

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

April 8, 2011

TO: Honorable Steve Ogden, Chair, Senate Committee on Finance

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

IN RE: SB726 by Rodriguez (relating to the establishment of the judicial access and improvement account to provide funding for basic civil legal services, indigent defense, and judicial technical support through certain county service fees and court costs imposed to fund the account.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for SB726, Committee Report 1st House, Substituted: an impact of \$0 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	\$0
2013	\$0
2014	\$0
2015	\$0
2016	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain from <i>Judicial Access and Improvement Account, New</i>	Probable (Cost) from <i>Judicial Access and Improvement Account, New</i>	Probable Revenue Gain from <i>Judicial Fund 573</i>	Probable (Cost) from <i>Judicial Fund 573</i>
2012	\$12,589,246	(\$12,589,246)	\$11,811,141	(\$11,811,141)
2013	\$12,961,755	(\$12,961,755)	\$24,588,212	(\$24,588,212)
2014	\$12,961,755	(\$12,961,755)	\$24,588,212	(\$24,588,212)
2015	\$12,961,755	(\$12,961,755)	\$24,588,212	(\$24,588,212)
2016	\$12,961,755	(\$12,961,755)	\$24,588,212	(\$24,588,212)

Fiscal Year	Probable Revenue Gain from <i>Fair Defense 5073</i>	Probable (Cost) from <i>Fair Defense 5073</i>
2012	\$5,061,918	(\$5,061,918)
2013	\$10,537,805	(\$10,537,805)
2014	\$10,537,805	(\$10,537,805)
2015	\$10,537,805	(\$10,537,805)
2016	\$10,537,805	(\$10,537,805)

Revenue from this bill would initially be deposited to the newly created General Revenue-Dedicated Account, the Judicial Access and Improvement Account. From this account, if appropriated, \$12 million would be used by the judiciary for various purposes including electronic filing and the state law library. Two percent of the funds would be used by the Comptroller of Public Accounts (CPA) for auditing purposes. Seventy percent of the remaining revenues would be transferred to the Judicial Fund and 30 percent of the remaining revenues would be transferred to the Fair Defense Account and expended as directed by the bill.

Fiscal Analysis

The bill would amend the Government Code by adding Section 22.016 to establish a General Revenue –Dedicated (GR-D) Account for Judicial Access and Improvement. Money in the GR-D Account would be appropriated only as provided in this section. The bill would direct that an amount determined by the Supreme Court, but not more than \$12 million annually, would be appropriated to the Supreme Court to phase in electronic filing and retrieval in the state's courts, up to \$1 million of which can also be used for state law library services. Of the remaining money in the new GR-D Account, 70 percent would be allocated to the basic civil legal services account of the Judicial Fund and 30 percent would be allocated to the Fair Defense Account. The Comptroller of Public Accounts (CPA) could retain 2 percent of the money remitted to the new GR-D Account for auditing.

The bill would amend the Local Government Code by adding Section 118.011(g) to direct county clerks to collect a document recording fee of \$2 for records filed with the clerk. The fee would be remitted to the CPA for deposit to the new GR-D Account, with 5 percent of the fee retained by the county.

The bill would amend the Local Government Code by adding Section 133.108 to impose a \$10 court cost fee on defendants convicted in a justice or municipal court of offenses other than parking and pedestrian offenses. The court cost would be remitted to the CPA for deposit to the new GR-D Account, with 5 percent of the fee retained by the local courts.

If the money in the new GR-D Account is not appropriated in any state fiscal biennium for the purposes in new Section 22.016 of the Government Code, the CPA and the Office of Court Administration (OCA) would notify each county clerk and the clerks of justice and municipal courts not to assess the fees and court costs created by this bill. If only a portion of the money is appropriated to the new GR Account in any state fiscal biennium for the purposes in new Section 22.016 of the Government Code, the CPA and the OCA would adjust the amount of the fees and court costs to be assessed proportionally, and notify each county clerk and the clerks of justice and municipal courts of the amount of the fees and court costs to be assessed under the provisions of the bill.

