

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 30, 2009

TO: Honorable David Dewhurst , Lieutenant Governor, Senate
 Honorable Joe Straus, Speaker of the House, House of Representatives

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

IN RE: HB4833 by Hunter (Relating to the creation of district courts and statutory county courts and to the composition of juvenile boards in certain counties.), **Conference Committee Report**

Estimated Two-year Net Impact to General Revenue Related Funds for HB4833, Conference Committee Report: a negative impact of (\$1,174,712) 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	(\$455,205)
2011	(\$719,507)
2012	(\$765,472)
2013	(\$857,403)
2014	(\$857,403)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/ (Cost) from <i>General Revenue Fund</i> 1	Probable Savings/ (Cost) from <i>Judicial Fund</i> 573	Probable Revenue Gain from <i>Judicial Fund</i> 573	Change in Number of State Employees from FY 2009
2010	(\$455,205)	(\$711,837)	\$443,750	5.0
2011	(\$719,507)	(\$909,476)	\$450,000	8.0
2012	(\$765,472)	(\$1,017,761)	\$525,000	8.0
2013	(\$857,403)	(\$1,159,331)	\$600,000	8.0
2014	(\$857,403)	(\$1,159,331)	\$600,000	8.0

Fiscal Analysis

The bill would amend Chapter 24, Government Code, to create a new judicial district in Tarrant County, the 432nd Judicial District. The bill would amend Chapter 24, Government Code, to create a new judicial district in Midland County, the 441st Judicial District. The two courts would be created September 1, 2009.

The bill would amend Chapter 24, Government Code, to create a new judicial district in Bexar County, the 436th Judicial District. The bill would require the 436th Judicial District to give preference to juvenile matters. The court would be created October 1, 2009.

The bill would amend Chapter 24, Government Code, to create a new judicial district in Bexar County, the 437th Judicial District. The 437th Judicial District would be required to give preference to criminal matters. The judicial district would be created December 15, 2009.

The bill would amend Chapter 24 Government Code, to create a new judicial district in Bexar County, the 438th Judicial District. The bill would require the 438th Judicial District to give preference to civil matters. The district court would be created September 1, 2010.

The bill would amend Chapter 24, Government Code, to create a new judicial district in Rockwall County, the 439th Judicial District. The court would be created November 1, 2010.

The bill would amend Chapter 24, Government Code, to create a new judicial district in Denton County, the 431st Judicial District. The court would be created January 1, 2011.

The bill would also amend the Government Code to amend the terms of the 110th Judicial District to begin on the first Mondays of January and July for all counties within the judicial district.

The bill would amend Chapter 25, Government Code, to create three new County Courts at Law in Bexar County (County Court at Law No. 13, County Court at Law No. 14, and County Court at Law No. 15). The bill would also amend Chapter 25, Government Code, to create a new County Court at Law in Fannin County, the County Court at Law of Fannin County. All four of the above county courts at law would be created September 1, 2009.

The bill would amend Chapter 25, Government Code, to create a new County Court at Law in Bosque County, the County Court at Law of Bosque County. The County Court at Law of Bosque County would be created October 1, 2009.

The bill would amend Chapter 25, Government Code, to create a new County Court at Law in Navarro County, the County Court at Law of Navarro County. According to the bill the County Court at Law of Navarro County would be created January 1, 2011, or on an earlier date determined by the Commissioners Court of Navarro County. Under the effective date of the bill the County Court at Law of Navarro County could be created September 1, 2009, if determined by the Commissioners Court of the county.

The bill would amend Chapter 25, Government Code, to create a new County Court at Law in Hidalgo County, County Court at Law of Hidalgo County No. 7. The court would be created September 1, 2011.

The bill would amend Chapter 25, Government Code, to create a new County Court at Law in Hidalgo County, County Court at Law of Hidalgo County No. 8. The court would be created September 1, 2012.

