

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

March 7, 2005

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

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

IN RE: SB368 by Duncan (Relating to the compensation of state judges and to the computation of retirement benefits for members of the elected class of the Employees Retirement System of Texas.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB368, As Introduced: a negative impact of (\$13,180,855) 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	(\$7,420,307)
2007	(\$5,760,548)
2008	(\$5,762,548)
2009	(\$5,762,548)
2010	(\$5,762,548)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from <i>GENERAL REVENUE</i> <i>FUND</i> 1	Probable Savings/ (Cost) from <i>GENERAL REVENUE</i> <i>FUND</i> 1	Probable Savings/ (Cost) from <i>GR DEDICATED</i> <i>ACCOUNTS</i> 994	Probable Savings/ (Cost) from <i>FEDERAL FUNDS</i> 555
2006	\$6,056,377	(\$13,476,684)	(\$200,991)	(\$698,651)
2007	\$18,168,132	(\$23,928,680)	(\$212,395)	(\$714,611)
2008	\$18,166,132	(\$23,928,680)	(\$212,395)	(\$714,611)
2009	\$18,166,132	(\$23,928,680)	(\$212,395)	(\$714,611)
2010	\$18,166,132	(\$23,928,680)	(\$212,395)	(\$714,611)

Fiscal Year	Probable Savings/ (Cost) from <i>STATE HIGHWAY</i> <i>FUND</i> 6	Probable Savings/ (Cost) from <i>OTHER FUNDS</i> 997
2006	(\$633,992)	(\$25,913)
2007	(\$671,544)	(\$27,425)
2008	(\$671,544)	(\$27,425)
2009	(\$671,544)	(\$27,425)
2010	(\$671,544)	(\$27,425)

Fiscal Analysis

Section 1 of the bill would amend Chapter 659 of the Government Code to increase salaries for appellate court justices and district court judges. 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.

Section 4 of the bill would require the Office of Court Administration to submit a biennial report to the legislature on the reasons and the rate at which state judges resign or do not seek reelection. The Office of Court Administration indicates that this additional reporting requirement is not expected to have a significant fiscal impact.

Section 5 of the bill would require the State Bar to submit a biennial report to the legislature on the compensation of attorneys engaged in the private practice of law. This requirement would not have a fiscal impact for the state.

Sections 6 and 7 of the bill would establish the standard service retirement annuity for elected class membership service as the service credited in the elected class: times 2.3 percent of the state salary of a district judge for state prosecutors, or times 2.3 percent of the state salary of the governor for other elected class members.

Section 8 of the bill would create a new \$2 cost 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.

Section 9 of the bill would create a new \$35 fee for civil cases filed in district and statutory county courts.

Sections 10 and 11 of the bill would dedicate the new cost and fee to the payment of judicial salaries, with 90 percent of new revenue remitted to the state and 10 percent of new revenue retained by local government for administrative purposes.

Section 15 of the bill would eliminate county supplements to district judges and justices on the 14 Courts of Appeals. However, Section 16 of the bill would allow counties to continue supplementing pay for district court and court of appeals justices serving as of September 1, 2005, but the combined amount could not exceed amounts paid in fiscal year 2004.

The bill would take effect September 1, 2005.

Methodology

Costs of the Bill

Under the bill, the salary of district judge would be \$113,350 in fiscal year 2006 and \$125,000 in fiscal year 2007 (427 FTEs). The salary of an appellate justice or judge on the Supreme Court or the Court of Criminal Appeals would be 120 percent of this amount or \$136,020 in fiscal year 2006 and \$150,000 in fiscal year 2007 (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 levels paid in the 2004-05 biennium. The salary of a justice on each of the 14 Courts of Appeals would be 110 percent of a district judge's salary, or \$124,685 in fiscal year 2006 and \$137,500 in fiscal year 2007 (80 FTEs). The bill would not provide an additional salary supplement to a chief justice on one of the 14 Courts of Appeals. The total cost of the pay raise for judges, including related benefit costs, is estimated to be \$8,924,972 in fiscal year 2006 and \$16,877,007 in fiscal year 2007. Of this amount, \$2,050,000 in fiscal year 2006 and \$3,660,000 is additional funding for Judicial Retirement System Plan One (JRS I) benefit payments, which is a pay-as-you-go retirement plan. ERS indicates that these amounts are offset by increased JRS 1 member contributions (\$2,000 in fiscal year 2006; \$4,000 in fiscal year 2007; and \$2,000 in fiscal year 2008 and each year thereafter).

Under the bill, the salary of professional prosecutors would be \$113,350 in fiscal year 2006 and \$125,000 in fiscal year 2007 (140 FTEs). The salary of prosecutors earning 80 percent of the salary of a district judge would be \$90,680 in fiscal year 2006 and \$100,000 in fiscal year 2007 (13 FTEs). The salary of the Oldham County Attorney receiving \$28,500 less than district attorneys receiving 80 percent of a district judges salary would be \$62,180 in fiscal year 2006 and \$71,500 in fiscal year 2007. Based on this legislation, the total funding for salaries and related benefits of state-paid prosecutors would increase by \$1,893,288 in fiscal year 2006 and by \$3,786,576 in fiscal year 2007.

Salary supplements paid to county attorneys are linked to the salary of a district judge in Chapter 46 of the Government Code. If this bill is enacted, salary supplements would increase by \$490,263 in fiscal year 2006 and by \$980,525 in fiscal year 2007.

