

SUBJECT: Collection of criminal and civil court fees

COMMITTEE: Judicial Affairs — committee substitute recommended

VOTE: 5 ayes — Thompson, Hartnett, Capelo, Deshotel, Solis
0 nays
1 present not voting — Talton
3 absent — Garcia, Hinojosa, Uresti

SENATE VOTE: On final passage, May 3 — 30-0, on Local and Uncontested Calendar

WITNESSES: For — *Registered but did not testify:* Snapper Carr, Texas Municipal League; Matthew Emal, City of Houston; Martha Gustavsen and Kathy Hynson, County Treasurers of Texas; Quentin B. Porter, Texas Court Clerks Association and Texas Municipal Courts Association; Rick Thompson, Texas Association of Counties; Vivian Wood, County Treasurers Association of Texas.

Against — None

BACKGROUND: In both civil and criminal cases, court costs are collected by a number of different entities, including municipal, county, and district courts, justice courts, and corrections programs. In 1997, the 75th Legislature consolidated 10 court fees that provide funds for various programs into a single fee to be remitted to the comptroller for allocation to the relevant funds or programs. The comptroller had recommended consolidating the fees to reduce the administrative burden on cities and counties that must collect, report, and remit the fees to the state. However, the 75th Legislature also created four new court fees, and more have been authorized since then.

SCR 12 by Ellis, enacted by the 76th Legislature, directed the comptroller to “develop strategies for increasing the efficiency and reducing the complexity of fee collection and dispersal by county and municipal clerks” and to submit

recommendations to the Legislature by January 1, 2001. The comptroller's report in March 2000 recommended consolidating all criminal court costs and fees into a single fee, consolidating all civil court costs and fees into a single fee, and requiring uniform quarterly reporting and remittance of such fees to the comptroller. It also recommended that the Legislature clarify the definition of "conviction," so that it would be more clear when certain fees should be imposed in a case.

DIGEST:

CSSB 1378 would add ch. 133 to the Local Government Code to create a system to consolidate and standardize the collection by courts and remittance to the comptroller of fees imposed in criminal and civil cases, and the distribution of those fees to the proper funds or accounts by the comptroller.

Criminal court costs. The bill would create a consolidated \$133.75 fee paid upon conviction of a felony, a \$83.75 fee paid upon conviction of a class A or B misdemeanor, and a \$40.75 fee paid upon conviction of a class C misdemeanor or non-jailable offense, including violations of city ordinances, but excluding non-moving violations like parking tickets and jay-walking. Persons would be considered convicted if a judgment and/or sentence were imposed upon them, if they received deferred adjudication or disposition of the case or community supervision, or if the judge deferred the disposition, judgment, or sentence in the case.

The bill would repeal portions of the Code of Criminal Procedure (CCP) and Government Code that currently impose the fees being consolidated, including:

- ! CCP, art. 56.55 (crime victim compensation);
- ! CCP, art.102.09 (fugitive apprehension);
- ! CCP, art. 102.075 (consolidated fee);
- ! Government Code, sec. 51.921 (time payment); and
- ! Government Code, sec. 56.001(b) (judicial and court personnel training).

Until January 1, 2002, the consolidated fees would be distributed using historical data so that each account or fund would receive the amounts it would have received under the current system of separate collection and reporting.

Fees collected after January 1, 2002, would have to be allocated so that the recipient funds or accounts received the same amount of money that the account or fund would have received under the separate collection and reporting system, but not less than the following percentage of the amounts collected:

.0085 percent	abused children's counseling;
.2537 percent	crime stoppers assistance;
.5412 percent	breath alcohol testing;
2.1309 percent	Bill Blackwood Law Enforcement Management Institute;
4.9172 percent	law enforcement officers standards and education (one-third for administrative, remainder for continuing education);
5.2301 percent	comprehensive rehabilitation;
10.9506 percent	operators' and chauffeurs' license;
12.3374 percent	criminal justice planning;
1.1854 percent	Center for Study and Prevention of Juvenile Crime and Delinquency at Prairie View A&M University;
37.5686 percent	Crime Victims' Compensation Fund;
11.8537 percent	fugitive apprehension;
4.7415 percent	judicial & court personnel training;
1.1854 percent	Correctional Management Institute and Criminal Justice Center; and
7.0960 percent	Misdemeanor — general revenue.

