

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**May 23, 2007**

**TO:** Honorable Tom Craddick, Speaker of the House, House of Representatives

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

**IN RE: HB13** by Swinford (Relating to homeland security issues, including border security issues and law enforcement.), **As Passed 2nd House**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB13, As Passed 2nd House: a negative impact of (\$5,811,450) through the biennium ending August 31, 2009.

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
2008	(\$2,870,650)
2009	(\$2,940,800)
2010	(\$2,912,000)
2011	(\$2,976,800)
2012	(\$3,042,000)

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Revenue Gain/(Loss) from <i>New General Revenue Dedicated - Civil Justice Data Repository</i>	Probable Savings/ (Cost) from <i>New General Revenue Dedicated - Civil Justice Data Repository</i>	Probable Savings/ (Cost) from <i>GENERAL REVENUE FUND 1</i>	Probable Savings/ (Cost) from <i>STATE HIGHWAY FUND 6</i>
2008	\$181,000	(\$154,606)	(\$2,870,650)	(\$45,567,993)
2009	\$435,000	(\$138,606)	(\$2,940,800)	(\$10,810,585)
2010	\$436,000	(\$138,606)	(\$2,912,000)	(\$11,926,730)
2011	\$437,000	(\$138,606)	(\$2,976,800)	(\$11,644,188)
2012	\$438,000	(\$138,606)	(\$3,042,000)	(\$11,644,118)

Fiscal Year	Change in Number of State Employees from FY 2007
2008	131.0
2009	131.0
2010	147.0
2011	147.0
2012	147.0

## **Fiscal Analysis**

The bill would amend the Government Code, Local Government Code, Education Code, and the Code of Criminal Procedure relating to homeland security issues, including border security issues and law enforcement.

The bill would amend Education Code, Section 51 which would require peace officers rather than security officers at private institutions and defines the duties and responsibilities of these individuals. The bill also provides process and procedures for private institutions to enter into mutual assistance agreements with peace officers commissioned by the institution to serve the public interest by enforcing state, local, or municipal ordinances.

The bill would amend Chapters 418 of the Government Code, which includes project management resources to support the Texas Data Exchange within the State Emergency Management Plan. The bill states the Governor's Division of Emergency Management shall provide to the Department of Public Safety (DPS) the necessary project management resources to support the Texas Data Exchange.

The bill establishes the Texas Fusion Center within the Office of the Governor. The bill would create a multi-agency coordination system as outlined in the federal Department of Homeland Security publication "National Incident Management System." The bill would establish the Border Security Council consisting of members appointed by the Governor. The bill also provides policies and procedures for the development of the Border Security Council. The bill establishes guidelines for the movement of control of the Texas Data Exchange or any other similar databases from the Office of the Governor to DPS. The bill states the Office of the Governor with advice of the Border Security Council shall allocate federal and state grants related to homeland security. The bill also states that DPS, at the request of the Governor, shall provide facilities and administrative support for the Texas Fusion Center.

The bill states that a political subdivision of the state may enter into an agreement to perform a function of an immigration officer and provides process and procedures for those agreements. The bill also states what criminal information can be collected under this section. The bill also states process and procedures in determining if information is required to be removed from an intelligence database. The bill develops policies and procedures related to judicial findings, criminal offenses, preventative actions, and requires training for peace officers related to human trafficking. The bill develops policies and procedures related to the collection and dissemination of certain information for a federal firearm background check. The bill provides guidelines related to reports and racial profiling in connection with motor vehicle stops. The bill requires mandatory DNA records for individuals convicted or adjudicated of certain offenses. The bill provides policies and procedures for a border crossing initiate and issuance of an enhanced driver license or personal identification certificate. The bill describes the liability of a governmental unit for action taken by a peace officer engaged in the pursuit of a motor vehicle. The bill requires motor vehicle inspection facilities near the Texas/Mexico border.

The bill states the Speaker of the House of Representatives and Lieutenant Governor may assign a joint interim committee to evaluate whether the state's criminal justice system can be more efficient if the state or certain political subdivisions of the state seek one or more agreements under the Immigration and Nationality Act, Section 287(g). The bill requires a report on human trafficking by the Border Security Council no later than September 1, 2008. The bill would take effect immediately if it is passed by a two-thirds vote of all members of each house. Otherwise, the bill would take effect on September 1, 2007.

