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3 SUBSTITUTE TO HB688  
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8 SYNOPSIS: This bill would increase docket fees in  
9 certain civil cases in the circuit and district  
10 courts and in certain criminal cases in the  
11 circuit, district, and municipal courts and would  
12 provide for distribution of the funds.

13 Under existing law, a defendant is released  
14 on bail after posting bond and a bonding company  
15 charges a fee for assisting a defendant with bail.

16 This bill would require a bail bond filing  
17 fee on each bond executed to be paid by the  
18 bondsman or surety and a fee on all bonds to be  
19 paid by the bondee with the fees to be distributed  
20 to the court clerk's fund, the law enforcement fund  
21 of the sheriff, the municipality, the Solicitor's  
22 Fund, the State General Fund, and the Alabama  
23 Department of Forensic Sciences.

24  
25 A BILL  
26 TO BE ENTITLED  
27 AN ACT

1  
2 To increase the docket fees in certain civil and  
3 criminal cases in the circuit, district, and municipal courts  
4 in this state; to provide for distribution of the revenue; to  
5 provide for bail bond fees in certain amounts; to exempt bonds  
6 for certain traffic violations from the fees; to require the  
7 defendant to pay the fees; to provide for the clerks of the  
8 various courts to collect the fees; and to provide for  
9 distribution of the fees.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

19 (2) In criminal cases in the circuit, district, and  
20 municipal courts, except juvenile cases and as further  
21 provided for traffic cases, an additional docket fee of forty  
22 dollars (\$40) and in traffic cases, but excluding parking  
23 violations, an additional docket fee of twenty-six dollars  
24 (\$26).

25 (b) Two dollars (\$2) of the traffic docket fee shall  
26 be distributed to the Police Officers' Annuity Fund before any

1 distribution pursuant to subsections (c) and (d) of this  
2 section.

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

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

19 (e) The funds distributed pursuant to subsection (d)  
20 shall be expended for the support of local court operations,  
21 including, but not limited to, salaries and benefits of court  
22 employees where necessary for the efficient operations of the  
23 courts in the circuit and for other expenses as individually  
24 determined necessary by the presiding circuit judge or any  
25 circuit clerk to promote efficient administration of justice.  
26 Funds distributed pursuant to subsection (d) shall not reduce  
27 the amount payable to the presiding circuit judge or any

1 circuit clerk under any local act or general act or reduce or  
2 affect the amounts of funding allocated by the Administrative  
3 Office of Courts to the budget of the presiding circuit judge  
4 or any circuit clerk.

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

7 (g) The docket fees assessed pursuant to this  
8 section shall not be waived or remitted by the court unless  
9 all docket fees associated with the case are waived or  
10 remitted.

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

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

18 The fee shall not be assessed in traffic cases,  
19 except for those serious traffic offenses enumerated in Title  
20 32, Chapter 5A, Article 9, Code of Alabama 1975. The fees  
21 shall be assessed as follows:

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

24 b. For a misdemeanor offense, a bail bond fee in the  
25 amount of 3.5 percent of the total face value of the bail bond  
26 or one hundred dollars (\$100), whichever is greater, but not  
27 to exceed four hundred fifty dollars (\$450). For a felony

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

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

26 (b) The fee in paragraph a. of subdivision (1) of  
27 subsection (a) shall be collected by the official executing

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

18 (c) Upon the failure to pay the fee in paragraph a.  
19 of subdivision (1) of subsection (a) and upon a finding of  
20 contempt in subsection (d), the bondsman, surety, guaranty, or  
21 individuals required to pay the fee shall be punished by a  
22 fine of not less than five hundred dollars (\$500) in addition  
23 to the fee imposed in paragraph a. of subdivision (1) of  
24 subsection (a). The fine shall not be remitted, waived, or  
25 reduced unless the person(s) fined can show cause to the court  
26 that he or she cannot pay the fine in the reasonably  
27 foreseeable future.

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

1 limited to, the name of every person who has failed to pay the  
2 fee, the municipal case number, and the name of the person  
3 signing as surety for the undertaking bail. If the prosecuting  
4 authority of the municipality does not initiate contempt  
5 proceedings pursuant to this section within thirty days of  
6 receiving notice from the clerk of the court, the district  
7 attorney with jurisdiction may file the contempt petition in  
8 the municipal court. If the district attorney initiates  
9 contempt proceedings in a municipal case and the person is  
10 found in contempt, the fine shall be distributed as follows:  
11 fifty percent (50%) to the general fund of the municipality  
12 and fifty percent (50%) to the district attorney Solicitor's  
13 Fund.

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

18 (2) Notwithstanding (e) (1), if the bail bond has  
19 been secured by cash, the conditions of release have been  
20 performed, and the defendant has been discharged from all  
21 obligations of the bond, or if the cash bail bond is forfeited  
22 the clerk of the court shall, unless otherwise ordered by the  
23 court, retain as the bail bond fee the amount pursuant to  
24 paragraph b. of subdivision (1) of subsection (a) and disburse  
25 the remainder as provided by law.