The bill, if enacted, is expected to require an increase in the current 6.0 percent state contribution rate from 7.483% to 7.561% in FY 2006 and from 7.806% to 7.887% in FY 2007. The cost to General Revenue of the additional state contributions to the Employees Retirement System is \$2,168,161 in fiscal year 2006 and \$2,284,572 in fiscal year 2007.

The bill would also increase the actuarial liabilities of the Judicial Retirement System Plan II (JRS II) by an amount ranging from \$14.9 million in FY 2005 to \$16.8 million in FY 2007. Since the plan is overfunded, there is no fiscal impact in FY 2006 or FY 2007. There may be a fiscal impact in future years, but the JRS actuary provided no estimates.

Civil Case Revenue

Under the bill, a new \$35 fee on civil cases filed in district and statutory county courts would generate \$3,841,377 in fiscal year 2006 and \$11,524,132 in fiscal year 2007 and each year thereafter. This estimate is based upon the following assumptions: 1) 541,993 civil cases were filed in district and statutory county courts in fiscal year 2004; 2) there would be no growth in civil cases filed in fiscal year 2005 and each year thereafter; 3) the new fee would reduce civil case filings by 10 percent from fiscal year 2004 levels to 487,794 in fiscal year 2006 and each year thereafter; and 4) in fiscal year 2006, only four months of fee revenue would be remitted to the state.

For fiscal years 2006-2010, the estimate assumes new revenue 487,794 civil cases x \$35 fee = \$17,072,790. Although the new fee for civil cases is presumed to have a 100 percent collection rate, the Comptroller reports that civil case filings routinely do not generate a proportionate amount of revenue. Therefore, based on prior year collections rates compared to civil case filings, the Comptroller indicates it is reasonable to assume that there is a 25 percent difference between cases filed and revenue received. Accordingly, this estimate reduces the \$17,072,790 expected from a 100 percent collection rate by 25 percent, or to \$12,804,592. Of this amount, the state would receive 90 percent, or \$11,524,132 in fiscal year 2007 and each year thereafter. In fiscal year 2006, only four months of fees would be remitted to the state (\$3,841,377) because under Government Code, Section 51.607 (Senate Bill 325, Seventy-eighth Legislature, Regular Session), new court costs or fees are not imposed on cases until January 1 of the year following the effective date of legislation enacting the fee. Additionally, local governments remit fees to the state on a quarterly basis, which contribute to the estimate of four months of receipts in fiscal year 2006.

Criminal Case Revenue

Under the bill, a new \$2 cost in criminal case convictions or deferred adjudications in district, county-level, justice of the peace, and municipal would generate \$2,213,000 in fiscal year 2006 and \$6,640,000 in fiscal year 2007. This estimate is based upon the following assumptions: 1) in fiscal year 2004, the new fee would have applied to 6,148,148 criminal case convictions or deferred adjudications; 2) there would be no growth in criminal case convictions or deferred adjudications in fiscal year 2005 and each year thereafter; 3) the new cost would reduce criminal case convictions or deferred adjudications by 10 percent from fiscal year 2004 levels to 6,148,148 in fiscal year 2006 and each year thereafter; 4) the collection rate for costs in criminal cases is 60 percent; and, 5) in fiscal year 2006, only four months of fee revenue would be remitted to the state.

For fiscal years 2006-2011, the estimate assumes new assessed costs in 6,148,148 civil cases x \$2 cost = \$12,296,296. Of this amount, only 60 percent would be collected, or \$7,377,778. Of this amount, the state would receive 90 percent, or \$6,640,000 in fiscal year 2007 and each year thereafter. In fiscal year 2006, only four months of fees would be remitted to the state (\$2,213,000) because under Government Code, Section 51.607 (Senate Bill 325, Seventy-eighth Legislature, Regular Session), new court costs or fees are not imposed on cases until January 1 of the year following the effective date of legislation enacting the fee. Additionally, local governments remit fees to the state on a quarterly basis, which contribute to the estimate of four months of receipts in fiscal year 2006.

Local Government Impact

The bill would allow counties to retain ten percent of a \$2 fee imposed upon conviction of any offense (other than those relating to pedestrians or parking). The Comptroller of Public Accounts (CPA) calculated that the new fee could result in new revenue to counties of \$246,000 in fiscal year 2006 and \$738,000 in fiscal years 2007 to 2010.

The bill would allow counties to retain ten percent of a \$35 fee imposed upon the filing of any civil suit in a district or statutory county court. CPA calculated that the new fee could result in new revenue to counties of \$427,000 in fiscal year 2006 and \$1,280,000 in fiscal years 2007 to 2010.

The bill would eliminate the county salary supplement to district judges and court of appeals district judges. However, the bill would allow counties to continue supplementing district judges and court of appeals district judges serving as of September 1, 2005, but the combined amount could not exceed the amount paid for the fiscal year beginning September 1, 2004. In fiscal 2006, judges in five counties (Collin, Harris, Tarrant, Travis, and Williamson) could continue to receive supplements. In fiscal 2007, only judges in Harris and Travis Counties could continue to receive supplements. Assuming that counties would continue supplements at current levels, CPA calculated that the elimination of the supplements would result in savings to the counties of \$3,896,000 in fiscal year 2006 and \$4,940,000 in fiscal years 2007 through 2010.

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

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