## **Methodology**

Regarding the section of the bill relating to reports on racial profiling in connection with motor vehicle stops, the Comptroller of Public Accounts (CPA) indicates revenue estimates were based on historical data from county-level justice and municipal courts and were adjusted for growth, indigency, and implementation. The CPA reports the new court costs for criminal cases were multiplied by the total number of convictions, reduced to reflect the historical non-collection rates, and adjusted for an implementation lag. Based on these assumptions the revenue for the \$0.15 court cost would be \$181,000 in fiscal year 2008, \$435,000 in fiscal year 2009, \$436,000 in fiscal year 2010, \$437,000 in

fiscal year 2011 and \$438,000 in fiscal year 2012.

The bill would create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either within or outside of the Treasury, or create a dedicated revenue source. Therefore, the fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

The Texas Commission on Law Enforcement Standards and Education states that they would require two additional Program Specialist FTEs under the B10 salary group at a combined \$100,766 per year for a total of \$138,106 (including benefit costs and rent) each year for the provision of the bill requiring the creation of a website, and for increased information resources workload including punitive action against non-compliant agency administrators. The Department of Public Safety (DPS), the Office of Attorney General, the Texas State University System and the University of North Texas anticipate no significant fiscal impact to their agencies from this provision of the bill.

Regarding the section of the bill relating to mandatory DNA records for individuals convicted or adjudicated of certain offenses, current provisions in the Government Code provide that a DNA sample be collected from an individual confined in a penal institution operated by or under contract with the Texas Department of Criminal Justice (TDCJ), or a juvenile who is, after being adjudicated for conduct constituting a felony, confined in a facility operated by or under contract with the Texas Youth Commission (TYC). The provisions of this bill would broaden the collection of a DNA sample to apply to offenders placed on felony probation supervised by community supervision and corrections departments. The bill would also include juveniles adjudicated for a felony offense supervised by county juvenile probation departments. Provisions in the bill would apply to persons who commit the applicable offenses on or after September 1, 2007, the effective date of this Act.

DPS has determined that the costs associated with implementing the bill would be \$5.0 million in Highway Fund 6 (\$3.1 million in fiscal year 2008 and \$1.9 million in fiscal year 2009). DPS currently receives DNA samples from adult and juvenile felons placed on probation or parole for sexual related offenses. According to records provided by TDCJ and the Texas Juvenile Probation Commission (TJPC), DPS estimates that the number of DNA samples submitted to DPS will increase by approximately 61,245. The increase of DNA submissions will require DPS to increase the Combine DNA Information System (CODIS) laboratory space, personnel, DNA reagents, and equipment. These costs over the biennium would include: \$0.8 million for eight (8) additional laboratory personnel, \$1.3 million for equipment, \$2.7 million for the DNA reagents, and \$54,000 for additional laboratory space.

TDCJ estimates the costs associated with implementing the bill to be approximately \$5.8 million in General Revenue during fiscal year 2008 and 2009. The costs include collecting DNA samples from new felony probationers at an estimated \$50 per DNA sample. In fiscal year 2006, there were 56,573 new felony probationers. Based on the Legislative Budget Board January 2007 population projections, it is estimated that there will be approximately 57,000 to 60,000 new felony probationers added to community supervision caseloads in fiscal years 2008 through 2012. Costs for collecting DNA samples for adult felony probationers in the subsequent years are estimated to be approximately \$3.0 million per year. TDCJ estimates that there are currently 106,000 offenders on community supervision who have not submitted a DNA sample. If the intent of the bill is to collect DNA samples from the 106,000 current felony probationers who have not submitted samples, the cost would be an additional \$5.3 million (106,000 X \$50). TYC states DNA samples are currently collected for felony offenders. TYC has determined that the costs associated with implementing the bill would not be significant and could be absorbed with current resources.

Regarding the section of the bill that relates to the border crossing initiative and the issuance of an enhanced driver license or personal identification certificate, the bill states that DPS may set a fee for the issuance of enhanced driver licenses, or personal identification certificates, to cover the cost of implementing and administering this section. DPS states the amount of estimated revenue collected is not known at this time because it is unknown how many individuals will request an enhanced driver license or personal identification certificate and the amount charged per license or certificate would depend on the estimated population served. DPS currently does not receive driver license fees as part of their appropriations. This analysis assumes the potential fees collected would be a revenue gain for

the General Revenue Fund and additional appropriation authority would be required to allow these additional fees to pay for the costs of DPS implementing the proposed program.

