Bill Analysis

Bethany Boyd *Legislative Service Commission*

S.B. 168

125th General Assembly
(As Introduced)

Sens. Schuring, Dann

BILL SUMMARY

- Authorizes the county auditor and county treasurer to jointly adopt a policy for the collection of certain delinquent charges in the same manner as real property taxes.
- Permits local governmental agencies to certify delinquent charges to the county auditor, in accordance with the county policy, for placement on the general tax list and duplicate, and the charges become a lien on the debtor's real property.
- Establishes notice requirements a local governmental agency must follow before certifying a delinquent charge to the county auditor.
- Requires that the county policy contain certain certification and notice requirements for local detention facilities.
- Changes the jail and local detention facility laws regarding payment of the costs of confinement and other charges imposed on prisoners and offenders to permit certification of those charges for collection as delinquent charges.

CONTENT AND OPERATION

Collection of delinquent charges

"Delinquent charges" that may be placed on tax list and duplicate

(R.C. 319.282(A))

The bill permits "delinquent charges" to be placed on the general tax list and duplicate of real and public utility property compiled by the county auditor, in

a county that has adopted a policy permitting local governmental agencies to certify the charges to the county auditor for collection.[1] Under the bill, the delinquent charges are collected in the same manner as real property taxes. The bill defines "delinquent charges" as the following fees, charges, fines, or reimbursements imposed by a local governmental agency, including any penalty or interest charged pursuant to law for late payment or nonpayment:

(1) Fees or charges for ambulance or emergency medical service response;

(2) Fees or charges for the impoundment of motor vehicles or for transportation or storage of impounded vehicles;

(3) Fines imposed for the illegal parking of motor vehicles;

(4) Refuse collection or disposal fees or charges;

(5) Reimbursements for "costs of confinement" in a local detention facility for which a judgment has been issued against the prisoner (see **COMMENT**, below), but that remains unpaid or otherwise unsatisfied, including costs associated with enforcement of the judgment and an additional poundage fee of 2% of the amount remaining unpaid;[2]

(6) One-time reception fees, fees for medical or dental treatment or services, or fees for random drug tests assessed under existing law on prisoners who are confined to a local detention facility and for which a judgment has been issued that remains unpaid or otherwise unsatisfied; and

(7) Reimbursements of costs of confinement in a jail or other residential facility for a misdemeanor, where the costs were imposed under existing law on offenders as a financial sanction; i.e., costs of implementing any community

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[1] *Under the bill, a "local governmental agency" is a county, township, or municipal corporation, or a department, agency, or office thereof. In the case of a local detention facility, "local governmental agency" includes the reimbursement coordinator of the facility appointed under existing law if the facility adopts a policy requiring prisoners to pay costs of confinement. In the case of a delinquent charge for costs of confinement in a jail or residential facility for a misdemeanor when those costs are levied as financial sanctions, "local governmental agency" includes the clerk of court or other person authorized to collect those sanctions.*

[2] *Continuing law defines a "local detention facility" as a multicounty correctional center, municipal-county correctional center, multicounty-municipal correctional center, community-based correctional facility, district community-based correctional facility, jail, county jail, municipal or county prison, station house, workhouse, city workhouse, county workhouse, joint city and county workhouse, and district workhouse.*

control sanction, including a supervision fee, and costs of confinement, including per diem fees for room and board, costs of medical and dental treatment, and costs of repairing property damaged by the offender while confined.

Adoption of county policy and its contents

(R.C. 319.282(B) and (F); Sections 3 and 4)

Beginning "January 1, 2004," the county auditor and county treasurer of any county may adopt a policy that permits local governmental agencies **having jurisdiction in the county** to certify to the county auditor for entry on the tax list and duplicate, delinquent charges payable by the owner of record of a parcel of real property on the tax list and duplicate and remaining unpaid or otherwise unsatisfied 30 days after notice of the charges is mailed in accordance with the bill (see "***Notice requirements***," below). The policy must apply to all delinquent charges, as defined by the bill.

The policy may require local governmental agencies certifying a delinquent charge to pay a fee of up to $10 for each delinquent charge so certified to defray the cost of entering the charge on the tax list and duplicate. The county auditor, upon the request of the local governmental agency, is required to add to the delinquent charge an additional amount equal to the fee. That additional amount is considered to be part of the delinquent charge.

A policy adopted under the bill may be terminated by joint agreement of the county auditor and county treasurer. The policy cannot be terminated within one year after it is adopted.

The bill applies to delinquent charges remaining unpaid or otherwise not satisfied on or after "January 1, 2004," regardless of when the delinquent charge accrued.

