

## **BILL ANALYSIS**

C.S.H.B. 1646  
By: Gallego  
Criminal Jurisprudence  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties contend that the system for habeas corpus review of capital cases in Texas was substantially reformed over a decade ago with the intent that most capital convictions would receive only one thorough review by the Texas courts through a petition for a writ of habeas corpus. However, parties note that the court of criminal appeals is authorized to permit a subsequent writ to be heard by the convicting court in certain limited circumstances. It is noted that the state provides compensation for attorneys who represent indigent inmates in an initial application for a writ but in the rare cases in which there is sufficient evidence to justify allowing an inmate to file a subsequent application, the state does not reimburse the attorney of the indigent inmate who then proceeds before the convicting court on the subsequent application.

C.S.H.B. 1646 seeks to address this issue by providing compensation for attorneys representing indigent inmates in these subsequent habeas corpus proceedings.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B 1646 amends the Code of Criminal Procedure to require the convicting court in a death penalty case, if the convicting court receives notice that the requirements under state law for consideration of a subsequent application for a writ of habeas corpus have been met and if the applicant has not elected to proceed pro se and is not represented by retained counsel, to appoint the Office of Capital Writs, if the Office of Capital Writs passes on the case, then competent counsel and provide for the compensation and reimbursement of expenses of that counsel as is provided by state law, including compensation for time previously spent and reimbursement of expenses previously incurred and regardless of whether the subsequent application is ultimately dismissed.

### **EFFECTIVE DATE**

September 1, 2011.

### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

C.S.H.B 1646 adds language that would allow the court to appoint the Office of Capital Writs, as well as competent counsel. The provision includes reference to existing statute on what would occur if the Office of Capital Writs does not take the case.