The bill would amend Chapter 25, Government Code, concerning the County Court at Law Provisions for both Hunt County and Van Zandt County. The bill would allow County Court at Laws in Hunt and Van Zandt County to have concurrent jurisdiction with district courts of the counties in certain cases.

The bill would amend the Government Code relating to the duties and salary of the county attorney of Swisher County and the election and duties of the district attorney for the 64th Judicial District. The Swisher County Attorney would become subject to the Professional Prosecutors Act and prohibited from the private practice of law.

The bill would amend the Health and Safety Code and the Code of Criminal Procedure relating to the establishment of veterans court programs in this State. The bill would authorize a county to establish a veterans court program for persons arrested for, charged with, or convicted of both misdemeanor and felony offenses. A veterans court program created under the bill would be required to have certain characteristics, including provision of various treatment and service programs. The bill would allow a court to dismiss a criminal case if the defendant successfully completes a veterans court program, under certain conditions. A veterans court program is authorized to collect reasonable program fees, not to exceed \$1,000 to cover costs. Fees may be used only for the veterans court program. The bill

would provide for legislative oversight of state veterans court programs. In addition, the bill would amend the Code of Criminal Procedure to allow a court to expunge records and files in certain cases if a defendant successfully completes a veterans court program, under certain conditions. To the extent that the bill would alter judicial procedures in certain cases, no significant fiscal implication to the State is anticipated from implementation of veterans court programs.

Pertaining to veterans court programs, the bill would prescribe additional statutory duties and responsibilities to the State Auditor's Office (SAO), in that a legislative committee or the Governor may request the State Auditor to perform a management, operations, financial, or accounting audit of a Program. This analysis assumes the SAO would not receive a request from a legislative committee or the Governor for an audit of these Programs during fiscal years 2010 and 2011. Assumed that the SAO would receive one request for an audit of one Program in one county during fiscal year 2012 and one request in fiscal year 2014, this analysis estimates each audit would require 1,500 hours to complete and, using the SAO's current billing rate of \$90 per hour, cost \$149,400 (inclusive of \$14,400 for travel expenses). These costs in future years are not assumed to be a significant fiscal implication to the SAO. Also, in accordance with current Government Code 321.013, all additional duties and responsibilities prescribed by the bill would be proposed in the SAO's annual audit plan for Legislative Audit Committee approval.

The bill would take effect September 1, 2009.

Methodology

The annual salary provided by the state for a district judge is \$125,000, in addition to benefits (state contributions for group insurance and the Judicial Retirement System) which are estimated to be \$33,501 annually. The total annual salary and benefits cost for a district judge is estimated to be \$158,501.

Because the 436th Judicial District would not be created until October 1, 2009, this amount is prorated for 11 months in fiscal year 2010. Additionally, the 437th Judicial District, which would be created December 15, 2009, is prorated for 8.5 months in fiscal year 2010. The 439th Judicial District, which would be created November 1, 2010, is prorated for 10 months in fiscal year 2011. The 431st Judicial District would be created January 1, 2011, is prorated for 8 months for fiscal year 2011.

The annual recurring cost to the state for each county court at law is \$75,000 from Judicial Fund No. 573. Under current law, the state provides a county-court-at-law judge a salary supplement an amount equal to 60 percent of the state salary of a district judge (\$75,000). This estimate prorates the salary supplement for the County Court at Law of Bosque County in fiscal year 2010 for 11 instead of 12 months since the court would be created October 1st. Additionally, this estimate assumes that the County Court at Law of Navarro County would be created September 1, 2009, because under provisions of the bill, the court could be created on that date if approved by a vote of the Commissioners Court of Navarro County.

The salary supplement program for county court at law judges is self-funded by fees and court costs collected by county courts at law and deposited into Judicial Fund No. 573. This estimate assumes that all eight county courts at law created by the bill would generate sufficient revenue to cover the cost of the salary supplement.

Local governments pay the other operating costs associated with district courts and county courts at law.

