LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 6, 2011

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

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

IN RE: **SB1059** by Nichols (Relating to the program for improvement of collection of court costs, fees, and fines imposed in criminal cases.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for SB1059, As Engrossed: a positive impact of $6,836,170 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	$3,361,585
2013	$3,474,585
2014	$3,594,585
2015	$3,717,585
2016	$3,844,585

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain from *General Revenue Fund* 1	Probable Revenue (Loss) from *General Revenue Fund* 1	Probable Revenue (Loss) from *General Revenue Dedicated, Multiple Accounts*	Probable Revenue (Loss) from *Other, Multiple Funds*
2012	$4,464,000	($1,102,415)	($2,387,839)	($867,117)
2013	$4,577,000	($1,102,415)	($2,387,839)	($867,117)
2014	$4,697,000	($1,102,415)	($2,387,839)	($867,117)
2015	$4,820,000	($1,102,415)	($2,387,839)	($867,117)
2016	$4,947,000	($1,102,415)	($2,387,839)	($867,117)

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 Article 103.0033(b) of the Code of Criminal Procedure to make participation in the Collection Improvement Program (CIP) for counties voluntary rather than mandatory and 103.0033(j) to remove counties from the jurisdictions requiring an audit. The bill would amend Section 133.058(e) of the Local Government Code to make the non-compliance with the Collection

Improvement Program penalty applicable only to cities with populations of 100,000 or greater.

The bill would take effect immediately if it receives a vote of two-thirds of all members elected to each house. If the bill does not receive the votes required to pass, the bill would take effect September 1, 2011.

Methodology

The bill would change participation for all counties in the court-related Collection Improvement Program (CIP), as administered by the Office of Court Administration (OCA), to voluntary. Under current law, counties with populations of 50,000 or greater are required to participate. This includes 54 counties with programs in operation plus another 8 counties that would implement a CIP over the next year due to official 2010 census numbers. While OCA reports that there are 14 counties currently partipating as voluntary programs, usually the voluntary programs do not implement all of the program features a mandatory program does, and they may not have participation by all court levels within a county (including justice, county and district courts). These differences can significantly impact the additional revenue voluntary programs collect compared to mandatory programs.

To estimate the revenue loss from the bill, OCA reviewed the historical participation of voluntary programs. OCA reported that there are currently 34 active voluntary CIP programs, 14 of which are county programs. This represents an increase of 5 voluntary programs since 2006, when OCA reported there were 29 voluntary programs, 13 of which were counties. OCA reported average additional revenue to the state from the mandatory CIP of $20.0 million per fiscal year (or an average of $256,316 per city or county per year). Currently 24 cities and 54 counties make up the 78 jurisdictions that fall under the mandatory CIP. Prior to mandatory requirements, approximately 37 percent, or 20 counties, of the mandatory counties participated on a voluntary basis. With the anticipated drop in compliance, the OCA estimates the revenue loss could be $8.7 million per year, which assumes 20 counties continue to participate and 34 counties do not participate ($256,316 x 34 counties = $8.7 million).

However, the fiscal note 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 in the impact table reflect that at least 50 percent of the 34 counties joining the program since 2005 would maintain the CIP requirements, which results in an estimated revenue loss of $4.4 million per year in All Funds ($256,316 x 17 = $4.4 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.

The OCA currently employs seven full-time equivalents (FTEs) for the CIP. Under the bill, OCA would see a decline in the number of mandatory programs that would need to be maintained, but the agency would need to shift a greater portion of its staff time on outreach, education and marketing for voluntary programs, as it did prior to the mandatory program. OCA anticipates that this will require all of the current seven FTEs, but would not require additional staff.

The Comptroller of Public Accounts (CPA) reported that since the bill would lower the number of jurisdictions that would require audits, the agency would redirect any freed up staff to taxpayer audits. The CPA estimated that the additional taxpayer audits would result in a General Revenue gain ranging from $4.5 million to $4.9 million from fiscal years 2012 to 2016.

Local Government Impact

The Office of Court Administration (OCA) reported the average additional revenue to local governments from the mandatory Collection Improvement Program (CIP) of $60.0 million per fiscal year (or an average of $768,948 per city or county per year). Currently 24 cities and 54 counties make up the 78 jurisdictions that fall under the mandatory CIP. Prior to mandatory requirements, approximately 37 percent of the mandatory counties participated on a voluntary basis. With the anticipated drop in compliance, the OCA estimates the revenue loss could be $26.1 million per year, which assumes 20 counties continue to participate and 34 counties do not participate ($768,948 x 34 counties = $26.1 million).

Applying the same assumptions used for the state revenue, 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 if at least 50 percent of the 34 counties joining the program since 2005 maintain the CIP requirements, it would result in an estimated revenue loss of $13.1 million per year to counties statewide ($768,948 x 17 = $13.1 million).

The Texas Association of Counties (TAC) reported that it is expected that each county will develop and implement a program to maximize collections regardless of whether the county is a part of the model program, and as a result, realize a positive fiscal impact. Some of the costs associated with the implementation of the model program is the requirement to implement the entire program and because conditions vary across the state, some of the portions of the model program are not appropriate for some counties. The bill would provide counties greater latitude in developing an appropriate collection program which is expected to improve collections in counties resulting in a positive fiscal impact. Therefore, the positive fiscal impact is based on an expectation of greater efficiency, not greater participation. (TAC did not provide specific detail on individual counties that would illustrate how an individual county anticipates a positive fiscal impact would be achieved.)

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

LBB Staff: JOB, JJO, ESi, ZS, TP, TB, LCO