

## BILL ANALYSIS

Senate Research Center  
82R12075 CAE-D

S.B. 1582  
By: Ogden  
Finance  
4/15/2011  
As Filed

### AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

This bill amends the Government Code relating to state fiscal matters relative to the Judiciary. Section 1 of this bill authorizes state agencies to reduce or recover expenditures by taking action to consolidate reports, extend license, permit or registration periods, enter into contracts to carry out an agency's duties, adopt additional eligibility requirements for benefits, provide for electronic communication, and adopt and collect fees or charges to recover costs incurred by an agency.

Section 2 of this bill stipulates that reimbursements and payments to various persons, including state employees, visiting judges, district judges, and prosecuting attorneys, not be made in an amount greater than amounts authorized in the General Appropriations Act. According to the Office of Court Administration, in some instances statutes outside the General Appropriations Act, such as the Code of Criminal Procedure, determine the amount of reimbursements and payments to these various persons.

Section 3 of this bill amends the Government Code to change provisions relating to the payment of longevity supplements for assistant prosecutors so that, if sufficient funds are not available to meet the requests made by counties in a given period, the county would not be entitled to receive the balance of funds at a later date, and the longevity pay program would be suspended to the extent of any insufficiency.

Section 4 of this bill amends the Government Code to allow the Process Server Review Board to recommend to the Supreme Court of Texas fees to be charged for the certification and renewal of certification of process servers. This bill requires the supreme court to approve the fees before the fees could be collected. The proposed amendment also provides that the Office of Court Administration may collect the fees and that the fees collected shall be sent to the comptroller of public accounts (comptroller) for deposit into the General Revenue Fund. This bill also authorizes travel reimbursement for members of the Process Server Review Board but specifies that members of the board serve without salary compensation. This bill allows fees collected to be appropriated for the support of regulatory programs for process servers and guardians.

Section 5 of this bill changes the classification of the Judicial and Court Personnel Training Fund No. 540 from Other Funds to a dedicated account within the General Revenue Fund.

Section 6 of this bill eliminates the statutory rate for juror pay reimbursement for each day after the first day and replace the amount with language referencing the amount provided in the General Appropriations Act, payable by the comptroller in quarterly distributions to counties. The rate is currently \$40 per day after the first, with \$34 per day reimbursed to counties for each day following the first day. The legislation results in four different rates each fiscal year as determined by amounts appropriated and the reimbursement claims submitted by counties on a quarterly basis.

As proposed, S.B. 1582 amends current law relating to state fiscal matters related to the judiciary.

## **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Supreme Court of Texas in SECTION 4.01 (Section 51.008, Government Code) of this bill.

Rulemaking authority is expressly granted to the comptroller of public accounts in SECTION 6.02 (Section 61.0015, Government Code) of this bill.

## **SECTION BY SECTION ANALYSIS**

### ARTICLE 1. REDUCTION OF EXPENDITURES AND IMPOSITION OF CHARGES GENERALLY

SECTION 1.01. Provides that this article applies to any state agency that receives an appropriation under Article IV of the General Appropriations Act.

SECTION 1.02. Provides that, notwithstanding any other statute of this state, each state agency to which this article applies is authorized to reduce or recover expenditures by:

- (1) consolidating any reports or publications the agency is required to make and filing or delivering any of those reports or publications exclusively by electronic means;
- (2) extending the effective period of any license, permit, or registration the agency grants or administers;
- (3) entering into a contract with another governmental entity or with a private vendor to carry out any of the agency's duties;
- (4) adopting additional eligibility requirements for persons who receive benefits under any law the agency administers to ensure that those benefits are received by the most deserving persons consistent with the purposes for which the benefits are provided;
- (5) providing that any communication between the agency and another person and any document required to be delivered to or by the agency, including any application, notice, billing statement, receipt, or certificate, may be made or delivered by e-mail or through the Internet; and
- (6) adopting and collecting fees or charges to cover any costs the agency incurs in performing its lawful functions.

### ARTICLE 2. REDUCTION IN GENERAL APPROPRIATIONS ACT

SECTION 2.01. Provides that an active, former, or retired visiting judge or justice is not entitled to an amount from the state for expenses, per diem, travel, or salary that exceeds the amount authorized for those purposes by the General Appropriations Act.

