

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 27, 2007

TO: Honorable David Dewhurst , Lieutenant Governor, Senate
Honorable Tom Craddick, Speaker of the House, House of Representatives

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

IN RE: HB1267 by Pena (Relating to appointment procedures concerning and compensation and reimbursement for counsel appointed to represent indigent defendants in certain criminal and post-conviction proceedings and to the creation of an indigent defense representation fund.),
Conference Committee Report

Estimated Two-year Net Impact to General Revenue Related Funds for HB1267, Conference Committee Report: a positive impact of \$1,000,000 through the biennium ending August 31, 2009.

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
2008	\$500,000
2009	\$500,000
2010	\$500,000
2011	\$500,000
2012	\$500,000

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from New General Revenue Dedicated Indigent Defense Representation	Probable Savings from GENERAL REVENUE FUND 1
2008	\$5,379,000	\$500,000
2009	\$7,939,000	\$500,000
2010	\$7,996,000	\$500,000
2011	\$8,156,000	\$500,000
2012	\$8,319,000	\$500,000

Fiscal Analysis

The bill would amend the Code of Criminal Procedure relating to the compensation of counsel appointed to defend indigent defendants. The bill would amend the Code of Criminal Procedure relating to the appointment of an attorney to represent an indigent defendant in the custody of a correctional facility, including a facility of the Texas Department of Criminal Justice. The bill would require the state to reimburse a county for the compensation and expenses of counsel representing an indigent inmate defendant.

The bill would amend the Code of Criminal Procedure to create a new General Revenue-Dedicated

Account for Indigent Defense Representation. The account could only be appropriated to the Task Force on Indigent Defense or for compensating appointed counsel. The bill would allow the appeal of a payment request, by appointed counsel, that had not been addressed within 60 days. The new account would be funded with a \$2 cost on criminal convictions, other than pedestrian or parking offenses. After retaining 10 percent for timely remittance, the treasurer would remit the court cost and filing fee revenue to the Comptroller. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

The bill would take effect September 1, 2007.

Methodology

New General Revenue Dedicated Account: According to the Comptroller, the fiscal impact for the new \$2 court cost was based on historical data from the Annual Statistical Report for the Texas Judiciary—Fiscal 2006, adjusted for growth, indigency, implementation, and retention by local governments. The court costs for criminal cases were multiplied by the total number of convictions, reduced to reflect the historical non-collection rates, and adjusted for an implementation lag.

The state provides an appropriation for death penalty representation in the amount of \$500,000 per year from General Revenue through the Judiciary Section, Comptroller's Department. This estimate assumes that beginning in fiscal year 2008, counsel representing indigent defendants in death penalty cases would be paid from the new General Revenue-Dedicated Indigent Defense Representation Account and would supersede the need for continuing this appropriation; thus, this amount is shown as a cost savings.

Local Government Impact

Counties statewide could expect a positive fiscal implication for retention of 10 percent of a new \$2 court cost. Statewide, amounts are expected to be \$598,000 in fiscal year 2008, \$871,000 in fiscal year 2009, \$888,000 in fiscal year 2010, \$906,000 in fiscal year 2011, and \$924,000 in fiscal year 2012.

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

LBB Staff: JOB, ES, SD, ZS, TB, KJG