

By: Callegari, Flynn

H.B. No. 3299

Substitute the following for H.B. No. 3299:

By: Callegari

C.S.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 annually 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 of each year and publish
4 a revised fee schedule on the comptroller's Internet website not
5 later than July 31 of each year. The revised fee takes effect
6 September 1 of each calendar year.

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

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

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

13 SECTION 3. Section 113.902, Local Government Code, is
14 amended by amending Subsection (c) and adding Subsections (d) and
15 (e) to read as follows:

16 (c) For a debt owed to the county for which the county or
17 district attorney has not initiated a legal proceeding to collect
18 the debt, the county treasurer may impose a fee for the collection
19 of the debt beginning on the 31st day after the date the debt is past
20 due. The commissioners court must approve the amount of a fee
21 imposed under this subsection.

22 (d) For purposes of this section, "debt owed to the county"
23 means an amount due to the county by a person or other entity under
24 law or a contract or other agreement.

25 (e) This section does not apply to the recovery of a
26 delinquent ad valorem tax owed to the county.

27 SECTION 4. Subchapter Z, Chapter 113, Local Government

1 Code, is amended by adding Section 113.904 to read as follows:

2 Sec. 113.904. INVESTIGATIVE INFORMATION. On the filing of
3 a request with a state agency, a tax assessor-collector, county
4 treasurer, county attorney, or district attorney that participates
5 in a county's collection process may obtain from the information
6 maintained in a database by the state agency any information
7 relating to the location of a delinquent debtor who owes money to
8 the county.

9 SECTION 5. The subchapter heading to Subchapter Y, Chapter
10 118, Local Government Code, is amended to read as follows:

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

12 SECTION 6. Subchapter Y, Chapter 118, Local Government
13 Code, is amended by adding Sections 118.802-118.806 to read as
14 follows:

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

19 (b) Following the filing of a request under Subsection (a),
20 the comptroller shall accept remitted collections for the fine or
21 fee until the comptroller:

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

25 (2) provides a copy of the directive to the county
26 officer.

27 (c) A county officer who requests a directive under

1 Subsection (a) is not liable for claims of overcharging or improper
2 collection of the fine or fee that is the subject of the request
3 unless the officer takes an action that violates the directive.

4 Sec. 118.803. DIRECTIVE FROM COMMISSIONERS COURT FOR
5 CERTAIN COUNTY FINES OR FEES. (a) If the collection of a county
6 fine or fee is contingent on the collection of a state fine or fee
7 for which a request has been made under Section 118.802, a county
8 officer who is uncertain about the legality of the county fine or
9 fee may request a written directive from the commissioners court of
10 the county as to the legality of the county fine or fee.

11 (b) Following the issuance of a directive by the
12 commissioners court in response to a request filed under Subsection
13 (a), the county officer who requests the directive is not liable for
14 claims of overcharging or improper collection of the fine or fee
15 unless the officer takes an action that violates the directive.

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

20 Sec. 118.804. REFUND. (a) The commissioners court of a
21 county may approve the refund of any money collected or received by
22 a county officer through mistake of fact or law and deposited in the
23 county treasury.

24 (b) The commissioners court shall notify the county auditor
25 and county treasurer of an approved refund or, if the commissioners
26 court determines the process will be more efficient, the
27 commissioners court may delegate authority to approve refunds to

1 the county auditor or treasurer.

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

5 (d) The county treasurer and county auditor shall agree on
6 the minimum requirements for a form for requesting and disbursing
7 refunds. In a county without a county treasurer or county auditor,
8 the officer performing the duties of county treasurer or county
9 auditor, as appropriate, must receive the notice under Subsection
10 (b) and shall perform the duties required by this subsection.

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

13 (1) the latest date on which the amount collected or
14 received was due, if the amount was required to be paid on or before
15 a particular date; or

16 (2) the date the amount was collected or received, if
17 the amount was not required to be paid on or before a particular
18 date.

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

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

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

25 Sec. 118.805. WRITTEN PROTEST REQUIRED FOR SUIT. (a) If a
26 person who is required to pay any precinct, county, or district
27 officer any fine or fee contends that the amount of the fine or fee

1 is unlawful or that the officer may not legally collect the fine or
2 fee, the person must:

3 (1) pay the amount of the fine or fee; and
4 (2) if the person seeks to recover the fee in a suit
5 under this subchapter, submit a written protest that states fully
6 each reason the amount of or the collection of the fine or fee is
7 unlawful.

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

11 Sec. 118.806. SUBMISSION OF PROTEST PAYMENT TO COUNTY
12 TREASURER. (a) An officer who receives a payment of a fine or fee
13 with a protest under Section 118.805 shall provide notice of the
14 protest to the county treasurer.

15 (b) The county treasurer shall maintain detailed records of
16 each payment made under protest and provide the protest information
17 to the county auditor for inclusion in the financial records of the
18 county.

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

22 SECTION 7. (a) Except as provided by Subsection (b) of this
23 section, this Act takes effect September 1, 2007.

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