

BILL ANALYSIS

C.S.S.B. 280
By: Gallegos
Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Current law requires counties and municipalities that meet certain population requirements to implement the Office of Court Administration (OCA) of the Texas Judicial System's ten-point model in programs created to improve the collection of court costs, fees, and fines imposed in criminal cases.

C.S.S.B. 280 stipulates that the program is voluntary and provides for an incentive for counties and municipalities to participate in the program. C.S.S.B. 280 provides that if a city or county participates in the program and follows the requirements of the program per the review of the OCA, then the county may be eligible for the incentive.

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.S.B. 280 amends the Code of Criminal Procedure (CCP) to provide changes to the program for improvement of collection of court costs, fee, and fines imposed in a criminal case (program). The bill defines "participating county or municipality" to mean a county or municipality that chooses to develop and implement a program under Article 103.0033(b), CCP.

The bill deletes the provision that Article 103.0033, CCP, only applies to a county with a population of 50,000 or more, and a municipality with a population of 100,000 or more. The bill changes this provision to state that a county or municipality may choose to develop and implement a program.

The bill provides that the comptroller, using the methodology developed in cooperation with the Office of Court Administration (OCA) before September 1, 2007, is allowed to determine the collection rate of a participating county or municipality before the county or municipality implements the program, and after the first anniversary of the date that the county or municipality implements the program. The bill deletes the provision that stated the OCA in consultation with the comptroller may use case dispositions, population, revenue data, or other appropriate measure to develop a prioritized implementation schedule for programs, and determine whether it is not cost-effective to implement a program in a county or municipality and grant a waiver to the county or municipality.

The bill provides that each participating county or municipality and each county or municipality described by Article 103.0033(l), CCP, must submit monthly to the OCA and the comptroller a report on collection activity in a form determined by the OCA in cooperation with the comptroller. The report must be submitted to the OCA not later than the 20th day after the last day of the month covered by the report.

The bill clarifies that the comptroller must periodically audit participating counties and municipalities to verify the reported information. The bill strikes that the comptroller must confirm that the county or municipality is conforming with requirement relating to the program.

The bill adds that the OCA must conduct an annual review to determine whether a participating county or municipality is complying with the program requirements. If the OCA determines that

a participating county or municipality is not complying with the program requirements, the county or municipality is authorized to request that the comptroller conduct a compliance audit. The comptroller must conduct a requested compliance audit. The comptroller's determination of the county or municipality's compliance with the program requirements is final.

The bill provides that each county with a population of 50,000 or more and each municipality with a population of 100,000 or more must submit monthly to the OCA a report on collection activity, regardless of whether the county or municipality is a participating county or municipality.

The bill also amends the Family Code, and provides that a county is authorized to retain an additional three percent of the funds in the Juvenile Probation Diversion Fund as a service fee in accordance with Section 133.058(e), Local Government Code.

The bill amends the heading to Section 133.058, Local Government Code, to read "Portion of Fee and of Certain Costs Retained." The bill also amends that section to add that the fees and costs of which a municipality or county is authorized to retain three percent are:

- the fee for jury reimbursement to counties under Article 102.0045, CCP;
- the additional costs attendant to intoxication convictions under Article 102.0185, CCP;
- the costs on conviction for offenses requiring DNA testing under Article 102.020, CCP;
- the juvenile probation diversion fee under Section 54.0411, Family Code;
- the fee described by Section 41.258(b), Government Code; and
- the fees on conviction described by Section 133.102(a), Local Government Code.

The bill adds that for each quarter of a year, a municipality or county that is a participating county or municipality for the purposes of Article 103.0033, CCP, may retain, as a service fee, an additional three percent of the money collected for each of the fees and costs previously listed if the municipality or county was found to be in compliance with the program during the most recent review of the program, and remits the remainder of those fees and costs to the comptroller within the period prescribed by Section 133.055(a), Local Government Code.

The bill repeals Articles 103.0033(c), (e), and (f), CCP.

Not later than December 31, 2007, the Office of Court Administration of the Texas Judicial System shall develop and make available on the office's Internet website a program, in accordance with Subsection (g), Article 103.0033, Code of Criminal Procedure, as amended by this Act.

EFFECTIVE DATE

September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute provides that for each quarter of a year, a municipality or county that is a participating county or municipality for the purposes of Article 103.0033, CCP, may retain, as a service fee, an additional three percent of the money collected for each of the fees and costs previously listed if the municipality or county was found to be in compliance with the program during the most recent review of the program, and remits the remainder of those fees and costs to the comptroller within the period prescribed by Section 133.055(a), Local Government Code. The original did not clarify that it was an additional three percent, and did not contain the provision related to remitting the remainder of the fees and costs to the comptroller within a certain period. The original bill contained requirements related to collection of certain amounts due to the state during certain baseline year; the substitute does not. The substitute removes Section 133.058(g), Local Government Code, from the original bill, which listed applicable fees and costs for the purposes of the removed provision from the original bill related to collection of certain amounts due to the state during certain baseline year. The substitute also removes Section 133.058(h), Local Government Code, from the original bill.