

1 HB688  
2 142098-5  
3 By Representatives Hill and England  
4 RFD: Ways and Means General Fund  
5 First Read: 12-APR-12

ENGROSSED

A BILL  
TO BE ENTITLED  
AN ACT

To increase the docket fees in certain civil and criminal cases in the circuit, district, and municipal courts in this state; to provide for distribution of the revenue; to provide for bail bond fees in certain amounts; to exempt bonds for certain traffic violations from the fees; to require the defendant to pay the fees; to provide for the clerks of the various courts to collect the fees; and to provide for distribution of the fees.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. (a) In addition to the docket fees now authorized by law, additional docket fees shall be assessed in all circuit, district, and municipal courts as follows:

(1) In civil cases in the circuit and district courts, except child support cases and as further provided for small claims cases, an additional docket fee of forty-five dollars (\$45) and in small claims cases an additional docket fee of fifteen dollars (\$15).

(2) In criminal cases in the circuit, district, and municipal courts, except juvenile cases and as further provided for traffic cases, an additional docket fee of forty

1 dollars (\$40) and in traffic cases, but excluding parking  
2 violations, an additional docket fee of twenty-six dollars  
3 (\$26).

4 (b) Two dollars (\$2) of the traffic docket fee shall  
5 be distributed to the Police Officers' Annuity Fund before any  
6 distribution pursuant to subsections (c) and (d) of this  
7 section.

8 (c) There is established in the State Treasury the  
9 "State Judicial Administration Fund." Two-thirds of the docket  
10 fees collected pursuant to subsection (a) shall be distributed  
11 to the fund and used by the Administrative Office of Courts as  
12 determined by the Administrative Director of Courts for the  
13 operation of courts in this state.

14 (d) There is established in each judicial circuit of  
15 this state the "Presiding Circuit Judge's Judicial  
16 Administration Fund" and in each county in this state the  
17 "Circuit Clerk's Judicial Administration Fund." One-sixth of  
18 the docket fees collected in each circuit pursuant to  
19 subsection (a) shall be distributed to the Presiding Circuit  
20 Judge's Judicial Administration Fund in the circuit. One-sixth  
21 of the docket fees collected in each county pursuant to  
22 subsection (a) shall be distributed to the Circuit Clerk's  
23 Judicial Administration Fund in the county.

24 (e) The funds distributed pursuant to subsection (d)  
25 shall be expended for the support of local court operations,  
26 including, but not limited to, salaries and benefits of court  
27 employees where necessary for the efficient operations of the

1 courts in the circuit and for other expenses as individually  
2 determined necessary by the presiding circuit judge or any  
3 circuit clerk to promote efficient administration of justice.  
4 Funds distributed pursuant to subsection (d) shall not reduce  
5 the amount payable to the presiding circuit judge or any  
6 circuit clerk under any local act or general act or reduce or  
7 affect the amounts of funding allocated by the Administrative  
8 Office of Courts to the budget of the presiding circuit judge  
9 or any circuit clerk.

10 (f) All expenditures of funds pursuant to this  
11 section shall be audited as all other state funds are audited.

12 (g) The docket fees assessed pursuant to this  
13 section shall not be waived or remitted by the court unless  
14 all docket fees associated with the case are waived or  
15 remitted.

16 (h) The court clerk shall distribute the fees  
17 provided for in this section on a monthly basis as other costs  
18 and fees are distributed.

19 Section 2. (a) (1) In addition to all other charges,  
20 costs, taxes, or fees levied by law on bail bonds, additional  
21 fees as detailed in paragraph a. and paragraph b. shall be  
22 imposed on every bail bond in all courts of this state.

23 The fee shall not be assessed in traffic cases,  
24 except for those serious traffic offenses enumerated in Title  
25 32, Chapter 5A, Article 9, Code of Alabama 1975. The fees  
26 shall be assessed as follows:

1           a. A filing fee in the amount of thirty-five dollars  
2       (\$35) on each bond executed.

