

Chapter 334

H.B. No. 12

AN ACT

relating to the border prosecution unit.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 772, Government Code, is amended by designating Sections 772.001, 772.002, 772.003, 772.004, 772.005, 772.006, 772.0061, 772.007, 772.0071, 772.008, 772.009, 772.010 as reenacted and amended by Chapter 1215 (H.B. 925), Acts of the 79th Legislature, Regular Session, 2005, 772.010 as added by Chapter 429 (S.B. 1136), Acts of the 76th Legislature, Regular Session, 1999, 772.010 as added by Chapter 1339 (H.B. 564), Acts of the 76th Legislature, Regular Session, 1999, 772.0101, 772.0102, and 772.011 as Subchapter A and adding a subchapter heading to read as follows:

SUBCHAPTER A. PLANNING ENTITIES

SECTION 2. Sections 772.0071(a)(1), (2), and (4), Government Code, are amended to read as follows:

(1) "Border crime" means any crime involving transnational criminal activity that [~~occurs in the border region and that~~] undermines public safety or security, including an offense:

(A) during the prosecution of which an affirmative finding may be requested under Section 39(a)(2), Article 42.12, Code of Criminal Procedure;

(B) under Chapter 19, 20, 20A, 21, 22, 46, 47, or

1 71, Penal Code;

2 (C) under Title 7 or 8, Penal Code;

3 (D) under Chapter 481, Health and Safety Code;

4 (E) committed by a person who is not a citizen or
5 national of the United States and is not lawfully present in the
6 United States; or

7 (F) that is coordinated with or related to
8 activities or crimes that occur or are committed in the United
9 Mexican States.

10 (2) "Border region" means the portion of this state
11 that is located in a county that:

12 (A) is adjacent to[+]

13 [~~(A)~~] an international border; [~~or~~]

14 (B) is adjacent to a county described by
15 Paragraph (A); or

16 (C) is served by a prosecuting attorney whose
17 jurisdiction includes a county described by Paragraph (A) or (B).

18 (4) "Eligible prosecuting attorney" means an attorney
19 [~~in a border region~~] who represents the state in the prosecution of
20 felonies and who:

21 (A) serves a county located in the border region;

22 or

23 (B) serves a county or counties that the criminal
24 justice division determines to be significantly affected by border
25 crime.

26 SECTION 3. Chapter 772, Government Code, is amended by
27 adding Subchapter B to read as follows:

1 SUBCHAPTER B. BORDER PROSECUTION UNIT

2 Sec. 772.051. DEFINITIONS. In this subchapter:

3 (1) "Border crime" and "border region" have the
4 meanings assigned by Section 772.0071.

5 (2) "Border prosecuting attorney" means a prosecuting
6 attorney in a border region who represents the state in the
7 prosecution of felony border crimes.

8 (3) "Criminal justice division" means the criminal
9 justice division established under Section 772.006.

10 (4) "Prosecuting attorney" means a district attorney,
11 criminal district attorney, or county attorney with felony criminal
12 jurisdiction.

13 (5) "Unit" means the border prosecution unit.

14 Sec. 772.052. GENERAL FUNCTION OF BORDER PROSECUTION UNIT.

15 The governor shall establish the border prosecution unit within the
16 criminal justice division to cooperate with and support members of
17 the unit in prosecuting border crime.

18 Sec. 772.053. MEMBERSHIP. (a) The unit is composed of the
19 following prosecuting attorneys:

20 (1) the district attorney for the 34th Judicial
21 District;

22 (2) the district attorney for the 38th Judicial
23 District;

24 (3) the district attorney for the 49th Judicial
25 District;

26 (4) the district attorney for the 63rd Judicial
27 District;

