

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

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

**May 9, 2011**

**TO:** Honorable Jim Jackson, Chair, House Committee on Judiciary & Civil Jurisprudence

**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.), **Committee Report 2nd House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for SB1717, Committee Report 2nd House, Substituted: a negative impact of (\$1,816,048) 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	(\$333,333)
2013	(\$1,482,715)
2014	(\$1,417,715)
2015	(\$1,417,715)
2016	(\$1,417,715)

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Savings/ (Cost) from <i>General Revenue Fund</i> 1	Probable Savings/ (Cost) from <i>Jud &amp; Court Training</i> <i>Fd</i> 540	Probable (Cost) from <i>Judicial Fund</i> 573	Probable Revenue Gain from <i>Judicial Fund</i> 573
2012	(\$333,333)	(\$250,000)	(\$50,000)	\$50,000
2013	(\$1,482,715)	(\$375,000)	(\$75,000)	\$75,000
2014	(\$1,417,715)	(\$375,000)	(\$75,000)	\$75,000
2015	(\$1,417,715)	(\$375,000)	(\$75,000)	\$75,000
2016	(\$1,417,715)	(\$375,000)	(\$75,000)	\$75,000

Fiscal Year	Change in Number of State Employees from FY 2011
2012	0.0
2013	9.0
2014	9.0
2015	9.0
2016	9.0

## **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 adding an annual 15-hour continuing education requirement for justices of the peace. 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 provides that each of the nine presiding judges of the administrative judicial regions may employ a full-time staff attorney. 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 for those resources under the General Appropriations Act and to the extent the committee determines the requested resources are appropriate to the circumstances of the case.

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.

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 would take effect January 1, 2012.

### **Methodology**

The bill provides for the nine presiding judges of the administrative judicial regions to employ one FTE as staff attorney for each region. The Office of Court Administration (OCA) estimates that the presiding judges would employ a total of 9 staff attorneys statewide in fiscal year 2013 and each year thereafter. The cost of each attorney is estimated to be \$79,750, which would be comparable to staff attorneys at the Courts of Appeals. Salary costs for the staff attorneys would total \$717,750 in fiscal year 2013 and each year thereafter. Associated benefits are estimated to be \$199,965 in fiscal year 2013 and each year thereafter.

The cost of providing an additional 15 hours of education to the justices of the peace is estimated at \$375,000 based on training courses currently provided for justices of the peace and funded by the Judicial and Court Personnel Training Fund No. 540 through grants administered by the Court of Criminal Appeals. This estimate prorates the costs for additional judicial education for eight months in fiscal year 2012.

The bill provides the appropriation authority for the two grant programs referenced in Sections 7.01 and 7.02. The cost of a program that provides grants to counties for initiatives that will enhance the court system is estimated to be \$250,000 beginning in fiscal year 2012 and each year thereafter, as is the cost of a grant program for initiatives that address issues related to child protection cases. This estimate assumes that the OCA and the Supreme Court would use existing resources to administer the court systems and child protection case grant programs. This estimate prorates the costs for the judicial grant program for eight months in fiscal year 2012, due to the effective date of the bill.

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 estimate assumes that the study would cost \$60,000 with an additional \$5,000 in associated travel costs and is shown in the table above in fiscal year 2013. 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.

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.

### **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.

The bill also adds a 15 hour continuing education requirement in substantive, procedural and evidentiary law in civil cases. The Office of Court Administration anticipates that classes would be provided by grant funding through the Texas Justice Court Training Center. Counties would still be responsible for related expenses such as meals and travel; however, these costs would vary by number of justice courts and distances required to attend training and are not anticipated to be significant.

Local governments would need to provide office space and operating expenses for attorneys hired by the presiding judges of the administrative judicial regions.

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