

LEGISLATIVE BUDGET BOARD  
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

April 9, 2011

**TO:** Honorable Chris Harris, Chair, Senate Committee on 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.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for SB1717, As Introduced: a negative impact of (\$1,982,715) 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	(\$565,000)
2013	(\$1,417,715)
2014	(\$1,417,715)
2015	(\$1,417,715)
2016	(\$1,417,715)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund 1	Probable Savings/(Cost) from Jud & Court Training Fd 540	Change in Number of State Employees from FY 2011
2012	(\$565,000)	(\$375,000)	0.0
2013	(\$1,417,715)	(\$375,000)	9.0
2014	(\$1,417,715)	(\$375,000)	9.0
2015	(\$1,417,715)	(\$375,000)	9.0
2016	(\$1,417,715)	(\$375,000)	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 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 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 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 up to three full-time equivalent staff attorneys. 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 an Office of Court Administration 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 September 1, 2012, 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 September 1, 2011.

## **Methodology**

The bill provides for the nine presiding judges of the administrative judicial regions to employ up to three FTEs as staff attorneys in each region. However, according to the Office of Court Administration, not all of these positions are required to implement the provisions of this legislation. 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 is 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.

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 assumes that OCA would work with the National Center for State Courts to study overlap between 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. Any action to convert statutory county courts to district courts would require additional legislation.

For purposes of this analysis, it is assumed that all costs related to implementation of this legislation, except judicial education and training costs, would be funded out of General Revenue.

### **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.

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

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