

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATURE 1st CALLED SESSION - 2005

June 23, 2005

TO: Honorable Robert Duncan, Chair, Senate Committee on State Affairs

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: SB11 by Duncan (Relating to the compensation of state judges and county judges, to the computation of retirement benefits for state judges and for members of the elected class of the Employees Retirement System of Texas, and to providing funds for court-related purposes.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB11, As Introduced: a negative impact of (\$11,032,658) through the biennium ending August 31, 2007.

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 |
|-------------|--|
| 2006 | (\$5,191,623) |
| 2007 | (\$5,841,035) |
| 2008 | (\$5,969,035) |
| 2009 | (\$6,143,035) |
| 2010 | (\$6,303,035) |

All Funds, Five-Year Impact:

| Fiscal Year | Probable Revenue Gain/(Loss) from JUDICIAL FUND 573 | Probable Savings/ (Cost) from JUDICIAL FUND 573 | Probable Savings/ (Cost) from GENERAL REVENUE FUND 1 | Probable Savings/ (Cost) from GR DEDICATED ACCOUNTS 994 |
|-------------|--|--|--|---|
| 2006 | \$17,545,000 | (\$14,305,636) | (\$5,191,623) | (\$198,177) |
| 2007 | \$30,544,000 | (\$19,067,514) | (\$5,841,035) | (\$211,205) |
| 2008 | \$31,155,000 | (\$19,067,514) | (\$5,969,035) | (\$211,205) |
| 2009 | \$31,780,000 | (\$19,067,514) | (\$6,143,035) | (\$211,205) |
| 2010 | \$32,414,000 | (\$19,067,514) | (\$6,303,035) | (\$211,205) |

| Fiscal Year | Probable Savings/ (Cost) from FEDERAL FUNDS 555 | Probable Savings/ (Cost) from STATE HIGHWAY FUND 6 | Probable Savings/ (Cost) from OTHER FUNDS 997 |
|-------------|--|--|--|
| 2006 | (\$651,296) | (\$633,720) | (\$25,184) |
| 2007 | (\$739,377) | (\$680,648) | (\$26,735) |
| 2008 | (\$739,377) | (\$680,648) | (\$26,735) |
| 2009 | (\$739,377) | (\$680,648) | (\$26,735) |
| 2010 | (\$739,377) | (\$680,648) | (\$26,735) |

The bill would result in a cost of \$11.0 million to the General Revenue Fund through the 2006-07 biennium. Of this amount, \$4.4 million is due to the actuarial impact of this bill on the Employees Retirement System. The current 6.45 percent contribution rate to ERS is less than the amount required to fund the long-term costs of the retirement plan at an actuarially sound rate. However, assuming the current 6.45 percent contribution rate to ERS is unchanged, passage of the bill would not require additional appropriations from General Revenue for ERS retirement contributions.

The remaining \$6.7 million in 2006-07 costs to the General Revenue Fund is due to the impact of this bill on the Judicial Retirement System Plan One (JRS I), which is a pay-as-you-go retirement plan historically paid for out of the General Revenue Fund.

Fiscal Analysis

Section 1 of the bill would amend Chapter 659 of the Government Code to increase salaries for appellate court justices and judges and district court judges. For district judges, the increase is 23 percent over 2004-05 salary levels; for intermediate appellate court justices, the increase is 28 percent over 2004-05 salary levels; and, for Supreme Court and Court of Criminal Appeals justices, the increase is 33 percent over 2004-05 salary levels. The bill would also increase salaries for professional prosecutors, other felony prosecutors, and certain county attorneys, which are linked to the salary of a district judge under Chapters 41, 45, and 46 of the Government Code. The bill would allow district judges and courts of appeals justices to receive county supplements up to the maximum amounts allowed by statute. The bill would provide that local administrative judges in counties with more than five district courts would receive a state salary supplement of \$5,000 more than the state salary paid to a district judge.