If any court costs were added or changed, the dollar amounts to be collected and the allocation percentages above would be adjusted accordingly.

Also, the bill would repeal and recodify the current provisions of Government Code, sec. 51.921 regarding \$25 time payment fees charged to those people convicted of felonies or misdemeanors, as well as the provisions for allocating those fees between state and local government and to different functions within local government.

The bill would direct that 20 percent of all fees imposed upon a convicted criminal defendant under CCP, art. 102.011 for various services performed

by a peace officer be forwarded to the comptroller for deposit in the general revenue fund. The bill would repeal subsections of art. 102.001 relating to how the fees are allocated between state and local governments and deposited.

In addition to the fees discussed in this section, the following fees would be defined as “criminal fees” and also would be subject to the rules this bill would enact regarding collection, reporting, and remittance of fees:

- ! the costs that were assessed against a defendant upon conviction by a county court or statutory county court under Government Code, secs. 51.702 and 51.703 for support of the judiciary;
- ! the administrative fee imposed for failure to appear (Transportation Code, sec. 706.006);
- ! fines imposed under Transportation Code, sec. 706.006 upon defendants convicted of traffic offenses for failing to appear at the time prescribed in the citation for the offense; and
- ! fines imposed upon drivers or owners who operated grossly overweight vehicles under Transportation Code sec. 621.506(g).

Civil court costs. The bill would create a consolidated \$45 fee in family law cases and a \$50 fee in all other district court cases. This consolidated fee would have to be allocated by the comptroller using historical data so that each account or fund would receive the money it would have received under the current system of separate collection and reporting; specifically, \$40 to the judicial fund for support of the judiciary, and the remainder to the basic civil legal services account of the judicial fund for provision of civil legal services to the indigent. The bill also would repeal provisions of the Government Code that currently impose civil filing fees (sec. 51.701) and fees for basic civil legal services (sec. 51.941).

The bill also would require courts to collect an additional filing fee on all cases, counterclaims, cross-claims, interventions, interpleaders, and third-party actions. The comptroller would deposit the filing fees in the civil legal services account of the judicial fund to be used for Supreme Court-approved programs that provided basic civil legal services to the indigent. In family law cases and in cases before a statutory or constitutional county court, the

fee would be \$5. In appellate cases and in non-family district courts, the fee would be \$10. In justice of the peace courts, the fee would be \$2.

The bill would define as “civil fees” these consolidated filing fees, along with filing fees designated for the benefit of the judicial fund under Government Code, secs. 51.702-704 and fees collected under Local Government Code, secs. 118.015, 118.018, and 118.022 in relation to the issuance of birth certificates and marriage licenses or declarations of informal marriage. All of these civil fees would be subject to the collection, reporting, and remittance requirements of the bill.

Provisions for collection, reporting, and remittance. CSSB 1378 would require that all criminal or civil fees be collected and remitted to the comptroller through the following procedures.

Municipalities and counties would have to deposit the fees in their respective treasuries. If the money were deposited in an interest-bearing account, the city or county could keep the interest earned on the money if the city or county remitted the fees and necessary reports to the comptroller within the bill’s deadlines.

Specifically, cities and counties would have to remit to the comptroller all fees collected in a calendar quarter on or before the last day of the month following that quarter. They also would have to submit separate quarterly reports of the criminal fees and civil fees collected. For fees collected on convictions before January 1, 2002, the report would have to categorize the fees by the class of offense for which they were collected. Fees collected on convictions on or after January 1, 2002, would be reported by the time period in which the offense occurred. If no fees were collected in a calendar quarter, the city or county would file a report to that effect.