3           b. For a misdemeanor offense, a bail bond fee in the  
4       amount of 3.5 percent of the total face value of the bail bond  
5       or one hundred dollars (\$100), whichever is greater, but not  
6       to exceed four hundred fifty dollars (\$450). For a felony  
7       offense, a bail bond fee of 3.5 percent of the total face  
8       value of the bail bond or one hundred fifty dollars (\$150),  
9       whichever is greater, but not to exceed seven hundred fifty  
10      dollars (\$750). Except that if a person is released on a  
11      judicial public bail, recognizance, or signature bond,  
12      including a bond on electronic traffic and nontraffic  
13      citations, the fee shall be affixed at twenty-five dollars  
14      (\$25). For purposes of this act, face value of bond shall mean  
15      the bond amount set by court or other authority at release,  
16      not the amount posted at release on bail.

17           (2) The fees assessed pursuant to paragraph a. of  
18      subdivision (1) of subsection (a) are required whether the  
19      release from confinement or admittance to bail is based on  
20      cash, judicial public bail, personal recognizance, a signature  
21      bond, including a bond on electronic traffic and nontraffic  
22      citations for those serious traffic offenses enumerated in  
23      Title 32, Chapter 5A, Article 9, Code of Alabama 1975, an  
24      appearance bond, a secured appearance bond utilizing security,  
25      a bond executed by a professional surety company, or a  
26      professional bail company using professional bondsmen;  
27      provided, however that no fee shall be assessed pursuant to

1 paragraph a. of subdivision (1) of subsection (a) if a person  
2 is released on judicial public bail or on personal  
3 recognizance for a documented medical reason. The fee shall be  
4 assessed at the issuance, reissuance, or reinstatement of the  
5 bond.

6 (b) The fee in paragraph a. of subdivision (1) of  
7 subsection (a) shall be collected by the official executing  
8 the bond at the execution of the bond or within two business  
9 days. If the fee is collected by an official other than the  
10 clerk of the court, the official shall remit the fee to the  
11 clerk of the court, attached to the executed bond, within two  
12 business days; if the fee is not collected by the official,  
13 the official shall provide documentation of the nonpayment,  
14 attached to the executed bond, to the clerk of the court  
15 within two business days. The clerk of the court may accept  
16 the payment of the fee if the clerk has the executed bond,  
17 together with proof of nonpayment and charging instrument, in  
18 hand. This fee shall be paid by the bondsman, surety,  
19 guaranty, or person signing as surety for the undertaking of  
20 bail. If the person is released on own recognizance, judicial  
21 public bail, or non-custodial offense pursuant to Rule 20 of  
22 the Alabama Rules of Judicial Administration, the fee shall be  
23 assessed at the time of adjudication or at the time that any  
24 other fees and costs are assessed.

25 (c) Upon the failure to pay the fee in paragraph a.  
26 of subdivision (1) of subsection (a) and upon a finding of  
27 contempt in subsection (d), the bondsman, surety, guaranty, or

1 individuals required to pay the fee shall be punished by a  
2 fine of not less than five hundred dollars (\$500) in addition  
3 to the fee imposed in paragraph a. of subdivision (1) of  
4 subsection (a). The fine shall not be remitted, waived, or  
5 reduced unless the person(s) fined can show cause to the court  
6 that he or she cannot pay the fine in the reasonably  
7 foreseeable future.

8 (d) If the fee in paragraph a. of subdivision (1) of  
9 subsection (a) is not paid in full, the clerk of the court  
10 shall provide notification of the delinquency to the district  
11 attorney or prosecuting attorney within two days of the  
12 clerk's entry of the case or if the case is pending then  
13 within two days of the receipt of the executed bond. Upon  
14 receipt of the certification of delinquency or failure to pay  
15 from the court, the district attorney or prosecuting attorney  
16 may take appropriate action which may include, but shall not  
17 be limited to, contempt proceedings. If contempt proceedings  
18 are initiated the district attorney or prosecuting attorney  
19 shall send notice by U.S. Mail to the last known address of  
20 the person charged with the crime, bondsman, surety, guaranty,  
21 or person signing as surety for the undertaking of bail of the  
22 failure to pay and provide them ten (10) days to remit payment  
23 in full pursuant to this act. If the surety is the person  
24 charged with the crime where the fee applies, the district  
25 attorney or prosecuting attorney may file a petition for  
26 contempt and the court shall set the contempt hearing on the  
27 person's next regularly scheduled court appearance. If the

