

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

March 23, 2011

TO: Honorable Garnet Coleman, Chair, House Committee on County Affairs

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

IN RE: HJR89 by Coleman (Proposing a constitutional amendment allowing a state mandate imposed on a county to have effect only if the state provides for payment to the county of the cost of the mandate.), **As Introduced**

Costs associated with implementing the provisions of the resolution, if it is adopted by the voters, would vary depending on what requirements would be absorbed by the state, but at a minimum would start at \$1 million per each mandate that meets the resolution's criteria.

The cost to the state for publication of the resolution is \$105,495.

The resolution proposes a constitutional amendment that, unless the state provides funding to cover the costs of a mandate, would prevent a state mandate on a county from taking effect, whether the mandate is through legislation or agency rule. If the resolution passes, the provisions of the amendment would apply only to mandates adopted on or after January 1, 2012.

The resolution provides exceptions to the prohibition. The state would be authorized to impose mandates without providing funding if the mandate: (1) is imposed to comply with a requirement of the Texas constitution, federal law, or a court order; (2) is approved by the voters of the state at a general election; (3) is imposed by a statute enacted by a record vote of two-thirds of the members elected in each legislative house that expressly provides that the mandate is not subject to this section; or (4) estimated by the comptroller to have aggregated costs to be incurred by counties that are less than \$1 million in a state fiscal year.

The proposed amendment would be submitted to the voters at an election to be held November 8, 2011.

The initial cost to the state if the resolution passes would be for publication costs, as indicated in the box above. If the amendment is adopted by the voters, the state would be required, with certain exceptions, to fund all mandates placed on counties by the state unless those mandates meet the criteria for one of the four exceptions. This would result in additional costs to the state that would vary, depending on what the requirements might be and how many such mandates there might be.

According to the Comptroller of Public Accounts (CPA), there would be some administrative costs for FY 2012-16 that would be necessary to identify all new state agency rules and legislative mandates, and to calculate the costs of implementation. This analysis assumes CPA could implement the provisions of the bill within existing appropriations.

Local Government Impact

If the resolution were to pass and the voters were to adopt the constitutional amendment, counties would avoid incurring additional expenses for unfunded mandates that exceed aggregated costs of \$1 million in a state fiscal year, which would result in a savings that cumulatively would likely be significant. The level of savings would depend on what requirements would have otherwise been imposed. For mandates for which the aggregated costs are less than \$1 million and therefore do not require the state to pay the costs, if \$1 million were to be spread evenly among the 254 counties, the

additional cost for the mandate to the counties would be \$3,937 each.

There would be a fiscal impact to local governments associated with an election; however, those costs would vary by locality and are not anticipated to be significant. Based on costs reported to the Secretary of State (SOS) in 2010 by a sampling of counties, municipalities, and special districts, the average cost incurred by a local governmental entity for an election is \$1.98 per registered voter.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JOB, KKR, TP, LCO