- 1 (5) the district attorney for the 79th Judicial
2 District;
- 3 (6) the district attorney for the 81st Judicial
4 District;
- 5 (7) the district attorney for the 83rd Judicial
6 District;
- 7 (8) the district attorney for the 112th Judicial
8 District;
- 9 (9) the district attorney for the 143rd Judicial
10 District;
- 11 (10) the district attorney for the 156th Judicial
12 District;
- 13 (11) the district attorney for the 229th Judicial
14 District;
- 15 (12) the district attorney for the 293rd Judicial
16 District;
- 17 (13) the district attorney for the 452nd Judicial
18 District;
- 19 (14) the criminal district attorney for Hidalgo
20 County;
- 21 (15) the county attorney with felony criminal
22 jurisdiction for Cameron County;
- 23 (16) the district attorney for Kleberg and Kenedy
24 Counties;
- 25 (17) the county attorney with felony criminal
26 jurisdiction for Willacy County; and
- 27 (18) any other prosecuting attorney who represents the

1 state in the prosecution of felonies for a judicial district that is
2 created by the legislature in the border region or who receives a
3 grant under the prosecution of border crime grant program
4 established under Section 772.0071.

5 (b) A prosecuting attorney described by Subsection (a)
6 shall serve on the unit in addition to the other duties of the
7 prosecuting attorney assigned by law.

8 (c) Each member of the unit shall enter into a memorandum of
9 understanding with the criminal justice division to collaborate and
10 cooperate in the prosecution of border crime.

11 Sec. 772.054. OFFICERS. (a) The unit, on a majority vote,
12 shall elect from among its membership a presiding officer and an
13 assistant presiding officer.

14 (b) The presiding officer and the assistant presiding
15 officer serve terms of one year.

16 (c) The assistant presiding officer serves as presiding
17 officer in the presiding officer's absence or if a vacancy occurs in
18 that office until a new presiding officer is elected as provided by
19 Subsection (d).

20 (d) If a vacancy occurs in the office of presiding officer
21 or assistant presiding officer before the end of the vacating
22 officer's term, the unit shall elect a person to serve the remainder
23 of the term.

24 Sec. 772.055. REIMBURSEMENT FOR EXPENSES. A member of the
25 unit is not entitled to compensation for service on the unit but is
26 entitled to be reimbursed for necessary expenses incurred in
27 carrying out the duties and responsibilities of a member of the unit

1 as provided by the General Appropriations Act.

2 Sec. 772.056. DUTIES OF UNIT. (a) The unit shall meet at
3 least once annually to provide the governor, the lieutenant
4 governor, the speaker of the house of representatives, and the
5 members of the legislature with information regarding:

6 (1) the status of border crime and its effect on
7 prosecutorial resources;

8 (2) the border crimes prosecuted by members of the
9 unit; and

10 (3) the number of border crimes that are committed by a
11 person who is not lawfully present in the United States.

12 (b) The unit shall advise the criminal justice division on:

13 (1) the allocation of grants under the prosecution of
14 border crime grant program established under Section 772.0071;

15 (2) the division of the border region into two or more
16 subregions for training purposes; and

17 (3) any additional prosecutorial needs of the border
18 prosecuting attorneys, including a need for the employment of
19 regional counsel described by Section 772.057 to assist with the
20 prosecution of border crimes.

21 (c) The unit shall facilitate the coordination and
22 collaboration of the border prosecuting attorneys with any regional
23 counsel described by Section 772.057 and with other law enforcement
24 agencies, including the Department of Public Safety, in the
25 investigation and prosecution of border crime.

26 (d) The unit shall develop a nonexclusive list of offenses
27 not otherwise described by Section 772.0071(a)(1) that constitute

1 border crime to provide guidance and enhance uniformity in the
2 investigation and prosecution of border crime.

3 (e) The unit shall serve as a clearinghouse for information
4 related to the investigation and prosecution of border crime and
5 shall develop best practices and guidelines, including best
6 practices for the collection and protection of confidential law
7 enforcement information.

8 (f) The unit shall assist in developing a training program
9 and providing training to members of the unit and law enforcement
10 agencies in the border region on specific issues and techniques
11 relating to the investigation and prosecution of border crime.

