

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

April 25, 2011

TO: Honorable Jim Jackson, Chair, House Committee on Judiciary & Civil Jurisprudence

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

IN RE: HB2174 by Hartnett (relating to funding for basic civil legal services, indigent defense, and judicial technical support through certain fees and court costs and to the establishment of the judicial access and improvement account.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2174, Committee Report 1st House, Substituted: an impact of \$0 through the biennium ending August 31, 2013.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

| Fiscal Year | Probable Net Positive/(Negative) Impact to General Revenue Related Funds |
|-------------|--|
| 2012 | \$0 |
| 2013 | \$0 |
| 2014 | \$0 |
| 2015 | \$0 |
| 2016 | \$0 |

All Funds, Five-Year Impact:

| Fiscal Year | Probable Revenue Gain from <i>Judicial Access and Improvement Account, New</i> | Probable (Cost) from <i>Judicial Access and Improvement Account, New</i> | Probable Revenue Gain from <i>Judicial Fund 573</i> | Probable (Cost) from <i>Judicial Fund 573</i> |
|-------------|--|---|---|--|
| 2012 | \$1,186,255 | (\$1,186,255) | \$7,300,536 | (\$7,300,536) |
| 2013 | \$1,372,509 | (\$1,372,509) | \$15,745,070 | (\$15,745,070) |
| 2014 | \$1,372,509 | (\$1,372,509) | \$15,562,070 | (\$15,562,070) |
| 2015 | \$1,372,509 | (\$1,372,509) | \$15,404,070 | (\$15,404,070) |
| 2016 | \$1,372,509 | (\$1,372,509) | \$15,237,070 | (\$15,237,070) |

| Fiscal Year | Probable Revenue Gain from <i>Fair Defense 5073</i> | Probable (Cost) from <i>Fair Defense 5073</i> |
|-------------|---|--|
| 2012 | \$2,437,944 | (\$2,437,944) |
| 2013 | \$5,175,887 | (\$5,175,887) |
| 2014 | \$5,175,887 | (\$5,175,887) |
| 2015 | \$5,175,887 | (\$5,175,887) |
| 2016 | \$5,175,887 | (\$5,175,887) |

Revenue from this bill would initially be deposited to the newly created General Revenue-Dedicated Account, the Judicial Access and Improvement Account. From this account, if appropriated, \$1 million would be used by the judiciary for electronic filing and two percent of the funds would be used by the Comptroller of Public Accounts (CPA) for auditing purposes. The remaining revenues would be transferred to the Judicial Fund and the Fair Defense Account and expended as directed by the bill.

Fiscal Analysis

The bill would amend the Government Code by adding Section 22.016 to establish a General Revenue–Dedicated (GR-D) Account for Judicial Access and Improvement. Money in the GR-D Account would be appropriated only as provided in this Section. The bill would direct that an amount of not more than \$1 million annually would be appropriated to the Supreme Court to phase in electronic filing. Of the remaining money in the new GR-D Account, 70 percent would be transferred to the Judicial Fund for basic civil legal services and 30 percent would be transferred to the Fair Defense Account. The Comptroller of Public Accounts (CPA) could retain 2 percent of the money remitted to the new GR Account for auditing.

The bill would amend the Local Government Code by adding Section 133.108 to impose a \$5 court cost fee on defendants convicted in a justice or municipal court of offenses other than parking and pedestrian offenses. The court cost would be remitted to the CPA for deposit to the new GR-D Account, with 5 percent of the fee retained by the local courts.

If the money in the new GR-D Account is not appropriated in any state fiscal biennium for the purposes in new Section 22.016 of the Government Code, the CPA and the Office of Court Administration (OCA) would notify each county clerk and the clerks of justice and municipal courts not to assess the fees and court costs created by this bill.

