

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 25, 2011

TO: Honorable David Dewhurst, Lieutenant Governor, Senate

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

IN RE: SB1717 by Duncan (Relating to the operation and administration of the judicial branch of state government.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for SB1717, As Passed 2nd House: a negative impact of (\$37,037) 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	(\$14,815)
2013	(\$22,222)
2014	(\$22,222)
2015	(\$22,222)
2016	(\$22,222)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Probable (Cost) from <i>Judicial Fund</i> 573	Probable Revenue Gain from <i>Judicial Fund</i> 573
2012	(\$14,815)	(\$53,252)	\$50,000
2013	(\$22,222)	(\$79,878)	\$75,000
2014	(\$22,222)	(\$79,878)	\$75,000
2015	(\$22,222)	(\$79,878)	\$75,000
2016	(\$22,222)	(\$79,878)	\$75,000

Fiscal Analysis

The bill amends statutes related to the operation and administration of the judicial branch of state government. The bill would make changes to certain appellate procedures and provisions related to the exchange of benches and transfer of cases in the trial courts.

The bill revises statute regarding the substitute judges provision, trial court level, replacing the Governor's office with the regional presiding judge to assign a new trial court judge in the event of a district judge recusal or disqualification. The bill also amends existing statute allowing for counties with two or more district courts to exchange cases between judges where current statute states five or more district courts. The bill also adds language specifying jurisdiction of a district court to specifically include matters of controversy of more than \$500, excluding interest.

The bill increases the upper jurisdictional limit in civil cases in statutory county courts to \$200,000 from the current \$100,000 limit. The bill also requires uniformity regarding applicable provisions for all statutory county courts. The bill would amend the Government Code to create a new County Court at Law in Webb County. The court would be created January 1, 2031, or an earlier date determined by a vote of the Commissioners Court of Webb County.

The bill modifies provisions related to justice and small claims courts by modifying continuing education requirement for justices of the peace, but the bill would maintain the same 20 hour total continuing legal education requirement. The bill would repeal Chapter 28 of the Government Code and require the justice of the peace to transfer all cases pending on the small claims docket to the justice court docket. The bill would amend the justice of the peace statute to direct the Texas Supreme Court to promulgate rules of civil procedure for small claims cases by May 1, 2013, and require a justice court judge to adhere to the rules.

The bill repeals most of the provisions of Chapter 54 of the Government Code related to associate judges, masters, magistrates and referees and creates a new Chapter 54A with uniform provisions for different types of associate judges. The bill also updates Chapter 101 of the Government Code to include filing fee information for the Sixth, Seventh, and Twelfth Appellate Judicial Systems, fee information for improvement of Bexar County court facilities, fee information for the preservation of court records, and fee information for archiving of district court records all of which were enacted by the 81st Legislature elsewhere in the Government Code. This estimate does not include these fees as additional revenue sources as they were already enacted by the 81st Legislature.

The bill directs the Supreme Court to adopt rules to determine if certain cases require additional resources to ensure efficient judicial management of the case. The bill creates the Judicial Committee for Additional Resources that would determine that a case requires additional resources and directs the committee to make available the resources requested by the trial judge to the extent funds are available. State funds to provide grants under this section of the bill could not be used.

The bill authorizes the Office of Court Administration to provide grants to counties for initiatives to enhance court systems. The Judicial Committee for Additional Resources would be responsible for determining whether to award the grant and would monitor the county's use of the grant money. The Comptroller would distribute grant funds. The bill directs the Permanent Judicial Committee for Children, Youth and Families established by the Supreme Court to develop and administer a program to provide grants for initiatives to address issues in child protection cases. State funds to provide grants under this section of the bill could not be used.