12 (g) The unit shall develop accountability and performance
13 measures for members of the unit who receive a grant under the
14 prosecution of border crime grant program established under Section
15 772.0071.

16 Sec. 772.057. DUTIES OF REGIONAL COUNSEL. (a) An attorney
17 employed by a border prosecuting attorney as regional counsel shall
18 assist the border prosecuting attorneys and other regional counsel,
19 as needed, in:

20 (1) the prosecution of border crime;
21 (2) the screening of cases involving border crime;
22 (3) the presenting of cases involving border crime to
23 a grand jury; and

24 (4) the preparation and trial of cases involving
25 border crime.

26 (b) The regional counsel shall serve as a liaison between
27 the unit and other criminal justice entities, including the

1 Department of Public Safety and federal, state, and local
2 prosecutors and law enforcement agencies located in the border
3 region, by:

4 (1) working closely with those entities, as needed, to
5 coordinate and assist in the investigation and prosecution of
6 border crime; and

7 (2) attending multiagency task force hearings and
8 meetings held by federal, state, and local prosecutors and law
9 enforcement agencies on the investigation and prosecution of border
10 crime.

11 (c) The regional counsel shall provide legal and technical
12 assistance to law enforcement agencies investigating border crime,
13 including by:

14 (1) providing legal advice and recommendations
15 regarding Fourth Amendment search and seizure issues, relevant
16 statutes, and case law;

17 (2) drafting and reviewing affidavits requesting the
18 issuance of search warrants, wiretap orders, pen register and trap
19 and trace orders, mobile tracking device orders, and similar court
20 orders; and

21 (3) drafting requests for court orders authorizing:

22 (A) the interception of oral, wire, and
23 electronic communications;

24 (B) the installation and use of a pen register or
25 trap and trace device;

26 (C) the disclosure of subscriber or customer
27 records and information; and

1 (D) other similar court orders that are required
2 to be filed by a prosecutor.

3 (d) The regional counsel shall coordinate training with the
4 unit for border prosecuting attorneys and law enforcement agencies,
5 including by:

6 (1) assisting in identifying training needs in the
7 county or subregion, if any is created, in which the border
8 prosecuting attorney's office or the agency is located;

9 (2) assisting in the development of training curricula
10 and guidelines for the investigation and prosecution of border
11 crime; and

12 (3) participating in and hosting training
13 presentations and sessions in each subregion, if any is created.

14 (e) The regional counsel shall provide legal and technical
15 assistance to border prosecuting attorneys, including by:

16 (1) performing legal research relating to
17 investigating and prosecuting border crime, if requested; and

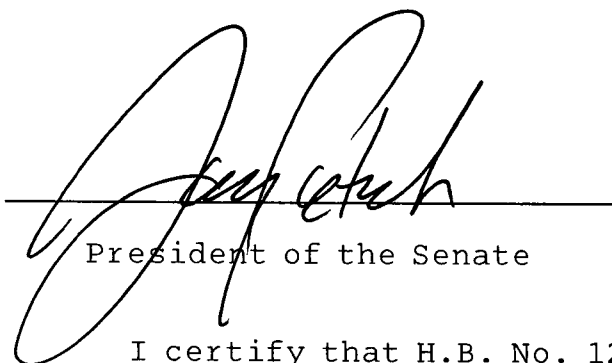
18 (2) coordinating with border prosecuting attorneys
19 and law enforcement agencies to identify experts in the
20 investigation and prosecution of complex, long-term cases against
21 organized criminal enterprises.

22 Sec. 772.058. GIFTS AND GRANTS. The criminal justice
23 division may apply for and accept gifts, grants, and donations from
24 any organization described in Section 501(c)(3) or (4) of the
25 Internal Revenue Code of 1986 for the purposes of funding any
26 activity of the unit under this subchapter. The criminal justice
27 division may apply for and accept grants under federal and state

1 programs.

