

1-1 By: Gallegos, Carona S.B. No. 280
1-2 (In the Senate - Filed January 23, 2007; January 30, 2007,
1-3 read first time and referred to Committee on Jurisprudence;
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1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 280 By: Gallegos

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the program for improvement of collection of court
1-11 costs, fees, and fines imposed in criminal cases.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subsection (a), Article 103.0033, Code of
1-14 Criminal Procedure, is amended by adding Subdivision (3) to read as
1-15 follows:

1-16 (3) "Participating county or municipality" means a
1-17 county or municipality that chooses to develop and implement a
1-18 program under Subsection (b).

1-19 SECTION 2. Article 103.0033, Code of Criminal Procedure, is
1-20 amended by amending Subsections (b), (d), and (g) through (j) and
1-21 adding Subsections (k) and (l) to read as follows:

1-22 (b) ~~A [This article applies only to:~~

1-23 ~~[(1) a] county [with a population of 50,000] or~~
1-24 ~~[greater; and~~

1-25 ~~[(2) a] municipality may choose to develop and~~
1-26 ~~implement a program under this article [with a population of~~
1-27 ~~100,000 or greater].~~

1-28 (d) The program must consist of:

1-29 (1) a component that conforms with the [a] model
1-30 developed by the office and designed to improve in-house
1-31 collections through application of best practices; and

1-32 (2) a component designed to improve collection of
1-33 balances more than 60 days past due, which may be implemented by
1-34 entering into a contract with a private attorney or public or
1-35 private vendor in accordance with Article 103.0031.

1-36 (g) The office shall:

1-37 (1) make available on the office's Internet website
1-38 the requirements for a program; and

1-39 (2) assist counties and municipalities in
1-40 implementing a program by providing training and consultation,
1-41 except that the office may not provide employees for implementation
1-42 of a program.

1-43 (h) The comptroller [office], using the methodology
1-44 developed in cooperation [consultation] with the office before
1-45 September 1, 2007 [comptroller], may determine the collection rate
1-46 of a participating county or municipality:

1-47 (1) before the county or municipality implements the
1-48 program [use case dispositions, population, revenue data, or other
1-49 appropriate measures to develop a prioritized implementation
1-50 schedule for programs]; and

1-51 (2) after the first anniversary of the date that the
1-52 county or municipality implements the program [determine whether it
1-53 is not cost-effective to implement a program in a county or
1-54 municipality and grant a waiver to the county or municipality].

1-55 (i) Each participating county or [and] municipality and
1-56 each county or municipality described by Subsection (1) shall [at
1-57 least annually] submit monthly to the office and the comptroller a
1-58 [written] report on collection activity in a form [that includes
1-59 updated information regarding the program, as] determined by the
1-60 office in cooperation with the comptroller. The report must be
1-61 submitted to [in a form approved by] the office not later than the
1-62 20th day after the last day of the month covered by the report [in
1-63 cooperation with the comptroller].

(j) The comptroller shall periodically audit participating counties and municipalities to verify the information reported under Subsection (i) [~~and confirm that the county or municipality is conforming with requirements relating to the program~~]. The comptroller shall consult with the office in determining how frequently to conduct audits under this section.

(k) The office shall conduct an annual review to determine whether a participating county or municipality is complying with the program requirements. If the office determines that a participating county or municipality is not complying with the program requirements, the county or municipality may request that the comptroller conduct a compliance audit. The comptroller shall conduct a compliance audit requested under this subsection. The comptroller's determination of the county or municipality's compliance with the program requirements is final.

(l) Each county with a population of 50,000 or more and each municipality with a population of 100,000 or more shall submit monthly to the office a report on collection activity as described in Subsection (i), regardless of whether the county or municipality is a participating county or municipality.

SECTION 3. Subsection (e), Section 54.0411, Family Code, is amended to read as follows:

(e) The custodian of the county treasury may deposit the funds collected under this section in interest-bearing accounts. The custodian shall keep records of the amount of funds on deposit collected under this section and not later than the last day of the month following each calendar quarter shall send to the comptroller of public accounts the funds collected under this section during the preceding quarter. A county may retain 10 percent of the funds as a service fee and may retain the interest accrued on the funds if the custodian of a county treasury keeps records of the amount of funds on deposit collected under this section and remits the funds to the comptroller within the period prescribed under this subsection. A county may retain an additional three percent of the funds as a service fee in accordance with Section 133.058(e), Local Government Code.

SECTION 4. The heading to Section 133.058, Local Government Code, is amended to read as follows:

Sec. 133.058. PORTION OF FEE AND OF CERTAIN COSTS RETAINED.

