

SENATE AMENDMENTS

2nd Printing

By: Hughes

H.B. No. 1086

A BILL TO BE ENTITLED

AN ACT

relating to the discharge of an alternate juror in a criminal case.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 33.011(b), Code of Criminal Procedure, is amended to read as follows:

(b) Alternate jurors in the order in which they are called shall replace jurors who, prior to the time the jury renders a verdict on the guilt or innocence of the defendant and, if applicable, the amount of punishment [~~retires to consider its verdict~~], become or are found to be unable or disqualified to perform their duties. Alternate jurors shall be drawn and selected in the same manner, shall have the same qualifications, shall be subject to the same examination and challenges, shall take the same oath, and shall have the same functions, powers, facilities, security, and privileges as regular jurors. An alternate juror who does not replace a regular juror shall be discharged after the jury has rendered a verdict on the guilt or innocence of the defendant and, if applicable, the amount of punishment [~~the jury retires to consider its verdict~~].

SECTION 2. Article 36.29(d), Code of Criminal Procedure, is amended to read as follows:

(d) After the jury has rendered a verdict on the guilt or innocence of the defendant and, if applicable, the amount of punishment [~~the charge of the court is read to the jury~~], the court

1 shall discharge an alternate juror who has not replaced a juror.

2 SECTION 3. The change in law made by this Act applies only
3 to a trial commenced on or after the effective date of this Act. A
4 trial commenced before the effective date of this Act is covered by
5 the law in effect when the trial was commenced, and the former law
6 is continued in effect for that purpose.

7 SECTION 4. This Act takes effect September 1, 2007.

ADOPTED

MAY 22 2007

Atty. Gen. Spaw
Secretary of the Senate

By: _____

____.B. No. _____

Substitute the following for ____B. No. _____:

By: Wentworth

C.S.H.B. No. 10906

A BILL TO BE ENTITLED

AN ACT

relating to jurors and alternate jurors in a criminal case.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 33.011(b), Code of Criminal Procedure, is amended to read as follows:

(b) Alternate jurors in the order in which they are called shall replace jurors who, prior to the time the jury renders a verdict on the guilt or innocence of the defendant and, if applicable, the amount of punishment [~~retires to consider its verdict~~], become or are found to be unable or disqualified to perform their duties or are found by the court on agreement of the parties to have good cause for not performing their duties.

Alternate jurors shall be drawn and selected in the same manner, shall have the same qualifications, shall be subject to the same examination and challenges, shall take the same oath, and shall have the same functions, powers, facilities, security, and privileges as regular jurors. An alternate juror who does not replace a regular juror shall be discharged after the jury has rendered a verdict on the guilt or innocence of the defendant and, if applicable, the amount of punishment [~~the jury retires to consider its verdict~~].

SECTION 2. Article 36.29(d), Code of Criminal Procedure, is amended to read as follows:

(d) After the jury has rendered a verdict on the guilt or

1 innocence of the defendant and, if applicable, the amount of
2 punishment [~~the charge of the court is read to the jury~~], the court
3 shall discharge an alternate juror who has not replaced a juror.

4 SECTION 3. The change in law made by this Act applies only
5 to a trial commenced on or after the effective date of this Act. A
6 trial commenced before the effective date of this Act is covered by
7 the law in effect when the trial was commenced, and the former law
8 is continued in effect for that purpose.

9 SECTION 4. This Act takes effect September 1, 2007.

**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**

Estimated Two-year Net Impact to General Revenue Related Funds 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) Impact to General Revenue Related 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 <i>GENERAL REVENUE FUND</i> 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

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 3, 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 the discharge of an alternate juror in a criminal case.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1086, As Engrossed: a negative impact of (\$1,060,800) through the biennium ending August 31, 2009.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2008	(\$530,400)
2009	(\$530,400)
2010	(\$530,400)
2011	(\$530,400)
2012	(\$530,400)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from <i>GENERAL REVENUE FUND</i> 1
2008	(\$530,400)
2009	(\$530,400)
2010	(\$530,400)
2011	(\$530,400)
2012	(\$530,400)

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.

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, MN, ES, ZS, DB

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

March 26, 2007

TO: Honorable Aaron Pena, Chair, House Committee on Criminal Jurisprudence

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

IN RE: HB1086 by Hughes (Relating to the discharge of an alternate juror in a criminal case.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1086, As Introduced: a negative impact of (\$1,060,800) through the biennium ending August 31, 2009.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2008	(\$530,400)
2009	(\$530,400)
2010	(\$530,400)
2011	(\$530,400)
2012	(\$530,400)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from GENERAL REVENUE FUND 1
2008	(\$530,400)
2009	(\$530,400)
2010	(\$530,400)
2011	(\$530,400)
2012	(\$530,400)

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.

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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.

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, ES, ZS, DB

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

80TH LEGISLATIVE REGULAR SESSION

May 14, 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**

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

Source Agencies:

LBB Staff: JOB, GG, LM

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

80TH LEGISLATIVE REGULAR SESSION

May 3, 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 the discharge of an alternate juror in a criminal case.), **As Engrossed**

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

Source Agencies:

LBB Staff: JOB, LM



LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

80TH LEGISLATIVE REGULAR SESSION

March 21, 2007

TO: Honorable Aaron Pena, Chair, House Committee on Criminal Jurisprudence

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

IN RE: HB1086 by Hughes (Relating to the discharge of an alternate juror in a criminal case.), **As Introduced**

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

Source Agencies:

LBB Staff: JOB, LM