2 SECTION 4. Section 772.0071(d), Government Code, is
3 repealed.

4 SECTION 5. This Act takes effect September 1, 2015.

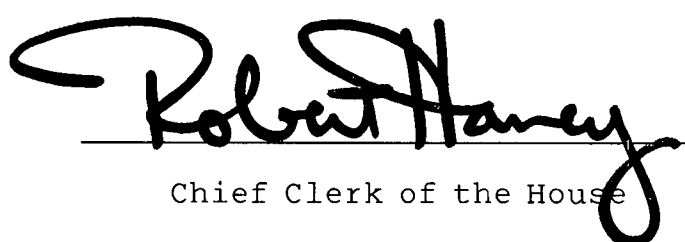


President of the Senate

H.B. No. 12

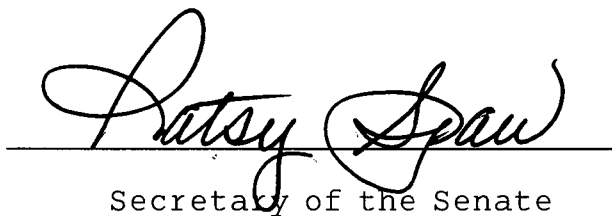

Speaker of the House

I certify that H.B. No. 12 was passed by the House on April 9, 2015, by the following vote: Yeas 143, Nays 0, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 12 on May 29, 2015, by the following vote: Yeas 141, Nays 3, 2 present, not voting.



Chief Clerk of the House

I certify that H.B. No. 12 was passed by the Senate, with amendments, on May 26, 2015, by the following vote: Yeas 31, Nays 0.

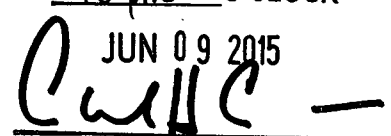


Secretary of the Senate

APPROVED: 6-8-2015
Date



Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
10³⁰ pm O'CLOCK
JUN 09 2015


Secretary of State

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 28, 2015

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB12 by Longoria (Relating to the border prosecution unit.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would amend the Government Code to establish a Border Prosecution Unit composed of certain prosecutors from the border region within the Criminal Justice Division (CJD) of the Office of the Governor. The Border Prosecution Unit would be required to meet annually and provide information related to border prosecutions. The Unit would be required to advise the CJD on the allocation of Border Prosecution Grants and the needs of border prosecuting attorneys including the need for employment of regional council, and facilitate collaboration with other law enforcement agencies. The bill would also require the Border Prosecution Unit to develop a non-exclusive list of offenses, serve as a clearinghouse of information, develop a training program for local law enforcement, and develop accountability and performance measures for grant recipients. The bill would take effect September 1, 2015.

The Office of the Governor, Department of Public Safety, Office of Court Administration and Comptroller of Public Accounts indicated that the duties and responsibilities associated with implementing the provisions of the bill could be accomplished within each agency's existing resources.

Local Government Impact

There may be costs to counties due to increased prosecution of border crimes; however, counties assume that such costs may be offset in an amount equivalent to any grant funding provided. Therefore, no significant impact is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 301 Office of the Governor, 304 Comptroller of Public Accounts, 405 Department of Public Safety

LBB Staff: UP, FR, EP, LBe, KVe

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 21, 2015

TO: Honorable Donna Campbell, Chair, Senate Committee on Veteran Affairs & Military Installations

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB12 by Longoria (Relating to the border prosecution unit.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for HB12, As Engrossed: a negative impact of (\$2,970,000) through the biennium ending August 31, 2017.

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:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2016	(\$1,485,000)
2017	(\$1,485,000)
2018	(\$1,485,000)
2019	(\$1,485,000)
2020	(\$1,485,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund
2016	(\$1,485,000)
2017	(\$1,485,000)
2018	(\$1,485,000)
2019	(\$1,485,000)
2020	(\$1,485,000)

Fiscal Analysis

The bill would amend the Government Code to establish a Border Prosecution Unit composed of certain prosecutors from the border region and staffed by an administrator. The Border Prosecution Unit shall divide the border region into three sub-regions with one or more attorneys per sub-region, and additional employees as necessary. The Border Prosecution Unit would be

required to produce reports related to border prosecutions, serve as a clearing house of information, develop training materials and provide training to local law enforcement.

