

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 15, 2009

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

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

IN RE: HB666 by Gutierrez (Relating to certain court costs used to fund drug court programs.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

This bill would amend the Code of Criminal Procedure, Article 102.0178(a). The bill would apply an existing \$50 drug court cost, which is currently assessed on the conviction of certain intoxication and drug offenses, to any offense classified as a Class B misdemeanor or higher that falls within specified offenses types, including assault, arson, robbery, burglary, theft, fraud, weapons, and intoxication. The bill would also repeal the Government Code, Section 102.0215.

SECTION 1 changes the title of the Code of Criminal Procedure, Article 102.0178(a).

SECTION 2 of the bill would amend the Code of Criminal Procedure, Article 102.0178(a) to apply the \$50 drug court cost charged to persons convicted offenses classified as Class B misdemeanors or higher for specified offense categories.

SECTION 3 of the bill includes conforming language from legislation passed by the Eightieth Legislature, Regular Session, 2007 and has no fiscal impact.

SECTION 4 of the bill has no fiscal impact.

SECTION 5 of the bill makes the changes from the bill applicable only to offenses committed on or after the effective date of the bill.

SECTION 6 of the bill makes the act effective September 1, 2009.

According to the Comptroller of Public Accounts (CPA), the judiciary has been consistent in ruling that court costs must be used for the support of courts, cannot be used for general revenue purposes, and cannot be assessed against defendants for services not rendered. The CPA believes this bill would assess a cost for the drug court programs on defendants convicted of various Class B Misdemeanors or higher offenses such as assault, arson, fraud, and theft. The CPA could not estimate the fiscal impact to the state from this bill.

House Bill 530, 80th Legislature, Regular Session, took effect June 15, 2007, and created the court cost and a general revenue account for the revenues. The account was not included in House Bill 3107, 80th Legislature, Regular Session, and was not created when that bill took effect June 15, 2007. Therefore, court cost revenues to the state from this bill would be deposited into the General Revenue Fund.

Local Government Impact

The Comptroller of Public Accounts could not determine a fiscal impact estimate for local governments.

The bill would require a defendant convicted of offenses classified as Class B misdemeanors or higher for specified offense categories to pay a \$50 drug court cost in addition to other court costs and fees. All counties are eligible to receive 10 percent of the total collected if they remit timely payments to the Comptroller each quarter. In addition, counties with a population over 200,000 would retain 50 percent of the amounts collected in their county to implement and maintain drug court programs. Local governments would experience an increase in revenue, but the amount would vary depending on the number of increased misdemeanor offenders being required to pay the drug court fee, and the amount of revenue that would be offset by court costs associated with processing the additional offenders.

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

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