1 surety is not the person charged with the crime the district  
2 attorney or prosecuting attorney may file a petition for  
3 contempt with the court, which may, after hearing, find the  
4 bondsman, surety, guaranty or person signing as surety the  
5 undertaking of bail in contempt. The municipal court clerk  
6 shall provide a list to the prosecuting attorney and district  
7 attorney every sixty days that shall include, but not be  
8 limited to, the name of every person who has failed to pay the  
9 fee, the municipal case number, and the name of the person  
10 signing as surety for the undertaking bail. If the prosecuting  
11 authority of the municipality does not initiate contempt  
12 proceedings pursuant to this section within thirty days of  
13 receiving notice from the clerk of the court, the district  
14 attorney with jurisdiction may file the contempt petition in  
15 the municipal court. If the district attorney initiates  
16 contempt proceedings in a municipal case and the person is  
17 found in contempt, the fine shall be distributed as follows:  
18 fifty percent (50%) to the general fund of the municipality  
19 and fifty percent (50%) to the district attorney Solicitor's  
20 Fund.

21 (e) (1) The fee imposed on bail bonds under paragraph  
22 b. of subdivision (1) of subsection (a) shall be assessed to  
23 the defendant and be imposed by the court when the defendant  
24 appears in court for adjudication or sentencing.

25 (2) Notwithstanding (e) (1), if the bail bond has  
26 been secured by cash, the conditions of release have been  
27 performed, and the defendant has been discharged from all



1 obligations of the bond, or if the cash bail bond is forfeited  
2 the clerk of the court shall, unless otherwise ordered by the  
3 court, retain as the bail bond fee the amount pursuant to  
4 paragraph b. of subdivision (1) of subsection (a) and disburse  
5 the remainder as provided by law.

6 (3) Notwithstanding (e) (1), if the property bail  
7 bond has been secured, the conditions of release have been  
8 performed and the defendant has been discharged or released  
9 from all obligations of the bond, or if the property bail bond  
10 is forfeited, then the bond shall be reduced to the bail bond  
11 fee amount pursuant to paragraph b. of subdivision (1) of  
12 subsection (a) and the property shall not be discharged or  
13 released by the court until the bail bond fee pursuant to  
14 paragraph b. of subdivision (1) of subsection (a) has been  
15 paid in full.

16 (4) The fees shall be collected pursuant to  
17 paragraph b. of subdivision (1) of subsection (a) by the clerk  
18 of the court. The fees pursuant to this act shall not be  
19 remitted, waived, or reduced unless the defendant proves to  
20 the reasonable satisfaction of the sentencing judge that the  
21 defendant is not capable of paying the same within the  
22 reasonably foreseeable future. The fees pursuant to this act  
23 shall not be remitted, waived, or reduced unless all other  
24 costs, fees, and charges of court are remitted or waived.

25 (5) The fees shall not reduce or affect the funds  
26 allocated to the office of the court clerk, the sheriff, the  
27 municipality, the district attorney, or the Alabama Department

1 of Forensic Sciences under any local act or other funding  
2 mechanism under the law. These funds shall be in addition to  
3 and not in lieu of any funds currently available to the office  
4 of the court clerk, sheriff, municipality, the district  
5 attorney, and the Alabama Department of Forensic Sciences.

6 (f) The court clerks shall distribute on a monthly  
7 basis as other fees are distributed, the fees collected  
8 pursuant to paragraph a. of subdivision (1) of subsection (a)  
9 as follows: Ten percent from each fee shall be distributed  
10 either to the county general fund to be earmarked and  
11 distributed to the Sheriff's Fund, administered by the  
12 sheriff, in the county where the bond was executed or, where  
13 the bond is executed by the municipality, to the municipality;  
14 45 percent of the fee to the court clerk's fund where the bond  
15 was executed or where the bond is executed by the municipal  
16 court, to the municipality; 45 percent of the fee to the  
17 Solicitor's Fund in the county where the bond was executed.  
18 The bail bond fee records shall be audited by the Department  
19 of Examiners of Public Accounts.

