LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION
Revision 1

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TO: Honorable Pete Gallego, Chair, House Committee on Criminal Jurisprudence

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

IN RE: **HB2949** by Cook (Relating to the administration of the collection improvement program.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2949, As Introduced: a positive impact of $4,348,426 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	$2,088,901
2013	$2,259,525
2014	$2,396,525
2015	$2,537,525
2016	$2,682,525

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from *General Revenue Fund* 1	Probable Revenue (Loss) from *General Revenue Dedicated, Multiple Accounts*	Probable Revenue (Loss) from *Other, Multiple Accounts*	Probable (Cost) from *General Revenue Fund* 1
2012	$2,760,814	($3,615,469)	($1,312,917)	($671,913)
2013	$2,910,814	($3,615,469)	($1,312,917)	($651,289)
2014	$3,047,814	($3,615,469)	($1,312,917)	($651,289)
2015	$3,188,814	($3,615,469)	($1,312,917)	($651,289)
2016	$3,333,814	($3,615,469)	($1,312,917)	($651,289)

Fiscal Year	Change in Number of State Employees from FY 2011
2012	8.0
2013	8.0
2014	8.0
2015	8.0
2016	8.0

Revenue from 19 unique state court costs is remitted to the Comptroller of Public Accounts (CPA) and deposited to 18 funds, including General Revenue, General Revenue-Dedicated (GR-D), and Other

Funds. The table above consolidates all GR-D accounts affected into one column and all Other Funds affected into one column.

Fiscal Analysis

The bill would amend the Code of Criminal Procedure Article 103.0033 by transferring audit responsibilities for the court Collection Improvement Program (CIP) to the Office of Court Administration (OCA).

The bill would amend the Local Government Code, Section 133.103 to eliminate the penalty imposed on municipalities and counties if they fail an audit required under the Code of Criminal Procedure, Article 103.0033. The bill also repeals Local Government Code, Sections 133.058(e) and 133.103(c-1). Under current law a municipality or county that fails an audit is not permitted to retain 50 percent of the time payment fee or the 10 percent service fee retained locally on most other court costs and fees.

The bill would be effective September 1, 2011.

Methodology

The bill would transfer the auditing of the court Collection Improvement Program (CIP) function from the Comptroller of Public Accounts (CPA) to the Office of Court Administration (OCA). When the mandatory CIP was created by legislation in 2005, the CPA received appropriations for eight full-time equivalents (FTEs) to fulfill the related auditing functions. It is assumed that eight FTEs, Auditor IV positions, would be needed at OCA at a cost of $54,498 per FTE per fiscal year, with a total salary cost of $435,984 to General Revenue per year. Additional expenses include travel, at a cost of $80,000 per year; other operating expenses, at a cost of $13,840-$14,640 per year; and equipment costs for computers at a cost $19,824 in fiscal year 2012 with a four-year replacement schedule. In addition, benefits would cost $121,465 per fiscal year. The estimated cost of performing the auditing function is approximately $671,913 in fiscal year 2012 and $651,289 in subsequent fiscal years.

The CPA reports that re-directing the existing staff currently performing audits of court collections to audits of taxpayers would result in additional General Revenue to the state of: $4,430,000 in fiscal year 2012; $4,458,000 in fiscal year 2013; $4,717,000 in fiscal year 2014; $4,858,000 in fiscal year 2015; and $5,003,000 in fiscal year 2016. As indicated in the table above, these General Revenue gains are offset by a loss of $1,669,186 in fiscal year 2012 and each year thereafter from reduced city and county compliance with CIP requirements. In addition, since existing CPA staff will be re-directed to taxpayer audits, for purposes of this analysis, it is assumed that the OCA would require the additional funding and FTEs (as described above) to assume the auditing function currently performed by CPA staff.

The CPA and the OCA anticipate that repealing Local Government Code, Sections 133.058(e) and 133.103(c-1) would result in a revenue loss to the state. Currently municipalities with populations over 100,000 and counties with populations over 50,000 are required to participate in the Collection Improvement Program (CIP) and be periodically audited on their compliance. The law requires that if a jurisdiction fails its compliance audit, it cannot retain 50 percent of the time payment fee or the 10 percent service fee for most other state court costs.

The CPA was unable to estimate the potential revenue loss from the repeal of penalty provisions for non-compliance. This analysis assumes the repeal of the provisions would effectively convert the program to a voluntary program, and the basis for revenue loss is tied to compliance rates in the years prior to mandatory requirements.

The OCA reported average additional revenue to the state from the mandatory CIP of $20.0 million revenue per fiscal year. OCA reported that prior to mandatory requirements, approximately 34 percent of eligible municipalities and counties participated, which equates to a 66 percent non-participation rate. With the anticipated drop in compliance, the revenue loss could be as great as $13.2 million per year (66%*$20 million = $13.2 million). However, this analysis assumes that although compliance with program requirements may become voluntary, most jurisdictions will have recognized the benefit of maintaining the requirements. Natural attrition in court-level collection departments and other factors may reduce efficiencies in collections, but amounts shown reflect at least 50 percent of jurisdictions joining the program since the 2005 legislation as maintaining requirements (33%*$20 million = $6.6 million).

Based on fiscal year 2010 state court cost revenues, 25.3 percent of that amount would be General Revenue; 54.8 percent would be General Revenue-Dedicated; and 19.9 percent would be Other Funds.

Technology

The Office of Court Administration anticipates that the additional FTEs would require laptop computers and Microsoft Office software.

Local Government Impact

According to the Office of Court Administration (OCA), the CIP is estimated to have increased statewide local revenue by an annual average of $60.0 million over the last four years. Eliminating the penalty provision associated with non-compliance would effectively make participation by counties and cities voluntary and would likely have a significant negative fiscal impact at the local level. OCA reported that, of the municipalities and counties currently required to participate, only 34 percent previously participated voluntarily. If participation rates declined by 50 percent among those jurisdictions joining the program since the 2005 legislation, it is estimated statewide local revenues attributable to the CIP would decline by an annual average of $19.8 million.

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

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