

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 18, 2007

TO: Honorable Jeff Wentworth, Chair, Senate Committee on Jurisprudence

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: SB280 by Gallegos (Relating to the program for improvement of collection of court costs, fees, and fines imposed in criminal cases.), As Introduced

Estimated Two-year Net Impact to General Revenue Related Funds for SB 280, As Introduced: a negative impact of (\$7,343,116) through the biennium ending August 31, 2009.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2008	(\$3,671,558)
2009	(\$3,671,558)
2010	(\$3,671,558)
2011	(\$3,671,558)
2012	(\$3,671,558)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from GENERAL REVENUE FUND 1	Probable Revenue Gain/(Loss) from CRIME VICTIMS COMP ACCT 469	Probable Revenue Gain/(Loss) from Various GR-D Accounts	Probable Revenue Gain/(Loss) from Various Other Funds
2008	(\$3,671,558)	(\$6,416,787)	(\$12,404,159)	(\$3,307,495)
2009	(\$3,671,558)	(\$6,416,787)	(\$12,404,159)	(\$3,307,495)
2010	(\$3,671,558)	(\$6,416,787)	(\$12,404,159)	(\$3,307,495)
2011	(\$3,671,558)	(\$6,416,787)	(\$12,404,159)	(\$3,307,495)
2012	(\$3,671,558)	(\$6,416,787)	(\$12,404,159)	(\$3,307,495)

Revenues impacted by the bill would be deposited into 18 different funds including General Revenue, General Revenue-Dedicated, and Other.

Fiscal Analysis

SECTION 1 of the bill would amend the Code of Criminal Procedure § 103.0033 to include language that describes a good faith effort at improving court collections. It would eliminate language to require courts to have a program that conforms to the model developed by the Office of Court Administration (OCA). This SECTION would permit the comptroller, regional presiding judge and a local administrator of a county, and the presiding municipal judge for a municipality to use certain data to develop an implementation schedule; use cost-effective measures to determine if participation is cost-

effective, and grant a waiver if it is not; and to consider good faith efforts.

SECTION 1 also states that the article does not apply to a court cost, fee, or fine ordered to be paid as part of community supervision. Under provisions of the bill, this article of the Code of Criminal Procedure § 103.033 would not inhibit the ability of a judge under the Code of Criminal Procedure § 42.15 or § 45.041 to direct a defendant to pay a fine or restitution based on time or manner. The commissioners court or governing body of a municipality would not be required to expend funds to implement a collections program. In addition, a county or municipality may not be penalized for failure to implement a collections program prior to a date that the OCA has determined a county or municipality is able to implement one.

SECTION 2 would require the OCA to identify counties and municipalities that can implement a program before April 1, 2008. The agency would be required to make a model program available on its website no later than December 31, 2007. The agency would resume evaluating these counties and municipalities as of June 1, 2008.

The bill would take effect September 1, 2007.

Methodology

Revenue information and potential loss is provided by the Office of Court Administration (OCA) and the Comptroller of Public Accounts.

When the collections improvement program was mandated by the Seventy-ninth Legislature, Regular Session, 2005, OCA estimated that approximately \$33.8 million per year in additional revenue would be collected beginning in fiscal year 2008 as a result of the full, mandated implementation of the OCA model collections improvement program. Under the current bill, it is anticipated that participation would drop. Full implementation of the OCA's program is estimated to be limited under the bill: 30 percent for municipal courts; 10 percent for justice courts; 0 percent for court costs, fees, and fines collection under community supervision; and county and district courts with costs and fees not collected by community supervision and corrections departments (CSCD), 90 percent.

Percentages are based on feedback from the OCA field staff working with the affected cities and counties. The OCA staff indicated some cities and counties, if given the choice, would implement some of the OCA model components, but not all. Studies show that partial implementation of collections improvement methods results in significantly lower collection rates. For example, when multiple letters and phone contacts are used in tandem, one study showed a collection rate of 20.6 percent, whereas a single letter resulted in collections of only 5.7 percent, a difference of almost 15.0 percentage points. This fiscal note assumes that certain cities and counties would revert back to past practices that did not include all essential elements of the collections improvement program, thus, negating any potential increased revenue collections anticipated by the mandatory collections improvement program.

Using state revenue data from the Comptroller's Office for fiscal year 2005, the OCA allocated the revenue between the four jurisdictions listed above: cities, justice courts, CSCDs, and county/district courts. The revenue was then adjusted based on the participation percentages estimated by the OCA staff. Community supervision court costs, fees, and fines are excluded since these collections methods are optional in CSCD cases in the bill. County courts and district courts have historically participated in the OCA's voluntary collections program; therefore, the participation percentage for these courts is expected to be high. Cities and justice courts are expected to be low because not all jurisdictions have implemented the mandatory program and others have not been in operation for long and are more likely to discontinue the program than county and district courts that have used the program successfully for several years.

To determine the impact on the types of state funds, the revenue was allocated among the 18 different funds based on the historical revenue generated from each state court cost, fee, and fine. The actual revenues collected from fiscal years 2004-2006, plus estimates from the Biennial Revenue Estimate for fiscal year 2007 were averaged together to provide an estimated allocation (or percentage) for each revenue stream from these court costs, fees, and fines.

The state typically receives between 25 percent and 35 percent of court costs, fees, and fines collected by local governments. For this bill, the OCA uses an estimate of 30 percent. Using the estimated lost state revenue from above (\$25.8 million per year), the OCA estimates counties would lose, in the aggregate, approximately \$60.3 million per year. These revenue losses could be offset to the extent that affected jurisdictions put alternative measures in place or contracted with third party vendors to collect outstanding court costs, fees, and fines.

Local Government Impact

The Legislative Budget Board (LBB) contacted the County and District Clerks Association of Texas, the Texas Association of Counties, the Texas Municipal League, and a direct sampling of city and county officials from across the state regarding the local government fiscal impact of the bill. Responses were received from the Texas Association of Counties, with information from four counties, and directly from 10 counties and from 5 cities contacted by the LBB. The responses were varied.

In cities and counties where the collections improvement program has been implemented, officials report that collections have improved dramatically and that provisions of the bill that would change participation from mandatory to discretionary could result in collection rates dropping significantly, as most assumed judges would discontinue or curtail use of the OCA model, despite increased collections. There were responses, however, that indicated the bill would have no fiscal impact, as the local government entity would continue to use the model collection improvement program regardless of passage of the bill. On the other hand, counties that have sought a waiver from participation indicate provisions of the bill would provide a significant savings by not having to implement the OCA model collections improvement program. Cities that have not yet implemented the program indicated a savings by not having to establish the program, but the amount of the savings reported was not significant. And yet another view by counties not yet fully participating in the OCA model, is that the bill would provide more flexibility in how the local governments collect court costs, fees, and fines.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts

LBB Staff: JOB, CL, MN, ZS, DB, JJO