

1-1 By: Armbrister S.B. No. 782
1-2 (In the Senate - Filed February 28, 2003; March 5, 2003,
1-3 read first time and referred to Committee on Criminal Justice;
1-4 April 22, 2003, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 4, Nays 0; April 22, 2003,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 782 By: Ellis

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the authority of a county or municipality to contract
1-11 for collection services in criminal cases and certain cases
1-12 involving the parking or stopping of motor vehicles.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Article 103.0031, Code of Criminal Procedure, is
1-15 amended to read as follows:

1-16 Art. 103.0031. COLLECTION CONTRACTS. (a) The
1-17 commissioners court of a county or the governing body of a
1-18 municipality may enter into a contract with a private attorney or a
1-19 public or private vendor for the provision of collection services
1-20 for one or more of the following items:

1-21 (1) debts and accounts receivable such as unpaid
1-22 finances, fees, court costs, and restitution ordered paid by:

1-23 (A) a court serving the county or a court serving
1-24 the municipality, as applicable; or

1-25 (B) a hearing officer serving the municipality
1-26 under Chapter 682, Transportation Code; and

1-27 (2) amounts in cases in which the accused has failed to
1-28 appear:

1-29 (A) as promised under Subchapter A, Chapter 543,
1-30 Transportation Code, or other law;

1-31 (B) in compliance with a lawful written notice to
1-32 appear issued under Article 14.06(b) or other law;

1-33 (C) in compliance with a lawful summons issued
1-34 under Article 15.03(b) or other law;

1-35 (D) in compliance with a lawful order of a court
1-36 serving the county or municipality; or

1-37 (E) as specified in a citation, summons, or other
1-38 notice authorized by Section 682.002, Transportation Code, that
1-39 charges the accused with a parking or stopping offense [~~debts and~~
1-40 ~~accounts receivable such as fines, fees, restitution, and other~~
1-41 ~~debts or costs, other than forfeited bonds, ordered to be paid by a~~
1-42 ~~court serving the county or a court serving the municipality, as~~
1-43 ~~appropriate].~~

1-44 (b) A commissioners court or governing body of a
1-45 municipality that enters into a contract with a private attorney or
1-46 private vendor under this article may authorize the addition of a
1-47 collection fee [~~fees~~] in an [~~the~~] amount not to exceed [of] 30
1-48 percent on each item described in Subsection (a) [~~debt or account~~
1-49 ~~receivable]~~ that is more than 60 days past due and has been referred
1-50 to the attorney or vendor for collection. The collection fee does
1-51 not apply to a case that has been dismissed by a court of competent
1-52 jurisdiction or in which the original amount owed has been wholly or
1-53 partially satisfied through time-served credit or community
1-54 service. The court shall calculate the amount of any collection fee
1-55 due to the governmental entity or to the private attorney or public
1-56 or private vendor performing the collection services and shall
1-57 receive all fees, including the collection fee. With respect to
1-58 cases described by Subsection (a)(2), the amount to which the 30
1-59 percent collection fee applies is:

1-60 (1) the amount to be paid that is communicated to the
1-61 accused as acceptable to the court under its standard policy for
1-62 resolution of the case, if the accused voluntarily agrees to pay
1-63 that amount; or

2-1 (2) the amount ordered paid by the court after plea or
 2-2 trial.

2-3 (c) The governing body of a municipality with a population
 2-4 of more than 1.9 million may authorize the addition of collection
 2-5 fees under Subsection (b) for a collection program performed by
 2-6 employees of the governing body.

2-7 (d) A defendant is not liable for the collection fees
 2-8 authorized under Subsection (b) if the court of original
 2-9 jurisdiction has determined the defendant is indigent, or has
 2-10 insufficient resources or income, or is otherwise unable to pay all
 2-11 or part of the underlying fine or costs.

