rather than send, the fees and costs collected under this section to be sent to the comptroller as provided by Chapter 133B, Local Government Code

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

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

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

Sec. 51.941. ADDITIONAL FILING FEE IN APPELLATE COURTS FOR BASIC CIVIL LEGAL SERVICES FOR INDIGENTS. (a) Requires the supreme court and courts of appeal to collect a \$25 fee for basic civil legal services for indigents in appellate court.

(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. Deletes existing Subsections (d) and (e).

(g) Makes a conforming change.

SECTION 13. Amends Section 118.015(b), Local Government Code, to require a county clerk who collects a fee under this section for a certified copy of a birth certificate to deposit the fee into the county treasury. Requires the state's portion of the fee to be sent to the comptroller as provided by Chapter 133B, for deposit in the work and family policies fund.

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 make a conforming change.

SECTION 16. Amends Section 542.403, Transportation Code, by adding Subsection (c), to provide that in this section, "conviction" has the meaning assigned by Section 133.101, Local Government Code.

SECTION 17. Amends Section 621.506, Transportation Code, by amending Subsection (g) and adding Subsection (h) to make conforming changes.

SECTION 18. Amends Section 706.006(a), Transportation Code, to require a person who fails to appear for a complaint or citation to be required to pay an administrative fee of \$30 for each complaint or citation reported to the Department of Public Safety under this chapter.

SECTION 19. Amends Sections 706.007(a), (b), and (c), Transportation Code, to require an officer collecting a fee under Section 706.006 to keep records and deposit the money as provided by Chapter 133B, Local Government Code

(b) and (c) Make conforming changes.

SECTION 20. Repealer:

- (1) Article 56.55, Code of Criminal Procedure (Court Costs);
- (2) Article 56.56, Code of Criminal Procedure (Deposit and Remittance of Court Costs);
- (3) Article 56.57, Code of Criminal Procedure (Deposit by Comptroller; Audit);
- (4) Article 56.59, Code of Criminal Procedure (Attorney General Supervision of Collection of Costs; Failure to Comply);
- (5) Articles 102.011(f)-(h), Code of Criminal Procedure (Fees for Services of Peace Officers);
- (6) Article 102.019, Code of Criminal Procedure (Costs on Conviction for Fugitive Apprehension);
- (7) Article 102.075, Code of Criminal Procedure (Court Costs for Special Services);
- (8) Section 51.701, Government Code (Additional Filing Fee for Judicial Fund);
- (9) Section 51.921, Government Code (Time Payment Fee); and
- (10) Sections 56.001(b)-(h), Government Code (Judicial and Court Personnel Training Fund).

SECTION 21. (a) Effective date: January 1, 2004.

(b) Makes application of this Act prospective.