

**Section 1**

**Office of Capital Writs  
Summary of Recommendations- House**

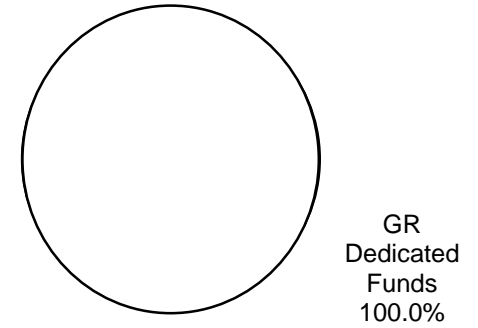
Page IV- 27

Brad Levenson, Executive Director

Mary Kay Spellman, LBB Analyst

<b>Method of Financing</b>	<b>2012-13 Base</b>	<b>2014-15 Recommended</b>	<b>Biennial Change</b>	<b>% Change</b>
General Revenue Funds	\$0	\$0	\$0	0.0%
GR Dedicated Funds	\$1,790,193	\$1,790,193	\$0	0.0%
<i>Total GR-Related Funds</i>	<i>\$1,790,193</i>	<i>\$1,790,193</i>	<i>\$0</i>	<i>0.0%</i>
Federal Funds	\$0	\$0	\$0	0.0%
Other	\$0	\$0	\$0	0.0%
<b>All Funds</b>	<b>\$1,790,193</b>	<b>\$1,790,193</b>	<b>\$0</b>	<b>0.0%</b>

RECOMMENDED FUNDING  
BY METHOD OF FINANCING



<b>FTEs</b>	<b>FY 2013 Budgeted</b>	<b>FY 2015 Recommended</b>	<b>Biennial Change</b>	<b>% Change</b>
FTEs	9.0	9.0	0.0	0.0%

The bill pattern for this agency (2014-15 Recommended) represents an estimated 100% of the agency's estimated total available funds for the 2014-15 biennium.

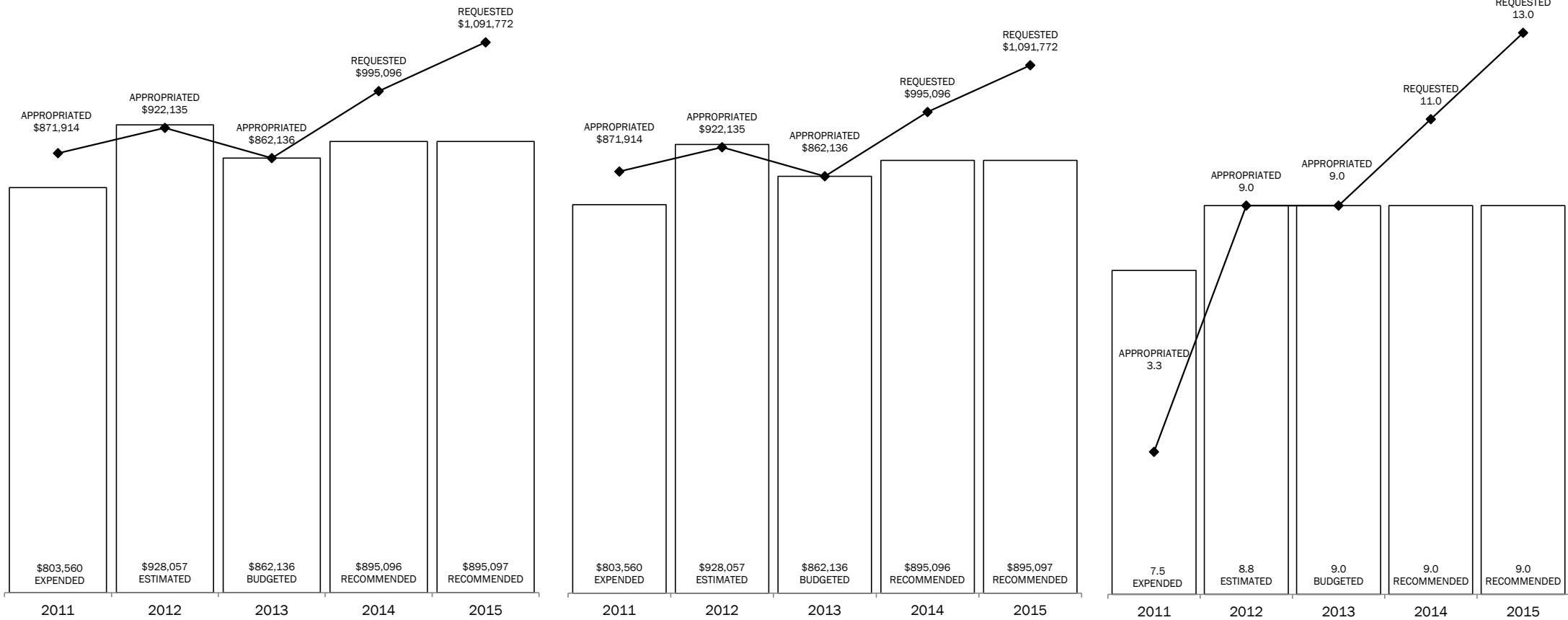
**Section 1**  
**Office of Capital Writs**  
 2014-2015 BIENNIUM

