

SUBJECT: Increasing the limit on reimbursement for indigent inmate defense

COMMITTEE: Appropriations — favorable, without amendment

VOTE: 23 ayes — Pitts, Luna, Berman, Branch, B. Brown, F. Brown, Chisum, Crownover, J. Davis, Guillen, Haggerty, Hamric, Hegar, Hopson, T. King, Kolkhorst, Martinez, McClendon, Pena, Pickett, T. Smith, Truitt, Turner

0 nays

6 absent — Dukes, Edwards, Gattis, Hope, Isett, Menendez

WITNESSES: For — None

Against — None

On — Lita Gonzalez, Ken Welch, Comptroller's Office

BACKGROUND: Indigent inmate defendants are appointed counsel within the framework established in Code of Criminal Procedure, art. 26.051. Generally, the State Council for Offenders, which operates under the Texas Department of Criminal Justice (TDCJ), offers in-house counsel to inmates, but a court may appoint outside counsel in a case where multiple inmates are involved in a crime and the court determines that a conflict of interest exists. For example, if two inmates are accused of assaulting a prison guard, they may have conflicting interests and require separate representation. In total, the Indigent Inmate Defense program has paid \$1.2 million in fees on 496 cases since its inception in 1990.

Rider 3 following the Comptroller of Public Accounts' appropriation in the fiscal 2006-07 general appropriations act authorizes the comptroller to pay small miscellaneous claims out of special funds and other accounts, as appropriate.

The Miscellaneous Claims Act — Government Code, ch. 403.074 — limits the payment of miscellaneous claims to \$25,000 per lawyer per fiscal biennium.

DIGEST: HB 113 would amend Rider 3 of the Comptroller of Public Accounts' appropriation in the fiscal 2006-07 general appropriations act (SB 1 by Ogden, regular session) to limit payments to \$50,000 per lawyer per fiscal biennium for indigent defense claims under Code of Criminal Procedure, art. 26.051.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect on the 91st day after the last day of the third called session (August 15, 2006, if the special session lasts the full 30 days).

**SUPPORTERS
SAY:**

HB 113 would allow the legal process to proceed efficiently in rare instances when attorneys exceed the \$25,000 claim payment cap in the defense of indigent clients. When a single lawyer reaches the limit, it is generally because the lawyer has taken multiple indigent inmate defense cases during a biennium, which occasionally happens in small towns where few lawyers are available to take such cases. The appropriation in HB 113 is urgent because a case in Crockett in Houston County has been stayed because the legal defense team has reached the limit. Raising the limit would address the Crockett case in particular as well as similar instances elsewhere in the state.

This bill would not make an appropriation but would change the way previously appropriated money is allocated. Because HB 113 would change language in the appropriation rider, the greater limit would not apply to all miscellaneous claims but only to those that fall under Code of Criminal Procedure, art. 26.051.

**OPPONENTS
SAY:**

No apparent opposition.