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FISCAL IMPACT REPORT

ORIGINAL DATE 1/21/06
 LAST UPDATED 2/8/06 HB 18/aHAFC

SPONSOR Chasey

SHORT TITLE Death Penalty Case Contract Attorney Rates SB _____

ANALYST Medina

APPROPRIATION (dollars in thousands)

| Appropriation | | Recurring or Non-Rec | Fund Affected |
|---------------|------|-------------------------|------------------|
| FY06 | FY07 | | |
| | NFI | | |

(Parenthesis () Indicate Expenditure Decreases)

Duplicates Appropriation in the General Appropriation Act
 Duplicates Senate Bill 82

SOURCES OF INFORMATION

LFC Files
 Public Defender Department (PDD)

Responses Not Received From
 General Services Department (GSD)

SUMMARY

Synopsis of HAFC Amendment

House Appropriations and Finance Committee Amendment to House Bill 18 strikes the \$800.0 contained in the bill.

Synopsis of Original Bill

House Bill 18 appropriates \$800.0 from the general fund to the Public Defender Department (PDD) for the purpose of increasing the rate at which attorneys that enter into contracts with the department for the representation of defendants in death penalty cases. The bill also proposes that the attorney fee rates for contract public defenders in death penalty cases be based on the attorney fee schedule set by the Risk Management Division of the General Services Department.

FISCAL IMPLICATIONS

The appropriation of \$800.0 contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of fiscal year 2007 shall revert to the general fund.

SIGNIFICANT ISSUES

The PDD flat fee for first chair contract attorneys representing indigent clients in death penalty cases is \$11.5, with an additional \$5.0 upon notice of the death penalty and another \$8.5 when the case goes to trial, for a maximum of \$24.5. For second chair contract attorneys, the maximum fee is \$12.5.

DUPLICATION

This bill duplicates recommendations for the General Appropriation Act from the LFC's and the Executive for PDD. The Executive appropriation recommendation of \$10 million in the contractual services category includes \$9.8 million to provide for contract attorney fees. The LFC recommends \$11 million for contractual services, including \$10.7 million for contract attorney fees. In FY05, PDD expended \$8.6 million in contract attorney fees and in FY06 the department is budgeted to expend \$9.6 million.

This bill duplicates Senate Bill 82.

OTHER SUBSTANTIVE ISSUES

The General Appropriation Act of 2005 appropriated \$300.0 to PDD to provide for a fee structure for contracting representation of defendants in death penalty cases. PDD has requested that the period of time for expending this \$300.0 appropriation and a 2004 appropriation of \$870.0 for the Santa Rosa prison riot defense be extended through FY07.

DXM/yr:mt