Section 2 of the bill would increase the salary supplement the state pays constitutional county judges whose functions are at least 40 percent judicial functions from \$10,000 to \$15,000 annually. The Judiciary Section indicates currently 207 constitutional county judges are eligible for the \$10,000 annual salary supplement. Under the bill, the annual cost would increase by \$862,500 in fiscal year 2006 and \$1,035,000 in each year thereafter. This estimate assumes 207 constitutional county judges would be eligible for the supplement in fiscal year 2006 and each year thereafter.

Sections 3-7 of the bill relate to county supplements to state judges and justices and would have no fiscal impact to the State.

Sections 8 and 9 of the bill consist of reporting requirements for the Office of Court Administration and the State Bar Association, neither of which have fiscal impact.

Section 10 of the bill establishes the standard service retirement annuity for elected officials to equal service credited in the elected member class times (x) 2.3 percent of the state salary for a district judge, which is the benefit formula currently provided by Employees Retirement System (ERS) board rule. Because of the increase in the district judge salary, the bill, if enacted would increase retirement benefits for elected officials, and have an actuarial effect on the ERS.

Sections 11, 13, and 18 of the bill create a new \$4 fee for convictions and deferred adjudications in criminal cases in district, county-level, justice of the peace, and municipal courts, excluding cases for pedestrian or parking-related offenses. The new fee would be distributed as follows: the Comptroller would retain \$3.40 of each fee collected under these sections and deposited to Judicial Fund No. 573 (Other Funds); the remaining \$0.60 of each fee would be retained by the municipality, deposited to the General Revenue Fund, and used to fund municipal court operations.

Sections 12, and 14-17 of the bill create a new \$37 fee for civil cases filed in district and county-level courts, which would be deposited to Judicial Fund No. 573 (Other Funds).

Section 19 of the bill exempts collection of the new criminal and civil fee from Government Code, Section 51.607 (Senate Bill 325, Seventy-eighth Legislature, Regular Session), which provides that new fees are not imposed on court cases until January 1 of the year following the effective date of legislation enacting the fee.

Section 20 of the bill would repeal statutory provisions relating to county supplements to certain state judges and justices, and would repeal Government Code, Sec. 659.0125 relating to state supplements to local administrative judges who serve in counties with more than six district courts.

Sections 22 and 25 of the bill would provide that judges who have retired under the provisions of the Judicial Retirement System Plan Two (JRS II) would have their annuities recalculated based on the increase in judicial salaries contained in the bill. The recalculated annuity would take effect November 1, 2005 and apply only to annuity payments on or after that date.

Section 23 of the bill would provide that salaries of county officials that are based upon the salary paid to a district judge would take effect November 1, 2005 and apply only to salary payments made on or after that date.

Section 24 of the bill provides that the new criminal fee would apply only to offenses committed on or after the effective date of the bill.

The bill would take effect November 1, 2005.

Methodology

Based on the bill, the salary of district judge would increase to \$125,000, effective November 1, 2005 (427 FTEs). The salary of an appellate justice or judge on the Supreme Court or the Court of Criminal Appeals would equal 120 percent of this amount or \$150,000 (18 FTEs). The Chief Justice of the Supreme Court and the Presiding Judge of the Court of Criminal Appeals would receive an additional salary supplement of \$500 over 2004-05 levels. The salary of a justice on each of the 14 Courts of Appeals would equal 110 percent of a district judge's salary, or \$137,500 (80 FTEs). Each chief justice of the 14 Courts of Appeals would receive an additional annual state salary supplement of \$2,000 over 2004-05 levels. The total estimated cost of the judicial pay raise, including related benefit costs, is \$30,679,473 in 2006-07 (\$13,624,060 in fiscal year 2006 and \$17,055,413 in fiscal year 2007). Of this amount, \$7,500,000 (\$3,690,000 in fiscal year 2006 and \$3,810,000 in fiscal year 2007) is additional funding for Judicial Retirement System Plan One (JRS I) annuity payments, which is a pay-as-you-go retirement plan. According to the Employees Retirement System (ERS), these amounts are partially offset by increased contributions from Judicial Retirement System Plan I (JRS I) members of \$821,000 in 2006-07.