20 (g) The court clerks shall distribute on a monthly  
21 basis as other fees are distributed, the fees collected  
22 pursuant to paragraph b. of subdivision (1) of subsection (a)  
23 as follows: Twenty-one dollars and fifty cents (\$21.50) from  
24 each fee shall be distributed to the county general fund which  
25 shall be earmarked and distributed to the Sheriff's Fund,  
26 administered by the sheriff, in the county where the bond was  
27 executed or, where the bond was executed by a municipality, to

1 the municipality; 40 percent of the remainder of the fee to  
2 the court clerk's fund where the bond was executed or where  
3 the bond is executed by the municipal court, to the  
4 municipality; 45 percent of the remainder of the fee to the  
5 Solicitor's Fund in the county where the bond was executed;  
6 five percent to the State General Fund and ten percent to the  
7 Alabama Forensic Services Trust Fund. The bail bond fee  
8 records shall be audited by the Department of Examiners of  
9 Public Accounts.

10 Section 3. (a) The fee allocated to the Solicitor's  
11 Fund shall be expended for the payment of any and all expenses  
12 incurred by the district attorney in the discharge of the  
13 duties of the office or for any legitimate law enforcement  
14 purpose.

15 (b) The fee allocated for the court clerk's fund  
16 shall be expended at the discretion of the clerk, to support  
17 the functions of the office of the clerk.

18 (c) The fees allocated to the Sheriff's Fund,  
19 administered by the sheriff, shall be expended at the  
20 direction of the sheriff for the operation of the jail.

21 (d) The fees allocated to the Alabama Forensic  
22 Services Trust Fund shall be expended for the objective  
23 analysis of scientific evidence in pending criminal  
24 investigations.

25 Section 4. If the charge against a defendant in a  
26 case is disposed of by a finding of not guilty, no bill,  
27 dismissal or nolle prosequi without conditions, the fees

1 imposed in the case pursuant to paragraph b. of subdivision  
2 (1) of subsection (a) of Section 2 shall not be assessed. In  
3 all other cases wherein the charge against a defendant is  
4 disposed of by conviction, a finding of guilty, or dismissal  
5 or nolle prosequi upon conditions to pay costs and fees, the  
6 fees pursuant to paragraph b. of subdivision (1) of subsection  
7 (a) of Section 2 shall be assessed. If the defendant is  
8 admitted to a pretrial diversion program or to a specialty  
9 court program, the fee shall be assessed as with other court  
10 costs and fees.

11 Section 5. All fees or fines imposed pursuant to  
12 this act shall be collected as provided for by the statute for  
13 other court ordered monies in this state.

14 Section 6. The court shall maintain jurisdiction to  
15 collect restitution, fees, fines, costs and other court  
16 ordered monies beyond the termination of a defendant's  
17 sentence or probation.

18 Section 7. The provisions of this act are severable.  
19 If any part of this act is declared invalid or  
20 unconstitutional, that declaration shall not affect the part  
21 which remains.

22 Section 8. All laws or parts of laws which conflict  
23 with this act are repealed only to the extent they are in  
24 direct conflict with the provisions of this act.

25 Section 9. This act shall become effective 30 days  
26 following its passage and approval by the Governor, or its  
27 otherwise becoming law, except Section 2 (a) (1) b., Section 2

1       (e), Section 2 (g), and Section 4 shall become effective on  
2       the first day of the third month following its passage and  
3       approval by the Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-  
ferred to the House of Representa-  
tives committee on Ways and Means  
General Fund..... . . . . 12-APR-12  
  
Read for the second time and placed  
on the calendar 2 amendments ..... 26-APR-12  
  
Read for the third time and passed  
as amended..... . . . . 03-MAY-12  
Yeas 65, Nays 29, Abstains 2

Greg Pappas  
Clerk