

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

April 4, 2005

TO: Honorable Rodney Ellis, Chair, Senate Committee on Government Organization

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

IN RE: SB418 by Shapleigh (Relating to continuation and functions of the State Board for Educator Certification.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB418, As Introduced: a positive impact of \$241,414 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	\$5,576
2007	\$235,838
2008	(\$239,189)
2009	\$329,523
2010	\$612,466

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>CERTIF & ASSESSMENT FEES 751</i>	Probable Revenue Gain/ (Loss) from <i>CERTIF & ASSESSMENT FEES 751</i>	Change in Number of State Employees from FY 2005
2006	(\$9,578,365)	\$9,583,941	28.0
2007	(\$9,378,715)	\$9,614,553	28.0
2008	(\$1,502,327)	\$1,263,138	13.0
2009	(\$964,203)	\$1,293,726	8.0
2010	(\$720,513)	\$1,332,979	4.0

Fiscal Analysis

The State Board for Educator Certification (SBEC) is subject to the Sunset Act and will be abolished on September 1, 2005 unless continued by the Legislature. The bill would continue SBEC for 12 years and contains the following additional provisions:

Sections 1, 12, and 14 of the bill would transfer the authority to issue certification waivers and school district teaching permits from the commissioner of education to SBEC.

Sections 2 and 21 of the bill would require that educational diagnosticians employed after September 1, 2006 be certified by SBEC as a condition of employment.

Section 3 of the bill would prohibit persons formally affiliated or whose spouses are formally affiliated with a Texas trade association in the field of education from serving as a member of the board of SBEC or as an SBEC employee. Under this section, the bill would establish minimum training requirements for members of the board.

Sections 6 and 18 of the bill would require SBEC to distribute information related to the requirements for teacher certification, including criminal history background checks, to educator preparation programs and would allow the criminal history background check process to begin at any time a candidate for a certificate or permit is enrolled in a preparation program.

Section 7 of the bill would require SBEC to adopt rules to establish standard deadlines and procedures related to the investigations of complaints against educators.

Section 8 of the bill would require SBEC to improve technology policies to enable public interaction with the board via the Internet.

Section 9 of the bill would extend the State Board of Education's oversight over SBEC rules by including a line item veto.

Section 10 of the bill would allow SBEC to accept gifts, donations, and grants from any source.

Section 11 of the bill would establish requirements and deadlines for notifying examinees of certification examination results. Under this section, the bill would allow SBEC to issue a provisional certificate valid for 12-months upon review of an applicant's credentials for an applicant who is currently certified or licensed in good standing in another jurisdiction (other state or foreign country) that has certification or licensure requirements that are substantially equivalent to those set forth by SBEC, but who has not passed an examination deemed by SBEC to be similar or at least as rigorous as the relevant certification examination described under Section 21.048, Texas Education Code.

Section 14 of the bill would establish a prorated schedule of fees for certification renewal dependent upon how long the certification has been expired. Under this section, the bill would allow certificate renewals to be staggered throughout the year. Currently, all of an individual's certificates expire on the certificate holder's birthdate every fifth year after issuance. The bill would modify the current system to allow each certificate to have an independent expiration date dependent on the date of issue. This section of the bill would also allow an individual who previously held a Texas certificate, moved out of state, holds a valid certificate in that state, and who has been in practice in that state for the two years prior to applying for renewal of the Texas certificate to obtain a new certificate without reexamination.

Sections 6, 17, and 19 of the bill would require SBEC to collect fingerprints and conduct state and national criminal history background checks for individuals applying for or holders of permits and certificates. Legislation passed during the 78th Regular Session, 2003, related to this function was interpreted to mean that SBEC be required to fingerprint only initial certificate applicants. The provisions of this bill requiring fingerprint-based checks for applicants and holders of teaching permits and all current holders of certificates represent an expansion of the function.

The bill would take effect September 1, 2005.

Methodology

The bill would transfer authority to grant certification waivers from the commissioner of education to the State Board for Educator Certification (SBEC). Transferring these functions would require the addition of two full-time-equivalent (FTE) positions at SBEC to review waiver applications. Administrative costs associated with this provision are estimated at \$98,000 in fiscal year 2006 and \$90,000 in each subsequent year. In addition, there would be one-time technology costs associated with programming services required to implement a system to track the waivers, estimated at \$65,000 in fiscal year 2006. Any savings to the Texas Education Agency (TEA) resulting from this transfer are not expected to be significant.

The bill would transfer review of school district teaching permit applications to SBEC from TEA and would require a 30-day turnaround on the review and notification to the school district that an applicant is qualified to teach. This process would require manual review of applications which would require one FTE position. Administrative costs associated with this provision are estimated at \$52,000 in fiscal year 2006 and \$48,000 in each subsequent year. Any savings to TEA resulting from this transfer are not expected to be significant.