The bill directs the Office of Court Administration to study district courts and statutory county courts to identify overlapping jurisdiction in civil cases involving controversies of more than \$200,000. The bill requires the Office of Court Administration's study to determine the efficiency, feasibility, and estimated cost of converting to district courts those county courts with jurisdiction in civil cases in which the amount in controversy is more than \$200,000. Not later than January 1, 2013, the Office of Court Administration would be required to submit a report describing the conversion of statutory county courts to district courts to the Governor, the Lieutenant Governor, the Speaker of the House of Representatives, the chairs of the standing committees of the Senate and House of Representatives with primary jurisdiction over the judicial system, and the Commissioners Court of any county with a

statutory county court with jurisdiction in civil cases in which the amount of controversy is more than \$200,000. The bill requires that state funds may not be used to conduct the study under this section, and the Office of Court Administration would only be required to conduct the study to the extent gifts, grants, and donations are made available for this purpose.

The bill also modifies Chapter 46, Government Code, to add the district attorney for the 287th judicial district to the list of professional prosecutors under the Professional Prosecutor's Act.

The bill would take effect January 1, 2012.

Methodology

This estimate assumes that there would be no additional cost for providing the justice of the peace educational requirement as justices of the peace would be required to obtain 20 hours of continuing legal education training per year, the same total number of hours required under existing law.

The bill provides the appropriation authority for the two grant programs referenced in Sections 7.01 and 7.02. However, this estimate assumes no fiscal impact to the state for implementation of these grant programs as the bill specifies that no state funds may be used for these purposes.

This estimate assumes that OCA would work with the National Center for State Courts to study district courts and statutory county courts with overlapping jurisdiction in civil cases involving controversies of more than \$200,000. The Office of Court Administration would be required to submit its report to the Legislature by January 1, 2013. Any action to convert statutory county courts to district courts would require additional legislation. According to the bill no state funds could be used to conduct the study, and OCA would only be required to submit a study to the Legislature to the extent gifts, grants, and donations were made available to cover the cost of the study.

This estimate assumes that the Webb County Court at Law would be created on the effective date of this legislation, January 1, 2012, since the Commissioners Court of Webb County could vote to create the court earlier than the creation date of January 1, 2031. The annual recurring cost the state would be \$75,000 from Judicial Fund No. 573. Under current law, the state provides a county court at law judge a salary supplement of an amount equal to 60 percent of the state salary of a district judge (\$75,000). Also, the salary supplement program for county court at law judges is funded from fees and court costs collected by county courts at law statewide and deposited into Judicial Fund No. 573. This estimate assumes that the County Court at Law in Webb County would generate sufficient revenues to Judicial Fund No. 573 to cover costs of the salary supplement. This estimate prorates the costs and revenues for the County Court at Law for eight months in fiscal year 2012. Local governments pay the other operating costs associated with a county court at law.

Including the district attorney for the 287th judicial district in the list of professional prosecutors in Chapter 46, Government Code, would increase the state's salary for the district attorney from \$118,426 (includes benefits estimated to be \$18,426) per year to \$145,526 (includes benefits estimated to be \$20,526) per year. Eighty-two percent of district attorneys' salaries are paid from General Revenue and the remaining 22 percent are paid from Judicial Fund No. 573 (Other Funds). This estimate prorates the salary increase for the district attorney of the 287th judicial district for eight months in fiscal year 2012 given the January 1, 2012, implementation date.

Local Government Impact

The bill would require equal supplemental pay to district judges serving in district courts and on juvenile boards. The Office of Court Administration reported that the maximum supplemental pay from counties for district judges is \$15,000 annually. Additional local costs for equalizing pay are not anticipated to be significant.

The bill would also require 12-person juries in family law cases in county courts at law. Costs for compensation (not more than \$6 for the first day and not less than \$40 per day for subsequent days) and related expenses could be costly for some counties, but would vary by the current size of juries and number of cases in a given county.

Webb County would be responsible for all costs of operating the Webb County Court at Law except for the \$75,000 salary supplement paid to the county court at law judge.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council

LBB Staff: JOB, JT, ZS, JP, KKR