In this new capacity, the Swisher County Attorney would be entitled to a salary of \$125,000 from the state plus benefits (\$20,526) from General Revenue and the Judicial Fund No. 573. However, the Swisher County Attorney would also forgo the annual \$31,250 state salary supplement the county attorney receives, which is also paid from these two funding sources. Therefore, the net cost to the state due to the salary increase would be \$114,276. Finally, district and county attorneys in the Professional Prosecutors Act are entitled to \$34,450 per year from the state to defray office expenses, which are paid from General Revenue.

Local Government Impact

The bill would authorize the commissioners court of a county to establish a veterans court program. Harris and Travis Counties reported the costs to establish a program would be significant; however, Williamson County reported no fiscal implication because it is unlikely the county commissioners would authorize a program.

The Harris County Office of Budget and Management reported that to establish a veterans court program on the docket of an existing court, would cost at least \$2.65 million annually (the average cost of a county criminal court), and up to \$3.85 million annually (the average cost of a criminal district court). It is likely the costs would be greater than this because the program described in the bill would have the court taking on certain responsibilities of one of the county probate courts, such as decisions regarding competency to stand trial, civil, or forensic commitment to the state hospital system, etc.

Harris County also stated the county's best estimate is that dedicating a district or criminal court to a veterans court program as required by the provisions of the bill would cost Harris County an estimated \$3.25 to \$4.25 million annually.

Travis County reported that without veteran specific data, the county can only extrapolate from other programs. For example, Travis County reports its drug court costs would be \$774,790 in fiscal year 2008 (information taken from the Travis County fiscal year 2009 budget). This program screened around 3,000 potential participants in a program with a static capacity of 300.

Williamson County reported for felony cases, there would be no fiscal impact on the county budget because the District Attorney's Office would not seek to establish such a program in Williamson County.

The bill would amend the Government Code relating to the duties and salary of the county attorney of Swisher County and the election and duties of the district attorney for the 64th Judicial District. The Swisher County Attorney would become subject to the Professional Prosecutors Act and would be prohibited from the private practice of law.

Local Government Analysis for District Courts:

The bill would change the 110th District Court terms in each county to the first Mondays in January and July.

Denton County is currently served by the 16th, 158th, 211th, 362nd, 367th, and 393rd judicial districts. The bill would create a seventh judicial district, the 431st, effective September 1, 2009. For the proposed 431st Judicial District, Denton County would be responsible for paying the salary and benefits for court personnel. According to the Denton County Budget Office, there would be a onetime expenditure of \$209,608 for fiscal year 2010, which would include \$85,332 for salary and benefits, \$39,275 for operating expenses, and \$85,000 for establishing the court. The estimated average annual cost of court operations for fiscal years 2010 to 2014 would be \$1,684,598. This total is comprised of \$1,153,633 for salary and benefits and \$530,964 for operating and miscellaneous expenses.

The creation of the 431st Judicial District would create 12 positions in addition to the district judge. The positions that would be created include a Court Reporter, a Court Administrator, an Assistant Department Supervisor in the District Clerk's Office, a Senior District Clerk, a Bailiff, a Transport Deputy, a Felony Prosecutor I, a Felony Prosecutor II, an Appellate Attorney I, a Felony Intake Attorney, a Felony Investigator, and an Administrative Assistant.

Denton County's fiscal year begins on October 1. The Denton County Budget Office estimated average annual expenditures of \$1,684,598 and annual revenue of \$270,816 for fiscal years 2010 to 2014. The fiscal impact would be an estimated \$1,413,782.

Tarrant County's fiscal year begins on October 1. The bill would create the 432nd Judicial District,

effective September 1, 2009. The Tarrant County Auditor indicated that the annual cost of the district court for fiscal year 2010 is estimated at \$3,287,845, which includes \$1,520,454 for court personnel and benefits, \$1,145,391 for office operation expenditures plus \$622,000 for initial office start-up and capital outlay costs. Fiscal year 2009 would be pro-rated for one-month. The annual operating cost would increase four percent for fiscal years 2011 to 2014. The County Auditor estimated revenue of \$130,000 starting fiscal year 2010 with a \$10,000 increase each year thereafter except for fiscal year 2014 which is a \$5,000 increase.

