

SENATE AMENDMENTS

2nd Printing

By: Cook

H.B. No. 2949

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the administration of the collection improvement
3 program.

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

5 SECTION 1. Articles 103.0033(f), (h), (i), and (j), Code of
6 Criminal Procedure, are amended to read as follows:

7 (f) The [~~comptroller, in cooperation with the~~] office[~~,~~]
8 shall develop a methodology for determining the collection rate of
9 counties and municipalities described by Subsection (e) before
10 implementation of a program. The office [~~comptroller~~] shall
11 determine the rate for each county and municipality not later than
12 the first anniversary of the county's or municipality's adoption of
13 a program.

14 (h) The office[~~, in consultation with the comptroller,~~]
15 may:

16 (1) use case dispositions, population, revenue data,
17 or other appropriate measures to develop a prioritized
18 implementation schedule for programs; and

19 (2) determine whether it is not cost-effective to
20 implement a program in a county or municipality and grant a waiver
21 to the county or municipality.

22 (i) Each county and municipality shall at least annually
23 submit to the office [~~and the comptroller~~] a written report that
24 includes updated information regarding the program, as determined

1 by the office [~~in cooperation with the comptroller~~]. The report
2 must be in a form approved by the office [~~in cooperation with the~~
3 ~~comptroller~~].

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

10 SECTION 2. Section 133.058(e), Local Government Code, is
11 amended to read as follows:

12 (e) A municipality or county may not retain a service fee
13 if, during an audit under [~~Section 133.059 of this code or~~] Article
14 103.0033(j), Code of Criminal Procedure, the Office of Court
15 Administration of the Texas Judicial System [~~comptroller~~]
16 determines that the municipality or county is not in compliance
17 with Article 103.0033, Code of Criminal Procedure. The
18 municipality or county may continue to retain a service fee under
19 this section on receipt of a written confirmation from the Office of
20 Court Administration of the Texas Judicial System [~~comptroller~~]
21 that the municipality or county is in compliance with Article
22 103.0033, Code of Criminal Procedure.

23 SECTION 3. Section 133.103(c-1), Local Government Code, is
24 amended to read as follows:

25 (c-1) The treasurer shall send 100 percent of the fees
26 collected under this section to the comptroller if, during an audit
27 under [~~Section 133.059 of this code or~~] Article 103.0033(j), Code

1 of Criminal Procedure, the Office of Court Administration of the
2 Texas Judicial System [~~comptroller~~] determines that the
3 municipality or county is not in compliance with Article 103.0033,
4 Code of Criminal Procedure. The municipality or county shall
5 continue to dispose of fees as otherwise provided by this section on
6 receipt of a written confirmation from the Office of Court
7 Administration of the Texas Judicial System [~~comptroller~~] that the
8 municipality or county is in compliance with Article 103.0033, Code
9 of Criminal Procedure.

10 SECTION 4. This Act takes effect September 1, 2011.

ADOPTED

MAY 23 2011

Atty. Gen. Paul
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY: *K. P. Elter*

1 Amend H.B. 2949 (senate committee printing) by striking all
2 below the enacting clause and substituting the following:

3 SECTION 1. Articles 103.0033(b), (c), (e), (f), (h), (i),
4 and (j), Code of Criminal Procedure, are amended to read as follows:

5 (b) This article applies [~~only~~] to each+

6 [~~(1) a~~] county in this state [~~with a population of~~
7 ~~50,000 or greater,~~] and to each

8 [~~(2) a~~] municipality with a population of 100,000 or
9 greater.

10 (c) Unless granted a waiver under Subsection (h), each
11 [~~county and~~] municipality shall develop and implement a program
12 that complies with the prioritized implementation schedule under
13 Subsection (h). A county may develop and implement a program that
14 complies with the prioritized implementation schedule under
15 Subsection (h). A county program must include district, county,
16 and justice courts.

17 (e) Not later than June 1 of each year, the office shall
18 identify those counties and municipalities that:

19 (1) have not implemented a program; and

20 (2) are planning [~~able~~] to implement a program before
21 April 1 of the following year.

