

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

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**March 8, 2009**

**TO:** Honorable Pete Gallego, Chair, House Committee on Criminal Jurisprudence

**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 Introduced**

**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 increase the court cost on the conviction of certain intoxication and drug offenses from \$50 to \$60 and make it applicable to any offense classified as a Class B misdemeanor or higher. 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) and has no fiscal impact.

SECTION 2 of the bill would amend the Code of Criminal Procedure, Article 102.0178(a) to increase by \$10 the amount of a court cost charged to persons convicted offenses classified as Class B misdemeanors or higher.

SECTION 3 of the bill has no fiscal impact.

SECTION 4 of the bill states that changes made by this bill apply only to offenses committed on or after the effective date.

SECTION 5 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. This bill would assess a cost for the drug court programs on all defendants convicted of a Class B Misdemeanor or higher offense. The agency believes that as a challenge to this cost is likely, the fiscal impact of this bill cannot be determined.

The Comptroller of Public Accounts provided an example of the potential fiscal impact for this bill if the provisions applied only to those convictions related to drugs or alcohol. The example provided estimates of a \$133,000 General Revenue gain for fiscal year 2010; \$324,000 for fiscal year 2011; \$329,000 for fiscal year 2012; \$335,000 for fiscal year 2013; and \$340,000 for fiscal year 2014.

This estimate was based on historical data from the Annual Statistical Report for the Texas Judiciary for various years, adjusted for growth, indigency, implementation, and the percentage of fees retained by local governments (counties can typically retained 10 percent of most court costs if remitted to the CPA in a timely fashion; in addition, the counties with mandated drug court programs may retain an additional 50 percent of the current drug court cost). The court costs for criminal cases were multiplied by the total number of convictions, reduced to reflect historical non-collection rates, and adjusted for an implementation lag. Currently the cost is \$50 on drug and intoxication offenses; the bill would increase it by \$10. Sixty percent of the revenue is retained at the local level with the remaining 40 percent remitted to the state.

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 HB 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 (CPA) could not provide a full fiscal impact estimate due to concerns about a potential legal challenge in applying the court cost for drug courts to all offenders with a Class B misdemeanor or higher. The agency did provide an example of potential local revenue gains based on applying this cost increase in this bill the drug and intoxication related offenses.

Local governments would see an increase in revenue due to the \$10 increase to the court cost. 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. Together, these revenues are estimated by the Comptroller of Public Accounts to result in \$199,000 in local revenue gains for fiscal year 2010; \$486,000 in fiscal year 2011; \$494,000 in fiscal year 2012; \$502,000 in fiscal year 2013, and an estimated \$510,000 for fiscal year 2014.

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

**LBB Staff:** JOB, ESi, JI, JJO, DB, TP