

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

May 3, 2005

TO: Honorable Jeff Wentworth, Chair, Senate Committee on Jurisprudence

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

IN RE: HB3265 by Straus (Relating to the declaration of a mistrial in the punishment phase of a criminal proceeding.), **As Engrossed**

No fiscal implication to the State is anticipated.

The bill would require that if a jury fails to agree on the issue of guilt or innocence, the judge shall declare a mistrial and discharge the jury, and jeopardy would not be attached. In addition, if a jury finds a defendant guilty and the jury is to consider the punishment but cannot agree on the punishment, the judge would be required to declare a mistrial only in the punishment phase of the trial, and would be required to discharge the jury and impanel a new jury as soon as practicable.

The bill would take effect September 1, 2005 and would apply only to a trial in which a jury renders a guilty verdict on or after that date.

Local Government Impact

The bill could have a positive fiscal impact on units of local government that would vary by court. A mistrial would no longer be declared if a jury agreed on guilt or innocence in the case, but did not agree on the punishment. Although a new jury would be required for the punishment phase, the court would not incur the cost of re-trying the entire case from start to finish (which they would in the case of a mistrial).

Source Agencies: 212 Office of Court Administration, Texas Judicial Council

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