Bexar County's fiscal year begins on October 1. The Bexar County Auditor's Office provided the following facts and figures for the creation of the three district courts.

The 436th Judicial District operating as a juvenile court's start-up expense in fiscal 2010 is estimated at \$603,800. This total would include furniture and fixtures (\$102,000), facility renovation (\$301,800), and technology enhancements (\$200,000). Capital outlay expenses in fiscal year 2010 are estimated at \$5,000. The county expects to use existing space for the Juvenile Court. Annual operating costs in fiscal year 2010 are estimated at \$1,504,142, which would include \$1,094,642 for salary and benefits and \$409,500 for operating costs. The estimated average annual cost of court functions for fiscal years 2011 to 2014 for the Juvenile Court is \$1,744,977. This total is comprised of \$1,163,477 for salary and benefits, and \$581,500 for operating costs. In addition to the district judge, the creation of the 436th Judicial District would create 11 positions: Associate Judge, Third Chair Prosecutor, Second Chair Prosecutor, First Chair Prosecutor, Bailiff, Investigator, Advocate, Court Coordinator, Court Reporter, Court Clerk, and an Office Assistant. The Bexar County Auditor's Office estimates average annual revenue of \$181,250 beginning in 2010.

For the 437th Judicial District serving as a criminal court, start-up expenses in fiscal year 2010 are estimated at \$24,000. Capital outlay expenses in the second year are \$300,000 and \$1,444,000 in the third year. The county expects to use existing courthouse space until a new space is available in the Justice Center. Start-up expenses include furniture and fixtures, moving expenses, facility renovation, and technology enhancements. Annual operating costs in fiscal year 2010 are estimated at \$995,522, which includes \$597,272 for salary and benefits and \$398,250 for operating costs. The estimated average annual cost of court functions for fiscal years 2011 to 2014 for the Criminal Court is \$1,411,691. This total is comprised of \$846,441 for salary and benefits, and \$565,250 for operating costs. In addition to the district judge, the creation of the 437th Judicial District would create 10 positions: Third Chair Prosecutor, Second Chair Prosecutor, First Chair Prosecutor, Court Coordinator, Bailiff, Court Reporter, Court Clerk, Investigator, Advocate, and an Office Assistant. The Bexar County Auditor's Office estimates average annual revenue of \$101,500 beginning in 2011.

The 438th Judicial District civil court's start-up expense in fiscal year 2010 is estimated at \$24,000. Capital outlay expenses in the second year would be \$300,000 and \$1,360,000 in the third year. The county expects to use existing courthouse space until a new space is available in the Justice Center. Start-up expenses include furniture and fixtures, moving expenses, facility renovation, and technology enhancements. Annual operating costs in fiscal 2010 are estimated at \$37,547, which would include \$18,131 for salary and benefits and \$19,417 for operating costs. The estimated average annual cost of court functions for fiscal years 2011 to 2014 for the Civil Court is \$477,251. This total is comprised of \$231,251 for salary and benefits and \$246,000 for operating costs. In addition to the district judge, the creation of the 438th Judicial District would create 3 positions: Bailiff, Court Reporter and Court Clerk. The Bexar County Auditor's Office estimates average annual revenue of \$244,000 beginning in 2011.

Rockwall County is currently served by the 382nd Judicial District. The bill would create the 439th Judicial District, effective November 1, 2010. Rockwall County's fiscal year begins on October 1.

For fiscal years 2012 to 2014, Rockwall County would be responsible for paying the salary and benefits for court personnel. According to the Rockwall County Auditor, the estimated annual salary and benefits for court personnel would be three percent above the projected \$350,000 for each year after 2011. The new District Court would require a Court Administrator, Court Reporter, and a Bailiff. The annual operating expense would be \$232,131. For fiscal year 2011, Rockwall County would be responsible for the 11 month pro-rated amount paying the salary and benefits for court personnel totaling \$320,816. The annual operating expense would be \$212,804. The county is in the process of

designing a new courthouse which would house all current district courts and county courts at law plus the new court if granted. These are would be built with \$30 million bond instruments.

