

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 18, 2009

TO: Honorable Tommy Williams, Chair, Senate Committee on Administration

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

IN RE: HB3637 by Hughes (Relating to filing fees in civil actions and proceedings, to fees charged on conviction in certain courts, to the preservation of court records, to money paid into the registry of a court in certain counties, and to the appointment of counsel in certain suits.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3637, As Engrossed: an impact of \$0 through the biennium ending August 31, 2011.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	\$0
2011	\$0
2012	\$0
2013	\$0
2014	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from <i>Judicial Fund</i> 573	Probable Revenue Gain/(Loss) from <i>Counties</i>
2010	\$1,037,819	\$51,891
2011	\$1,556,728	\$81,933
2012	\$1,556,728	\$81,933
2013	\$1,556,728	\$81,933
2014	\$1,556,728	\$81,933

Fiscal Analysis

The bill would amend Subchapter A, Chapter 102, Code of Criminal Procedure by adding Article 102.0169 to authorize a \$4 county and district court technology fee as a cost of court for defendants convicted of a criminal offense in a county court, statutory county court, or a district court. Fees collected would be placed in a fund known as the county and district court technology fund. The funds would be for funding continuing education and training regarding technological enhancements for the courts. The funds could also be used for the purchase and maintenance of technological enhancements for county court, statutory county court, or a district court.

The bill would change the population criteria for applicability of Subchapter E, Chapter 117, Local Government Code.

The bill would amend Chapter 133, Local Government Code, to increase the additional filing fee of any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third party action requiring a filing fee, to fund civil legal services for the indigent in a district, county, justice, or small claims court from \$5 to \$10 for statutory and county courts and from \$2 to \$6 for justice courts. A county would be authorized to retain 5 percent of the money collected as a service fee on the basic civil legal service for indigents filing fee.

The bill would amend Chapters 25 and 26 of the Government Code to allow a county court or a county court at law in which an appeal of an eviction suit is filed to appoint counsel who is willing to provide pro bono services in the matter to attend to the cause of certain parties. The bill would allow appointed counsel to receive attorney's fees only if provided by contract, statute, common law, court rules, or other regulations. The county would not be responsible for payment of attorney's fees to appointed counsel. The court would be required to provide for a method of service of written notice on the parties to an eviction suit of the right to an appointment of counsel on perfection of appeal on approval of a pauper's affidavit. The proposed changes to Chapters 25 and 26 would apply only to an eviction suit filed on or after the effective date of the bill.

The bill would amend Chapters 51 and 101 of the Government Code to create an additional filing fee of not more than \$10 for each civil case filed in a county court, statutory county court, or district court. Such fees would be collected in the same manner as other court fees, fines or costs, and sent monthly to the county treasurer, or other official assigned the duties of the county treasurer, for deposit into a court record preservation account. This account would be administered by the county commissioners court and used only to digitize court records to preserve them from natural disasters.

The other portions of the bill would make conforming changes and would have no fiscal impact to the state or to units of local government.

Proposed changes under the provisions of the bill would apply only to a cost of conviction committed on or after the effective date of the bill and only to a fee that becomes payable on or after the effective date of the bill. The effective date of the bill would be September 1, 2009.

Methodology

Only the proposed change to Chapter 133, Local Government Code, would have a fiscal impact on the state.

The Office of Court Administration (OCA) expects that the bill would result in an annual increase of \$1,556,728 to the state's Basic Civil Legal Services Account. (In the first year of the increased filing fee, OCA anticipates 8/12 of the annual amount would be realized: \$1,037,819).

The anticipated increase is the sum of \$1,147,419 from the justice courts and \$409,309 from the county-level courts.

The anticipated increase from the justice courts is determined as follows:

- (1) 464,542 justice court cases filed in FY 2008 x \$4 filing fee increase = \$1,858,168
- (2) x 65% collection rate = \$1,207,809
- (3) x 95% sent to State =
- (4) \$1,147,419.

The anticipated increase from the county-level courts is determined as follows:

- (1) 215,426 county-level court cases filed in FY 2008 x \$5 filing fee increase = \$1,077,130
- (2) x 40% collection rate = \$430,852
- (3) x 95% sent to State =
- (4) \$409,309

Local Government Impact

Under the proposed change to Chapter 102, Code of Criminal Procedure, requiring every county to create a justice court technology fund and requiring that the \$4 fee be imposed on all defendants convicted of a misdemeanor offense in the justice court, the courts would realize a revenue gain. The amount of revenue generated would vary by county, although the amount would not be significant. According to OCA, in fiscal year 2008 there were 527,799 convictions statewide (including orders of deferred adjudication) reported in district and county-level courts. Assuming a collection rate of 40 percent, the amount of new local revenue for all counties would be \$844,478.

The bill also includes conforming language for legislation passed by the Eightieth Legislature, Regular Session, 2007 by amending the Code of Criminal Procedure and the Government Code renaming the graffiti eradication fee as the juvenile delinquency prevention and graffiti eradication fee. The juvenile delinquency prevention and graffiti eradication fee imposed on a convicted defendant would be revised from \$5 to \$50 to reflect changes made by legislation passed by the Eightieth Legislature. These conforming language changes do not have a fiscal impact on local governments.

Under current statute, Subchapter E of Chapter 117, Local Government Code, applies only to Harris County. Under the proposed change in population, based on the 2000 U.S. Census, the subchapter would also apply to Bexar, Dallas, and Tarrant counties. Subchapter E addresses special provisions applying to funds paid into the court registry and applies to the following kinds of money paid into the registry of any court for which a clerk is or may become responsible: (1) funds of minors or incapacitated persons; (2) funds tendered in connection with a bill in interpleader; or (3) any other funds. The commissioners court of the county collecting the funds may contract with one or more banks in the county for the deposit of the funds in a special account to be called the "registry fund."

The fiscal impact from the proposed change to Subchapter E would vary by county. Bexar County estimates a revenue gain of approximately \$26,000 for the first two fiscal years of implementation. However, the county assumes it would also incur a cost to hire an outside auditor for the accounts. The county assumes that cost to be at least \$25,000 per year.

The revenue gain to each county as a result of the proposed change to Chapter 133, Local Government Code, would vary depending on the number of cases filed. The table above shows the estimated increase in the county's portion of the fees in the statewide aggregate.

No significant fiscal impact to units of local government is anticipated if a court were to appoint counsel as authorized under provisions of the bill that would amend Chapters 25 and 26, Government Code.

The proposed addition of a \$10 filing fee in each civil case filed, for use for court record preservation, under Chapters 51 and 101 of the Government Code, would provide a revenue gain to counties that would vary by county depending on number of cases filed. It is anticipated that the gain would be fully expended to digitize court records as required by provisions of the bill. Various counties provided estimates of anticipated revenue (only first year of implementation shown):

- Bexar County – \$465,000
- Dallas County – \$750,000
- Harris County – \$970,000
- Tarrant County – \$430,000
- Travis County – \$40,000
- Washington County – \$3,500
- Williamson County – \$23,780

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

LBB Staff: JOB, MN, DB, JJO, SD