

By: Callegari

H.B. No. 3299

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to revenue collection and expenditure efficiencies for  
3 county government.

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

5 SECTION 1. Chapter 319, Government Code is amended by  
6 adding Section 319.023 as follows:

7 Sec. 319.023 INDEXING COURT FEES TO ANNUAL COST DRIVERS

8 (a) Fees associated with judicial services should be  
9 equitable, so that access to courts do not vary substantially  
10 throughout the state, and adjust to reflect increases in service  
11 costs. To this end, the comptroller shall develop a uniform fee  
12 escalator that considers workload, capacity, technology, and labor  
13 increases, and that can be applied equally and fairly to all court  
14 fees without regard to geographic location.

15 (b) Failing to identify a uniform fee escalator as defined  
16 in subsection (a), the comptroller shall annually adjust all  
17 statutory civil and criminal fees to reflect increases in service  
18 costs. No later than July 1 of each year the comptroller shall  
19 calculate the factor by which all fees will increase. The fee  
20 increase factor is calculated by adding the percent increase in  
21 state population to the consumer price index for the most recent  
22 available calendar year.

23 (c) The comptroller will publish a list of fees adjusted  
24 according to formula where in the first year of application:

1           STATUTORY FEE + (STATUTORY FEE x FEE INCREASE FACTOR) =  
2 UPDATED FEE

3           and in successive years according to the formula where:

4           PRIOR YEAR UPDATED FEE + (PRIOR YEAR UPDATED FEE X FEE  
5 INCREASE RATIO) = UPDATED FEE

6           (c) The list of adjusted fees will be posted on the  
7 comptroller's Internet website no later than July 31 of each year.

8           SECTION 2. Chapter 118 Subchapter Y, Local Government Code  
9 is amended by substituting a new subchapter title, adding new  
10 subsections (e) and (f) and renumbering the current subsection(e)  
11 as subsection (g) to read as follows:

12                   SUBCHAPTER Y. [~~Penalties~~] IMPROPER COLLECTION

13           Sec. 118.801. OVERCHARGING OR IMPROPER COLLECTION OF FINE  
14 AND FEES; PENALTY

15           (e) A county officer that is uncertain about the legality of  
16 a state fine or fee can request a written directive from the  
17 comptroller that states whether the county officer must continue  
18 collection of the questioned fee. The comptroller must accept  
19 remitted collections for a questioned fine or fee until the  
20 directive is published and a copy provided to the requesting  
21 officer. A county officer that requests a written directive is not  
22 liable for claims of overcharging or improper collection of the  
23 state fine or fee in question.

24           (f) Where the collection of a county fee is contingent on  
25 collection of a questioned state fee, a county officer that is  
26 uncertain about the legality of a local fine or fee can request a  
27 written directive from commissioners court that states whether the

1 county officer must continue collection of the questioned fee. A  
2 county officer that requests a written directive is not responsible  
3 for claims of overcharging or improper collection of the questioned  
4 fine or fee unless the officer takes an action that contravenes the  
5 directive, once the directive is issued. The county auditor may  
6 rely on the directive in determining whether to certify revenue,  
7 approve expenditures from or account for a questioned fine or fee.

8 ~~[(e)]~~ (g) The provisions of this section shall not affect  
9 the right of any party to recover attorney's fees, interest, or  
10 costs of court as provided by other law.

11 SECTION 3. Chapter 118 Subchapter Y, Local Government Code  
12 is amended by adding sections 118.802 through 118.804 as follows:

13 Section 118.802 REFUND OF FEES

14 (a) A commissioners court may approve refunding of money  
15 collected or received by a county officer through mistake of fact or  
16 law and deposited in the county treasury.

17 (b) Commissioners court must notify the county auditor and  
18 county treasurer of approved refunds. If commissioners court  
19 determines the process will be more efficient, authority to approve  
20 refund claims may be delegated to the treasurer or county auditor.

21 (b) A refund claim must be in writing and submitted by the  
22 collecting officer to the commissioners' court or its designee.

