

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

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

**May 17, 2011**

**TO:** Honorable David Dewhurst, Lieutenant Governor, Senate

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

**IN RE: SB316** by Whitmire (Relating to criminal asset forfeiture, the disposition of proceeds and property from criminal asset forfeiture, and accountability for that disposition; providing civil penalties.), **As Passed 2nd House**

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

The bill would amend the Code of Criminal Procedure regarding the use, audit, and enforcement of forfeited assets and would authorize the Office of the Attorney General to file suit to recover a civil penalty on violations of criminal asset forfeiture law. The bill would also provide that the State Auditor's Office (SAO) may conduct audits and investigations on forfeited assets and would require law enforcement agencies and attorneys representing the state to reimburse the State Auditor's Office. It is anticipated that any additional costs associated with implementation of the legislation could be absorbed within existing resources. Additionally, in accordance with Government Code 321.013, all additional duties and responsibilities prescribed by the bill regarding the SAO would be proposed in the SAO's annual audit plan for Legislative Audit Committee approval.

The bill would amend the Code of Criminal Procedure to require attorneys representing the state to enter into certain agreements with the Department of Public Safety (DPS) regarding the transfer or proceeds from the sale of certain forfeited property. The bill would require 40 percent of the proceeds to be allocated to a special fund in the department to be used solely for law enforcement purposes, 30 percent to a special fund in the county treasury for use of the attorney representing the state, and 30 percent to the general revenue fund. The bill would take effect September 1, 2011. This analysis assumes DPS could implement the provisions of the bill within existing resources.

The Comptroller of Public Accounts has indicated that the number of potential violations and the amount of penalties levied are unknown. Therefore, there could be an indeterminate revenue increase to the state.

**Local Government Impact**

Fiscal impact on counties would vary depending on the total value of forfeited property as described by the bill. The amount of property that is seized and the amount of proceeds from the sale of property seized are unknown, and therefore the fiscal impact cannot be determined.

**Source Agencies:** 302 Office of the Attorney General, 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts, 308 State Auditor's Office

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