Under the bill provisions, the estimated fiscal impact would be \$1,485,000 in each fiscal year from 2016-2020. Costs include grants to support the Border Prosecution Unit and certain prosecutors from the border region.

Under the bill provisions, the unit would solicit requests for proposals from members of the Border Prosecution Unit's board for funding. The Border Prosecution Unit reviews the requests and issues recommendations to the Criminal Justice Division (CJD) of the Office of the Governor regarding grant from the Prosecution of Border Crime Grant Program. Funding would need to be available from the Prosecution of Border Crime Grant Program for the Border Prosecution Unit to fulfill the bill provisions. The bill does not require the Criminal Justice Division to fund the Unit's requests.

The bill would take effect September 1, 2015.

Methodology

In 2014, Border Prosecution Grants administered by the CJD were made to 17 eligible jurisdictions averaging \$130,000. The bill provisions would establish the new Border Prosecution Unit with CJD Border Prosecution Grant funding. LBB analysis assumes that the current grants to eligible entities for border prosecutions would be processed by the new Border Prosecution Unit.

The LBB estimates that the bill provisions would entitle the Board of Directors to some reimbursements for eligible costs estimated to be \$10,000 per year.

The LBB estimates that the bill provisions would require an administrator (1.0 FTE x \$80,000 = \$80,000), three contract specialists (3.0 FTEs x \$40,000 = \$120,000), and two training specialists (2.0 FTEs x \$37,500 = \$75,000) at the Border Prosecution Unit to produce reports related to border prosecutions, serve as a clearing house of information, develop training materials and provide training to local law enforcement.

The LBB estimates the three Regional Counsels would require staff to provide prosecutorial and investigative assistance consisting of two attorneys (6.0 FTEs x \$75,000 = \$450,000), two investigators (6.0 FTEs x \$40,000 = \$240,000), two legal assistants (6.0 FTEs x \$40,000 = \$240,000), other contract staff (\$210,000) and travel expenses (\$60,000) for all of the Regional Counsel Offices.

The Texas Association of Counties assumes additional costs will be offset by additional grants provided by the CJD.

Local Government Impact

The bill would result in savings to a county in an amount equivalent to the grant funding provided by the Office of the Governor's Criminal Justice Division for the purposes of the bill.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 301 Office of the Governor, 304 Comptroller of Public Accounts, 405 Department of Public Safety

LBB Staff: UP, FR, ESi, AI, JAW, KVe, EP, LBe, LCO

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

April 1, 2015

TO: Honorable Larry Phillips, Chair, House Committee on Homeland Security & Public Safety

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB12 by Longoria (Relating to the border prosecution unit.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB12, Committee Report 1st House, Substituted: a negative impact of (\$2,970,000) through the biennium ending August 31, 2017.

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:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2016	(\$1,485,000)
2017	(\$1,485,000)
2018	(\$1,485,000)
2019	(\$1,485,000)
2020	(\$1,485,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund
2016	(\$1,485,000)
2017	(\$1,485,000)
2018	(\$1,485,000)
2019	(\$1,485,000)
2020	(\$1,485,000)

Fiscal Analysis

The bill would amend the Government Code to establish a Border Prosecution Unit composed of certain prosecutors from the border region and staffed by an administrator. The Border Prosecution Unit shall divide the border region into three sub-regions with one or more attorneys

per sub-region, and additional employees as necessary. The Border Prosecution Unit would be required to produce reports related to border prosecutions, serve as a clearing house of information, develop training materials and provide training to local law enforcement.

Under the bill provisions, the estimated fiscal impact would be \$1,485,000 in each fiscal year from 2016-2020. Costs include grants to support the Border Prosecution Unit and certain prosecutors from the border region.