23 (c) The auditor and treasurer shall agree upon the minimum  
24 requirements for a form for requesting and disbursing refunds. In  
25 counties without an auditor or treasurer, the officers performing  
26 the accounting and disbursement functions must receive notices and  
27 perform the respective duties under this subsection.

1        (d) Unless another law provides a period within which a  
2 particular refund claim must be made, a refund claim may not be made  
3 under this section after four years from the latest date on which  
4 the amount collected or received by the state was due, if the amount  
5 was required to be paid on or before a particular date. If the  
6 amount was not required to be paid on or before a particular date, a  
7 refund claim may not be made after four years from the date the  
8 amount was collected or received. A person who fails to make a  
9 refund claim within the period provided by law waives any right to a  
10 refund of the amount paid.

11        (e) If a fee or portion of a fee requested for refund has  
12 been remitted to the state, the person requesting the refund must  
13 make the claim to the state comptroller. The county is not liable  
14 for refunding fees remitted and in possession of the state.

15        (f) This section does not apply to a refund of a tax.

16        Section 118.803. PROTEST REQUIRED FOR SUIT

17        (a) If a person who is required to pay any precinct, county  
18 or district officer any fine or fee contends that the fine or fee is  
19 unlawful or that the officer may not legally demand or collect the  
20 fine or fee, the person shall pay the amount claimed by the officer,  
21 and if the person intends to bring suit under this subchapter, the  
22 person must submit with the payment a protest.

23        (b) The protest must be in writing and must state fully and  
24 in detail each reason for recovering the payment.

25        (c) The protest payment must be made within the period set  
26 out in Section 118.802 for the filing of a refund claim.

27        Section 118.804. SUBMISSION OF PROTEST PAYMENTS TO

1 TREASURER

2 (a) An officer who receives payments of fines or fees made  
3 under protest as required by Section 118.803 shall provide notice  
4 of each protested payment to the treasurer. The treasurer shall  
5 maintain detailed records of the payment made under protest, and  
6 provide the protest information to the county auditor for inclusion  
7 in the financial records of the county.

8 (b) The treasurer will forward all protests of state fines  
9 or fees to the state comptroller when the treasurer remits the  
10 collected money as required by Local Government Code Section  
11 133.055, or other remittance law.

12 SECTION 4. Section 113.902 Local Government Code is amended  
13 by adding new subsections (c) and (d), and renumbering the current  
14 subsection (c) as subsection (e) as follows:

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

17 (a) The county treasurer shall direct prosecution for the  
18 recovery of any debt owed to the county, as provided by law, and  
19 shall supervise the collection of the debt.

20 (b) In a proceeding to recover a delinquent debt owed to the  
21 county, including a delinquent account, loan, interest payment, tax  
22 charge, fee, fine, penalty, or claim on a judgment, the county  
23 attorney may recover reasonable attorney's fees and investigative  
24 and court costs incurred on behalf of the county. The county  
25 attorney may recover the fees and costs in the same manner as  
26 provided by law for a private litigant.

27 (c) The county treasurer may charge a fee for collection

1 efforts on delinquent payments more than thirty days in arrears,  
2 where the county or district attorney has not initiated legal  
3 proceedings against the debtor. The treasurer shall set the fee  
4 with the advice and consent of commissioners' court.

5 (d) For purposes of this section, a debt is defined as an  
6 amount due to the county by a person or organization under law,  
7 contract, or agreement.

8 [~~(c)~~] (e) This section does not apply to the recovery of a  
9 delinquent ad valorem tax owed to the county.

10 SECTION 5. Chapter 113 Subchapter Z, Local Government Code  
11 is amended by adding sections 113.904 as follows:

12 Sec. 113.904. INVESTIGATIVE INFORMATION

13 The county may obtain information relating to the location of  
14 a delinquent debtor from state agency databases. A tax  
15 assessor-collector, treasurer, county attorney, or district  
16 attorney that actively participates in a county's collection  
17 process may make the request.

18 SECTION 6. This Act takes effect immediately if it receives  
19 a vote of two-thirds of all the members elected to each house, as  
20 provided by Section 39, Article III, Texas Constitution. If this  
21 Act does not receive the vote necessary for immediate effect, this  
22 Act takes effect September 1, 2007.