22 (f) The [~~comptroller, in cooperation with the~~] office[~~,~~]
23 shall develop a methodology for determining the collection rate of
24 counties and municipalities described by Subsection (e) before
25 implementation of a program. The office [~~comptroller~~] shall
26 determine the rate for each county and municipality not later than
27 the first anniversary of the county's or municipality's adoption of
28 a program.

29 (h) The office[~~, in consultation with the comptroller,~~]

1 may:

2 (1) use case dispositions, population, revenue data,
3 or other appropriate measures to develop a prioritized
4 implementation schedule for programs; and

5 (2) for a municipality, determine whether it is not
6 actually cost-effective to implement a program in the [~~a county or~~]
7 municipality and grant a waiver to the [~~county or~~] municipality.

8 (i) Each county that implements a program and each
9 municipality shall at least annually submit to the office [~~and the~~
10 ~~comptroller~~] a written report that includes updated information
11 regarding the program, as determined by the office [~~in cooperation~~
12 ~~with the comptroller~~]. The report must be in a form approved by the
13 office [~~in cooperation with the comptroller~~].

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

20 SECTION 2. Section 133.058(e), Local Government Code, is
21 amended to read as follows:

22 (e) A municipality [~~or county~~] may not retain a service fee
23 if, during an audit under [~~Section 133.059 of this code or~~] Article
24 103.0033(j), Code of Criminal Procedure, the Office of Court
25 Administration of the Texas Judicial System [~~comptroller~~]
26 determines that the municipality [~~or county~~] is not in compliance
27 with Article 103.0033, Code of Criminal Procedure. The
28 municipality [~~or county~~] may continue to retain a service fee under
29 this section on receipt of a written confirmation from the office
30 [~~comptroller~~] that the municipality [~~or county~~] is in compliance
31 with Article 103.0033, Code of Criminal Procedure.

1 SECTION 3. Section 133.103(c-1), Local Government Code, is
2 amended to read as follows:

3 (c-1) The treasurer shall send to the comptroller 100
4 percent of the fees collected under this section by a municipality
5 [~~to the comptroller~~] if, during an audit under [~~Section 133.059 of~~
6 ~~this code or~~] Article 103.0033(j), Code of Criminal Procedure, the
7 Office of Court Administration of the Texas Judicial System
8 [~~comptroller~~] determines that the municipality [~~or county~~] is not
9 in compliance with Article 103.0033, Code of Criminal Procedure.
10 The municipality [~~or county~~] shall continue to dispose of fees as
11 otherwise provided by this section on receipt of a written
12 confirmation from the office [~~comptroller~~] that the municipality
13 [~~or county~~] is in compliance with Article 103.0033, Code of
14 Criminal Procedure.

15 SECTION 4. This Act takes effect immediately if it receives
16 a vote of two-thirds of all the members elected to each house, as
17 provided by Section 39, Article III, Texas Constitution. If this
18 Act does not receive the vote necessary for immediate effect, this
19 Act takes effect September 1, 2011.

ADOPTED

MAY 23 2011

Atty. Gen. Saw
Secretary of the Senate

FLOOR AMENDMENT NO. 2

BY: Ellis

1 Amend H.B. 2949 (senate committee printing) by striking all
2 below the enacting clause and substituting the following:

3 SECTION 1. Articles 103.0033(a), (b), (c), (d), (e), (f),
4 (h), (i), and (j), Code of Criminal Procedure, are amended to read
5 as follows:

6 (a) In this article:

7 (1) "Eligible case" means a criminal case in which the
8 judgment has been entered by a trial court. The term does not
9 include a criminal case in which a defendant has been placed on
10 deferred disposition or has elected to take a driving safety
11 course.

12 (2) "Office" means the Office of Court Administration
13 of the Texas Judicial System.

14 (3) ~~[(2)]~~ "Program" means the program to improve the
15 collection of court costs, fees, and fines imposed in criminal
16 cases, as developed and implemented under this article.

17 (b) This article applies ~~[only]~~ to each+

18 ~~[(1) a]~~ county in this state ~~[with a population of~~
19 ~~50,000 or greater,]~~ and to each

20 ~~[(2) a]~~ municipality with a population of 100,000 or
21 greater.

