

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

March 25, 2003

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John Keel, Director, Legislative Budget Board

IN RE: SB1224 by Ellis, Rodney (Relating to representation of applicants for writs of habeas corpus in cases involving the death penalty.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB1224, As Introduced: a negative impact of (\$338,292) through the biennium ending August 31, 2005.

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
2004	(\$135,317)
2005	(\$202,975)
2006	(\$202,975)
2007	(\$202,975)
2008	(\$202,975)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from GENERAL REVENUE FUND 1
2004	(\$135,317)
2005	(\$202,975)
2006	(\$202,975)
2007	(\$202,975)
2008	(\$202,975)

Fiscal Analysis

The bill would amend the Code of Criminal Procedure relating to the representation of applicants for writs of habeas corpus involving the death penalty. The bill would make changes to the procedures for appointing and compensating counsel in death penalty habeas corpus cases. The bill would raise the cap on compensation for counsel in death penalty habeas corpus cases from \$25,000 to \$50,000. The bill would require the county to pay an attorney amounts in excess of the \$50,000 reimbursed by the state unless the presiding judge of the administrative region in which the convicting court is located finds the amount is unreasonable. The bill would also allow for more than one writ of habeas corpus to be filed in certain death penalty habeas corpus cases. This estimate assumes that any additional costs incurred by the state for additional writs would be covered in the amounts indicated above.

The bill would take effect September 1, 2003 and would apply to writs of habeas corpus filed on or after January 1, 2004.

Methodology

In fiscal year 2002, the state paid a total of \$202,975 for death penalty counsel payments. This estimate assumes doubling the current cap would double the current costs in the amount of \$202,975 per fiscal year. Because the bill would apply to writs of habeas corpus in death penalty cases filed on or after January 1, 2004 this estimate assumes eight months of the new costs would be incurred in fiscal year 2004 in the amount of \$135,317.

Local Government Impact

No significant fiscal implication to units of local government is anticipated due to the net effect of possible savings and costs.

To the extent that counties may be eligible for additional reimbursements up to \$50,000 per death penalty case under the bill, the fiscal implication of the possible savings is not anticipated to be significant. Likewise, to the extent that counties may incur additional costs above \$50,000 per death penalty case, provided the presiding judge of the administrative region in which the convicting court is located finds the amount is reasonable, those costs are not anticipated to be significant.

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

LBB Staff: JK, JO, WK, VDS, TB