The bill would create the 441st Judicial District in Midland County, effective September 1, 2009. Midland County's fiscal year begins October 1.

According to the Midland County Auditor, the county would incur an estimated \$5,000 in one-time start-up expenses for technology and furnishings. For fiscal year 2009, Midland County would incur \$46,318 in prorated expenses, including salary, benefits and operational expenses. The Midland County Auditor estimated expenses for fiscal year 2010 would be \$555,812 and these expenses would rise approximately four percent every year thereafter. The Midland County Auditor did not estimate any revenue being generated by the new court.

Local Government Analysis for County Courts at Law:

Bexar County is currently served by County Courts at Law No. 1 - 12. The bill would create County Courts at Law No. 13, 14, and 15, effective September 1, 2009. Bexar County's fiscal year begins on October 1.

According to the Bexar County Auditor's Office, start-up expense for the County Court at Law No. 13 are estimated at \$12,000 for furniture and fixtures. The Auditor's Office estimated that the fiscal year 2009 expenses for the court would be \$39,424 for salaries, \$10,704 for benefits, and \$27,100 for operating costs. The estimated average annual cost of court operations for fiscal years 2010 to 2014 for County Court at Law No. 13 would be \$973,201; which would include \$496,892 for salaries, \$134,909 for benefits, and \$341,400 for operating costs. County Court at Law No. 13 would have a capital outlay expense of \$200,000 for technology enhancements in fiscal year 2012.

The Auditor's Office estimated for fiscal year 2009 start-up expense for County Court at Law No. 14 at \$48,000 for furniture and fixtures and \$39,424 for salaries, \$10,704 for benefits, and \$27,100 for operating costs. The estimated average annual cost of court operations for fiscal years 2010 to 2014 would be \$496,892 for salaries, \$134,909 for benefits, and 341,400 for operating costs. In fiscal year 2011 the court would have a capital outlay expense of \$300,000 for courthouse modifications. In fiscal year 2012 the court would have a capital outlay expense of \$1,198,000 for furniture and fixtures, moving expenses, and courthouse modifications; and \$200,000 for technology enhancements.

The Auditor's Office estimated for fiscal year 2009 start-up expenses for County Court at Law No. 15 would be \$12,000 for furniture and fixtures and \$18,758 for salaries, \$5,065 for benefits, and \$27,100 for operating costs. The fiscal year 2010 expenses are estimated at \$225,100 for salaries, \$60,777 for benefits and \$145,000 for operating costs. The fiscal year 2011 expenses for the court are estimated at \$225,100 for salaries, \$60,777 for benefits, \$150,000 for operating costs, and a capital outlay expense of \$300,000 for court house modifications. The estimated average annual cost of court operations for fiscal years 2012 to 2014 would be \$502,374 for salaries, \$137,133 for benefits and \$350,000 for operating costs. In fiscal year 2012 the court would have a capital outlay expense of \$1,198,000 for furniture and fixtures, moving expense, and courthouse modifications; and \$200,000 for technology enhancements.

The creation of County Courts at Law No. 13, 14, and 15 would create a total of 24 positions. The positions are: County Court at Law Judge (3), First Chair Prosecutor (3), Second Chair Prosecutor (3), Court Coordinator (3), Bailiff (3), Court Reporter (3), and Court Clerk (6).

The bill would create a County Court at Law in Bosque County that has concurrent jurisdiction as a district court in family law cases and civil cases between \$500 and \$100,000 and contested probate cases. The bill would also amend Section 152.0241 (a) of the Human Resources Code to add the judge of the newly created County Court at Law of Bosque County to the juvenile board of Bosque, Comanche, and Hamilton Counties. The County Court at Law in Bosque County would be created on October 1, 2009.