22 (c) Unless granted a waiver under Subsection (h), each
23 ~~[county and]~~ municipality shall develop and implement a program
24 that complies with the prioritized implementation schedule under
25 Subsection (h). A county may develop and implement a program that
26 complies with the prioritized implementation schedule under
27 Subsection (h). A county program must include district, county,
28 and justice courts.

29 (d) The program must consist of:

1 (1) a component that conforms with a model developed
2 by the office and designed to improve in-house collections for
3 eligible cases through the application of best practices; and

4 (2) a component designed to improve the collection of
5 balances for eligible cases more than 60 days past due, which may be
6 implemented by entering into a contract with a private attorney or
7 public or private vendor in accordance with Article 103.0031.

8 (e) Not later than June 1 of each year, the office shall
9 identify those counties and municipalities that:

10 (1) have not implemented a program; and

11 (2) are planning [~~able~~] to implement a program before
12 April 1 of the following year.

13 (f) The [~~comptroller, in cooperation with the~~] office[~~7~~]
14 shall develop a methodology for determining the collection rate of
15 counties and municipalities described by Subsection (e) before
16 implementation of a program. The office [~~comptroller~~] shall
17 determine the rate for each county and municipality not later than
18 the first anniversary of the county's or municipality's adoption of
19 a program.

20 (h) The office[~~, in consultation with the comptroller,~~]
21 may:

22 (1) use case dispositions, population, revenue data,
23 or other appropriate measures to develop a prioritized
24 implementation schedule for programs; and

25 (2) for a municipality, determine whether it is not
26 actually cost-effective to implement a program in the [~~a county or~~]
27 municipality and grant a waiver to the [~~county or~~] municipality.

28 (i) Each county that implements a program and each
29 municipality shall at least annually submit to the office [~~and the~~
30 ~~comptroller~~] a written report that includes updated information
31 regarding the program, as determined by the office [~~in cooperation~~

1 ~~with the comptroller~~]. The report must be in a form approved by the
2 office [~~in cooperation with the comptroller~~].

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

9 SECTION 2. Section 133.058(e), Local Government Code, is
10 amended to read as follows:

11 (e) A municipality [~~or county~~] may not retain a service fee
12 if, during an audit under [~~Section 133.059 of this code or~~] Article
13 103.0033(j), Code of Criminal Procedure, the Office of Court
14 Administration of the Texas Judicial System [~~comptroller~~]
15 determines that the municipality [~~or county~~] is not in compliance
16 with Article 103.0033, Code of Criminal Procedure, and if the
17 municipality is unable to reestablish compliance on or before the
18 180th day after the date the municipality receives written notice
19 of noncompliance from the office. After any period in which the
20 municipality becomes unable to retain a service fee under this
21 subsection, the [~~The~~] municipality [~~or county~~] may begin once more
22 continue to retain the [~~a service~~] fee only [~~under this section~~]
23 on receipt of a written confirmation from the office [~~comptroller~~]
24 that the municipality [~~or county~~] is in compliance with Article
25 103.0033, Code of Criminal Procedure.

26 SECTION 3. Section 133.103(c-1), Local Government Code, is
27 amended to read as follows:

28 (c-1) The treasurer shall send to the comptroller 100
29 percent of the fees collected under this section by a municipality
30 [~~to the comptroller~~] if, during an audit under [~~Section 133.059 of~~
31 ~~this code or~~] Article 103.0033(j), Code of Criminal Procedure, the

1 Office of Court Administration of the Texas Judicial System
2 ~~[comptroller]~~ determines that the municipality ~~[or county]~~ is not
3 in compliance with Article 103.0033, Code of Criminal Procedure,
4 and if the municipality is unable to reestablish compliance on or
5 before the 180th day after the date the municipality receives
6 written notice of noncompliance from the office. After any period
7 in which the treasurer is required under this subsection to send 100
8 percent of the fees collected under this section to the
9 comptroller, the [The] municipality ~~[or county]~~ shall begin once
10 more ~~[continue]~~ to dispose of fees as otherwise provided by this
11 section on receipt of a written confirmation from the office
12 ~~[comptroller]~~ that the municipality ~~[or county]~~ is in compliance
13 with Article 103.0033, Code of Criminal Procedure.

