

By: Hernandez

H.B. No. 2389

A BILL TO BE ENTITLED

AN ACT

relating to supplemental breath alcohol testing court costs and the distribution of those costs in certain counties.

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

SECTION 1. Subchapter A, Chapter 102, Code of Criminal Procedure, is amended by adding Article 102.0161 to read as follows:

Art. 102.0161. SUPPLEMENTAL COSTS FOR BREATH ALCOHOL TESTING PROGRAM. (a) The custodians of municipal and county treasuries may deposit funds collected under this article in interest-bearing accounts and retain for the municipality or county interest earned on the funds. The custodians shall keep records of funds received and disbursed under this article and shall provide a yearly report of all funds received and disbursed under this article to the comptroller, to the Department of Public Safety, and to each agency in the county served by the court that participates in or maintains a certified breath alcohol testing program. The comptroller shall approve the form of the report.

(b) On conviction of an offense under Section 49.04, 49.045, 49.05, 49.06, 49.065, 49.07, or 49.08, Penal Code, the court shall require the defendant to pay a \$50 breath alcohol testing program fee as a cost of court. The custodian of a municipal or county treasury may retain \$5 of each court cost collected under this article for administrative costs. The custodian of a municipal or

1 county treasury in a county in which one or more certified breath  
2 alcohol testing programs are maintained by the county or a  
3 municipality that do not use the services of a certified technical  
4 supervisor employed by the department may, to defray the costs of  
5 hiring or contracting with a certified technical supervisor for the  
6 program or programs or the costs of maintaining and supporting the  
7 program or programs, retain the remaining \$45 of each court cost  
8 collected under this article, in addition to any other court cost  
9 relating to a breath alcohol testing program to which the county is  
10 entitled under Article 102.016 of this code or Section 133.102,  
11 Local Government Code.

12 (c) A county that maintains one or more certified breath  
13 alcohol testing programs that do not use the services of a certified  
14 technical supervisor employed by the department shall provide to a  
15 municipality in the county, on request, the services of a certified  
16 technical supervisor if the municipality:

- 17 (1) has a population of more than 10,000; and  
18 (2) does not use the services of a certified technical  
19 supervisor employed by the department.

20 (d) The custodian of a municipal or county treasury in a  
21 county in which two or more certified breath alcohol testing  
22 programs are maintained by the county or a municipality that do not  
23 use the services of a certified technical supervisor employed by  
24 the department shall divide the court costs collected under this  
25 article, other than the portion collected for administrative costs,  
26 according to the percentage of breath alcohol tests performed on  
27 persons who are suspected of committing an offense under Section

1 49.04, 49.045, 49.05, 49.06, 49.065, 49.07, or 49.08, Penal Code,  
2 by each of the testing programs in the county that employs or  
3 contracts with a certified technical supervisor.

4 (e) In this article, a person is considered convicted if:

5 (1) a sentence is imposed on the person;

6 (2) the person receives community supervision or  
7 deferred adjudication; or

8 (3) the court defers final disposition of the person's  
9 case.

10 (f) The custodian of a municipal or county treasury shall  
11 keep records of the amount of funds on deposit collected under this  
12 article and send to each certified breath alcohol testing program  
13 in the county that employs or contracts with a certified technical  
14 supervisor, before the last day of the first month following each  
15 calendar quarter, the appropriate portion of the court costs  
16 collected under Subsection (d) for the preceding quarter.

17 (g) Not later than the last day of the first month following  
18 each calendar quarter, the custodian of a municipal or county  
19 treasury shall remit to the comptroller the funds collected under  
20 this article during the preceding quarter, other than the amount  
21 the municipality or county is authorized to retain for that period,  
22 in a manner directed by the comptroller. The comptroller shall  
23 deposit funds received under this subsection to the credit of the  
24 breath alcohol testing account in the general revenue fund. The  
25 legislature may appropriate money deposited to the credit of the  
26 breath alcohol testing account in the general revenue fund under  
27 this subsection to the Department of Public Safety for use by the

1 department in the implementation, administration, and maintenance  
2 of the statewide certified breath alcohol testing program.

3 (h) Notwithstanding any other provision of this article, a  
4 county that, before January 1, 2009, charged fees to a municipality  
5 in the county to support the county's breath alcohol testing  
6 program may continue to charge a fee to a municipality in the county  
7 only to cover the portion of the costs of the breath alcohol testing  
8 program not covered by other funds allocated to or retained by the  
9 county for that purpose.

10 SECTION 2. Subchapter C, Chapter 102, Government Code, is  
11 amended by adding Section 102.0412 to read as follows:

12 Sec. 102.0412. SUPPLEMENTAL BREATH ALCOHOL TESTING PROGRAM  
13 FEE ON CONVICTION IN DISTRICT COURT: CODE OF CRIMINAL PROCEDURE.  
14 The clerk of a district court shall collect from a defendant the fee  
15 imposed under Article 102.0161(b), Code of Criminal Procedure, on  
16 conviction.

17 SECTION 3. Subchapter D, Chapter 102, Government Code, is  
18 amended by adding Section 102.0612 to read as follows:

19 Sec. 102.0612. SUPPLEMENTAL BREATH ALCOHOL TESTING PROGRAM  
20 FEE ON CONVICTION IN STATUTORY COUNTY COURT: CODE OF CRIMINAL  
21 PROCEDURE. The clerk of a statutory county court shall collect from  
22 a defendant the fee imposed under Article 102.0161(b), Code of  
23 Criminal Procedure, on conviction.

24 SECTION 4. Subchapter E, Chapter 102, Government Code, is  
25 amended by adding Section 102.0812 to read as follows:

26 Sec. 102.0812. SUPPLEMENTAL BREATH ALCOHOL TESTING PROGRAM  
27 FEE ON CONVICTION IN COUNTY COURT: CODE OF CRIMINAL PROCEDURE. The

1 clerk of a county court shall collect from a defendant the fee  
2 imposed under Article 102.0161(b), Code of Criminal Procedure, on  
3 conviction.

4 SECTION 5. The change in law made by this Act applies only  
5 to a fee collected on conviction of an offense committed on or after  
6 the effective date of this Act. A fee collected on conviction of an  
7 offense committed before the effective date of this Act is covered  
8 by the law in effect when the offense was committed, and the former  
9 law is continued in effect for that purpose. For purposes of this  
10 section, an offense was committed before the effective date of this  
11 Act if any element of the offense occurred before that date.

12 SECTION 6. This Act takes effect September 1, 2009.