

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

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

**May 13, 2011**

**TO:** Honorable Chris Harris, Chair, Senate Committee on Jurisprudence

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

**IN RE: HB2899** by Hartnett (Relating to decedents' estates.), **As Engrossed**

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

The bill would amend various chapters of the Texas Probate Code regarding decedents' estates.

The bill would amend Section 34A to authorize the court to compensate a court appointed attorney appointed to represent the interests of an unknown or missing person entitled to property deposited in an account in the court's registry of a decedent's estate. The amount of the compensation paid to the attorney upon finding these persons may not exceed 10 percent of the amount in the account.

The bill would amend Section 48 to allow proceedings to declare heirship of a decedent to be brought to the court any time after a decedent's death.

The bill would amend Section 49(a) to allow an unsecured creditor the right to institute proceedings to declare heirship.

The bill would amend Section 149C regarding the removal of an independent executor by a county court or an interested person without notice.

The bill would amend Chapter 8 by adding Section 254 relating to a penalty for failure to timely file a report showing the inventory, appraisal, and a list of claims of a decedent's estate. The fine imposed on a personal representative, including an independent executor, or an independent administrator may not exceed \$1,000.

The bill would amend Section 408 to require the court to order a personal representative to deposit all property that is money into an account in the court registry. Any property that is not money would be required to be sold and the proceeds from the sale would be deposited in the account.

The bill would repeal Sections 29 and 53C(c).

The bill would make conforming changes to the Estates Code.

The fiscal impact from the penalty provided in the bill cannot be determined.

The 10 percent compensation that would be paid to a court appointed attorney for locating unknown or missing persons could reduce the amount of money that is escheated to the state by the courts. It is unknown how often this may happen, however based on the amount the state currently receives from the courts, reducing that amount by 10 percent would have an insignificant impact on state revenue.

Sections 48(d) and 254 of the Texas Probate Code and Section 351.002 of the Estates Code would be effective January 1, 2014. Otherwise, it 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

**LBB Staff:** JOB, JT, SD, SJS, KKR