26 (3) Notwithstanding (e) (1), if the property bail  
27 bond has been secured, the conditions of release have been



1 performed and the defendant has been discharged or released  
2 from all obligations of the bond, or if the property bail bond  
3 is forfeited then the bond shall be reduced to the bail bond  
4 fee amount pursuant to paragraph b. of subdivision (1) of  
5 subsection (a) and the property shall not be discharged or  
6 released by the court until the bail bond fee pursuant to  
7 paragraph b. of subdivision (1) of subsection (a) has been  
8 paid in full.

9 (4) The fees shall be collected pursuant to  
10 paragraph b. of subdivision (1) of subsection (a) by the clerk  
11 of the court. The fees pursuant to this act shall not be  
12 remitted, waived, or reduced unless the defendant proves to  
13 the reasonable satisfaction of the sentencing judge that the  
14 defendant is not capable of paying the same within the  
15 reasonably foreseeable future. The fees pursuant to this act  
16 shall not be remitted, waived, or reduced unless all other  
17 costs, fees, and charges of court are remitted or waived.

18 (5) The fees shall not reduce or affect the funds  
19 allocated to the office of the court clerk, the sheriff, the  
20 municipality, the district attorney, or the Alabama Department  
21 of Forensic Sciences under any local act or other funding  
22 mechanism under the law. These funds shall be in addition to  
23 and not in lieu of any funds currently available to the office  
24 of the court clerk, sheriff, municipality, the district  
25 attorney, and the Alabama Department of Forensic Sciences.

26 (f) The court clerks shall distribute on a monthly  
27 basis as other fees are distributed, the fees collected

1 pursuant to paragraph a. of subdivision (1) of subsection (a)  
2 as follows: Ten percent from each fee shall be distributed  
3 either to the county general fund to be earmarked and  
4 distributed to the Sheriff's Fund, administered by the  
5 sheriff, in the county where the bond was executed or, where  
6 the bond is executed by the municipality, to the municipality;  
7 45 percent of the fee to the court clerk's fund where the bond  
8 was executed; 45 percent of the fee to the Solicitor's Fund in  
9 the county where the bond was executed. The bail bond fee  
10 records shall be audited by the Department of Examiners of  
11 Public Accounts.

12 (g) The court clerks shall distribute on a monthly  
13 basis as other fees are distributed, the fees collected  
14 pursuant to paragraph b. of subdivision (1) of subsection (a)  
15 as follows: Twenty-one dollars and fifty cents (\$21.50) from  
16 each fee shall be distributed to the county general fund which  
17 shall be earmarked and distributed to the Sheriff's Fund,  
18 administered by the sheriff, in the county where the bond was  
19 executed or, where the bond was executed by a municipality, to  
20 the municipality; 40 percent of the remainder of the fee to  
21 the court clerk's fund where the bond was executed or where  
22 the bond is executed by the municipal court, to the  
23 municipality; 45 percent of the remainder of the fee to the  
24 Solicitor's Fund in the county where the bond was executed;  
25 five percent to the State General Fund and ten percent to the  
26 Alabama Forensic Services Trust Fund. The bail bond fee

1 records shall be audited by the Department of Examiners of  
2 Public Accounts.

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

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

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

14 (d) The fees allocated to the Alabama Forensic  
15 Services Trust Fund shall be expended for the objective  
16 analysis of scientific evidence in pending criminal  
17 investigations.

18 Section 4. If the charge against a defendant in a  
19 case is disposed of by a finding of not guilty, no bill,  
20 dismissal or nolle prosequi without conditions, the fees  
21 imposed in the case pursuant to paragraph b. of subdivision  
22 (1) of subsection (a) of Section 2 shall not be assessed. In  
23 all other cases wherein the charge against a defendant is  
24 disposed of by conviction, a finding of guilty, or dismissal  
25 or nolle prosequi upon conditions to pay costs and fees, the  
26 fees pursuant to paragraph b. of subdivision (1) of subsection  
27 (a) of Section 2 shall be assessed. If the defendant is

1 admitted to a pretrial diversion program or to a specialty  
2 court program, the fee shall be assessed as with other court  
3 costs and fees.

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

7 Section 6. The court shall maintain jurisdiction to  
8 collect restitution, fees, fines, costs and other court  
9 ordered monies beyond the termination of a defendant's  
10 sentence or probation.

11 Section 7. The provisions of this act are severable.  
12 If any part of this act is declared invalid or  
13 unconstitutional, that declaration shall not affect the part  
14 which remains.

15 Section 8. All laws or parts of laws which conflict  
16 with this act are repealed only to the extent they are in  
17 direct conflict with the provisions of this act.

18 Section 9. This act shall become effective 30 days  
19 following its passage and approval by the Governor, or its  
20 otherwise becoming law, except Section 2 (a) (1) b., Section 2  
21 (e), Section 2 (g), and Section 4 shall become effective on  
22 the first day of the third month following its passage and  
23 approval by the Governor, or its otherwise becoming law.