

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

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

**March 12, 2017**

**TO:** Honorable Joe Moody, Chair, House Committee on Criminal Jurisprudence

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

**IN RE: HB1676** by White (Relating to the establishment of the capital appellate defense committee and the office of capital appellate defender.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB1676, As Introduced: a negative impact of (\$501,504) 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	\$0
2019	(\$501,504)
2020	(\$488,914)
2021	(\$489,424)
2022	(\$489,934)

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

<b>Fiscal Year</b>	<b>Probable Savings/(Cost) from General Revenue Fund</b> 1	<b>Change in Number of State Employees from FY 2017</b>
2018	\$0	0.0
2019	(\$501,504)	3.0
2020	(\$488,914)	3.0
2021	(\$489,424)	3.0
2022	(\$489,934)	3.0

**Fiscal Analysis**

The bill would amend the Code of Criminal Procedure and the Government Code to establish the Office of Capital Appellate Defender and the Capital Appellate Defense Committee. The Capital Appellate Defense Committee would be composed of five members to be appointed by the Executive Director of the Texas Indigent Defense Commission. This committee's responsibility

would be to interview applicants for the director position of the Office of Capital Appellate Defender and recommend at least three candidates to the Court of Criminal Appeals for the position.

The Office of Capital Appellate Defender would represent defendants who are sentenced to death in the defendant's direct appeal to the Court of Criminal Appeals, as well as in a motion for a new trial, and a petition for a writ of certiorari to the U.S Supreme Court.

The bill would take effect September 1, 2017.

### **Methodology**

According to the Office of Court Administration, this estimate assumes a forecasted caseload of eight new cases per year based on average actual death penalty convictions from fiscal years 2011 through 2016. Three full-time equivalent positions would be needed to staff the Office of Capital Appellate Defender with total personnel costs of \$389,601 each year including salary, other personnel costs, and benefits. This includes a director of the office that is also an attorney, one additional staff attorney, and a full-time legal assistant.

This estimate assumes the office will begin operation in fiscal year 2019 due to the director not required to be appointed until September 1, 2018. This estimate includes facilities costs based on Texas Facilities Commission recommended average square foot per FTE costs for 3.0 FTEs of \$13,950 in fiscal year 2019, \$14,460 in fiscal year 2020, \$14,970 in fiscal year 2021, and \$15,480 in fiscal year 2022. The estimate also includes costs for other operating expenses including technology, travel to meet with clients and to attend professional training, and to hire contract investigators to assist in fact gathering and motion filing totaling \$97,953 in fiscal year 2019 and \$84,853 each subsequent year.

### **Technology**

The Office of Court Administration estimates that the office would need to include one personal computer per employee, one shared printer, a file server, network switch, software for both the personal computer and file server with replacement costs for these items on a recurring basis.

### **Local Government Impact**

According to the Office of Court Administration, the average county expenditures for direct appeals in death penalty cases from fiscal years 2010 through 2012 was \$56,976 with counties paying the full cost of providing representation to death sentenced defendants on their motions for new trial and direct appeals. Establishment of the Office of Capital Appellate Defender would result in an estimated savings of \$455,808 to local governments ( $\$56,976 * 8$  cases per year) each year.

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

**LBB Staff:** UP, KJo, MW, GDz