

# LEGISLATIVE BUDGET BOARD

Austin, Texas

## FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

April 11, 2011

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

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

**IN RE: HB933** by Smith, Todd (Relating to the imposition and use of certain court costs for breath alcohol testing programs.), **As Introduced**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Code of Criminal Procedure, Article 102.016(b) to require an offender convicted of any of seven intoxication offenses under the Penal Code, Chapter 49 including driving while intoxicated, to pay a \$45 court cost for breath alcohol testing (BAT) programs. This court cost would be retained locally. Under current law, counties that operate a local certified BAT program are permitted to retain \$22.50 of the consolidated court cost under Local Government Code, Section 133.102 for intoxication offenses under Chapter 49 of the Penal Code. The bill removes the ability of counties to retain the \$22.50 of the consolidated court cost.

To the extent that counties no longer retain the \$22.50 from the consolidated court cost, there should be a positive fiscal impact to the state. However, neither the Office of Court Administration (OCA) nor the Comptroller of Public Accounts (CPA) collects information on how much money is currently being retained by the counties under current law, so the impact cannot be determined. The CPA does report that 20 counties currently operate a local BAT program including Bexar, Collin, Dallas, Harris, El Paso, Tarrant and Travis.

In addition, the OCA Annual Statistical Report for 2010 indicates there were 78,576 applicable intoxication offenses statewide in fiscal year 2010. Of those, 45,637 were associated with the 20 counties that have a local BAT program. Using those convictions, applying the \$22.50 that would be remitted to the state under the bill, and assuming a 40 percent collection rate, an estimated additional \$410,733 per year would be remitted to the state.

### Local Government Impact

The bill would have a positive fiscal impact on counties. Counties currently retaining \$22.50 of every consolidated court cost would get \$45 per conviction - an increase of \$22.50 per conviction.

The Comptroller of Public Accounts (CPA) contacted three counties to determine impacts and costs of the bill.

Denton County currently operates a breath alcohol test program and currently collects approximately \$10,000 per year from the program. The county estimates a collection increase of \$10,000 per year for fiscal years 2012-2016. The county indicated there would be a one time expense of \$5,000.

Waller County operates a breath alcohol test program and estimates that revenue generated by the fee would result in \$1,080 per year for fiscal years 2012-2016, with no additional expenditures as a result of the bill.

Victoria County utilizes breath alcohol test equipment for free from the Texas Department of Public Safety. The county estimates approximately \$40,000 of revenue per year during fiscal years 2012-2016.

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

**LBB Staff:** JOB, ESi, ZS, JJO, TB, KKR