

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 27, 2009

TO: Honorable Todd Hunter, Chair, House Committee on Judiciary & Civil Jurisprudence

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

IN RE: HB3763 by Gattis (Relating to the jurisdiction and administration of, and procedures relating to, certain courts in this state, including procedures for appeals.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3763, As Introduced: a negative impact of (\$2,793,088) through the biennium ending August 31, 2011.

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 |
|-------------|--|
| 2010 | (\$1,370,277) |
| 2011 | (\$1,422,811) |
| 2012 | (\$2,038,019) |
| 2013 | (\$2,140,553) |
| 2014 | (\$2,140,553) |

All Funds, Five-Year Impact:

| Fiscal Year | Probable Savings/(Cost) from <i>General Revenue Fund</i> 1 | Probable Savings/(Cost) from <i>Jud & Court Training Fd</i> 540 | Change in Number of State Employees from FY 2009 |
|-------------|---|--|---|
| 2010 | (\$1,370,277) | (\$250,000) | 8.0 |
| 2011 | (\$1,422,811) | (\$250,000) | 9.0 |
| 2012 | (\$2,038,019) | (\$250,000) | 15.0 |
| 2013 | (\$2,140,553) | (\$250,000) | 16.0 |
| 2014 | (\$2,140,553) | (\$250,000) | 16.0 |

Fiscal Analysis

The bill amends statutes related to the jurisdiction and administration of, and procedures relating to, certain courts in this state, including procedures for appeals. The bill would make changes to certain appellate procedures and provisions related to the exchange of benches and transfer of cases in the trial courts. The bill also provides procedures for the implementation of new courts and the assigning of case preferences for the district courts in a county by the local board of district judges. It also removes references in current law that provide that a district court shall give preference to a type of case and it also redesignates family district courts and criminal district courts as regular district courts.

The bill increases the upper jurisdictional limit in civil cases in statutory county courts to \$200,000 from the current \$100,000 limit, effective September 1, 2012. The bill also requires uniformity regarding applicable provisions for all statutory county courts.

The bill modifies provisions related to justice and small claims courts by adding an annual 10-hour continuing education requirement for justices of the peace. The bill would repeal Chapter 28 of the Government Code and require the justice of the peace to transfer all cases pending on the small claims docket to the justice court docket. The bill would amend the justice of the peace statute, Section 5.04, to direct the Texas Supreme Court to promulgate rules of civil procedure for small claims cases by January 1, 2011, and require a justice court judge to adhere to the rules.

The bill repeals most of the provisions of Chapter 54 of the Government Code related to associate judges, masters, magistrates and referees and creates a new Chapter 54A with uniform provisions for different types of associate judges.

The bill provides that each of the nine presiding judges of the administrative judicial regions may employ up to three full-time equivalent staff attorneys. The bill directs the Supreme Court to adopt rules to determine if certain cases require additional resources to ensure efficient judicial management of the case. The bill creates the Judicial Committee for Additional Resources that would determine that a case requires additional resources and directs the committee to make available the resources requested by the trial judge to the extent funds are available for those resources under the General Appropriations Act and to the extent the committee determines the requested resources are appropriate to the circumstances of the case.

The bill authorizes the Office of Court Administration to provide grants to counties for initiatives to enhance court systems. The Judicial Committee for Additional Resources would be responsible for determining whether to award the grant and would monitor the county's use of the grant money. The Comptroller would distribute grant funds. The bill directs the Permanent Judicial Committee for Children, Youth and Families established by the Supreme Court to develop and administer a program to provide grants for initiatives to address issues in child protection cases.

The bill directs the Office of Court Administration to study district courts and statutory county courts to identify overlapping jurisdiction in civil cases involving controversies of more than \$200,000. The bill requires the Office of Court Administration's study to determine the efficiency, feasibility, and estimated cost of converting to district courts those county courts with jurisdiction in civil cases in which the amount in controversy is more than \$200,000. Not later than October 1, 2010, the Office of Court Administration would be required to submit a report describing the conversion of statutory county courts to district courts to the Governor, the Lieutenant Governor, the Speaker of the House of Representatives, the chairs of the standing committees of the Senate and House of Representatives with primary jurisdiction over the judicial system, and the Commissioners Court of any county with a statutory county court with jurisdiction in civil cases in which the amount of controversy is more than \$200,000. By January 1, 2011, a county with a statutory county court meeting these criteria shall notify the Office of Court Administration if the statutory court wants to convert to a district court.

The bill would take effect September 1, 2009.

Methodology

The bill provides for the nine presiding judges of the administrative judicial regions to employ up to three FTEs as staff attorneys in each region. However, not all of these positions are expected to be filled immediately. The Office of Court Administration (OCA) estimates that the presiding judges would employ a total of 8 staff attorneys statewide in fiscal year 2010, with the number increasing incrementally each year thereafter. This estimate assumes 9 additional attorneys in fiscal year 2011, a total of 15 attorneys in fiscal year 2012, and 16 attorneys in fiscal year 2013 and fiscal year 2014. The cost of each attorney is estimated to be \$79,750, which would be comparable to staff attorneys at the Courts of Appeals. Salary costs for the staff attorneys would total \$638,000 in fiscal year 2010, \$717,750 in fiscal year 2011, \$1,196,250 in fiscal year 2012, and \$1,276,000 in fiscal year 2013 and each year thereafter. Associated benefits are estimated to be \$182,277 in fiscal year 2010, \$205,061 in fiscal year 2011, \$341,769 in fiscal year 2012, and \$364,553 in fiscal year 2013 and each year

thereafter.

The cost of providing an additional 10 hours of education to the justices of the peace is estimated at \$250,000 based on training courses currently provided for justices of the peace and funded by the Judicial and Court Personnel Training Fund No. 540 through grants administered by the Court of Criminal Appeals.

This estimate assumes that the OCA would work with the National Center for State Courts to study overlap between district courts and statutory county courts. The estimate assumes that the study would cost \$45,000 with an additional \$5,000 in associated travel costs.

The bill provides the appropriation authority for the two grant programs referenced in Sections 8.01 and 8.02. The cost of a program that provides grants to counties for initiatives that will enhance the court system is estimated to be \$250,000 beginning in fiscal year 2010 and each year thereafter, as is the cost of a grant program for initiatives that address issues related to child protection cases. This estimate assumes that the OCA and the Supreme Court would use existing resources to administer the court systems and child protection case grant programs.

The bill would also allow county courts at law with overlapping jurisdiction in civil cases involving controversies of more than \$200,000 to become district courts upon request of the county by no later than January 1, 2011. The Office of Court Administration is required in turn to submit a report to the Legislature listing the county courts at law that have asked to be converted to district courts. Currently, there are an estimated 55 county courts at law in the state meeting these criteria. For purposes of this analysis, the related district judge salary and benefits costs (an annual salary of \$125,000 and \$33,500 in annual benefits costs) for these 55 county courts at law are not included because additional legislation would be required to create the district courts.

Local Government Impact

Local governments would need to provide office space and operating expenses for attorneys hired by the presiding judges of the administrative judicial regions.

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

LBB Staff: JOB, TB, TP, DB, MN, ZS, JP