

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**May 15, 2007**

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

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

**IN RE: HB1086** by Hughes (Relating to jurors and alternate jurors in a criminal case.), **Committee Report 2nd House, Substituted**

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| <b>Estimated Two-year Net Impact to General Revenue Related Funds</b> for HB1086, Committee Report 2nd House, Substituted: a negative impact of (\$212,160) through the biennium ending August 31, 2009. |
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**General Revenue-Related Funds, Five-Year Impact:**

| Fiscal Year | Probable Net Positive/(Negative)<br>Impact to General Revenue Related<br>Funds |
|-------------|--|
| 2008        | (\$106,080)  |
| 2009        | (\$106,080)  |
| 2010        | (\$106,080)  |
| 2011        | (\$106,080)  |
| 2012        | (\$106,080)  |

**All Funds, Five-Year Impact:**

| Fiscal Year | Probable Revenue Gain/(Loss) from<br><i>GENERAL REVENUE FUND</i><br>1 |
|-------------|---|
| 2008        | (\$106,080)   |
| 2009        | (\$106,080)   |
| 2010        | (\$106,080)   |
| 2011        | (\$106,080)   |
| 2012        | (\$106,080)   |

**Fiscal Analysis**

The bill would amend the Code of Criminal Procedure to extend the amount of time before alternate jurors would be discharged from their duties. Under current statute, an alternate juror serves until the jury retires to consider a verdict. Under the provisions of the bill, an alternate juror would not be discharged until the jury renders a verdict and, if it is a guilty verdict, renders the amount of punishment.

The change in statute would apply only to a trial commenced on or after the effective date of the bill, which would be September 1, 2007.

**Methodology**

Jurors and alternate jurors are paid \$40 per day for their service. The state reimburses the counties \$34 of the \$40 paid to jurors and alternate jurors. There are 254 counties in Texas. Assuming an average of

two extra hours per day multiplied times six alternate jurors, the Judiciary Section of the Comptroller of Public Accounts estimates the number of days for reimbursement would increase by 1.5 days per trial. There are approximately 10,400 multiple-day trials annually. With an increase of 1.5 days for each of those 10,400 trials, there would be an additional 15,600 days at \$34 each, for a total cost to the state of \$530,400 annually. However, it should be noted that this estimate assumes trial court judges will use alternate jurors in all 10,400 multiple-day trials, and so this estimate assumes the maximum costs to the State under provisions of the bill.

Under provisions of the bill, the use of alternate jurors is still within the trial court's discretion. According to the Office of Court Administration, trial court judges use alternate jurors in approximately 20 percent of multiple-day trials. Using this assumption, the minimum costs associated with the bill would be \$106,080 (15,600 days x 20 percent = 3,120 days at \$34 each for a cost to the state of \$106,080). In any event, according to the Comptroller the \$4 court cost that is being collected for jury service under current law generates a surplus and is adequate to fund the changes proposed by the bill. Under current law, the fee is deposited to General Revenue, but can only be used for jury payments. Therefore, it is the Comptroller's position that the bill would not affect General Revenue funds available for jury payments for the foreseeable future.

### **Local Government Impact**

Based on the number of jury trials spread across the 254 counties and on contacts made by both the Comptroller's Office and the Legislative Budget Board, the fiscal impact to units of local government would be insignificant.

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

**LBB Staff:** JOB, TB, MN, ES, ZS, DB