

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

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

**April 20, 2009**

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

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

**IN RE: HB4548** by Raymond (Relating to recusal of a justice of the supreme court or judge of the court of criminal appeals based on political contributions accepted by the justice or judge from a person involved in a case before the justice or judge.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB4548, As Introduced: a negative impact of (\$2,289,852) 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	(\$1,144,926)
2011	(\$1,144,926)
2012	(\$1,144,926)
2013	(\$1,144,926)
2014	(\$1,144,926)

**All Funds, Five-Year Impact:**

Fiscal Year	Probable (Cost) from <i>General Revenue Fund</i> 1	Change in Number of State Employees from FY 2009
2010	(\$1,144,926)	2.0
2011	(\$1,144,926)	2.0
2012	(\$1,144,926)	2.0
2013	(\$1,144,926)	2.0
2014	(\$1,144,926)	2.0

**Fiscal Analysis**

The bill would amend the Government Code relating to recusal of a justice of the supreme court or judge of the court of criminal appeals based on political contributions accepted by the justice or judge from a person involved in a case before the justice or judge. The bill would require these justices or judges to recuse themselves from any case in which the justice or judge accepted political contributions in the preceding four years totaling \$1,000 or more from a party to the case; an attorney of record in the case or the law firm of the attorney of record; the managing agent of a party to the case; a member of the board of directors of a party to the case or from a general purpose committee established or administered by a person who is a party to the case. The bill would require a party filing any pleading before the supreme court or the court of criminal appeals to disclose any contributions made in the preceding four years by certain persons or entities that are parties or associated with

parties. 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.

### **Methodology**

This analysis assumes that the governor will appoint sitting courts of appeals justices or district court judges to replace each supreme court justice who is recused under the bill. The supreme court indicates that bill provisions would create a 50 percent recusal rate for supreme court justices. In fiscal year 2008, the court of nine justices considered 138 new causes. Thus,  $138 \times 9 \times 50 \text{ percent} = 621$  judicial assignments needed per year. On average, each case would likely require three trips to Austin for hearings and conferences. Thus, the  $621 \text{ assignments} \times 3 \text{ trips} = 1,863$  travel days per year. Assuming \$500 per trip for transportation, hotel and expenses,  $1,863 \times \$500 = \$931,500$ . This analysis does not include any costs resulting from judicial recusal from petition for review cases. Further, this analysis does not include any costs at the appellate level that could be incurred to cover for courts of appeals justices or district court judges who are hearing supreme court cases and are, therefore, unavailable to hear their own cases. The costs for additional staff are based on the supreme court's current practice of recusing staff when the justice for whom they work is recused. The additional staff would be needed to work on cases with the commissioned judges.

Based on these assumptions, the bill would result in an annual cost of \$1,144,926. Most of the cost (\$931,500) would cover travel expenses for court of appeals justices and district court judges who are commissioned by the governor to hear cases in the place of supreme court justices who are recused. The remaining costs represent salary and benefits (\$213,426 in fiscal year 2010 and each year thereafter) for two additional supreme court staff attorneys (each paid an annual salary of \$83,000). The court of criminal appeals indicates it does not anticipate a significant fiscal impact to result from passage of this bill.

### **Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council

**LBB Staff:** JOB, MN, ZS, TB