

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

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

**May 19, 2011**

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

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

**IN RE: HB2649** by Allen (Relating to the award of diligent participation credit to defendants confined in a state jail felony facility.), **As Engrossed**

<b>Estimated Two-year Net Impact to General Revenue Related Funds</b> for HB2649, As Engrossed: a positive impact of \$48,994,711 through the biennium ending August 31, 2013.
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**General Revenue-Related Funds, Five-Year Impact:**

<b>Fiscal Year</b>	<b>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</b>
2012	\$19,690,026
2013	\$29,304,685
2014	\$29,968,997
2015	\$30,232,645
2016	\$29,681,628

**All Funds, Five-Year Impact:**

<b>Fiscal Year</b>	<b>Probable Savings/(Cost) from General Revenue Fund 1</b>
2012	\$19,690,026
2013	\$29,304,685
2014	\$29,968,997
2015	\$30,232,645
2016	\$29,681,628

**Fiscal Analysis**

The bill would amend the Code of Criminal Procedure as it relates to the awarding of diligent participation credit to defendants confined in a state jail facility.

The bill would take effect on September 1, 2011 and apply to a person confined in a state jail facility for an offense on or after the effective date of this Act.

**Methodology**

Under the provisions of the bill, a judge, based on the report submitted to the court by the Texas Department of Criminal Justice (TDCJ), would be able to credit up to one-fifth of the sentence against any time a state jail confinee was required to serve for diligent participation, as defined by the provisions of the bill, in an educational, vocational, treatment, or work program. The report submitted to the sentencing court would be required to contain the number of days the confinee diligently

participated in an educational, vocational, treatment, or work program. TDCJ would be required to report this information to the sentencing court no later than the 30th day before the date on which the confinee will have served 80 percent of the confinee's sentence. A state jail confinee would not be eligible to receive diligent participation credit for any period of time during which the confinee was subject to disciplinary action. Under the provisions of the bill, a time credit under this subdivision is a privilege and not a right.

Allowing for punishment in a state jail facility to be decreased through diligent participation credit is expected to result in decreased demands upon the correctional resources of the State due to shorter terms of confinement in state jails. In fiscal year 2010, there were 23,357 admissions to state jail and the average sentence length for these admissions was 10 months. Based on the average sentence length of 10 months, the average maximum diligent participation credit would be 2 months. Assuming all placements received the maximum diligent participation credit, regardless of disciplinary status, the average sentence length would be decreased to 8 months.

In order to estimate the future impact, the proposed conditions of the bill are applied in a simulation model to a state jail population that reflects the distribution of offenses, sentence lengths, and time served. Savings of incarceration by the Department of Criminal Justice are estimated on the basis of \$43.03 per inmate per day for state jail facilities, reflecting approximate costs of either operating facilities or contracting with other entities.

### **Local Government Impact**

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

**Source Agencies:** 696 Department of Criminal Justice

**LBB Staff:** JOB, LM, ESi, GG, AI