

## **BILL ANALYSIS**

Senate Research Center

H.B. 1985  
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Jurisprudence  
5/10/2011  
Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The Texas Code of Criminal Procedure requires the Office of Court Administration of the Texas Judicial System (OCA) to establish a model program to improve the collection of courts costs, fees, and fines imposed in criminal cases. All municipalities with a population over 100,000 must comply with the collection improvement model. A municipality may not retain service fees if they are not in compliance with the Collection Improvement Plan and the financial penalty occurs immediately without any opportunity to remediate the noncompliance prior to the penalty.

Municipal courts process more cases than all other courts in Texas. The current collection improvement model requires courts to collect and verify time pay applications from anyone entering into a plea if they are unable to pay in full at the time of the plea. All defendants, including those granted deferred disposition and defensive driving, must conform to the collection model developed by OCA. As a result of current legislation, one of the biggest burdens recognized is the requirement for court staff to verify payment application information submitted by defendants requesting deferred disposition via their attorney, and the court must spend valuable staff hours verifying that application. The time spent on verifying the application of defendants seeking deferred disposition and driving safety course cases place a substantial and unnecessary administrative burden on the courts. Removing deferred disposition and defensive driving cases from this verification process would allow courts to better allocate their resources.

Additionally, current law does not provide an opportunity to remedy an assessment of noncompliance for purpose of retaining a service fee. If the comptroller of public accounts (comptroller) determines that a court has violated any provision, the court must immediately begin turning the funds over to the comptroller. Often, the assessment could be the result of a miscommunication or administrative error or be an oversight that can easily and quickly be corrected. Modifying this process could help prevent unnecessary burden on courts that must give up much-needed fees with no ability to correct a defect in either the audit or the collection process.

H.B. 1985 amends current law relating to the collection of criminal and civil court costs, fees, and fines by a municipality or county and to notice to the Department of Public Safety of the State of Texas regarding payment of an administrative fee by certain persons denied renewal of a driver's license.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Articles 103.0033(a) and (d), Code of Criminal Procedure, as follows:

(a) Defines, in this article, "eligible case."

(d) Requires that the collection improvement program consist of a component that conforms with a model developed by the Office of Court Administration of the Texas Judicial System (OCA) and designed to improve in-house collections for eligible cases

through the application of best practices, and a component designed to improve the collection of balances for eligible cases more than 60 days past due, which may be implemented by entering into a contract with a private attorney or public or private vendor in accordance with Article 103.0031 (Collection Contracts).

SECTION 2. Amends Section 133.058(e), Local Government Code, as follows:

(e) Prohibits a municipality or county from retaining a service fee if, during an audit under Section 133.059 (Audit) of this code or Article 103.0033(j) (relating to requiring the comptroller of public accounts (comptroller) to periodically audit counties and municipalities to verify information and confirm that the county or municipality is conforming with requirements relating to the program), Code of Criminal Procedure, the comptroller determines that the municipality or county is not in compliance with Article 103.0033 (Collection Improvement Program), Code of Criminal Procedure, and if the municipality or county is unable to reestablish compliance on or before the 180th day after the date the municipality or county receives written notice of noncompliance from the comptroller. Authorizes the municipality or county, after any period in which the municipality or county becomes unable to retain a service fee under this subsection, to begin once more to retain the fee only on receipt of a written confirmation from the comptroller that the municipality or county is in compliance with Article 103.0033, Code of Criminal Procedure, rather than authorizes any municipality or county to continue to retain a service fee under this section on receipt of a written confirmation from the comptroller that the municipality or county is in compliance with Article 103.0033, Code of Criminal Procedure.

SECTION 3. Amends Section 133.103(c-1), Local Government Code, as follows:

(c-1) Requires the treasurer to send 100 percent of the fees collected under this section to the comptroller if, during an audit under Section 133.059 of this code or Article 103.0033(j), Code of Criminal Procedure, the comptroller determines that the municipality or county is not in compliance with Article 103.0033, Code of Criminal Procedure, and if the municipality or county is unable to reestablish compliance on or before the 180th day after the date the municipality or county receives written notice of noncompliance from the comptroller. Requires the municipality or county, after any period in which the treasurer is required under this subsection to send 100 percent of the fees collected under this section to the comptroller, to begin once more, rather than to continue, to dispose of fees as otherwise provided by this section only on receipt of a written confirmation from the comptroller that the municipality or county is in compliance with Article 103.0033, Code of Criminal Procedure. Makes nonsubstantive changes.

SECTION 4. Amends Section 706.005(a), Transportation Code, to require a political subdivision to immediately notify the Department of Public Safety of the State of Texas (DPS) that there is no cause to continue to deny renewal of a person's driver's license based on the person's previous failure to appear or failure to pay or satisfy a judgment ordering the payment of a fine and cost in the manner ordered by the court in a matter involving an offense described by Section 706.002(a) (relating to authorizing a political subdivision to contract with DPS to provide information necessary for DPS to deny renewal of the driver's license of a person who fails to appear for a complaint or citation or fails to pay or satisfy a judgment ordering payment of a fine and cost), on payment of a fee as provided by Section 706.006 (Payment of Administrative Fee) and completion of certain conditions.

SECTION 5. Makes application of the change in law made by this Act in amending Sections 133.058(e) and 133.103(c-1), Local Government Code, prospective.

SECTION 6. Makes the application of the change in law made by this Act in amending Article 103.0033, Code of Criminal Procedure, prospective.

SECTION 7. Effective date: September 1, 2011.