This bill would take effect immediately upon enactment, assuming that it received two-thirds majority votes in both houses of the Legislature. Otherwise it would take effect September 1, 2011.

Methodology

The Comptroller of Public Accounts (CPA) was not able to estimate the revenue from the \$10 court cost due insufficient conviction data. The agency also did not have information to estimate the impact from the \$2 filing fee.

The Office of court Administration (OCA) estimates total revenue to the new GR-D Account of \$29.5 million in fiscal year 2012, due to partial year implementation, and \$48.1 million per year for fiscal years 2013 to 2016.

For the new \$10 criminal court cost, OCA used based on historical court activity data from fiscal year 2009, during which there were 6,032,540 convictions in cases handled by justice and municipal courts (other than cases involving parking and pedestrians). OCA estimates that the new court cost of \$10 per conviction would result in annual assessed court costs of \$60,325,400. Using a 65 percent collection rate for court costs collected in the municipal and justice of the peace courts, the agency estimates the court cost revenue collected to be \$39,211,510. Of this amount, five percent of would be

retained by the county as a service fee and the remaining 95 percent would be remitted to the state, resulting in a revenue gain to the state of \$37,250,935 per year. Two percent of the money remitted to the state, or approximately \$745,019 per year based on OCA's estimates, would be used by the Comptroller of Public Accounts (CPA) for audit purposes. The remaining \$36.5 million per year would be used for the bill's other intended purposes. The five-year fiscal impact table above assumes a partial year implementation for fiscal year 2012, based on an implementation date of January 1, 2012.

For the new \$2 non-court document filing fee, the OCA does not have statewide statistics on the number of statewide filings that would incur the new fee. However the agency reported that there were 236,129 applicable filings with the Travis County Clerk in 2009. Using the basis that the Travis County population is 4.14 percent of the statewide population, OCA estimates that the number of filings in Travis County is 4.14 percent of the total number of applicable filings annually in the state. Based on that assumption, OCA estimates the number of statewide filings to be 5,703,599 per year and that the new fee would raise \$11,407,198 in Texas each year. Five percent of this amount would be retained by the county as a service fee and the remaining 95 percent, or \$10.8 million, would be remitted to the state. Two percent of the money remitted to the state, or approximately \$216,737 per year based on OCA's estimates, would be used by the CPA for audit purposes. The remaining \$10.6 million per year would be used for the bill's other intended purposes.

The CPA estimated an administrative costs to the agency of \$330,00 in fiscal year 2012 and \$112,000 in subsequent years. The administrative costs to the CPA reflect the funds the agency identified that would be necessary to contract for temporary seasonal employees to handle the increased amount of workload to process lien filings and releases, updating and program maintenance to the existing fee system due to the creation of new court cost fees.

For the purposes of this analysis, it is assumed that all receipts collected would be appropriated by the Legislature as indicated in the table above. In each fiscal year, the following expenditures would occur: \$12 million would be appropriated to the Supreme Court; two percent of revenues would be used by the CPA; and that the remaining revenues would then be transferred to the Judicial Fund and Fair Defense and be appropriated.

This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. Legislative policy, implemented as Government Code 403.094, consolidated special funds (except those affected by constitutional, federal, or other restrictions) into the General Revenue Fund as of August 31, 1993 and eliminated all applicable statutory revenue dedications as of August 31, 1995. Each subsequent Legislature has reviewed bills that affect funds consolidation. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

Technology

According to the Comptroller of Public Accounts (CPA), there would be a one-time technology cost of \$149,00 in fiscal year 2012 for programming and project management.

Local Government Impact

According to the Office of Court Administration (OCA), the new \$10 court cost is expected to yield \$1,960,576 per year to local governments. Only half of this amount would be collected in the fiscal year 2012 due to the implementation date of court costs and the timing of remittances to the state. The non-court document recording fee is expected to yield \$570,360 per year for local governments. This entire amount would be available to local governments in fiscal year 2012.

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

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