

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 5, 2021

TO: Honorable Chris Paddie, Chair, House Committee on State Affairs

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: SB1529 by Huffman (Relating to the creation of the Texas Court of Appeals to hear certain cases; authorizing fees.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for SB1529, As Engrossed : a negative impact of (\$2,732,194) through the biennium ending August 31, 2023.

The Texas Court of Appeals would not be created unless the legislature makes a specific appropriation of funds for that purpose.

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:

<i>Fiscal Year</i>	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2022	\$0
2023	(\$2,732,194)
2024	(\$3,656,383)
2025	(\$3,636,860)
2026	(\$3,918,677)

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	Probable Savings/(Cost) from General Revenue Fund 1	Change in Number of State Employees from FY 2021
2022	\$0	0.0
2023	(\$2,732,194)	29.0
2024	(\$3,656,383)	29.0
2025	(\$3,636,860)	29.0
2026	(\$3,918,677)	29.0

Fiscal Analysis

The bill would amend the Government Code and the Code of Criminal Procedure to create the Texas Court of Appeals. Under the bill's provisions, the Court would have exclusive intermediate appellate jurisdiction over all cases or any matters arising out of or related to a civil case brought by or against the state or a state agency, board, or commission, or by or against an officer of the state or a state agency, board, or commission, other

than certain cases as detailed by the bill, or in which a party to the proceeding files a petition, motion, or other pleading challenging the constitutionality of a state statute.

The bill would seat the Court in Austin but allow it to transact its business in any county as the court determines is necessary and convenient. The bill would set the Court's composition at five justices to be elected by qualified voters; make certain code provisions, procedural and appellate rules, and standards of practice applicable to the court; and directs the Supreme Court to adopt certain rules for the court's administration, including court costs and fees for the court. The bill would provide that a justice of the Texas Court of Appeals must be paid the annual base salary paid by the state under Government Code Section 659.012 to a justice of the supreme court other than the chief justice or a judge of the court of criminal appeals other than the presiding judge.

The bill would provide that the initial Court vacancies would be filled by election in 2022, with court creation set for January 1, 2023. Upon court creation, the bill would transfer all cases pending in the courts of appeals of general jurisdiction filed on or after January 1, 2021, and of which the Court of Appeals has exclusive jurisdiction. The bill would provide that the Court of Appeals is not created unless the legislature makes a specific appropriation of money for that purpose.

The bill would take effect January 1, 2022.

Methodology

Costs reflected in the table above are based on the analysis provided by the Office of Court Administration (OCA) and include methodologies used by previous Legislatures to determine similar funding needs for same sized courts.

For the purpose of this analysis, it is assumed that the following staff positions would be necessary for the operation of the court: five legal assistants, 11 attorneys, a clerk of court, five deputy court clerks, one accountant, and one network specialist. Salary costs for these positions would total \$1,079,091 in fiscal year 2023 and \$1,618,635 each subsequent fiscal year.

In addition to these FTEs, the Court would include five elected justices. The bill would require the justices to be paid the annual base salary of a justice of the Supreme Court of Texas (\$168,000). Pursuant to Government Code Section 659.012, the chief justice of a court of appeals is entitled to an additional \$2,500 in their base salary. Salary costs for these positions would total \$561,667 in fiscal year 2023 and \$842,500 in subsequent years.

This analysis prorates fiscal year 2023 costs for 8 months and includes one-time expenses for the purchase of furniture, cell phones, and information technology equipment. OCA provides technology services to the judicial branch and this analysis assumes the agency would provide the Court with laptops, monitors, printers and software. Operating and payroll related benefit costs would total \$1,091,436 in fiscal year 2023; \$1,195,248 in fiscal year 2024; \$1,175,725 in fiscal year 2025; and \$1,457,542 in fiscal year 2026.

Based on the information provided by the Secretary of State, it is assumed that all duties and responsibilities associated with implementing the provisions of the bill could be accomplished using existing resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Admin, 307 Secretary of State

LBB Staff: JMc, SMAT, MW, BH, SLE