

## **BILL ANALYSIS**

C.S.H.B. 2359  
By: Hartnett  
Judiciary  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Under current law, each county whose statutory probate courts impose an optional \$40 judicial fund fee is entitled to an annual payment of \$40,000 from the state. In addition, if the amounts paid into the judicial fund as a result of the fee exceed the total amount paid back to the counties, the counties share this excess proportionately. These rules have resulted in some counties that have generated under \$40,000 in fees being paid the state payment and sharing in the excess paid by other counties. The purpose of this bill is to change the law to prevent a county which has not contributed at least the amount of its \$40,000 payment from sharing in the overall excess.

### **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**

The bill would amend the Government Code to provide that a county is not able to share in the excess collections of the statutory probate court judicial fund fee unless the amount of fees collected by the county in the fiscal year was at least as much as the amount the county was paid by the state as a result of the county's imposition of the fee. The bill would also make the fee mandatory for all counties with statutory probate courts. The bill also addresses the method of return of excess collections by the state to the counties entitled to receive such rebates. The bill also provides for payment by the state of \$5,000 of the salary of the presiding statutory probate judge.

### **EFFECTIVE DATE**

September 1, 2007.

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

The substitute amends section 1 of the bill to change the distribution of excess deposits of fees collected by counties from an equal amount per county to a proportional rate based on the amount deposited by the counties. Section 2 of the substitute is new and provides that the state will pay \$5,000 of the salary of presiding statutory probate judge, with funds for such purpose being drawn from the fees collected by the statutory probate courts and deposited in the judicial fund. The effect of this provision would be that the rebate to counties of excess deposits would be reduced by \$5,000 and the Attorney General would have a clearer basis on which to defend the presiding statutory probate judge in appropriate litigation.