

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

April 15, 2015

TO: Honorable Byron Cook, Chair, House Committee on State Affairs

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3171 by Simpson (Relating to repealing civil asset forfeiture provisions and establishing criminal asset forfeiture in this state.), **As Introduced**

The bill would have an indeterminate fiscal impact to the state because revenue gains to the General Revenue Fund from an unknown amount of seized funds and assets that would be auctioned by the Comptroller cannot be estimated; the loss of revenue and assets that would no longer be available to the Department of Public Safety cannot be determined; and costs associated with cataloging and receiving criminal property from around the state, obtaining necessary space, staff, and resources to auction property cannot be determined.

The bill would amend the Code of Criminal Procedure to require that assets could not be forfeited unless a person is convicted under a state law subject to forfeiture and the state establishes by clear and convincing evidence that the applicable requirements of the statute have been met. While the bill does not identify what specific offenses would be subject to forfeiture, it would require that property subject to forfeiture would be property the convicted person derived from the commission of the offense; property directly traceable to property derived from the commission of the offense; or instrumentalities the person used in the commission of the offense. Property that is homestead property, a motor vehicle valued at less than \$10,000, and U.S. currency totaling less than \$200 are not subject to forfeiture under the new provisions.

The bill would allow a court to order forfeited and abandoned property to be delivered to the Comptroller. The Comptroller would then dispose of all forfeited and abandoned property, except currency, via a public auction with auction receipts used first to pay all outstanding liens on the forfeited property and then used to satisfy any court orders regarding the payment of expenses. Any remaining receipts would be deposited to the General Revenue Fund. The Department of Public Safety (DPS) estimates a cost associated with the creation of a system to combine information from law enforcement agencies for use in a report required by the bill on seized forfeited property that would be distributed on the agency's website.

The bill would require law enforcement agencies to report information on forfeitures completed by the agency under state or federal forfeiture law during the previous calendar year to the DPS. The DPS would be required to issue an aggregate report of all forfeitures in the state and make this information available on its website. Based on information provided by DPS, this analysis assumes that costs associated with accumulating and reporting information required by the bill could be absorbed within existing resources.

DPS estimates a revenue loss of \$1,000,000 in Appropriated Receipts in seized funds each fiscal year. The bill would require these funds to be deposited into the General Revenue Fund. In

addition, DPS' fiscal year 2014 seized asset report identified \$2,699,061 in seized assets. Under the provisions of the bill, DPS would be required to deliver all seized assets and abandoned property to the Comptroller for auction. The amount of revenue that these assets would generate from sale at auction cannot be determined.

The Comptroller estimates that there would be a significant, but indeterminate cost associated with developing a system to receive property and catalogue it from criminal courts around the state; to obtain the necessary space to store the property; and to obtain staff and resources to auction abandoned or forfeited property.

The bill would take effect immediately upon receiving a two-thirds majority vote in each house. Otherwise, the bill would take effect September 1, 2015.

Local Government Impact

There would be a loss of revenue to local governments; however, the fiscal impact would vary depending on the amount of funds received from asset forfeiture accounts.

Harris County reported that there would be a significant fiscal impact to the county. The Harris County District Attorney's Office (HCDAO) uses forfeited funds to supplement the Commissioner's Court Budget. In 2014, the HCDAO forfeited a total of \$11,521,763 under Chapter 59, Code of Criminal Procedure. Of this amount, Harris County Sheriff Office received \$1,831,817. The constables' offices received \$554,178, HCDAO received \$3,233,189.50, part of which was used to purchase body cameras for patrol officers, and the Harris County Commissioner's Court received \$329,405.42, which was used to fund drug and alcohol abuse training and counseling.

Travis County reported that there would be a revenue loss of at least \$300,000 annually.

The City of Houston reported that there would be a negative fiscal impact of \$4,700,000 per year.

The City of Corpus Christi reported that there would not be a significant impact unless there was a substantial increase in the number of hearings.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts, 405 Department of Public Safety

LBB Staff: UP, AG, MW, GDz, KVe, JAW