

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 9, 2011

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

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

IN RE: HB1754 by Gallego (Relating to the reorganization of powers and duties among agencies in this state that provide representation to indigent defendants in criminal cases and to the reorganization of funding sources for indigent defense.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would add Chapter 79 to the Government Code, to create a new state agency in the judicial branch of government called the Texas Indigent Defense Commission (Commission) with the same powers and duties as the Task Force on Indigent Defense (Task Force). The governing board of the new Commission would consist of eight ex officios members and five appointive members. The powers, duties, staff, property of the Task Force would be transferred from the Office of Court Administration, Texas Judicial Council (OCA/TCJ) to the new agency and the Task Force would be abolished.

The bill would provide that the Commission is subject to the Texas Sunset Act and expires on September 1, 2023. The bill would require certain indigent defense information to be submitted by November 1st of each odd numbered year. The bill would also amend the Code of Criminal Procedure relating to the creation of public defender's offices. The bill also defines and authorizes local jurisdictions to establish managed assigned counsel programs as strictly a local option that would require both the judges and county commissioners court assent to implement. The bill would repeal the "Indigent Representation Fund" from Art. 26.05(i), Code of Criminal Procedure, the court costs for which serve as a revenue stream to the Fair Defense Account, which serves the same purpose. The bill would also repeal Section 71.0351, Government Code, relating to county reporting of certain indigent defense information to the Task Force on Indigent Defense.

The Task Force currently has 11 full-time equivalent (FTE) staff - 10 FTEs funded in the appropriations bill (at a cost of \$870,500 per fiscal year) and 1 funded by a one year grant from the Governor's Criminal Justice Division to coordinate the activities of innocence projects across the state. The Task Force and OCA plan for OCA to continue to provide information technology services to the new Commission, while Task Force staff will reorganize duties of some staff to complete the budgetary, accounting, purchasing and payroll functions currently provided by OCA's Fiscal Division and assure appropriate safeguards are in place for these functions. A small increase in expenditures will also be necessary to pay for the travel of two additional board members to attend up to four meetings per year.

To the extent a new agency would have additional administrative duties and costs that the existing Task Force does not currently have, it is anticipated that additional costs could be reasonably absorbed within available funding levels. Accordingly, creating the new agency is not anticipated to have a significant fiscal impact. The bill would take effect September 1, 2011.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts, 301 Office of the Governor

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