

By: Armbrister

S.B. No. 782

A BILL TO BE ENTITLED

AN ACT

relating to the authority of a county or municipality to contract for collection services in criminal cases and certain cases involving the parking or stopping of motor vehicles.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 103.0031, Code of Criminal Procedure, is amended to read as follows:

Art. 103.0031. COLLECTION CONTRACTS. (a) The commissioners court of a county or the governing body of a municipality may enter into a contract with a private attorney or a public or private vendor for the provision of collection services for one or more of the following items:

(1) debts and accounts receivable such as unpaid fines, fees, court costs, and restitution ordered paid by:

(A) a court serving the county or a court serving the municipality, as applicable; or

(B) a hearing officer serving the municipality under Chapter 682, Transportation Code; and

(2) amounts in cases in which the accused has failed to appear:

(A) as promised under Subchapter A, Chapter 543, Transportation Code, or other law;

(B) in compliance with a lawful written notice to appear issued under Article 14.06(b) or other law;

1 (C) in compliance with a lawful summons issued
2 under Article 15.03(b) or other law;

3 (D) in compliance with a lawful order of a court
4 serving the county or municipality; or

5 (E) as specified in a citation, summons, or other
6 notice authorized by Section 682.002, Transportation Code, that
7 charges the accused with a parking or stopping offense ~~[debts and~~
8 ~~accounts receivable such as fines, fees, restitution, and other~~
9 ~~debts or costs, other than forfeited bonds, ordered to be paid by a~~
10 ~~court serving the county or a court serving the municipality, as~~
11 ~~appropriate].~~

12 (b) A commissioners court or governing body of a
13 municipality that enters into a contract with a private attorney or
14 private vendor under this article may authorize the addition of a
15 collection fee ~~[fees]~~ in the amount of 30 percent on each item
16 described in Subsection (a) ~~[debt or account receivable]~~ that is
17 more than 60 days past due and has been referred to the attorney or
18 vendor for collection. The collection fee does not apply to a case
19 that has been dismissed by a court of competent jurisdiction or to
20 any amount that has been satisfied through time-served credit or
21 community service. The collection fee may be applied to any balance
22 remaining after a partial credit for time served or community
23 service if the balance is more than 60 days past due. Unless the
24 contract provides otherwise, the court shall calculate the amount
25 of any collection fee due to the governmental entity or to the
26 private attorney or public or private vendor performing the
27 collection services and shall receive all fees, including the

1 collection fee. With respect to cases described by Subsection
2 (a)(2), the amount to which the 30 percent collection fee applies
3 is:

4 (1) the amount to be paid that is communicated to the
5 accused as acceptable to the court under its standard policy for
6 resolution of the case, if the accused voluntarily agrees to pay
7 that amount; or

8 (2) the amount ordered paid by the court after plea or
9 trial.

10 (c) The governing body of a municipality with a population
11 of more than 1.9 million may authorize the addition of collection
12 fees under Subsection (b) for a collection program performed by
13 employees of the governing body.

14 (d) A defendant is not liable for the collection fees
15 authorized under Subsection (b) if the court of original
16 jurisdiction has determined the defendant is indigent, or has
17 insufficient resources or income, or is otherwise unable to pay all
18 or part of the underlying fine or costs.

19 (e) ~~(d)~~ If a county or municipality has entered into a
20 contract under Subsection (a) and ~~[private attorney or private~~
21 ~~vendor collects from]~~ a person pays ~~[owing costs ordered paid by the~~
22 ~~court]~~ an amount that is less than the aggregate total to be
23 collected under Subsections (a) and (b), the allocation to the
24 comptroller, the county or municipality, and the private attorney
25 or vendor shall be reduced proportionately ~~[costs owed by the~~
26 ~~person, including collection costs permitted under the attorney's~~
27 ~~or vendor's contract with the commissioners court or governing~~

~~body, the amount of costs collected otherwise required to be sent to the comptroller and the amount permitted to be retained by the county or municipality are reduced by an equal percentage in order to fully compensate the attorney or vendor, not to exceed the percentage specified as allowable collection costs in the attorney's or vendor's contract with the county or municipality].~~

(f) An item subject to collection services under Subsection (a) and to the additional collection fee authorized by Subsection (b) is considered more than 60 days past due under Subsection (b) if it remains unpaid on the 61st day after the following appropriate date:

(1) with respect to an item described by Subsection (a)(1), the date on which the debt, fine, fee, or court cost must be paid in full as determined by the court or hearing officer; or

(2) with respect to an item described by Subsection (a)(2), the date by which the accused promised to appear or was notified, summoned, or ordered to appear.

(g) A county or municipality that enters into a contract under Subsection (a) may not use the additional 30 percent collection fee authorized by Subsection (b) for any purpose other than compensating the private attorney or private vendor who earns the fee.

(h) A forfeited bond is not an item subject to collection services under this article.

(i) A communication to the accused person regarding the amount of payment that is acceptable to the court under the court's standard policy for resolution of a case must include a notice of

1 the person's right to enter a plea or go to trial on any offense
2 charged.

3 SECTION 2. Section 682.010, Transportation Code, is amended
4 to read as follows:

5 Sec. 682.010. ENFORCEMENT. (a) An order filed under
6 Section 682.009, or a fine, cost, or fee imposed under this chapter
7 following a failure by the person charged to appear within the time
8 specified by a municipality's ordinance, resolution, rule, or
9 order, may be enforced by:

10 (1) impounding the vehicle if the offender has
11 committed three or more vehicle parking or stopping offenses in a
12 calendar year;

13 (2) placing a device on the vehicle that prohibits
14 movement of the motor vehicle;

15 (3) imposing an additional fine if the original fine
16 is not paid within a specified time; ~~or~~

17 (4) denying issuance of or revoking a parking or
18 operating permit, as applicable; or

19 (5) filing an action to collect the fine, cost, or fee
20 in a court of competent jurisdiction.

21 (b) An action to collect a fine, cost, or fee under
22 Subsection (a)(5) must be brought:

23 (1) in the name of the municipality served by the
24 hearing officer; and

25 (2) in a county in which all or part of that
26 municipality is located.

27 SECTION 3. (a) The change in law made by this Act to

1 Article 103.0031, Code of Criminal Procedure, applies only to a
2 debt incurred as a result of the commission of a criminal or civil
3 offense committed on or after the effective date of this Act. A
4 debt incurred as a result of the commission of an offense committed
5 before the effective date of this Act is covered by the law in
6 effect when the offense was committed, and the former law is
7 continued in effect for that purpose.

8 (b) The change in law made by this Act to Section 682.010,
9 Transportation Code, applies to a debt incurred as the result of a
10 civil offense committed before, on, or after the effective date of
11 this Act, other than a debt satisfied before that date.

12 SECTION 4. This Act takes effect immediately if it receives
13 a vote of two-thirds of all the members elected to each house, as
14 provided by Section 39, Article III, Texas Constitution. If this
15 Act does not receive the vote necessary for immediate effect, this
16 Act takes effect September 1, 2003.