

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

April 19, 2005

TO: Honorable Jerry Madden, Chair, House Committee on Corrections

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: HB1843 by Dukes (Relating to grievance and complaint resolution procedures for certain state employees.), As Introduced

Estimated Two-year Net Impact to General Revenue Related Funds for HB1843, As Introduced: a negative impact of (\$339,738) through the biennium ending August 31, 2007.

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
2006	(\$146,474)
2007	(\$193,264)
2008	\$0
2009	\$0
2010	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from GENERAL REVENUE FUND 1	Change in Number of State Employees from FY 2005
2006	(\$146,474)	1.0
2007	(\$193,264)	1.0
2008	\$0	0.0
2009	\$0	0.0
2010	\$0	0.0

Fiscal Analysis

The bill would amend the Government Code by adding a new chapter to establish a grievance and complaint resolution procedures pilot project at the Texas Youth Commission. The bill would establish procedures for the review of complaints or grievances regarding compensation, work hours, employment terminations, demotions, and suspensions without pay. The executive director would be required to issue a written decision concerning the resolution or denial of an employee complaint or grievance within 60 workdays of the initial filing. If a grievance is not resolved to the employee's satisfaction by the executive director, the employee can appeal to the State Office of Administrative Hearings (SOAH) no later than 20 days after the executive director's written decision. The agency would pay the hearing costs if the decision by the administrative law judge is favorable to the employee and half of the costs if the decision is favorable to the agency.

The bill would allow the employees the right to reasonable time off with pay to prepare for and to attend a meeting or hearing on the resolution of their grievances or complaints. The bill prohibits retaliation (discipline,

penalty, or prejudice) against an employee for exercising rights granted under the bill or for acting as a witness in any proceeding on a grievance or complaint. The bill prohibits retaliation against a supervisor for rendering a decision favorable to an employee.

The bill would require the Texas Youth Commission to report to the Legislature by December 1, 2006 regarding their experience implementing these procedures. The report must identify any problems with the complaint or grievance procedure, indicate whether the procedures are cost-effective, and include agency recommendations whether the procedures should apply to all state agencies. This new chapter would expire on September 1, 2007.

Methodology

The bill would allow an appeal of employment termination, demotion, and suspension without pay decisions to the State Office of Administrative Hearings (SOAH). The Texas Youth Commission would pay the hearing costs if the decision is favorable to the employee and half of the costs if the decision is favorable to the agency. The agency estimates 34 hearings would be held in fiscal year 2006 and 53 hearings in fiscal year 2007. The agency estimates that they will pay 55 percent of the total hearing costs accrued by SOAH. This estimate includes SOAH's current \$90 an hour rate for hearing and report preparation time. The hearing cost estimate for SOAH is based on 24 hours of combined hearings. TYC anticipates it will pay 50 percent of the cost on 90 percent of the cases and full cost on the other 10 percent. The estimated costs to the state for SOAH hearings equals \$40,392 in fiscal year 2006 (34 hearings X 24 hours per hearing X \$90 per hour for hearing and report preparation time X 55 percent) and \$62,964 in fiscal year 2007 (53 hearings X 24 hours per hearing X \$90 per hour for hearing and report preparation time X 55 percent).

The agency estimates that the bill would require additional staff to represent the agency and present the case at the SOAH hearings. Included in this cost estimate are increased salary funds to move a current Attorney II to an Attorney III and the addition of one new Attorney III. The current Attorney II conducts only employment termination hearings for employment termination grievances, and raising the position to Attorney III would allow the agency to provide additional legal counsel for the SOAH hearings. The annual estimated cost for additional staff equals \$47,100 (\$3,518 monthly salary for additional Attorney III X 12 months in a year + \$4,884 per year for increased salary for Attorney II).

The agency estimates the bill would also require additional staff overtime to attend each SOAH hearing to serve as witnesses and grievants. The agency assumes that the SOAH hearings will be held in Austin and that eight staff, serving as witnesses, plus the grievant will have to travel to Austin to attend the hearings. The agency estimates four staffers would be direct care staff, which will require overtime pay for coverage of their positions while they are away (8 hours for day trips and 16 hours for overnight trips). The overtime hourly rate for Juvenile Correctional Officer positions is \$19.61. The agency estimates of the 34 hearings in fiscal year 2006, 24 hearings will be one-day trips and 10 will be two-day trips. The agency also estimates that of the 53 hearings in fiscal year 2007, 38 will be one-day trips and 15 will be two-day trips. The estimated costs for additional staff overtime equals \$27,610 in fiscal year 2006 (24 one day trips X 4 direct care employees X 8 hour one day trip X \$19.61 overtime salary) + (10 two day trips X 4 direct care employees X 16 hour two day trip X \$19.61 overtime salary) and \$42,672 in fiscal year 2007 (38 one day trips X 4 direct care employees X 8 hour one day trip X \$19.61 overtime salary) + (15 two day trips X 4 direct care employees X 16 hour two day trip X \$19.61 overtime salary). The estimated total cost for additional staff and overtime would be \$74,710 in fiscal year 2006 (\$47,100 for additional staff + \$27,610 for overtime) and \$89,772 in fiscal year 2007 (\$47,100 for additional staff + \$42,672 for overtime).

Benefits are estimated at \$22,219 in fiscal year 2006 and \$26,698 in fiscal year 2007. Travel costs for staff are estimated at \$9,153 in fiscal year 2006 and \$13,830 in fiscal year 2007 based on 30 percent of the trips requiring overnight travel and the remaining 70 percent as one-day trips.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 360 State Office of Administrative Hearings, 694 Youth Commission

LBB Staff: JOB, KJG, VDS, LG