TOTAL= \$1.8 million

**ALL FUNDS**

**GENERAL REVENUE AND  
 GENERAL REVENUE-DEDICATED FUNDS**

**FULL-TIME-EQUIVALENT POSITIONS**



Notes: 1) The Office of Capital Writs was created by the Eighty-first Legislature, Regular Session, 2009. The agency received General Revenue and General Revenue-Dedicated Fair Defense Account funds through transfer from the Office of Court Administration and the Judiciary Section, Comptroller's Department.  
 2) Although there was not a FTE cap in 2011, the agency exceeded the contingency appropriation estimate of 3.3 FTEs in the first year of agency operations.

Section 2

**Office of Capital Writs  
Summary of Recommendations- House, By Method of Finance -- ALL FUNDS**

Strategy/Goal	2012-13 Base	2014-15 Recommended	Biennial Change	% Change	Comments
DEATH PENALTY REPRESENTATION A.1.1	\$1,790,193	\$1,790,193	\$0	0.0%	Recommendations fund agency at 100 percent of 2012-13 spending levels to provide legal representation for indigent death row inmates in post-conviction habeas corpus proceedings. The Office of Capital Writs is funded by General Revenue-Dedicated Fair Defense Account No. 5073.
<b>Total, Goal A, DEATH PENALTY REPRESENTATION</b>	<b>\$1,790,193</b>	<b>\$1,790,193</b>	<b>\$0</b>	<b>0.0%</b>	
<b>Grand Total, All Strategies</b>	<b>\$1,790,193</b>	<b>\$1,790,193</b>	<b>\$0</b>	<b>0.0%</b>	

**Section 3**

**Office of Capital Writs  
Selected Fiscal and Policy Issues**

- Caseload and Request for FTE Funding.** The Office of Capital Writs (OCW) handles post-conviction habeas corpus proceedings and five attorneys, including the Executive Director, a licensed attorney, are assigned cases. According to the agency, the national average caseload for attorneys performing similar duties (i.e. post-conviction offices in local, state and federal jurisdictions) is four to six cases per attorney. OCW reports that there were 18 proceedings (cases) pending as of August 31, 2012. The OCW assigns two attorneys (and an investigator) to each case. Using the reported standard, a caseload of 18 reflects 3.6 appointments/cases per attorney (18 cases / 5 attorneys= 3.6 cases per attorney). However, because OCW assigns two attorneys per case, and makes no distinction between primary and secondary duties for each assignment, the agency's position is that the 18 pending appointments translates into 7.2 appointments/ cases per attorney (18 cases / 2.5 teams of two= 7.2 cases per attorney and team).