The bill would amend the Local Government Code, Section 133.152(a) to increase existing filing fees charged in district courts that support basic civil legal services for indigents. The bill would increase a filing fee for family court cases from \$5 to \$15 and a filing fee for all other cases from \$10 per filing to \$20. The changes made by the bill to Section 133.152(a) would be exempt from the Government Code, Section 51.607, which makes the increase in the filing fees applicable on the effective date of the bill.

This bill would take effect immediately upon enactment, assuming that it received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect September 1, 2011.

Methodology

The Comptroller of Public Accounts (CPA) was not able to estimate the revenue from the \$5 court cost. The Office of Court Administration (OCA) estimates total revenue to the new GR-D Account of \$9.3 million in fiscal year 2012, due to partial year implementation, and \$18.6 million per year for fiscal years 2013 to 2016.

For the new \$5 criminal court cost, OCA used based on historical court activity data from fiscal year 2009, during which there were 6,032,540 convictions in cases handled by justice and municipal courts (other than cases involving parking and pedestrians). OCA estimates that the new court cost of \$5 per conviction would result in annual assessed court costs of \$30.1 million. Using a 65 percent collection rate for court costs collected in the municipal and justice of the peace courts, the agency estimates the court cost revenue collected to be \$19.6 million. Of this amount, five percent would be retained by the county as a service fee and the remaining 95 percent would be remitted to the state, resulting in a revenue gain to the state of \$18.6 million per year. Two percent of the money remitted to the state, or approximately \$372,509 per year based on OCA's estimates, would be used by the CPA for audit purposes. The remaining \$18.2 million per year would be used for the bill's other intended purposes.

In addition to the costs for auditing, for which the CPA will receive revenue from the bill, the CPA estimated an administrative costs to the agency of \$149,000 in fiscal year 2012 and no costs in

subsequent years. The administrative costs to the CPA reflect the funds the agency identified that would be necessary for program maintenance to the existing fee system due to the creation of new court cost fees.

For the purposes of this analysis, it is assumed that all receipts collected would be appropriated by the Legislature as indicated in the table above. In each fiscal year, the following expenditures would occur: \$1 million would be appropriated to the Supreme Court; two percent of revenues would be used by the CPA; and that the remaining revenues would then be transferred to the Judicial Fund and Fair Defense and be appropriated.

As relates to the increased civil filing fees under Section 133.152(a) of the Local Government Code, for fiscal year 2010, the Office of Court Administration (OCA) reported, for district courts statewide, 243,528 family filings and 219,917 other filings for a total of 463,445 filings. For its revenue estimate, the Comptroller of Public Accounts (CPA) reviewed the number of filings for fiscal years 2005 to 2010 and adjusted 2011 and beyond to reflect average year-to-year changes. The CPA assumes a 100 percent collection rate for the filing fees and a base year filings of 429,940 for fiscal year 2011. These assumptions result in an estimate of \$1.6 million in revenue gain for fiscal year 2012 (adjusted for an implementation lag) and gains ranging from \$3.2 million to \$3.7 million for subsequent years. For purposes of this analysis, it is assumed that all receipts collected would be appropriated.

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 within or outside of the Treasury, or create a dedicated revenue source. Legislative policy, implemented as Government Code 403.094, consolidated special funds (except those affected by constitutional, federal, or other restrictions) into the General Revenue Fund as of August 31, 1993 and eliminated all applicable statutory revenue dedications as of August 31, 1995. Each subsequent Legislature has reviewed bills that affect funds consolidation. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

Local Government Impact

The Office of Court Administration (OCA) anticipates that the new \$5 court cost is expected to yield \$980,288 per year to local governments. Only half of this amount would be collected in the first year (fiscal year 2012) due to the implementation date of court costs and the timing of remittances to the state. The OCA also anticipates that the five percent retention of filing fees by counties to support basic civil legal services for indigents would increase local collections by \$251,176 per year. Currently the statewide retention by counties totals \$190,904 per year and under the bill it is estimated this would increase to \$442,080 per year.

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

LBB Staff: JOB, JJO, JT, ZS, LCO, KKR, JP, KK, TB