14 SECTION 4. Section 706.005(a), Transportation Code, is
15 amended to read as follows:

16 (a) A political subdivision shall immediately notify the
17 department that there is no cause to continue to deny renewal of a
18 person's driver's license based on the person's previous failure to
19 appear or failure to pay or satisfy a judgment ordering the payment
20 of a fine and cost in the manner ordered by the court in a matter
21 involving an offense described by Section 706.002(a), on payment of
22 a fee as provided by Section 706.006 and:

23 (1) the perfection of an appeal of the case for which
24 the warrant of arrest was issued or judgment arose;

25 (2) the dismissal of the charge for which the warrant
26 of arrest was issued or judgment arose;

27 (3) the posting of bond or the giving of other security
28 to reinstate the charge for which the warrant was issued;

29 (4) the payment or discharge of the fine and cost owed
30 on an outstanding judgment of the court; or

31 (5) other suitable arrangement to pay the fine and

1 cost within the court's discretion.

2 SECTION 5. The change in law made by this Act in amending
3 Sections 133.058(e) and 133.103(c-1), Local Government Code,
4 applies only to an audit commenced on or after the effective date of
5 this Act. An audit commenced before the effective date of this Act
6 is governed by the law in effect when the audit was commenced, and
7 the former law is continued in effect for that purpose.

8 SECTION 6. The change in law made by this Act in amending
9 Article 103.0033, Code of Criminal Procedure, applies only to a
10 court cost, fee, or fine imposed in a criminal case on or after the
11 effective date of this Act. A court cost, fee, or fine imposed in a
12 criminal case before the effective date of this Act is governed by
13 the law in effect on the date the cost, fee, or fine was imposed, and
14 the former law is continued in effect for that purpose.

15 SECTION 7. This Act takes effect September 1, 2011.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 26, 2011

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

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

IN RE: HB2949 by Cook (Relating to the administration of the collection improvement program.),
As Passed 2nd House

Estimated Two-year Net Impact to General Revenue Related Funds for HB2949, As Passed 2nd House: a positive impact of \$7,797,170 through the biennium ending August 31, 2013.

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
2012	\$3,832,007
2013	\$3,965,163
2014	\$4,102,163
2015	\$4,243,163
2016	\$4,384,007

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain from <i>General Revenue Fund</i> 1	Probable Revenue (Loss) from <i>General Revenue Fund</i> 1	Probable Revenue (Loss) from <i>General Revenue</i> <i>Dedicated, Multiple</i> <i>Accounts</i>	Probable Savings/ (Cost) from <i>Other, Multiple Funds</i>
2012	\$5,102,000	(\$1,102,415)	(\$2,387,839)	(\$867,117)
2013	\$5,231,000	(\$1,102,415)	(\$2,387,839)	(\$867,117)
2014	\$5,368,000	(\$1,102,415)	(\$2,387,839)	(\$867,117)
2015	\$5,509,000	(\$1,102,415)	(\$2,387,839)	(\$867,117)
2016	\$5,654,000	(\$1,102,415)	(\$2,387,839)	(\$867,117)

Fiscal Year	Probable (Cost) from <i>General Revenue Fund</i> 1	Change in Number of State Employees from FY 2011
2012	(\$167,578)	2.0
2013	(\$163,422)	2.0
2014	(\$163,422)	2.0
2015	(\$163,422)	2.0
2016	(\$167,578)	2.0

Revenue from 19 unique state court costs is remitted to the Comptroller of Public Accounts (CPA) and deposited to 18 funds, including General Revenue, General Revenue-Dedicated (GR-D), and Other Funds. The table above consolidates all GR-D accounts affected into one column and all Other Funds

affected into one column.

Fiscal Analysis

The bill would amend the Local Government Code, Article 103.0033 to change several requirements of the Collection Improvement Program (CIP) including redefining eligible cases to exclude deferred dispositions and driver safety courses; make the program voluntary for all counties; and transfer the CIP audit function from the Comptroller of Public Accounts (CPA) to the Office of Court Administration (OCA).