SECTION 2.02. Provides that a local administrative district judge is not entitled to a salary from the state under Section 659.012(d) (relating to district judge salary), Government Code, that exceeds the amount authorized for that salary by the General Appropriations Act.

SECTION 2.03. Provides that an active district judge is not entitled to travel expenses under Section 24.019 (Expenses of District Judge), Government Code, in an amount that exceeds the amount authorized for those expenses by the General Appropriations Act.

SECTION 2.04. Provides that a judge, justice, or prosecuting attorney is not entitled to an amount from the state for a salary, a salary supplement, office expenses or reimbursement of office expenses, or travel that exceeds the amount authorized for those purposes by the General Appropriations Act.

SECTION 2.05. (a) Provides that a county is not entitled to receive from the state supplemental salary compensation for county prosecutors under Section 46.0031 (Compensation of County Prosecutors), Government Code, or longevity pay supplements reimbursement under Section 41.255 (Funding), Government Code, or any other supplements for prosecutors, in an amount that exceeds the amount appropriated for those purposes by the General Appropriations Act.

(b) Provides that a county is not entitled to state contributions for salaries or supplements under Chapter 25 (Statutory County Courts) or 26 (Constitutional County Courts), Government Code, in an amount that exceeds the amounts appropriated for those purposes in the General Appropriations Act.

(c) Provides that a county is not entitled to reimbursement under Article 11.071 (Procedure in Death Penalty Case), Code of Criminal Procedure, for reimbursement for compensation of counsel under that article in an amount that exceeds the amount appropriated for that purpose in the General Appropriations Act.

SECTION 2.06. Provides that a person reimbursed by the state for travel and expenses for attendance as a witness as provided by Article 35.27 (Reimbursement of Nonresident Witnesses), Code of Criminal Procedure, is not entitled to an amount that exceeds the amount appropriated for that purpose by the General Appropriations Act.

### ARTICLE 3. FISCAL MATTERS REGARDING ASSISTANT PROSECUTORS

SECTION 3.01. Amends Section 41.255(f), Government Code, as follows:

(f) Provides that a county is not required to pay longevity supplements if the county does not receive funds from the comptroller of public accounts (comptroller) as provided by Subsection (d). Provides that, if sufficient funds are not available to meet the requests made by counties for funds for payment of assistant prosecutors qualified for longevity supplements:

(1) the comptroller is required to apportion the available funds to the eligible counties by reducing the amount payable to each county on an equal percentage basis;

(2) a county is not entitled to receive the balance of the funds at a later date; and

(3) the longevity pay program under this chapter is suspended to the extent of the insufficiency.

Deletes existing text requiring a county that receives from the comptroller an amount less than the amount certified by the county to the comptroller under Subsection (d) (relating to certifying to the comptroller the total amount of longevity pay supplement due to all assistant prosecutors in the county for the preceding state fiscal quarter) to apportion the funds received by reducing the amount payable to eligible assistant prosecutors on an equal percentage basis, but providing that a county is not required to use county funds to make up any difference between the amount certified and the amount received.

SECTION 3.02. Repealer: Section 41.255(g) (requiring the comptroller, under certain conditions, to make a payment of the balance when the funds are available or carry forward the balance owed to the county and pay that amount to the county when the next payment is required), Government Code.

### ARTICLE 4. FISCAL MATTERS REGARDING PROCESS SERVERS

SECTION 4.01. Amends Subchapter A, Chapter 51, Government Code, by adding Section 51.008, as follows:

Sec. 51.008. FEES FOR PROCESS SERVER CERTIFICATION. (a) Authorizes the process server review board established by supreme court order to recommend to the

supreme court the fees to be charged for process server certification and renewal of certification. Requires the supreme court to approve the fees recommended by the process server review board before the fees may be collected.

(b) Requires that the fee for the certification, if a certification is issued or renewed for a term that is less than the certification period provided by supreme court rule, be prorated so that the process server pays only that portion of the fee that is allocable to the period during which the certification is valid. Requires the process server, on renewal of the certification on the new expiration date, to pay the entire certification renewal fee.

(c) Authorizes the Office of Court Administration of the Texas Judicial System (office) to collect the fees recommended by the process server review board and approved by the supreme court. Requires that fees collected under this section be sent to the comptroller for deposit to the credit of the general revenue fund.

