

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

**FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION**

**May 20, 2011**

**TO:** Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

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

**IN RE: HB1646** by Gallego (Relating to representation of certain applicants for writs of habeas corpus in cases involving the death penalty.), **As Engrossed**

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

The bill would amend the Code of Criminal Procedure, Article 11.071, which establishes the procedures for an application for a writ of habeas corpus in a death penalty case. The bill would provide for either the Office of Capital Writs or other competent counsel to be appointed to represent indigent defendants when the convicting court receives notice that the requirements have been met for a subsequent application for a writ of habeas corpus.

According to the Office of Capital Writs (OCW), the bill may cost an estimated \$150,000 per year for an average of six cases filed per year in cases assigned to outside counsel, where each case costs up to \$25,000 under Art. 11.071, Sec. 2A. This analysis assumes that in most cases the OCW would be the counsel that prepared the successive petition and is later appointed counsel, and estimated costs could be absorbed within the OCW's existing resources.

Accordingly, to the extent the bill would amend habeas corpus procedures, no significant fiscal implication to the state is anticipated. The bill would take effect September 1, 2011.

**Local Government Impact**

The bill could have costs at the local level in cases where the Office of Capital Writs is not appointed, as any costs for other appointed counsel above \$25,000 incurred for a death penalty writ would be paid by the county of the convicting court; however costs to a given county would vary depending on the number and cost of such cases in a locality in a given year.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 215 Office of Capital Writs

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