If the city or county remitted the fees collected by the deadline, it could retain as a collection service charge, 10 percent of all fees collected except for:

- ! the fees collected for the judicial fund, for which no service fee would be permitted, and

! the fees collected for the basic civil legal services for indigents, from which only 5 percent could be retained.

A greater amount could be retained if that was authorized by law.

The bill would permit the comptroller to audit city or county records related to fees collected and remitted under the chapter and would permit the state auditor to audit the money spent from fees collected under the chapter.

Miscellaneous provisions. The bill would amend the Code of Criminal Procedure and Government Code to direct courts that collected fees to handle them in accordance with the bill's provisions.

The bill would amend secs. 45.048 and 45.059 of the Code of Criminal Procedure relating to persons who did not pay a fine or court cost. The bill would reduce the amount of credit toward a fine or cost that a jailed person received for their incarceration from \$100 per day to \$50 per day. The credit a person received for doing community service also would be reduced to \$50 per eight hours of service performed.

The bill also would amend the provisions imposing fees for overloaded vehicles so that they applied in all municipalities, not just in large ones.

The bill would take effect January 1, 2002, and would apply only to violations occurring on or after the effective date. Penal law violations are considered occurring on or after the effective date if any part of the conduct occurred on or after that date. Also, changes to the Code of Criminal Procedure regarding credit toward fees for time in jail or community service would apply only to conduct that occurred on or after the effective date.

SUPPORTERS
SAY:

CSSB 1378 is needed to ease the administrative burden on local governments imposed by state requirements to collect and remit court fees. In response to SCR 12, the comptroller reported that cities collect up to 20 fees for the state and that counties collect up to 33 such fees. These fees do not have uniform reporting and remittance dates, and cases filed in different years are subject to different sets of fees. As expressed by SCR 12, simplifying the fee-collection process would enable smaller jurisdictions to

use a smaller portion of their limited resources in identifying, collecting, and remitting fees.

OPPONENTS
SAY:

This bill and the constitutional amendment proposed by SJR 49 together would tie the hands of future legislatures by invalidating a fee that did not follow the bill's program for reporting and collecting such fees. A future Legislature might find it necessary at times to remove a court fee from the standardized and consolidated collection, reporting, and remittance system.

NOTES:

Three related bills were set for Monday's calendar. SJR 49 by Armbrister (Thompson), which would propose a constitutional amendment to require all court fees to be incorporated into SB 1378's consolidation program, was set on the House Constitutional Amendments Calendar for May 21. SB 1377 and SB 1379, both by Armbrister (Thompson) were on Monday's House General State Calendar. SB 1377 would direct the state auditor to review biennially all funds and accounts into which court fees were deposited and report the findings to the Legislature. SB 1379 would require after each legislative session that the comptroller identify all laws imposing a court cost or fee collected by a municipal, justice, county, or district court in a criminal case.

The committee substitute imposed a fee on filings in district courts to pay for basic civil legal services for the indigent that also would be considered a "civil fee," and on which 5-percent service fee would be imposed in favor of the collecting city or county. It added the prohibition against retaining a service charge on fees collected for the judicial fund.

The committee substitute replaced the Senate engrossed version's increases in fees on certain convictees for the Correction Management Institute, the Criminal Justice Center, and the Center for Study and Prevention of Juvenile Crime at Prairie View A&M and would compensate for this by increasing the consolidated criminal fees by 75 cents over the Senate bill as engrossed and changing the relevant percentages accordingly.

The substitute also specified that \$40 of the civil filing fee in district courts would be for the judicial fund, with the remainder going to basic civil legal services.

The substitute changed the provision that fees collected until January 1 be reported by when they were collected and would change reporting to when the offense occurred. The substitute also added the requirement that the city and county submit a report even if no fees were collected during a quarter.

The fiscal note indicated that the bill would generate about \$1.7 million in fiscal 2002-03 for the Center for the Study and Prevention of Juvenile Crime and Delinquency and \$1.1 million annually after that. The bill also would generate about \$3.4 million in fiscal 2002-03 for the Correctional Management Institute, then \$2.7 million annually after that.