In July 2012, the OCW turned down a case stating it was the result of a lack of resources. Texas Government Code, Section 78.054(a)(2) allows the OCW to not accept an appointment under Article 11.071, Code of Criminal Procedure, if the office has insufficient resources to provide adequate representation for the defendant. Absent additional funding above recommended levels, the agency anticipates this trend to continue into the 2014-15 biennium without additional funding, and is requesting two staff attorneys (2 FTEs). Per the OCW standard, this team of two would handle 4-6 cases over the 2014-15 biennium. (See caseload highlights below assuming recommended funding levels).

**Office of Capital Writs  
Caseload Highlights**

	Expended 2011	Estimated 2012	Estimated 2013	Baseline 2014	Baseline 2015
• <i>Number of Cases Unable to Accept (statement and authority for refusal of acceptance)</i>	0	1	3	3	4
• <i>Number of New Case Appointments accepted (assuming current funding levels)</i>	10	8	7	7	6
• <i>Number of Writ Applications Filed (Habeas Briefs)</i>	1	4	9	8	7
• <i>Number of Cases Pending</i>	10	18	25	32	36
• <i>Number of Cases Disposed</i>	0	0	0	0	2
• <i>Number of Cases Per Team of 2**</i>	5	9	13	16	18
• <i>Number of Cases Per Attorney**</i>	3	5	6	8	9

Source: Office of Capital Writs and Legislative Budget Board

\* As of September 1, 2012, 5 attorneys at OCW=2.5 teams

\*\* Figures are rounded.

**Section 3**

**Office of Capital Writs  
FTE Highlights**

Full-Time-Equivalent Positions	Expended 2011	Estimated 2012	Budgeted 2013	Recommended 2014	Recommended 2015
Cap	3.3	9.0	9.0	9.0	9.0
Actual/Budgeted	7.6	8.8	9.0	NA	NA
<b>Schedule of Exempt Positions (Cap)</b>					
Director, Group 3	\$130,000	\$130,000	\$130,000	\$130,000	\$130,000

Note: 3.3 FTEs were included in Article IX, Sec. 17.104 of the 2010-11 General Appropriations Act. Although there was no official FTE cap in fiscal year 2011, the agency exceeded the number of FTEs in the contingency rider.

**Section 3**

**Office of Capital Writs  
Performance Measure Highlights**

	Expended 2011	Estimated 2012	Estimated 2013	Recommended 2014	Recommended 2015
• <i>Number of Writs for Which Evidentiary Hearings are Granted</i>	0	1	3	3	3
• <i>Number of Writ Applications Filed</i>	1	4	9	9	9

**Section 4**

**Office of Capital Writs  
Performance Review and Policy Report Highlights**

<b>Reports &amp; Recommendations</b>	<b>Report Page</b>	<b>Savings/ (Cost)</b>	<b>Gain/ (Loss)</b>	<b>Fund Type</b>	<b>Included in Introduced Bill</b>	<b>Action Required During Session</b>
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**NO RELATED RECOMMENDATIONS**

**Section 5**

**Office of Capital Writs  
Rider Highlights**

**None**



**Section 6**

**Office of Capital Writs  
Items not Included in Recommendations- House**

**In Agency Priority Order:**

1. A request to restore funding to OCW to the level appropriated by the Legislature in fiscal year 2011 and increase \$ FTE positions (4 FTEs)
  - a) \$200,000 from General Revenue-Dedicated Fair Defense Account, to provide funding for 2 FTEs in both fiscal years of the biennium (one attorney and one investigator).
  - b) \$96,675 from General Revenue-Dedicated Fair Defense Account, to provide funding for 2 additional FTEs in fiscal year 2015 (one attorney and one legal support staff member) only.

<b>2014-15 Biennial Total</b>	
<b>GR &amp; GR- Dedicated</b>	<b>All Funds</b>
\$ 296,675	\$ 296,675
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<b>\$ 296,675</b>	<b>\$ 296,675</b>

**Total, Items Not Included in the Recommendations**