Policy requirements for bi-governmental-operated detention facilities

(R.C. 319.282(B), 2929.28(F)(4), 2929.37(D), and 2929.38(D))

If a local detention facility is operated by two or more local governmental agencies, at least one of which has jurisdiction in the county, the policy must permit any of those local governmental agencies with jurisdiction in the county, or the reimbursement coordinator of the detention facility, to certify a delinquent charge described in (5), (6), and (7) in "***"Delinquent charges" that may be placed on tax list and duplicate***," above, that is payable by a judgment debtor (the prisoner or offender against whom a judgment has been issued) who is the owner of record of real property on the tax list and duplicate.

Notice requirements

For most debtors

(R.C. 319.282(C)(1))

Except as provided in the following paragraph, a local governmental agency cannot certify a delinquent charge to the county auditor before the 31st day after the day the agency sends notice of the delinquent charge by certified mail, return receipt requested, to the last known address of the person against whom the charge is imposed. The notice must include a statement that the charge, if not paid, may be entered as a lien against any real property in the county owned by that person. The policy must require the local governmental agency to present proof of the mailing to the county auditor, in a form satisfactory to the auditor, before the charge may be entered on the tax list and duplicate.

For prisoners against whom a judgment has been entered

(R.C. 319.282(C)(2))

For reimbursement of the costs of confinement in a local detention facility for which a judgment has been issued against a prisoner, the local governmental agency cannot certify a delinquent charge before the 91st day after the judgment is issued. The bill contains this extended time period because existing law (R.C. 2929.37) permits prisoners to dispute costs at a court hearing, and the reimbursement coordinator cannot seek enforcement of a judgment until at least 90 days after the court issues it.

Delinquent charge is a lien on the property

(R.C. 319.282(D))

The bill provides that a delinquent charge certified to the county auditor and entered on the tax list and duplicate is a lien on the parcel against which the charge is entered, in favor of the local governmental agency certifying it, from the day the charge is so entered. The delinquent charge is collected in the same manner as real property taxes. The lien continues until the delinquent charge is paid or otherwise satisfied pursuant to law. Termination of the policy by joint agreement of the county auditor and county treasurer does not affect the validity or continuation of the lien. The collection of delinquent charges in the same manner as real property taxes is in addition to any other remedy provided by law for the payment or satisfaction of a delinquent charge, including execution of judgments.

If a local governmental agency receives payment of a delinquent charge that previously was entered on the tax list and duplicate, or the charge is otherwise

satisfied, the bill requires that the agency certify to the county auditor the amount of the charge so paid or satisfied. The county auditor must then remove the amount from the delinquent charge appearing on the tax list and duplicate. Notwithstanding the requirement under existing law that real property taxes be fully paid by December 31, or one-half of current taxes and all delinquent taxes be paid by that date and the remaining one-half be paid by June 20 of the following year, a county treasurer must accept payment of a delinquent charge when separately tendered. Upon its collection, the county treasurer must credit the payment to funds payable from the county treasury to the appropriate local governmental agency, which must apply the payment to the appropriate fund or account.

Entering or removing delinquent charges on the tax list

(R.C. 319.282(E))

When entering or removing a delinquent charge on the tax list and duplicate after the duplicate is delivered to the county treasurer, the county auditor must make a marginal notation of the entry or removal on the list. The county auditor also must provide the county treasurer with a certificate of the entry or removal, so that the tax list and duplicate correspond with each other at all times.

Prohibition does not apply to delinquent charges certified for collection

(R.C. 2929.37(E))

Current law provides that a judgment obtained against a prisoner for costs of confinement in a local detention facility cannot be enforced by means of execution against the prisoner's homestead. But the bill provides that that law does not prohibit collection of the amount payable under the judgment in the same manner as taxes on real property, if the amount is certified to the county auditor for collection as a delinquent charge under the bill.

COMMENT

The bill's provisions that apply to jail and detention facility charges raise some special concerns. Under continuing law, various jail and detention facility charges may be imposed by a court as part of a financial sanction (R.C. 2929.28), or levied by a local government that operates a jail or detention facility (R.C. 2929.37 and 2929.38). The bill permits these charges to be certified for entry on the tax list and duplicate after judgments for them have been issued. This results in two methods for enforcing collection of the charges--enforcing the judgment by execution against the offender or the offender's property under continuing law, or certifying the charges to the tax list and duplicate as a lien against the offender's

property under the bill. This creates the possibility that two separate judgments could coexist for the same charges.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	12-18-03	p. 1294

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