

## **BILL ANALYSIS**

C.S.H.B. 1945  
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Judicial Affairs  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Under current law, certain statutory county courts may collect various types of fees. The major fees in question are a \$40 filing fee for civil cases (the “Civil Fee”) and a \$15 court cost assessed upon conviction (the “Criminal Fee”). Collection of these fees is optional to the counties. Parties have filed lawsuits - the latest being *Caldwell v. Rylander* which is currently pending in the district court of Travis County - seeking to declare these fees unconstitutional. These lawsuits claim primarily that the Criminal Fee violates equal protection provisions since it is not uniformly required across the state.

While none of these lawsuits have been successful, there are no appellate decisions on record and many county governments are concerned with the severe fiscal impact that would result if the fees are held unconstitutional at some point. C.S.H.B. 1945 requires the uniform collection of the Criminal Fee, thereby obviating the issues raised by *Caldwell v. Rylander*.

The bill also addresses the state contribution/supplement plan for certain statutory county court judges, since this plan is linked to the fees described above. Under current law, counties which choose to collect the fees “opt-in” to the system and forward the fees collected to the comptroller, who places the money in the judicial fund. Participating counties then receive a contribution of \$35,000 per judge from the state. Of this amount, \$30,000 is paid from the judicial fund, and \$5,000 is paid from the general revenue fund.

C.S.H.B. 1945 provides that a county is not considered a participating county unless it collects both the Civil Fee and the Criminal Fee. The system for counties participating before the effective date of the bill will continue unchanged from current law. Counties electing to participate after the effective date will receive their entire supplement from the judicial fund, thereby not increasing the current appropriation from the general revenue fund. Counties which collect the Criminal Fee only will not participate in the contribution/supplement plan and will retain the Criminal Fees collected.

Legislation to address similar issues in 2001 (contained in H.B. 2300 and H.B. 1884) passed the House but did not pass the Senate.

### **RULEMAKING AUTHORITY**

It is the committee’s opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 1945 amends the Government Code to provide that in order to be considered a participating county, a county must collect both the Civil Fee (Section 51.702(a), Government Code) and the Criminal Fee (Section 51.702(b), Government Code).

The bill provides that a county participating before September 1, 2003 shall have their state contribution for certain judges paid from both the judicial fund (\$30,000 per judge) and the general revenue fund (\$5,000 per judge) as provided by current law. Counties choosing to participate after September 1, 2003,

shall have their entire state contribution paid from the judicial fund.

The bill also provides that in a county in which court costs are not collected under Section 51.702(b), Government Code, a person shall pay, in addition to other court costs, \$15 as a court cost on conviction of any criminal offense in a statutory county court, including cases in which probation or deferred adjudication is granted. A conviction that arises under Chapter 521, Transportation Code, or a conviction under Subtitle C, Title 7, Transportation Code, is included, except that a conviction arising under any law that regulates pedestrians or the parking of motor vehicles is not included.

Court costs due under the above paragraph shall be collected in the same manner as other fees, fines, and costs are collected in the case. The clerk shall send the costs to the county treasurer or other person performing the duties of county treasurer at least as frequently as monthly. The county treasurer or other person shall deposit the costs collected in the county treasury.

The bill provides that a clerk may not collect a fee under both Section 51.703 and Section 51.702(a), Government Code.

#### **EFFECTIVE DATE**

September 1, 2003.

#### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

The original mandated that all counties collect both the Civil Fee and the Criminal Fee, and thus that all counties participate in the contribution/supplement scheme. The substitute mandates the collection of only the Criminal Fee, and deems a county participating only if it collect both the Civil Fee and the Criminal Fee.

The substitute distinguishes between counties which participated before the effective date and those which choose to participate after the effective date. The original would have required additional appropriations from the general revenue fund for all participating counties, even those brought into the system after the effective date. The substitute requires no additional appropriation from general revenue and states that counties choosing to participate after the effective date will receive their contribution/supplement only from the judicial fund.

The substitute provides that non-participating counties will retain the funds they collect from persons upon certain criminal convictions.

The substitute adds language to conform to the provisions of the substitute Section 25.0292(f), Government Code relating to Burnet County.