The bill would amend the Local Government Code, Article 133.058 to remove the penalty for CIP non-compliance by counties since the program would now be voluntary for counties of all population sizes. It would also provide cities up to 180 days to reestablish compliance before imposing a penalty for non-compliance if the OCA finds a city to be non-compliant under a CIP audit and could no longer retain a service fee or 50 percent of the time payment fee.

The bill would amend the Transportation Code, Section 706.005(a) to require a political subdivision to immediately notify the Department of Public Safety 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.

The bill would be effective September 1, 2011.

Methodology

The bill would transfer the auditing of the court-related Collection Improvement Program (CIP) from the Comptroller of Public Accounts (CPA) to the Office of Court Administration (OCA). With the transfer of audit functions and the removal of mandatory participation by counties of certain population sizes, OCA anticipates a need for two full-time equivalents (FTEs) at Auditor IV positions, with a cost of \$54,498 per FTE and a total salary cost of \$108,996 to General Revenue per year. Additional expenses include travel, \$20,000 per year; other operating expenses, \$3,660 per year; and computer equipment costs, \$4,556 in fiscal year 2012 with a four-year replacement schedule. In addition, benefits would cost \$30,366 per fiscal year. The estimated cost of the audit function is \$163,422 to \$167,578 per year. The CPA reports that redirecting the existing staff currently performing court collections audits to taxpayer audits would result in additional General Revenue to the state ranging from \$5.1 million to \$5.7 million per year.

Changing county participation in the CIP to voluntary is anticipated to result in a revenue loss. OCA reported average additional revenue to the state from the mandatory CIP of \$20.0 million per fiscal year (or an average of \$256,316 per city or county per year). Currently 24 cities and 54 counties make up the 78 jurisdictions that fall under the mandatory CIP. Prior to mandatory requirements, approximately 37 percent, or 20 counties, of the mandatory counties participated on a voluntary basis. With the anticipated drop in compliance, the OCA estimates the revenue loss could be \$8.7 million per year, which assumes 20 counties continue to participate and 34 counties do not participate ($\$256,316 \times 34 \text{ counties} = \8.7 million).

The fiscal note assumes that although compliance with program requirements will become voluntary, most jurisdictions will have recognized the benefit of maintaining the requirements. Natural attrition in court-level collection departments and other factors may reduce efficiencies in collections, but amounts shown in the impact table reflect that at least 50 percent of the 34 counties joining the program since 2005 would maintain the CIP requirements, which results in an estimated revenue loss of \$4.4 million per year in All Funds ($\$256,316 \times 17 = \4.4 million). Based on fiscal year 2010 state court cost revenues, 25.3 percent of that amount would be General Revenue; 54.8 percent would be General Revenue-Dedicated; and 19.9 percent would be Other Funds.

The OCA was unable to estimate the impact from changing the definition of eligible cases but the agency anticipates that there may be a negative impact since those cases are currently subject to the CIP. The OCA reported that any impact from allowing cities up to 180 days before applying the penalty to non-compliant cities may have a loss, but the agency does not anticipate that it would be

significant.

Local Government Impact

The Office of Court Administration (OCA) reported the average additional revenue to local governments from the mandatory Collection Improvement Program (CIP) of \$60.0 million per fiscal year (or an average of \$768,948 per city or county per year). Currently 24 cities and 54 counties fall under the mandatory CIP. Prior to mandatory requirements, approximately 37 percent of the mandatory counties participated on a voluntary basis. With the anticipated drop in compliance, the OCA estimates the revenue loss could be \$26.1 million per year, which assumes 20 counties continue to participate and 34 counties do not participate ($\$768,948 \times 34 \text{ counties} = \26.1 million).

Applying the same assumptions used for the state revenue, this analysis assumes that although compliance with program requirements may become voluntary, most jurisdictions will have recognized the benefit of maintaining the requirements. Natural attrition in court-level collection departments and other factors may reduce efficiencies in collections, but if at least 50 percent of the 34 counties joining the program since 2005 maintain the CIP requirements, it would result in an estimated revenue loss of \$13.1 million per year to counties statewide ($\$768,948 \times 17 = \13.1 million).