It is assumed that an individual deemed "not qualified" through the school district permit review process would have a right to appeal the decision and to request a hearing through the State Office of Administrative Hearings (SOAH). Increased hearing costs resulting from this provision are estimated at \$25,000 annually, based on an average cost of a SOAH hearing of \$5,000 and an assumed increase of 5 hearings per year.

The bill would require SBEC board members to undergo a training program prior to serving on the board. For purposes of this estimate, it is assumed that 2 board members will rotate off the board each year and that a 3-day training program would be necessary to meet requirements, the estimated cost of providing the training is \$3,850 every other year.

The bill would require that SBEC distribute information regarding educator certification requirements to teacher preparation programs in Texas. Based on the current 137 college and university-based and alternative certification programs, the estimated cost of distribution, including design and printing services, would be \$6,000 in fiscal year 2006.

Two other provisions of the bill would require enhancements and modifications to SBEC's information technology systems. The bill directs the Board to improve its technology policies to ensure that the public is able to interact with the board on the Internet, and the bill would allow certificate renewals to be staggered throughout the year.

Currently, all of an individual educator's certificates expire on the certificate holder's birthdate every fifth year after issuance. Under this system, all certificates issued to an individual in a given year expire on the same day, and the educator can apply for renewal one time and pay a single renewal fee. Changing the system to allow each certificate its own renewal cycle would require significant reprogramming and could result in educators with multiple credentials paying multiple renewal fees. According to the agency, complete restructuring of all of SBEC information systems including the ITS systems and web-hosting and new hardware would be required.

The current SBEC systems are built in part on legacy systems that would require wholesale modifications to implement the provisions of the bill. Enhancements to existing applications will become increasingly expensive to support, and as a result, the agency's recommended approach to the provisions of the bill would be a system redesign that would incorporate technology available through TEA that would better support future maintenance and enhancements. An outside contractor would be required to prepare the business analysis and to design and implement the system development project at a total cost of \$3,600,000 during the 2006-07 biennium, with an additional \$1,100,000 in fiscal years 2008 through 2010. These amounts include \$150,000 in hardware and software purchases in fiscal year 2006.

The bill would allow SBEC to issue a provisional certificate to an applicant who is certified or licensed in another jurisdiction, but who has not passed a certification examination under Section 21.052, Texas Education Code, provided that the certification or licensure requirements of the jurisdiction in which the applicant is certified are substantially equivalent to the requirements under SBEC. It is assumed that SBEC would need to conduct a certification comparability study to determine if certification requirements in other states and countries are comparable to Texas requirements. The cost of the study is estimated to be approximately \$200,000 per year in 2006 and 2007. Future costs are estimated at \$50,000 a year thereafter to reflect study of requirements on behalf of applicants from jurisdictions with lower incidence of transfer to Texas.

The bill would establish prorated fees for certificate renewal based how long a certificate has been expired and would allow an individual who previously held a Texas certificate, moved out of state, holds a valid certificate in that state, and who has been in practice in that state for the two years prior

to applying for renewal of the Texas certificate to obtain a new certificate without reexamination. Implementation of this provision would require manual review by Credentialing staff of service records or other documentation verifying employment outside Texas and the current out-of-state certificate to determine eligibility for renewal of the Texas certificate. One additional FTE would be required to support this function. Administrative costs associated with this provision are estimated at \$45,000 in fiscal year 2006 and \$40,500 in each subsequent year.

The bill would require SBEC to collect fingerprints and conduct state and national criminal history background checks on individuals applying for or holders of permits and certificates. Legislation passed during the 78th Regular Session, 2003, related to this function was interpreted to mean that SBEC be required to fingerprint only initial certificate applicants. The provisions of this bill requiring fingerprint-based checks for applicants and holders of teaching permits and all current holders of certificates represent an expansion of the function.

Currently there are 172,368 active lifetime certificate holders statewide who have never been fingerprinted. There are an additional 97,777 certificate holders due for renewal whose initial certificates were issued between 2000 and 2003, before fingerprinting was required. Educators who hold a permit would also be fingerprinted and are estimated in fiscal year 2006 at 4,998 and fiscal year 2007 at 4,749. Due to increased volume, it is assumed that 50 percent of the active certificate holders would be fingerprinted in fiscal year 2006 and 50 percent in fiscal year 2007. Permit holders would be fingerprinted in both fiscal years 2006 and 2007. Total educators estimated to be fingerprinted as a result of the provisions of the bill would be 140,206 in fiscal year 2006 and 139,686 in fiscal year 2007.

In fiscal years 2008-2010, only new applicants and those educators who want to reactivate their certificates would be required to undergo a fingerprint check. Since permit applicants would be added to those required to undergo a fingerprint check under the provisions of the bill, the additional applicants requiring fingerprinting are estimated at 4,500 in fiscal year 2008, 4,200 in fiscal year 2009, and 4,000 in fiscal year 2010.