Bosque County's fiscal year begins October 1. According to the Bosque County Auditor, the average estimated annual cost of court personnel would be \$239,087 including benefits. The annual office

expense would be \$7,750 plus \$5,000 for initial office start-up costs and \$3,000 for the initial capital outlay and \$1,000 each year thereafter. The County Auditor estimated revenue of \$487,500 for each fiscal year. The judge of the newly created County Court at Law of Bosque County duties would include being a member to the juvenile board of Bosque, Comanche, and Hamilton Counties.

The bill would create a County Court at Law in Fannin County with concurrent jurisdiction with the district court for family law cases and proceedings under Title 3, Family Code. The County Court at Law shall refer a family law case to district court before a hearing is commenced. A County Court at Law shall transfer a juvenile case to another court designated as a juvenile court before a hearing is commenced. The County Court at Law in Fannin County would be created on September 1, 2009.

Fannin County's fiscal year begins on October 1. According to the Fannin County Auditor's Office, the start-up costs for technology, furnishings and uniforms are \$19,000 and capital costs for converting building space for the new court are \$16,500. The cost of salaries and benefits for fiscal year 2009 is \$23,101; 2010 is \$278,596; 2011 is \$286,954; 2012 is \$295,562; 2013 is \$304,429 and 2014 is \$313,563. The County Auditor estimated revenue for fiscal year 2009 at \$19,167; 2010 at \$253,000; 2011 at \$278,000; 2012 at \$306,000; 2013 at \$336,000; and 2014 at \$370,000. In 2009-2011, the county would have a net cost, whereas in fiscal years 2012 to 2014 the county would have a net gain. According to the County Auditor, the Fannin County Commissioners Court would appoint a judge to fill this position beginning September 1, 2009.

Hidalgo County's fiscal year begins January 1. The county is currently served by County Courts at Law No. 1 - 6. The bill would create County Courts at Law No. 7 and 8. Hidalgo County Court at Law No. 7 would be effective September 1, 2011, and No. 8 would be effective September 1, 2012. There would be no costs to the county for fiscal years 2009 to 2011. The average annual total operating costs for the two courts are estimated at \$1,041,373 for fiscal years 2013 to 2014. Fiscal year 2012 would be half of that amount. First year, start-up costs for technology are estimated at \$18,953.

Hidalgo County would be responsible for paying salary and benefits for court personnel. According to the County, it would need two judges, two court reporters, two court coordinators, two bailiffs, and two court administrators. According to Hidalgo County, the average cost of personnel total for two courts is estimated at \$975,525.

The bill would authorize the County Court at Law in Hunt County to have concurrent jurisdiction with a district court in capital felony cases, Class A and B misdemeanor cases, family law, juvenile and probate matters, appeals from justice and municipal courts, and civil cases that do not exceed \$200,000. The judge of the County Court at Law would serve on the Hunt County Juvenile Board.

The bill would create a County Court at Law in Navarro County that has concurrent jurisdiction with a district court in family law cases, felony cases, Class A and B misdemeanors, family law matters, juvenile matters, probate matters and appeals from justice and municipal courts. The County Court at Law in Navarro County would be created on January 1, 2011, unless the Commissioners Court of Navarro County voted to establish the court at an earlier date. Under the bill that could be September 1, 2009.

Navarro County's fiscal year begins October 1. The Navarro County Auditor's Office estimates the pro-rated operating costs for a county court at \$237,974 in fiscal 2011. Operating expenses in 2012 are \$318,290 and in fiscal 2013-2014 operating expenses would increase by three percent annually. According to the Navarro County Auditor's Office, the County will use available office space and courtroom to accommodate the new court. The Navarro County Commissioners Court indicated that they would appoint a judge to fill this position beginning January 1, 2011. The County Auditor estimated the net cost for fiscal year 2011 at \$69,224; a net revenue gain in fiscal year 2012 at \$6,510; fiscal year 2013 at \$26,251; and fiscal year 2014 at \$41,326.

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

LBB Staff: JOB, JP, TP