The Texas Association of Counties (TAC) reported that it is expected that each county will develop and implement a program to maximize collections regardless of whether the county is a part of the model program, and as a result, realize a positive fiscal impact. Some of the costs associated with the implementation of the model program is the requirement to implement the entire program and because conditions vary across the state, some of the portions of the model program are not appropriate for some counties. The bill would provide counties greater latitude in developing an appropriate collection program which is expected to improve collections in counties resulting in a positive fiscal impact. Therefore, the positive fiscal impact is based on an expectation of greater efficiency, not greater participation. (TAC did not provide specific detail on individual counties that would illustrate how an individual county anticipates a positive fiscal impact would be achieved.)

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

LBB Staff: JOB, JT, ZS, JJO, LCO

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 19, 2011

TO: Honorable Chris Harris, Chair, Senate Committee on Jurisprudence

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

IN RE: HB2949 by Cook (Relating to the administration of the collection improvement program.),
As Engrossed

Estimated Two-year Net Impact to General Revenue Related Funds for HB2949, As Engrossed: a positive impact of \$9,009,798 through the biennium ending August 31, 2013.

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
2012	\$4,430,087
2013	\$4,579,711
2014	\$4,716,711
2015	\$4,857,711
2016	\$5,002,711

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain from General Revenue Fund 1	Probable (Cost) from General Revenue Fund 1	Change in Number of State Employees from FY 2011
2012	\$5,102,000	(\$671,913)	8.0
2013	\$5,231,000	(\$651,289)	8.0
2014	\$5,368,000	(\$651,289)	8.0
2015	\$5,509,000	(\$651,289)	8.0
2016	\$5,654,000	(\$651,289)	8.0

Fiscal Analysis

The bill would amend the Code of Criminal Procedure Article 103.0033 by transferring audit responsibilities for the court Collection Improvement Program (CIP) from the Comptroller of Public Accounts (CPA) to the Office of Court Administration (OCA).

The bill would be effective September 1, 2011.

Methodology

The bill would transfer the auditing of the court Collection Improvement Program (CIP) function from the Comptroller of Public Accounts (CPA) to the Office of Court Administration (OCA). When the mandatory CIP was created by legislation in 2005, the CPA received appropriations for eight full-time equivalents (FTEs) to fulfill the related auditing functions. It is assumed that eight FTEs, Auditor IV positions, would be needed at OCA at a cost of \$54,498 per FTE per fiscal year, with a total salary cost of \$435,984 to General Revenue per year. Additional expenses include travel, at a cost of \$80,000 per year; other operating expenses, at a cost of \$13,840-\$14,640 per year; and equipment costs for computers at a cost \$19,824 in fiscal year 2012 with a four-year replacement schedule. In addition, benefits would cost \$121,465 per fiscal year. The estimated cost of performing the auditing function is approximately \$671,913 in fiscal year 2012 and \$651,289 in subsequent fiscal years.

The CPA reports that re-directing the existing staff currently performing audits of court collections to audits of taxpayers would result in additional General Revenue to the state of: \$5,102,000 in fiscal year 2012; \$5,231,000 in fiscal year 2013; \$5,368,000 in fiscal year 2014; \$5,509,000 in fiscal year 2015; and \$5,654,000 in fiscal year 2016. In addition, since existing CPA staff will be redirected to taxpayer audits, for purposes of this analysis, it is assumed that the OCA would require the additional funding and FTEs (as described above) to assume the auditing function currently performed by CPA staff.

Technology

The Office of Court Administration (OCA) anticipates that the additional FTEs would require laptop computers and Microsoft Office software.

Local Government Impact

The Office of Court (OCA) does not anticipate a significant fiscal impact to local governments.

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

LBB Staff: JOB, JT, ZS, JJO, LCO, ESi, TB, KKR, TP

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION
Revision 1

April 13, 2011

TO: Honorable Pete Gallego, Chair, House Committee on Criminal Jurisprudence

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

IN RE: HB2949 by Cook (Relating to the administration of the collection improvement program.),
As Introduced

Estimated Two-year Net Impact to General Revenue Related Funds for HB2949, As Introduced: a positive impact of \$4,348,426 through the biennium ending August 31, 2013.

