

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

March 31, 2009

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

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

IN RE: HB4382 by Gallego (Relating to standards of competency for attorneys appointed as counsel to indigent applicants in certain habeas corpus proceedings.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Code of Criminal Procedure relating to standards of competency for attorneys appointed as counsel to indigent applicants in certain habeas corpus proceedings. The bill would require the Court of Criminal Appeals to adopt rules setting minimum standards as defined by the bill for attorneys seeking appointment to represent a defendant given the death penalty in a writ of habeas corpus. The bill would amend provisions dealing with untimely writs to require the Court of Criminal Appeals to also hold show cause hearings for an attorney to explain why a claim that is not cognizable was included in the writ filed by the attorney. The bill would also require the Court not to penalize applicants for the applicant's attorney's mistake, and that attorneys found twice to have untimely filed, failed to file or filed a claim that is uncognizable to be prohibited from being appointed again in a death penalty writ case.

To the extent the bill may result in more hearings by the Court with related costs for rulemaking, copies, mail and staff time, the Court anticipates any additional work resulting from passage of the bill could be reasonably absorbed within current resources. Accordingly, no significant fiscal implication to the State is anticipated. The bill would take immediate effect if the bill receives two-thirds the vote of all members. Otherwise, the bill would take effect September 1, 2009.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 211 Court of Criminal Appeals, 212 Office of Court Administration, Texas Judicial Council

LBB Staff: JOB, ESi, TB