

By: Callegari, Flynn

H.B. No. 3299

A BILL TO BE ENTITLED

AN ACT

relating to the amount, collection, and refund of certain local fines and fees.

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

SECTION 1. Chapter 403, Government Code, is amended by adding Subchapter O to read as follows:

SUBCHAPTER O. INDEXING COURT FEES

Sec. 403.351. INDEXING OF COURT FEES. (a) This section applies to a fee:

(1) that is collected by a court for a civil or criminal matter, including fees to be paid to the court on conviction; and

(2) the amount of which is set by statute.

(b) Each fee shall be adjusted every five years by the comptroller to account for increases in service costs. The comptroller shall adjust the fee based on:

(1) a uniform escalator developed by the comptroller that considers workload, capacity, technology, and labor increases, and that can be applied equally and fairly to all fees without regard to geographic location; or

(2) a fee increase factor determined by the comptroller by adding the percentage increase in the state's population according to the most recent estimate or census by the United States Census Bureau and the increase in the consumer price

1 index for the most recent available calendar year.

2 (c) The comptroller shall make the adjustment determination
3 under Subsection (b) not later than July 1 every five years and
4 publish a revised fee schedule on the comptroller's Internet
5 website not later than July 31 of that year. The revised fee takes
6 effect September 1 of the calendar year in which the adjustment is
7 made.

8 (d) The comptroller shall adopt rules as necessary to
9 implement this section.

10 SECTION 2. The heading to Section 113.902, Local Government
11 Code, is amended to read as follows:

12 Sec. 113.902. PROSECUTION TO COLLECT DEBT OWED TO COUNTY;
13 RECOVERY OF [~~ATTORNEY'S~~] FEES AND COSTS.

14 SECTION 3. Subchapter Z, Chapter 113, Local Government
15 Code, is amended by adding Section 113.904 to read as follows:

16 Sec. 113.904. INVESTIGATIVE INFORMATION. On the filing of
17 a request with a state agency, a tax assessor-collector, county
18 treasurer, county attorney, or district attorney that participates
19 in a county's collection process may obtain from the information
20 maintained in a database by the state agency any information
21 relating to the location of a delinquent debtor who owes money to
22 the county.

23 SECTION 4. The heading to Subchapter Y, Chapter 118, Local
24 Government Code, is amended to read as follows:

25 SUBCHAPTER Y. IMPROPER COLLECTION [~~PENALTIES~~]

26 SECTION 5. Subchapter Y, Chapter 118, Local Government
27 Code, is amended by adding Sections 118.802 through 118.806 to read

1 as follows:

2 Sec. 118.802. DIRECTIVE FROM COMPTROLLER FOR CERTAIN STATE
3 FINES OR FEES. (a) A county officer who is uncertain about the
4 legality of a state fine or fee may request a written directive from
5 the comptroller as to the legality of the fine or fee.

6 (b) Following the filing of a request under Subsection (a),
7 the comptroller shall accept remitted collections for the fine or
8 fee until the comptroller:

9 (1) publishes a directive advising the county officer
10 about the legality of the fine or fee and stating whether the county
11 officer must continue to collect the fine or fee; and

12 (2) provides a copy of the directive to the county
13 officer.

14 (c) A county officer who requests a directive under
15 Subsection (a) is not liable for claims of overcharging or improper
16 collection of the fine or fee that is the subject of the request
17 unless the officer takes an action that violates the directive.

18 Sec. 118.803. DIRECTIVE FROM COMMISSIONERS COURT FOR
19 CERTAIN COUNTY FINES OR FEES. (a) If the collection of a county
20 fine or fee is contingent on the collection of a state fine or fee
21 for which a request has been made under Section 118.802, a county
22 officer who is uncertain about the legality of the county fine or
23 fee may request a written directive from the commissioners court of
24 the county as to the legality of the county fine or fee.

25 (b) Following the issuance of a directive by the
26 commissioners court in response to a request filed under Subsection
27 (a), the county officer who requests the directive is not liable for

1 claims of overcharging or improper collection of the fine or fee
2 unless the officer takes an action that violates the directive.

3 (c) The county auditor may rely on a directive issued under
4 this section in determining whether to certify revenue, approve
5 expenditures, or otherwise account for a fine or fee that is the
6 subject of the directive.

7 Sec. 118.804. REFUND. (a) The commissioners court of a
8 county may approve the refund of any money collected or received by
9 a county officer through mistake of fact or law and deposited in the
10 county treasury.

11 (b) The commissioners court shall notify the county auditor
12 and county treasurer of an approved refund or, if the commissioners
13 court determines the process will be more efficient, the
14 commissioners court may delegate authority to approve refunds to
15 the county auditor or treasurer.

16 (c) A request for a refund claim must be in writing and
17 submitted by the collecting officer to the entity authorized to
18 approve refunds.

19 (d) The county treasurer and county auditor shall agree on
20 the minimum requirements for a form for requesting and disbursing
21 refunds. In a county without a county treasurer or county auditor,
22 the officer performing the duties of county treasurer or county
23 auditor, as appropriate, must receive the notice under Subsection
24 (b) and shall perform the duties required by this subsection.

25 (e) Except as otherwise provided by law, a refund claim may
26 not be made under this section after the fourth anniversary of:

27 (1) the latest date on which the amount collected or

1 received was due, if the amount was required to be paid on or before
2 a particular date; or

3 (2) the date the amount was collected or received, if
4 the amount was not required to be paid on or before a particular
5 date.

6 (f) A person who fails to make a refund claim in the period
7 described by Subsection (e) waives any right to the refund.

8 (g) If an amount requested for a refund has been remitted to
9 the state, the refund request must be made to the comptroller and
10 the county is not responsible for the refund.

11 (h) This section does not apply to a refund of a tax.

12 Sec. 118.805. WRITTEN PROTEST REQUIRED FOR SUIT. (a) If a
13 person who is required to pay any precinct, county, or district
14 officer any fine or fee contends that the amount of the fine or fee
15 is unlawful or that the officer may not legally collect the fine or
16 fee, the person must:

17 (1) pay the amount of the fine or fee; and

18 (2) if the person seeks to recover the fee in a suit
19 under this subchapter, submit a written protest that states fully
20 each reason the amount of or the collection of the fine or fee is
21 unlawful.

22 (b) A payment made with a protest must be made within the
23 period described by Section 118.804 for the filing of a refund
24 claim.

25 Sec. 118.806. SUBMISSION OF PROTEST PAYMENT TO COUNTY
26 TREASURER. (a) An officer who receives a payment of a fine or fee
27 with a protest under Section 118.805 shall provide notice of the

1 protest to the county treasurer.

2 (b) The county treasurer shall maintain detailed records of
3 each payment made under protest and provide the protest information
4 to the county auditor for inclusion in the financial records of the
5 county.

6 (c) The county treasurer shall forward any protest of a
7 state fine or fee to the comptroller at the time the fine or fee is
8 remitted to the comptroller.

9 SECTION 6. (a) Except as provided by Subsection (b) of this
10 section, this Act takes effect September 1, 2007.

11 (b) Section 1 of this Act takes effect January 1, 2008.