

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

**FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION**

**May 21, 2023**

**TO:** Honorable Dan Patrick, Lieutenant Governor, Senate

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: SB1045** by Huffman (Relating to the creation of the Fifteenth Court of Appeals with jurisdiction over certain civil cases, the compensation of the justices of that court, and the jurisdiction of the courts of appeals in this state.), **As Passed 2nd House**

**Estimated Two-year Net Impact to General Revenue Related Funds** for SB1045, As Passed 2nd House : a negative impact of (\$2,861,772) through the biennium ending August 31, 2025.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill. The Fifteenth Court of Appeals District is created only if the legislature makes a specific appropriation for that purpose which identifies the Court of Appeals for the Fifteenth Court of Appeals District or an Act of the Eighty-Eighth Legislature, Regular Session, 2023, relating to the creation of the Court of Appeals for the Fifteenth Court of Appeals District.

**General Revenue-Related Funds, Five- Year Impact:**

<i>Fiscal Year</i>	<i>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</i>
2024	\$0
2025	(\$2,861,772)
2026	(\$2,805,288)
2027	(\$2,841,210)
2028	(\$3,355,965)

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

<i>Fiscal Year</i>	<i>Probable (Cost) from General Revenue Fund 1</i>	<i>Change in Number of State Employees from FY 2023</i>
2024	\$0	0.0
2025	(\$2,861,772)	16.0
2026	(\$2,805,288)	16.0
2027	(\$2,841,210)	16.0
2028	(\$3,355,965)	18.0

**Fiscal Analysis**

The bill would amend the Government Code to create the Fifteenth Court of Appeals, composed of all counties in Texas, with exclusive intermediate appellate jurisdiction over the following matters arising out of or related to a civil case: (1) certain matters brought by or against the State or a board, commission, department, office, or other agency in the executive branch (including certain university or higher education institutions), or by or

against an office or employee of the State or a board, commission, department, office or other agency in the executive branch arising out of that officer's or employee's official conduct; (2) matters in which a party to the proceeding files a petition, motion, or other pleading challenging the constitutionality or validity of a State statute or rule and the attorney general is a party to the case; and (3) any other matter as provided by law.

The bill would set the Fifteenth Court of Appeals in Austin and permit the court to transact its business in any county in Texas as the court determines necessary and convenient. The bill would set court composition at a chief justice and four additional justices. The bill would set the salary for a justice of the Fifteenth Court of Appeals District other than the chief justice at an annual base salary from the state in the amount equal to \$5,000 less than 120 percent of the state base salary of a district judge as set by the General Appropriations Act. The bill would clarify that the judges of the new Fifteenth Court of Appeals are not eligible for the county supplements provided to the justices of the other courts of appeals in the district.

The bill would limit what writs a justice of the Fifteenth Court of Appeals may issue. The bill would also prohibit the Supreme Court of Texas from transferring for the purpose of equalizing dockets any case or proceeding properly filed in the Fifteenth Court of Appeals and require the Supreme Court to adopt rules for the transferring of certain cases to and from the Fifteenth Court of Appeals.

The bill would require a chief justice and two justices to maintain operations during fiscal years 2025-2027. The bill would require a chief justice and four justices to maintain operations beginning in fiscal year 2028. The bill also would require the Office of Court Administration (OCA) to report to the legislature the number and type of cases processed by the court.

The Fifteenth Court of Appeals District would be created September 1, 2024, only if the legislature would make a specific appropriation for that purpose which identifies the Court of Appeals for the Fifteenth Court of Appeals District or an Act of the 88th Legislature, Regular Session, 2023, relating to the creation of the Court of Appeals for the Fifteenth Court of Appeals District. The bill would also require that a court of appeals would retain the same jurisdiction the court had on August 31, 2023, if the Court of Appeals for the Fifteenth Court of Appeals District is not created.

## **Methodology**

Costs reflected in the table above are based on analysis provided by the Office of Court Administration and judicial salaries in Article IV of the General Appropriations Act.

The base salary of the justices is an amount equal to \$5,000 less than 120.0 percent of the state base salary of a district judge. The chief justice of a court of appeals is entitled to an additional \$2,500 in their base salary. Salary data from similar sized courts was used to determine personnel costs for the legal assistants, attorneys, court clerks, accountant, and network specialist.

In addition to the five judges, the following staffing assumptions were made for the operation of the court of appeals consistent with the "similar funding for same sized courts" approach previously utilized for the courts of appeals: two legal assistants, five attorneys, a clerk of court, one deputy court clerk, one accountant, one network specialist, one purchaser, and one human resources specialist. Salary, benefit, payroll contribution, and other personnel costs would total \$0 in fiscal year 2024; \$2,470,546 in fiscal year 2025; \$2,581,419 in fiscal year 2026; \$2,615,739 in fiscal year 2027; and \$3,038,814 in fiscal year 2028.

Operating costs would total \$0 in fiscal year 2024; \$391,226 in fiscal year 2025; \$223,869 in fiscal year 2026; \$225,471 in fiscal year 2027; and \$317,151 in fiscal year 2028. Fiscal year 2025 includes onetime expenses for the purchase of furniture, cell phones, and information technology equipment. This analysis does not include the cost of providing a courtroom.

In addition to other benefit costs, adding judges would add to the costs of the Judicial Retirement System - Plan 2 (JRS-2) administered by the Employees Retirement System. Those costs are the total salary of the judges, estimated by the OCA to be \$817,500 in fiscal year 2025 and subsequent years, multiplied by a 19.25 percent state contribution. This results in an annual cost for JRS-2 of \$94,614 in fiscal years 2025-2027 and \$157,369 in General Revenue in fiscal year 2028.

## **Technology**

Costs for the network specialist position and for the purchase of laptops, monitors, printers, and software, which would be replaced in the fourth year, would be at the OCA, which provides technology services to the judicial branch.

## **Local Government Impact**

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

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

**LBB Staff:** JMc, KDw, MW, JPa, JPO