

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 8, 2009

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

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

IN RE: SB1774 by Whitmire (Relating to the disposal of certain exhibits used in criminal proceedings in certain counties.), **Committee Report 2nd House, As Amended**

No significant fiscal implication to the State is anticipated.

The bill would amend Article 2.21 of the Code of Criminal Procedure to allow a county or district court clerk in a county with a population of less than 1.7 million to deliver an eligible exhibit to the county purchasing agent for disposal as surplus or salvage property. The bill would require a county court clerk, prior to disposing of an eligible exhibit, to provide a written notice by mail to both the attorney representing the state and the attorney representing the defendant describing the eligible exhibit, stating the name and address of the court holding the exhibit, and that the exhibit will be disposed of within 31 days after the date of the notice.

The bill would require the commissioners court to remit 50 percent of the proceeds, after deducting reasonable expenses, to the county treasury and 50 percent to the state Treasury to the credit of the Compensation to Victims of Crime Account. The county treasury proceeds could only be used to defray the costs incurred from the management, maintenance, or destruction of eligible exhibits.

The bill would take effect September 1, 2009.

This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in the bill would be subject to funds consolidation review by the current Legislature.

Based on analysis by the Office of Attorney General, which administers the Compensation to Victims of Crime Account, it is assumed that any costs associated with implementing the bill could be absorbed within existing resources. The amount of revenue gain to the Compensation to Victims of Crime Account would depend on the number of eligible exhibits disposed and the amount of proceeds generated by that disposal.

Local Government Impact

County clerks could incur some costs associated with the requirement to provide written notice by mail regarding eligible exhibits; however, those costs would vary depending on the number of cases and are not anticipated to be significant.

Dallas County reported that the only exhibits that would have any value are those of high profile cases and that the district clerk would not be inclined to surplus such exhibits, and otherwise typically return exhibits of value to the owners following adjudication of the case; therefore, there would be no fiscal impact.

Harris County reported that provisions of the bill could provide a savings from not having to store exhibits as well as provide a potential revenue gain. However, there are too many variables to estimate an amount of savings or gain.

Source Agencies: 302 Office of the Attorney General, 304 Comptroller of Public Accounts

LBB Staff: JOB, ESI, SD, DB, TP