

SUBJECT: Audits of programs and accounts funded by court costs

COMMITTEE: Judicial Affairs — favorable, without amendment

VOTE: 6 ayes — Thompson, Hartnett, Capelo, Deshotel, Solis, Talton
0 nays
3 absent — Garcia, Hinojosa, Uresti

SENATE VOTE: On final passage, May 1 — by voice vote

WITNESSES: For — *Registered but did not testify:* Snapper Carr, Texas Municipal League; Matthew Emal, City of Houston; Martha Gustavsen, County Treasurers Association of Texas; Kathy Hynson, County Treasurers Association of Texas; Quentin Porter, Texas Court Clerks Association and Texas Municipal Courts Association; Rick Thompson, Texas Association of Counties; Vivian Wood, County Treasurers Association of Texas.

Against — None

BACKGROUND: A variety of court fees are imposed on parties to civil and criminal cases to fund various programs. In 1997, the 75th Legislature consolidated 10 court fees that provide funds for various programs into a single fee to be remitted to the comptroller for allocation to the relevant funds or programs. The comptroller had recommended consolidating the fees to reduce the administrative burden on cities and counties that must collect, report, and remit the fees to the state. However, the 75th Legislature also created four new court fees, and more have been authorized since then.

SCR 12 by Ellis, adopted by the 76th Legislature, directed the comptroller to “develop strategies for increasing the efficiency and reducing the complexity of fee collection and dispersal by county and municipal clerks” and to submit recommendations to the Legislature by January 1, 2001. The comptroller’s report in March 2000 made a number of recommendations, including a suggestion that the State Auditors Office (SAO) be given

oversight authority of all funds that receive court costs to ensure that they serve their intended purpose and receive the proper level of funding.

DIGEST: SB 1377 would direct the SAO to conduct a biennial review of each fund or account into which all or part of a court cost or fee was deposited to determine whether the money was being used as intended and whether the level of funding as a result of the court cost or fee was appropriate. The report could include recommendations for statutory or policy changes.

The SAO report would be public and due to the presiding officer of each house of the Legislature, the chief justice of the Texas Supreme Court, and the presiding judge of the Court of Criminal Appeals by December 1 of each even numbered year.

The bill would take effect September 1, 2001, with the first report due December 1, 2002.

SUPPORTERS SAY: SB 1377 would provide needed oversight to court-related funds and accounts, as well as the programs dependent upon them, which currently have no sunset provisions and no formal oversight from any branch of state government.

SB 1377 would address several potential areas of concern. First, money occasionally may be deposited into a fund before the program it will benefit is implemented fully and before rules and procedures regarding the use of the money are developed. Also, once a fund is established, no review exists of its continuing need or the level of funding for the program. SAO's review of these funds would help prevent any problems that might result from such situations.

OPPONENTS SAY: SB 1377 would be unnecessarily expensive because it would require biennial audits of every fund. Audits of state agencies do not occur every biennium, so it should not be necessary to audit these funds every biennium. Audits could be done on a four- or six-year cycle or as needed and save the state a major expense.

NOTES:

The sponsor plans to offer an amendment to the bill that would give the Legislative Audit Committee the discretion to determine the need for and timing of audits other than the initial audit of all funds this coming biennium.

According to the fiscal note, the bill would cost about \$405,000 in the first biennium and require 4.5 FTEs to conduct all of the audits. Thereafter, the audits would cost about \$189,000 per biennium.

SB 1377 is part of a package of legislation by Armbrister (Thompson), including:

- ! SJR 49, which would make new court fees valid only if they conformed to a legislative program for consolidation of such fees;
- ! SB 1378, the enabling legislation for SJR 49, which would consolidate court costs into one fee, collected and remitted quarterly to the comptroller; and
- ! SB 1379, which would require after each legislative session that the comptroller identify all laws imposing a court cost or fee collected by a municipal, justice, county or district court in a criminal case.

SJR 49 passed the Senate on May 1, while SB 1378 and 1379 passed the Senate on May 3. SJR 49 and SB 1379 are set on today's House calendar, and SB 1378 is set on tomorrow's calendar.