Based on the bill, the salary of professional prosecutors would be \$125,000 effective November 1, 2005 (140 FTEs). The salary of prosecutors earning 80 percent of the salary of a district judge would be \$100,000 (13 FTEs). The salary of the Oldham County Attorney, which by law is \$28,500 less than district attorneys receiving 80 percent of a district judge's salary, would be \$71,500. Funding requirements for state-paid prosecutors, including salary and related benefit costs, would increase by \$2,839,932 in fiscal year 2006 and \$3,786,576 in fiscal year 2007 and each year thereafter (\$6,626,508 for the 2006-07 biennium).

By law (Chapter 46, Government Code), salary supplements paid to county attorneys are linked to the salary of a district judge. If this bill is enacted, salary supplements would increase by \$735,394 in fiscal year 2006 and \$980,525 in fiscal year 2007 or \$1,715,919 for the 2006-07 biennium.

The bill would increase the salary supplement the state pays constitutional county judges whose functions are at least 40 percent judicial functions from \$10,000 to \$15,000 annually. The Judiciary Section indicates currently 207 constitutional county judges are eligible for the \$10,000 annual salary supplement. Under the bill, the annual cost would increase by \$1,035,000. This estimate assumes 207 constitutional county judges would be eligible for the supplement in fiscal year 2006 and each year thereafter.

Based on the bill, state salary supplements to local administrative judges who serve in counties with more than six district courts (Government Code § 659.0125) would be redirected to the provision providing state salary supplements to local administrative judges who serve in counties with more than five district courts [Government Code § 659.012(d)]. This estimate assumes local administrative

judges would receive additional state salary supplements of \$40,000 over 2004-05 levels (\$20,000 in fiscal year 2006 and each year thereafter).

Based on an ERS actuarial analysis, the state contribution rate required to achieve a 30-year funding period, as determined by the 2004 actuarial valuation as updated on February 28, 2005, would increase from 7.044 percent of payroll to 7.123 percent of payroll in fiscal year 2006 as a result of passage of this bill. The biennial General Revenue cost attributable to the bill, and associated with a contribution rate increase from 7.044 percent to 7.123 percent of payroll, is estimated to be \$4,353,658 (\$2,157,623 in fiscal year 2006 and \$2,196,035 in fiscal year 2007) and \$7,520,000 in All Funds for 2006-07(as reflected in the Fiscal Impact table). Passage of this legislation would not require an increase in the current 6.45 percent state contribution rate in 2006-07, however, long-term costs of state retirement benefits to General Revenue and other state funds would increase by the amounts shown above.

The bill, if enacted, would increase the actuarial liabilities of the Judicial Retirement System Plan II (JRS II) by over \$30 million, resulting in an unfunded accrued actuarial liability. However, the current contribution rate of 16.83% is greater than the normal cost, and the unfunded liability would be amortized in several years.

Civil and Criminal Case Revenue

According to the Comptroller, the new \$37 fee on civil cases filed in district and county-level courts and a new \$4 cost on criminal case convictions and deferred adjudications in district, county-level, justice of the peace, and municipal courts created by this bill would generate \$48,089,000 in new revenue to the Judicial Fund No. 573 in 2006-07 (\$17,545,000 in fiscal year 2006 and \$30,544,000 in fiscal year 2007).

The Comptroller's revenue estimates were based on historical data, and adjusted for growth, indigency waivers, phased-in implementation for the first year, and local governments' share of the new fees.

Local Government Impact

The bill would allow municipalities to retain 60 cents of a \$4 cost imposed upon conviction of any offense (other than those relating to pedestrians or parking). This estimate assumes the proposed cost would result in new revenue to counties and municipalities of \$1,396,000 in fiscal year 2006 and \$2,613,000 in fiscal year 2007.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts, 327 Employees Retirement System, 201 Supreme Court of Texas, 211 Court of Criminal Appeals

LBB Staff: JOB, SR, CL, KJG, LB, ZS, TB