

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 23, 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.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

SECTIONS 1 and 2 of the bill would amend Article 103, Code of Criminal Procedure, to change participation in the court collection improvement program designed by the Office of Court Administration (OCA) from mandatory for certain counties and municipalities to optional for all counties or municipalities.

The bill would authorize the Comptroller of Public Accounts to determine pre- and post-program collection rates, as well as audit for compliance with the program designed by the OCA. The OCA would be required to conduct an annual review of compliance, allowing the jurisdiction to request an audit by the Comptroller if found non-compliant. The bill would also require cities with a population of 100,000 or greater and counties with a population of 50,000 or greater to submit collection information to the OCA regardless of whether or not these jurisdictions choose to participate in the program. All participating jurisdictions would be required to submit monthly reports to the OCA.

SECTION 3 of the bill would amend the Family Code, Section 54.0411(e), to allow counties to retain an additional three percent of the funds paid for state court costs, fees, and fines.

SECTION 5 would amend the Local Government Code, Article 133.058, to allow counties and cities to retain an additional three percent of funds paid for state court costs, fees, and fines if the jurisdiction is found compliant with the collection improvement program and has collected an amount equal to or greater than 105.55 percent of the amount due to the state collected from each fee and cost.

The bill would take effect September 1, 2007.

The Office of Court Administration (OCA) and the Comptroller estimate that the incentive of an additional 3 percent retainment of state court costs, fees, and fines would encourage additional counties and cities to implement the collections improvement program. Those offices estimate that the additional revenue collected as a result of implementing the new program should more than offset the financial incentive; however, the amount cannot be determined. This revenue neutral scenario is one of three possible scenarios. The other two scenarios include a positive gain if more counties and cities decide to use the OCA model or it could be negative if some counties were to discontinue using the OCA model. Responses from local governments already participating in the program indicate that a negative impact is unlikely because of the incentive.

OCA estimates that under the provisions of the bill, some of the 78 jurisdictions that were previously mandated to implement a collection improvement program would continue to participate. This includes 50 percent of the municipalities, 30 percent of the justice courts, 100 percent of the court costs, fees, and fines collected as part of community supervision and corrections departments (CSCDs); and 90 percent of the court costs, fees, and fines collected not under CSCDs.

To offset the loss of additional revenue from mandatory programs, OCA staff would work with

counties and cities that were not previously subject to the mandatory program requirement to implement programs on a voluntary basis. It is assumed that approximately 60 - 65 new voluntary programs could be implemented in the 2008-09 biennium. OCA has a list of 30 counties or cities that have indicated an interest in implementing the OCA model on a voluntary basis.

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.

In counties that responded where the collections improvement program has been implemented, officials report that collections have improved dramatically and that provisions of the bill that would allow retention of an additional 3 percent service fee would result in additional revenue. Therefore, even if the program were to become optional instead of mandatory, there would be a greater likelihood that courts that otherwise might discontinue or curtail use of the program were it optional would not do so. Bexar County, which has implemented a collections program that meets the OCA's model requirements, estimates the county would realize an increase in revenue of between \$100,000 and \$125,000 annually as a result of the 3 percent service fee. Denton County, which also operates a program that complies with OCA's standards, estimates the county would realize an additional \$72,000 per year in revenue under the provisions of the bill. Comal County also operates a collections program using the OCA model and reports that collections had been between \$50,000 and \$60,000 annually prior to the program, and reached more than \$100,000 once the program was implemented; therefore, the county would not only continue to see improved revenue collection, but would also experience additional revenue from the 3 percent service fee. The county reports that improved revenue exceeds program costs.

There were responses, however, that indicated the bill would have no fiscal impact, as the local government entity would continue to use its existing collections program if the bill is passed. 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. Even with the proposed 3 percent service fee that the local government could retain, those counties estimate that operational and implementation costs of the OCA model would exceed revenue gains.

Cities that have not yet implemented the program indicated a savings by not having to establish the program, although the amount of the savings was not reported. 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, MN, ZS, JJO, DB