2-12 (e) [~~(d)~~] If a county or municipality has entered into a
 2-13 contract under Subsection (a) and [~~private attorney or private~~
 2-14 ~~vendor collects from~~] a person pays [~~owing costs ordered paid by the~~
 2-15 ~~court~~] an amount that is less than the aggregate total to be
 2-16 collected under Subsections (a) and (b), the allocation to the
 2-17 comptroller, the county or municipality, and the private attorney
 2-18 or vendor shall be reduced proportionately [~~costs owed by the~~
 2-19 ~~person, including collection costs permitted under the attorney's~~
 2-20 ~~or vendor's contract with the commissioners court or governing~~
 2-21 ~~body, the amount of costs collected otherwise required to be sent to~~
 2-22 ~~the comptroller and the amount permitted to be retained by the~~
 2-23 ~~county or municipality are reduced by an equal percentage in order~~
 2-24 ~~to fully compensate the attorney or vendor, not to exceed the~~
 2-25 ~~percentage specified as allowable collection costs in the~~
 2-26 ~~attorney's or vendor's contract with the county or municipality].~~

2-27 (f) An item subject to collection services under Subsection
 2-28 (a) and to the additional collection fee authorized by Subsection
 2-29 (b) is considered more than 60 days past due under Subsection (b) if
 2-30 it remains unpaid on the 61st day after the following appropriate
 2-31 date:

2-32 (1) with respect to an item described by Subsection
 2-33 (a)(1), the date on which the debt, fine, fee, or court cost must be
 2-34 paid in full as determined by the court or hearing officer; or

2-35 (2) with respect to an item described by Subsection
 2-36 (a)(2), the date by which the accused promised to appear or was
 2-37 notified, summoned, or ordered to appear.

2-38 (g) A county or municipality that enters into a contract
 2-39 under Subsection (a) may not use the additional 30 percent
 2-40 collection fee authorized by Subsection (b) for any purpose other
 2-41 than compensating the private attorney or private vendor who earns
 2-42 the fee.

2-43 (h) A forfeited bond is not an item subject to collection
 2-44 services under this article.

2-45 (i) A communication to the accused person regarding the
 2-46 amount of payment that is acceptable to the court under the court's
 2-47 standard policy for resolution of a case must include a notice of
 2-48 the person's right to enter a plea or go to trial on any offense
 2-49 charged.

2-50 SECTION 2. Section 682.010, Transportation Code, is amended
 2-51 to read as follows:

2-52 Sec. 682.010. ENFORCEMENT. (a) An order filed under
 2-53 Section 682.009, or a fine, cost, or fee imposed under this chapter
 2-54 following a failure by the person charged to appear within the time
 2-55 specified by a municipality's ordinance, resolution, rule, or
 2-56 order, may be enforced by:

2-57 (1) impounding the vehicle if the offender has
 2-58 committed three or more vehicle parking or stopping offenses in a
 2-59 calendar year;

2-60 (2) placing a device on the vehicle that prohibits
 2-61 movement of the motor vehicle;

2-62 (3) imposing an additional fine if the original fine
 2-63 is not paid within a specified time; [~~or~~]

2-64 (4) denying issuance of or revoking a parking or
 2-65 operating permit, as applicable; or

2-66 (5) filing an action to collect the fine, cost, or fee
 2-67 in a court of competent jurisdiction.

2-68 (b) An action to collect a fine, cost, or fee under
 2-69 Subsection (a)(5) must be brought:

3-1 (1) in the name of the municipality served by the
3-2 hearing officer; and

3-3 (2) in a county in which all or part of that
3-4 municipality is located.

3-5 SECTION 3. (a) The change in law made by this Act to
3-6 Article 103.0031, Code of Criminal Procedure, applies only to a
3-7 debt incurred as a result of the commission of a criminal or civil
3-8 offense committed on or after the effective date of this Act. A
3-9 debt incurred as a result of the commission of an offense committed
3-10 before the effective date of this Act is covered by the law in
3-11 effect when the offense was committed, and the former law is
3-12 continued in effect for that purpose.

3-13 (b) The change in law made by this Act to Section 682.010,
3-14 Transportation Code, applies to a debt incurred as the result of a
3-15 civil offense committed before, on, or after the effective date of
3-16 this Act, other than a debt satisfied before that date.

3-17 SECTION 4. This Act takes effect immediately if it receives
3-18 a vote of two-thirds of all the members elected to each house, as
3-19 provided by Section 39, Article III, Texas Constitution. If this
3-20 Act does not receive the vote necessary for immediate effect, this
3-21 Act takes effect September 1, 2003.

3-22 * * * * *