SECTION 5. Section 133.058, Local Government Code, is amended by amending Subsection (e) and adding Subsections (f), (g), and (h) to read as follows:

(e) For each quarter of a year, a municipality or county that is a participating county or municipality for the purposes of Article 103.0033, Code of Criminal Procedure, may retain, as a service fee, three percent of the money collected for each of the fees and costs listed in Subsection (f) if the municipality or county:

(1) was found to be in compliance with the program during the most recent review of the program under Article 103.0033(k), Code of Criminal Procedure; and

(2) has collected an amount due to the state from each fee and cost listed in Subsection (g) that is equal to or greater than 105.55 percent of the amount due to the state collected from each fee and cost listed in Subsection (g) during the same quarter of a baseline year, where the baseline year is:

(A) the immediately preceding year, if the municipality or county implements a program under Article 103.0033, Code of Criminal Procedure, after September 1, 2007;

(B) a year chosen by the municipality or county that is either the immediately preceding year or the year immediately preceding the fiscal year the municipality or county was first required to implement a program, if the municipality or county was required to implement a program under Article 103.0033, Code of Criminal Procedure, before September 1, 2007, and timely implemented a program;

(C) the year 2005, if the municipality or county was not required to implement a program under Article 103.0033, Code of Criminal Procedure, before September 1, 2007, and

3-1 implemented a program prior to January 1, 2007; or
 3-2 (D) the year immediately preceding the year the
 3-3 municipality or county implemented a program under Article
 3-4 103.0033, Code of Criminal Procedure, if the municipality or county
 3-5 was required to implement a program before September 1, 2007, and
 3-6 the municipality implemented a program after the required deadline
 3-7 [A municipality or county may not retain a service fee if, during an
 3-8 audit under Section 133.059 of this code or Article 103.0033(j),
 3-9 Code of Criminal Procedure, the comptroller determines that the
 3-10 municipality or county is not in compliance with Article 103.0033,
 3-11 Code of Criminal Procedure. The municipality or county may
 3-12 continue to retain a service fee under this section on receipt of a
 3-13 written confirmation from the comptroller that the municipality or
 3-14 county is in compliance with Article 103.0033, Code of Criminal
 3-15 Procedure].

3-16 (f) For the purposes of Subsection (e), the fees and costs
 3-17 of which a municipality or county may retain three percent are:

3-18 (1) the fee for jury reimbursement to counties under
 3-19 Article 102.0045, Code of Criminal Procedure;

3-20 (2) the additional costs attendant to intoxication
 3-21 convictions under Article 102.0185, Code of Criminal Procedure;

3-22 (3) the costs on conviction for offenses requiring DNA
 3-23 testing under Article 102.020, Code of Criminal Procedure;

3-24 (4) the juvenile probation diversion fee under Section
 3-25 54.0411, Family Code;

3-26 (5) the fee described by Section 41.258(b), Government
 3-27 Code; and

3-28 (6) the fees on conviction described by Section
 3-29 133.102(a).

3-30 (g) For the purposes of Subsection (e)(2), except as
 3-31 provided by Subsection (h), the fees and costs to be considered are:

3-32 (1) the fees and costs listed in Subsection (f);

3-33 (2) the fee described by Article 45.0511(c-1), Code of
 3-34 Criminal Procedure;

3-35 (3) the court cost for conviction of an offense in a
 3-36 statutory county court under Section 51.702(b), Government Code;

3-37 (4) the court cost for conviction of an offense in a
 3-38 county court specified in Section 51.703, Government Code;

3-39 (5) the time payment fee under Section 133.103;

3-40 (6) any fee for the services of a peace officer under
 3-41 Section 133.104 or Article 102.011, Code of Criminal Procedure;

3-42 (7) the fee for support of court-related purposes
 3-43 under Section 133.105;

3-44 (8) the state traffic fine under Section 542.4031,
 3-45 Transportation Code;

3-46 (9) the overweight vehicle fine under Section 621.506,
 3-47 Transportation Code; and

3-48 (10) the administrative fee for failure to appear
 3-49 described by Section 706.006(a), Transportation Code.

3-50 (h) A cost, fee, or fine listed in Subsection (g) is not
 3-51 available for retention under Subsection (e) if the cost, fee, or
 3-52 fine did not exist during the relevant quarter of the applicable
 3-53 baseline year.

3-54 SECTION 6. Subsections (c), (e), and (f), Article 103.0033,
 3-55 Code of Criminal Procedure, are repealed.

3-56 SECTION 7. Not later than December 31, 2007, the Office of
 3-57 Court Administration of the Texas Judicial System shall develop and
 3-58 make available on the office's Internet website a program, in
 3-59 accordance with Subsection (g), Article 103.0033, Code of Criminal
 3-60 Procedure, as amended by this Act.

3-61 SECTION 8. This Act takes effect September 1, 2007.

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