

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

**FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION**

**May 20, 2017**

**TO:** Honorable Joan Huffman, Chair, Senate Committee on State Affairs

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB1258** by Clardy (Relating to information publicly available in a state court document database; authorizing a fee.), **As Engrossed**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB1258, As Engrossed: a negative impact of (\$396,710) through the biennium ending August 31, 2019.

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:**

<b>Fiscal Year</b>	<b>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</b>
2018	(\$242,813)
2019	(\$153,897)
2020	(\$153,897)
2021	(\$153,897)
2022	(\$153,897)

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

<b>Fiscal Year</b>	<b>Probable Savings/(Cost) from General Revenue Fund</b> <b>1</b>	<b>Change in Number of State Employees from FY 2017</b>
2018	(\$242,813)	1.0
2019	(\$153,897)	1.0
2020	(\$153,897)	1.0
2021	(\$153,897)	1.0
2022	(\$153,897)	1.0

**Fiscal Analysis**

The bill would amend the Government Code to make several changes concerning the operation of an electronic state court document database. The bill would outline which documents may be included in the database, and would allow the Supreme Court of Texas to authorize the Office of Court Administration (OCA) to operate and maintain the database.

The bill would require OCA to collect a fee set by the Supreme Court for each page or part of a page electronically accessed by a member of the public. The bill requires the Supreme Court to adopt the fee amount by rule through negotiated rulemaking as if the Supreme Court were a state agency within the executive branch of state government in accordance with the Negotiated Rulemaking Act (Government Code, Chapter 2008). The bill also requires OCA to deliver collected fees to the clerk of the court in which the document was originally filed.

The bill also specifies that a court clerk is not responsible for the management or removal of documents from the database and provides immunity to court clerks and the commissioners court of the county for the release or disclosure by a third party of confidential information otherwise prohibited that is accessed from the state database. The bill also requires courts notify OCA when they receive orders of expunction and nondisclosure.

The bill would take effect September 1, 2017.

### **Methodology**

According to the Supreme Court, the requirement to engage in negotiated rulemaking in accordance with the Negotiated Rulemaking Act to establish the fee for each page or part of a page electronically accessed by a member of the public would result in increased workloads for the court requiring the addition of a new half-time attorney position at \$72,365 per year (\$53,556 per year plus benefits of \$18,809) and a half-time administrative assistance position at \$33,780 per year (\$25,000 per year plus benefits of \$8,780). In addition, this estimate includes \$393 in other personnel costs, \$400 in consumables, and \$786 in other operating expenses each year. Equipment costs include startup costs of \$6,090 in fiscal year 2018 and \$3,174 in each subsequent year.

In addition, the Negotiated Rulemaking Act requires an agreed upon facilitator that is also a certified mediator. The Supreme Court estimates the need to contract with a mediator for 15 days in fiscal year 2018 to conduct the negotiation with associated costs of \$45,000 and 5 days in subsequent years for any amendments with associated costs of \$15,000. Negotiated rulemaking also requires establishing a committee and payment of travel and per diem for committee members that lack sufficient resources to attend.

This estimate assumes 20 committee members would participate in this process in fiscal year 2018 at anticipated per member costs of \$200 per day for 15 days, or \$3,000 per member, plus transportation costs of \$1,200 per member totaling \$4,200 per member, or \$84,000 for all members. Total per diem and travel for committee members in subsequent years is estimated at 5 days for costs of \$1,000 per member plus \$400 in transportation costs, or \$1,400 for each of the 20 members, totaling \$28,000 for all members.

### **Local Government Impact**

According to OCA, counties would see increased revenues from the fee for copies of documents; however, the total amount of increased revenue cannot be determined.

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

**LBB Staff:** UP, AG, MW, GDz, LBO