

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

May 18, 2005

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

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

IN RE: HB2677 by Driver (Relating to certain employment records maintained by the Commission on Law Enforcement Officer Standards and Education; providing an administrative penalty.),
As Engrossed

No significant fiscal implication to the State is anticipated.

The bill would amend the Occupations Code as it relates to certain employment records maintained by the Commission on Law Enforcement Officer Standards and Education and provides an administrative penalty.

The bill would amend the Occupations Code to require the head of a law enforcement agency or the agency's designee to request from the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) in writing employment termination reports maintained by TCLEOSE prior to hiring a licensed peace officer. Law enforcement agencies would have to submit on the form in which they request the employment records, confirmation they have conducted a criminal background check, obtained the applicant's written consent to view the applicant's employment records maintained by TCLEOSE, obtained from TCLEOSE any service or education records maintained by TCLEOSE, and contacted each of the applicant's previous employers. Requests submitted to TCLEOSE must be submitted on the law enforcement agency's letterhead and signed by the agency head or the agency head's designee.

TCLEOSE would be required to release a copy of the report to the law enforcement agency complying with the provisions of the bill. The bill would require TCLEOSE to modify the employment termination report providing preset termination categories. Upon separation from a law enforcement agency, the agency head would select either retired, honorably discharged, dishonorably discharged, generally discharged, killed in the line of duty, died, or disabled when completing the employment termination form.

Under current law, a law enforcement agency head is required to report only those who resign or who are terminated to TCLEOSE. Current law also requires that a law enforcement agency head provide the person who is terminated with a copy of the report and allows the person to submit a written statement to the commission to contest or explain any matter the report contains. The bill would now allow, upon request, the person's next of kin to request a copy of the employment termination report.

The bill would provide a person who is the subject of a termination report maintained by TCLEOSE with an opportunity to contest the information by submitting to TCLEOSE in writing a request for a correction along with any necessary information to contest information contained in the report not later than the 30th day after the date the person receives a copy of the report. A law enforcement agency ordered to correct a person's report shall correct the person's report or request a hearing conducted by the State Office of Administrative Hearings. TCLEOSE may assess an administrative penalty against an agency failing to make a correction or request a hearing in a timely manner.

If TCLEOSE refuses to order the head of a law enforcement agency to correct a person's termination report, the person who is the subject of the report is entitled to an administrative hearing conducted by the State Office of Administrative Hearings. TCLEOSE estimates there will be additional costs

associated with the hearings specified in the bill; however, the State Office of Administrative Hearings estimates that the increased workload for the hearings can be absorbed within existing resources.

The bill would take effect on September 1, 2005 and apply only to those resignations or terminations occurring on or after that date.

Local Government Impact

Local law enforcement agencies could see increased personnel costs with the new submission and reporting requirements. There could also be some costs to those agencies in the event of a disputed employment termination report.

Source Agencies:

LBB Staff: JOB, KJG, VDS, SJ