Currently SBEC contracts with DPS at a rate of \$39.00 per check to cover the state and national criminal history checks. The increased contract costs with DPS to implement these requirements are estimated as \$5.5 million in fiscal year 2006 and \$5.4 million in fiscal year 2007. Estimated increased contract costs associated with the bill for fiscal years 2008-2010 range from \$175,500 to \$156,000.

Additional staff would be required in both the Fingerprinting and Investigations units to manage the increase in state and national history checks. In Fingerprinting, an additional 7.0 FTEs would be necessary to cover the volume of fingerprints for fiscal years 2006 and 2007. These additional 7 FTEs would not be required in subsequent years since only new applicants would require fingerprinting and all active educators are expected to have been fingerprinted.

Based on the increase in the number of individuals undergoing a fingerprint-based criminal history background check and assuming that an individual already certified as an educator would be more likely to challenge revocation of a certificate based on the results of a criminal history background check than an individual denied an initial certificate, it is anticipated that the volume of investigations and resulting hearings through the SOAH would increase as a result of the expansion of the fingerprinted population. As a result, an additional 17 FTEs would be required in the Investigations unit in fiscal years 2006 and 2007 to handle increased investigations and complaints against educators as a result of the expansion of the population checked under the provisions of the bill. These 17 FTEs would include 6 attorneys, 9 investigators, and 2 administrative positions.

Assuming that not all investigations resulting from the expanded fingerprinting program can be resolved within the 2006-07 period and recognizing that once an educator has been fingerprinted, his or her fingerprints are retained in a database that allows SBEC to be notified of any future infractions that could lead to revocation of a certificate, the agency anticipates a continued need for additional FTEs in the Investigations unit beyond 2006-07. In fiscal year 2008, a total of 9 of the 17 FTEs would be retained (3 attorneys, 4 investigators, and 2 administrative positions), decreasing to 4 in fiscal year 2009 (1 attorney, 2 investigators, and 1 administrative position). No additional FTEs would be required in fiscal year 2010 in the investigations unit based on the provisions of the bill.

Administrative costs associated with this provision of the bill are estimated at \$1.7 million in fiscal year 2006, \$1.6 million in fiscal year 2007, \$555,000 in fiscal year 2008, and \$243,000 in fiscal year 2009.

The agency anticipates an increase in the number of hearings resulting from revocation of existing certifications of current educators based on information obtained in the criminal history background check process. Costs associated with increased SOAH hearings are estimated at \$30,000 in fiscal years 2006 and 2007, decreasing to \$15,000 in fiscal year 2008, and \$5,000 in fiscal year 2009, based on an average cost of a SOAH hearing of \$5,000.

Under the current funding structure, SBECs functions are supported entirely with revenue from certification and assessment fees. The agency has determined that the current fingerprinting fee of \$45.00 would be insufficient to cover the additional requirements of the bill; therefore, this fee would need to increase to \$60.00 to cover the costs for criminal history background checks only. This fee increase would cover costs associated with the expansion to current certificate and permit holders in addition to new applicants for permits.

In addition, the renewal fee for the standard certificate would need to be increased to cover costs associated with other provisions of the bill such as technology upgrades affecting multiple functions and changes related to credentialing services. Renewal of the standard certificate would increase from \$20 to \$31. Total new revenue is estimated at \$9.6 million in fiscal years 2006 and 2007 and about \$1.3 in fiscal years 2008-2010.

Technology

The agency projects the following costs associated with upgrading and modifying SBEC's IT and Online functions to meet the requirements of the bill. A complete restructuring of the ITS systems, the SBEC web site, and new hardware would be required. In addition, programming costs of \$65,000 would be necessary to add waiver capabilities SBEC systems. An outside contractor would be required to prepare the business analysis and to design and implement the system development project. Contractor costs are estimated as follows:

FY 2006 - \$1,865,000
FY 2007 - \$1,800,000
FY 2008 - \$ 500,000
FY 2009 - \$ 300,000
FY 2010 - \$ 300,000

Local Government Impact

The bill would require certification of educational diagnosticians. School districts would be required to hire appropriately certified educational diagnosticians beginning September 1, 2006. Assuming that the vast majority of the roughly 3,500 educational diagnosticians employed by districts in 2004-05 would obtain the required certification, increased costs due to staff shortages would seem unlikely. The bill would not require school districts to pay certification costs for existing staff, although districts may choose to incur such costs to retain current staff.

The bill would require a school district that employs a person who has been issued school district teaching permit to send the person's fingerprints to SBEC. School districts issuing district teaching permits would incur costs associated with obtaining and submitting fingerprints. Costs incurred under this requirement will vary from district to district with those districts issuing the highest number of permits incurring the greatest cost potential. It is assumed that such costs would not be significant on a statewide basis.

Source Agencies: 116 Sunset Advisory Commission, 701 Central Education Agency, 705 State Board for Educator Certification

LBB Staff: JOB, LB, UP, JSc