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
2012	\$2,088,901
2013	\$2,259,525
2014	\$2,396,525
2015	\$2,537,525
2016	\$2,682,525

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from <i>General Revenue Fund</i> 1	Probable Revenue (Loss) from <i>General Revenue Dedicated, Multiple Accounts</i>	Probable Revenue (Loss) from <i>Other, Multiple Accounts</i>	Probable (Cost) from <i>General Revenue Fund</i> 1
2012	\$2,760,814	(\$3,615,469)	(\$1,312,917)	(\$671,913)
2013	\$2,910,814	(\$3,615,469)	(\$1,312,917)	(\$651,289)
2014	\$3,047,814	(\$3,615,469)	(\$1,312,917)	(\$651,289)
2015	\$3,188,814	(\$3,615,469)	(\$1,312,917)	(\$651,289)
2016	\$3,333,814	(\$3,615,469)	(\$1,312,917)	(\$651,289)

Fiscal Year	Change in Number of State Employees from FY 2011
2012	8.0
2013	8.0
2014	8.0
2015	8.0
2016	8.0

Revenue from 19 unique state court costs is remitted to the Comptroller of Public Accounts (CPA) and deposited to 18 funds, including General Revenue, General Revenue-Dedicated (GR-D), and Other

Funds. The table above consolidates all GR-D accounts affected into one column and all Other Funds affected into one column.

Fiscal Analysis

The bill would amend the Code of Criminal Procedure Article 103.0033 by transferring audit responsibilities for the court Collection Improvement Program (CIP) to the Office of Court Administration (OCA).

The bill would amend the Local Government Code, Section 133.103 to eliminate the penalty imposed on municipalities and counties if they fail an audit required under the Code of Criminal Procedure, Article 103.0033. The bill also repeals Local Government Code, Sections 133.058(e) and 133.103(c-1). Under current law a municipality or county that fails an audit is not permitted to retain 50 percent of the time payment fee or the 10 percent service fee retained locally on most other court costs and fees.

The bill would be effective September 1, 2011.

Methodology

The bill would transfer the auditing of the court Collection Improvement Program (CIP) function from the Comptroller of Public Accounts (CPA) to the Office of Court Administration (OCA). When the mandatory CIP was created by legislation in 2005, the CPA received appropriations for eight full-time equivalents (FTEs) to fulfill the related auditing functions. It is assumed that eight FTEs, Auditor IV positions, would be needed at OCA at a cost of \$54,498 per FTE per fiscal year, with a total salary cost of \$435,984 to General Revenue per year. Additional expenses include travel, at a cost of \$80,000 per year; other operating expenses, at a cost of \$13,840-\$14,640 per year; and equipment costs for computers at a cost \$19,824 in fiscal year 2012 with a four-year replacement schedule. In addition, benefits would cost \$121,465 per fiscal year. The estimated cost of performing the auditing function is approximately \$671,913 in fiscal year 2012 and \$651,289 in subsequent fiscal years.

The CPA reports that re-directing the existing staff currently performing audits of court collections to audits of taxpayers would result in additional General Revenue to the state of: \$4,430,000 in fiscal year 2012; \$4,458,000 in fiscal year 2013; \$4,717,000 in fiscal year 2014; \$4,858,000 in fiscal year 2015; and \$5,003,000 in fiscal year 2016. As indicated in the table above, these General Revenue gains are offset by a loss of \$1,669,186 in fiscal year 2012 and each year thereafter from reduced city and county compliance with CIP requirements. In addition, since existing CPA staff will be re-directed to taxpayer audits, for purposes of this analysis, it is assumed that the OCA would require the additional funding and FTEs (as described above) to assume the auditing function currently performed by CPA staff.

The CPA and the OCA anticipate that repealing Local Government Code, Sections 133.058(e) and 133.103(c-1) would result in a revenue loss to the state. Currently municipalities with populations over 100,000 and counties with populations over 50,000 are required to participate in the Collection Improvement Program (CIP) and be periodically audited on their compliance. The law requires that if a jurisdiction fails its compliance audit, it cannot retain 50 percent of the time payment fee or the 10 percent service fee for most other state court costs.

