

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 5, 2007

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

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

IN RE: SB1655 by Ellis (Relating to the establishment of the capital writs committee of the Texas Judicial Council and the creation of the office of capital writs.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for SB1655, Committee Report 1st House, Substituted: a negative impact of (\$296,429) 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	(\$142,142)
2009	(\$154,287)
2010	(\$154,287)
2011	(\$160,474)
2012	(\$160,052)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>GENERAL REVENUE FUND</i> 1	Probable Savings from <i>GENERAL REVENUE FUND</i> 1
2008	(\$642,142)	\$500,000
2009	(\$654,287)	\$500,000
2010	(\$654,287)	\$500,000
2011	(\$660,474)	\$500,000
2012	(\$660,052)	\$500,000

Fiscal Year	Change in Number of State Employees from FY 2007
2008	4.5
2009	4.5
2010	4.5
2011	4.5
2012	4.5

Fiscal Analysis

The bill would establish the Office of Capital Writs and Capital Writs Committee as standing committees of the Texas Judicial Council. The Capital Writs Committee would be composed of five members to be selected by the president of the State Bar of Texas to: 1) oversee the creation of the Office of Capital Writs; 2) interview applicants for the position of director for the Capital Writs Office and recommend to the Court of Criminal Appeals who to hire; 3) develop and adopt standards and qualifications necessary for the attorneys to be employed by the Office of Capital Writs; 4) develop and adopt standards and qualifications for capital writs with respect to cases which the office is unable to handle due to caseload and conflicts. The bill would repeal provisions of existing law that relating to a convicting court's appointment of counsel in death penalty cases.

The bill would take effect September 1, 2007.

Methodology

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 the new Capital Writs Office would supersede the need for continuing this appropriation and thus this amount is shown as a cost savings.

Estimated expenses for a Capital Writs Office are based on a forecasted caseload of 16 capital writs per fiscal year. This estimate assumes 4.5 full-time equivalent positions would be needed to staff a capital writs office capable of handling 12 cases per year, with private appointed counsel providing representation for 4 of the 16 cases. Staffing includes the following positions: 2.0 attorneys, 1.0 investigator, 1.0 legal assistant, and one part-time accountant (0.5 FTE) for a total of 4.5 FTEs. Salaries for the positions would cost \$268,226 in fiscal year 2008 and \$292,611 in fiscal year 2009 and each year thereafter, with related fringe benefits costing \$75,811 in fiscal year 2008 and \$82,780 in fiscal year 2009 and each year thereafter.

Travel expenses are allocated for five board members to attend regular meetings at \$350 per member for each meeting (\$4,305 in fiscal year 2008, \$2,870 in fiscal year 2009 and each year thereafter). Other operating expenses include supplies, telephone, copy expense, software maintenance, and other office expenses (\$21,325 in fiscal year 2008, \$21,026 in fiscal years 2009 and 2010, \$22,255 in fiscal year 2011, and \$21,461 in fiscal year 2012). Fluctuating operating costs relate to replacement cycles for needed information technology equipment. Expert witness expenses, document bank, and other litigation expenses are estimated to average \$6,250 per case and would total \$75,000 per fiscal year to handle a caseload of 12. Additionally, costs of four cases outsourced to private law firms would total \$45,000 per case for a total of \$180,000 per fiscal year.

Technology

Technology needs include a personal computer for each employee, a shared printers, a file server, and software and the replacement of those items. Costs included in amounts described above would total \$17,475 in fiscal year 2008, \$5,258 in fiscal year 2011 and \$5,330 in fiscal year 2012.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

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

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