(d) Authorizes fees collected under this section to be appropriated to the office for the support of regulatory programs for process servers and guardians.

**SECTION 4.02.** Amends Subchapter B, Chapter 72, Government Code, by adding Sections 72.013 and 72.014, as follows:

**Sec. 72.013. PROCESS SERVER REVIEW BOARD.** Provides that a person appointed to the process server review board established by supreme court order serves without compensation but is entitled to reimbursement for actual and necessary expenses incurred in traveling and performing official board duties.

**Sec. 72.014. CERTIFICATION DIVISION.** Requires the office to establish a certification division to oversee the regulatory programs assigned to the office by law or by the supreme court.

**SECTION 4.03.** (a) Provides that the fees recommended and approved under Section 51.008, Government Code, as added by this article, apply to:

(1) each person who holds a process server certification on the effective date of this Act; and

(2) each person who applies for process server certification on or after the effective date of this Act.

(b) Requires the office to prorate the process server certification fee so that a person who holds a process server certification on the effective date of this Act pays only that portion of the fee that is allocable to the period during which the certification is valid. Provides that, on renewal of the certification on the new expiration date, the entire certification renewal fee is payable.

## **ARTICLE 5. FISCAL MATTERS REGARDING JUDICIAL AND COURT PERSONNEL TRAINING FUND**

**SECTION 5.01.** Amends Section 56.001, Government Code, as follows:

**Sec. 56.001. JUDICIAL AND COURT PERSONNEL TRAINING FUND.** (a) Provides that the judicial and court personnel training fund is an account in the general revenue fund, rather than is created in the state treasury and shall be administered by the court of criminal appeals. Authorizes money in the judicial and court personnel training fund to be appropriated only to the court of criminal appeals for the uses authorized in Section 56.003 (Use of Funds).

(b) Redesignates existing Subsection (i) as Subsection (b). Requires the comptroller, on requisition of the court of criminal appeals, to draw a warrant on

the fund for the amount specified in the requisition for a use authorized in Section 56.003. Prohibits a warrant from exceeding the amount appropriated for any one fiscal year. Deletes existing text requiring that any unexpended balance in the fund in excess of \$500,000, at the end of each state fiscal year, be transferred to the general revenue fund.

#### ARTICLE 6. FISCAL MATTERS REGARDING PAYMENT OF JURORS

SECTION 6.01. Amends Section 61.001(a), Government Code, as follows:

(a) Provides that, except as provided by Subsection (c) (relating to providing reimbursement for expenses in an amount to be determined by the municipality), a person who reports for jury service in response to the process of a court is entitled to receive as reimbursement for travel and other expenses an amount:

(1) not less than \$6 for the first day or fraction of the first day the person is in attendance in court in response to the process and discharges the person's duty for that day; and

(2) not less than the amount provided in the General Appropriations Act, rather than \$40, for each day or fraction of each day the person is in attendance in court in response to the process after the first day and discharges the person's duty for that day.

SECTION 6.02. Amends Sections 61.0015(a) and (e), Government Code, as follows:

(a) Requires the state to reimburse a county the appropriate amount as provided in the General Appropriations Act, rather than \$34 a day, for the reimbursement paid under Section 61.001 (Reimbursement of Expenses of Jurors and Prospective Jurors) to a person who reports for jury service in response to the process of a court for each day or fraction of each day after the first day in attendance in court in response to the process.

(e) Authorizes the comptroller, if a payment on a county's claim for reimbursement is reduced under Subsection (d) (relating to apportioning the available money among the counties by reducing the amount payable to each county on an equal percentage basis), or if a county fails to file the claim for reimbursement in a timely manner, as provided by rule, to apportion the payment of the balance owed the county, rather than requires the comptroller to pay the balance owed to the county when sufficient money described by Subsection (c) (relating to paying claims for reimbursement quarterly to the county treasury of each county that filed a claim from money collected and deposited in the jury service fund) is available or carry forward the balance owed to the county and pay the balance to the county when the next payment is required. Authorizes the comptroller's rules to permit a different rate of reimbursement for each quarterly payment under Subsection (c).

#### ARTICLE 7. EFFECTIVE DATE

SECTION 7.01. Effective date: September 1, 2011.