The CPA was unable to estimate the potential revenue loss from the repeal of penalty provisions for non-compliance. This analysis assumes the repeal of the provisions would effectively convert the program to a voluntary program, and the basis for revenue loss is tied to compliance rates in the years prior to mandatory requirements.

The OCA reported average additional revenue to the state from the mandatory CIP of \$20.0 million revenue per fiscal year. OCA reported that prior to mandatory requirements, approximately 34 percent of eligible municipalities and counties participated, which equates to a 66 percent non-participation rate. With the anticipated drop in compliance, the revenue loss could be as great as \$13.2 million per year ($66\% * \$20 \text{ million} = \13.2 million). However, this analysis assumes that although compliance with program requirements may become voluntary, most jurisdictions will have

recognized the benefit of maintaining the requirements. Natural attrition in court-level collection departments and other factors may reduce efficiencies in collections, but amounts shown reflect at least 50 percent of jurisdictions joining the program since the 2005 legislation as maintaining requirements (33%*\$20 million = \$6.6 million).

Based on fiscal year 2010 state court cost revenues, 25.3 percent of that amount would be General Revenue; 54.8 percent would be General Revenue-Dedicated; and 19.9 percent would be Other Funds.

Technology

The Office of Court Administration anticipates that the additional FTEs would require laptop computers and Microsoft Office software.

Local Government Impact

According to the Office of Court Administration (OCA), the CIP is estimated to have increased statewide local revenue by an annual average of \$60.0 million over the last four years. Eliminating the penalty provision associated with non-compliance would effectively make participation by counties and cities voluntary and would likely have a significant negative fiscal impact at the local level. OCA reported that, of the municipalities and counties currently required to participate, only 34 percent previously participated voluntarily. If participation rates declined by 50 percent among those jurisdictions joining the program since the 2005 legislation, it is estimated statewide local revenues attributable to the CIP would decline by an annual average of \$19.8 million.

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

LBB Staff: JOB, ESi, ZS, TB, JJO, KKR, TP

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

April 12, 2011

TO: Honorable Pete Gallego, Chair, House Committee on Criminal Jurisprudence

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

IN RE: HB2949 by Cook (Relating to the administration of the collection improvement program.),
As Introduced

Estimated Two-year Net Impact to General Revenue Related Funds for HB2949, As Introduced: a negative impact of (\$3,338,372) through the biennium ending August 31, 2013.

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
2012	(\$1,669,186)
2013	(\$1,669,186)
2014	(\$1,669,186)
2015	(\$1,669,186)
2016	(\$1,669,186)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue (Loss) from <i>General Revenue Fund</i> 1	Probable Revenue (Loss) from <i>General Revenue Dedicated, Multiple Accounts</i>	Probable Revenue (Loss) from <i>Other, Multiple Accounts</i>
2012	(\$1,669,186)	(\$3,615,469)	(\$1,312,917)
2013	(\$1,669,186)	(\$3,615,469)	(\$1,312,917)
2014	(\$1,669,186)	(\$3,615,469)	(\$1,312,917)
2015	(\$1,669,186)	(\$3,615,469)	(\$1,312,917)
2016	(\$1,669,186)	(\$3,615,469)	(\$1,312,917)

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on municipalities and counties if they fail an audit required under the Code of Criminal Procedure, Article 103.0033. The bill also repeals Local Government Code, Sections 133.058(e) and 133.103(c-1). Under current law a municipality or county that fails an audit is not permitted to retain 50 percent of the time payment fee or the 10 percent service fee retained locally on most other court costs and fees.

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The CPA and the OCA anticipate that repealing Local Government Code, Sections 133.058(e) and 133.103(c-1) would result in a revenue loss to the state. Currently municipalities with populations over 100,000 and counties with populations over 50,000 are required to participate in the Collection Improvement Program (CIP) and be periodically audited on their compliance. The law requires that if a jurisdiction fails its compliance audit, it cannot retain 50 percent of the time payment fee or the 10 percent service fee for most other state court costs.

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