Under the bill provisions, the unit would solicit requests for proposals from members of the Border Prosecution Unit's board for funding. The Border Prosecution Unit reviews the requests and issues recommendations to the Criminal Justice Division (CJD) of the Office of the Governor regarding grant from the Prosecution of Border Crime Grant Program. Funding would need to be available from the Prosecution of Border Crime Grant Program for the Border Prosecution Unit to fulfill the bill provisions. The bill does not require the Criminal Justice Division to fund the Unit's requests.

The bill would take effect September 1, 2015.

Methodology

In 2014, Border Prosecution Grants administered by the CJD were made to 17 eligible jurisdictions averaging \$130,000. The bill provisions would establish the new Border Prosecution Unit with CJD Border Prosecution Grant funding. LBB analysis assumes that the current grants to eligible entities for border prosecutions would be processed by the new Border Prosecution Unit.

The LBB estimates that the bill provisions would entitle the Board of Directors to some reimbursements for eligible costs estimated to be \$10,000 per year.

The LBB estimates that the bill provisions would require an administrator (1.0 FTE x \$80,000 = \$80,000), three contract specialists (3.0 FTEs x \$40,000 = \$120,000), and two training specialists (2.0 FTEs x \$37,500 = \$75,000) at the Border Prosecution Unit to produce reports related to border prosecutions, serve as a clearing house of information, develop training materials and provide training to local law enforcement.

The LBB estimates the three Regional Counsels would require staff to provide prosecutorial and investigative assistance consisting of two attorneys (6.0 FTEs x \$75,000 = \$450,000), two investigators (6.0 FTEs x \$40,000 = \$240,000), two legal assistants (6.0 FTEs x \$40,000 = \$240,000), other contract staff (\$210,000) and travel expenses (\$60,000) for all of the Regional Counsel Offices.

The Texas Association of Counties assumes additional costs will be offset by additional grants provided by the CJD.

Local Government Impact

The bill would result in savings to a county in an amount equivalent to the grant funding provided by the Office of the Governor's Criminal Justice Division for the purposes of the bill.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 301 Office of the Governor, 304 Comptroller of Public Accounts, 405 Department of

Public Safety

LBB Staff: UP, ESi, AI, JAW, KVe, EP, LBe, LCO

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

March 23, 2015

TO: Honorable Larry Phillips, Chair, House Committee on Homeland Security & Public Safety

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB12 by Longoria (Relating to the border prosecution unit.), **As Introduced**

The bill would require the state to reimburse counties located in the border region for certain expenses incurred in the investigation of border crime and operational expenses of the border prosecution unit. These operational expenses would include salaries for staff, including an administrator and an undetermined number of attorneys, as well as reimbursements for board members. Costs to state for operations of the border prosecution unit and for reimbursements to counties cannot be determined at this time. However, because the bill would allow the border prosecution unit to hire staff as needed, and would require the state to reimburse these costs, the potential cost to the state could be significant.

The bill would amend the Government Code to establish a Border Prosecution Unit, which would be staffed by an administrator, one or more attorneys per subregion, and additional employees as necessary. The bill would require the state to reimburse counties for expenses incurred for the investigation of border crime and for operational expenses of the unit, including training, prosecution and investigation expenses. The bill would require the commissioners court of a county that incurs these expenses to certify the amount of reimbursement to the Comptroller and would require the Comptroller to issue a warrant either in the amount the commissioners court requested, or in an amount that the Comptroller determines to be reasonable. The bill would take effect September 1, 2015.

Local Government Impact

Because the bill would require the state to reimburse the affected county for costs associated with implementing the provisions of the bill, the bill would result in savings to the affected county in an amount equivalent to the state reimbursement.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 301 Office of the Governor, 304 Comptroller of Public Accounts, 405 Department of Public Safety

LBB Staff: UP, ESi, EP, JAW, LBe, LCO