The bill would require each customer to select either an enhanced or standard driver license or personal identification certificate. DPS field personnel will be required to ask each customer which type of driver license or personal identification certificate they would prefer and explain the difference between each. DPS states they are unable to determine the number of customers that would select the enhanced driver license or personal identification certificate. DPS estimates that an additional 121 FTEs (120 Administrative Assistant I positions at \$21,992 and 1 program administrator) would be required due to increased driver license or personal identification certificate process and wait times. In 2006, DPS states the driver license division processed approximately 5,869,064 driver licenses or personal identification certificates. DPS states the enhanced driver licenses or personal identification certificates would be processed in person at a driver license location. At each location, DPS estimates an additional processing time of three minutes total (2 minutes x 5,869,064 driver licenses or personal identification certificates + 1 minute x 1,049,711 Immigration and Naturalization document holders) per transaction results for a total of 12,787,839 additional processing minutes per year. Additional transaction hours were divided by the number of FTE working minutes in a year (108,750) resulting in an additional 117 FTEs per year (12,787,839 / 108,750). DPS states the remaining 4 FTEs would provide management support and customer service to phone calls and electronic messages about the program.

Additional equipment and office modifications would be required for license issuance lanes. Modification for one (1) issuance lane is estimated at \$3,750. Therefore, projected cost for office modifications is \$438,750 (117 x \$3,750) plus costs for issuance lane equipment consisting of a desktop and printer for each FTE. Other operating expenses include maintenance and repair of office machines and computer equipment, computer supplies, non-capital computer equipment, and furniture and equipment.

Regarding the section of the bill that relates to motor vehicle inspection facilities near the Texas/Mexico border, the Department of Transportation (TxDOT) indicates the bill would require the relocation or establishment of a new border inspection facility in Laredo. Based on analysis provided by TxDOT, it is assumed the establishment of a new facility in Laredo would require three years of design and planning and result in a total cost of \$27.9 million for design, environmental assessments, architectural and engineering services, and construction. It is assumed the new facility would not become operational until fiscal year 2010.

Pursuant to Section 403.071, Government Code, appropriations for new construction contracts are not available for payment of claims later than four years after the end of the fiscal year for which the appropriation was made. Therefore, construction appropriations made by the 76th Legislature for the 2000-01 biennium would not be available to implement the provisions of the bill. For the purposes of this analysis, it is assumed TxDOT would finance the establishment of the new facility with available construction appropriations out of the State Highway Fund for the 2008-09 fiscal biennium.

Based on information provided by DPS, it is assumed staffing for the new inspection facility would require ten civilian commercial motor vehicle inspectors, five trooper positions, and one sergeant for total salary costs of \$577,848 each year. Employee benefits costs associated with the 16 positions (16.0 FTEs) are estimated to be \$163,473 each year (28.29 percent of salaries). Additional costs for information technology items, equipment, travel, and miscellaneous operating expenses are estimated to be \$374,824 in fiscal year 2010 and \$92,212 each year thereafter.

The Office of the Governor states they anticipate no significant fiscal impact to their agency.

## **Technology**

This analysis includes technology costs estimated for the creation and maintenance of a website, programming changes to the new driver license system, computers, printers, and enterprise software agreements totaling \$2,272,502 in 2008 and \$19,840 from 2009 through 2012.

## Local Government Impact

Regarding the section of the bill relating to mandatory DNA records for individuals convicted or adjudicated of certain offenses, the Texas Juvenile Probation Commission (TJPC) has estimated that the costs associated with implementing the bill would impact local counties by approximately \$437,150 per year. TJPC estimates that the cost of collecting a DNA sample is \$50 per sample. During fiscal year 2006, approximately 8,743 juveniles from all counties ( $8,743 \times \$50 = \$437,150$ ) were adjudicated for the commission of a felony offense, excluding felony sex offenders who currently are required to provide a DNA sample.

Harris County reported costs of \$1.6 million in fiscal year 2008, mostly for hiring and outfitting 21 new personnel. Three additional employees would be hired in fiscal year 2011; costs would rise to \$1.9 million by fiscal year 2012.

The Jefferson County Adult Probation Department reported requiring three new personnel at a cost of \$157,000 in fiscal year 2008. The Travis County Sheriff's Office reported new operational costs of \$1.9 million in fiscal year 2008 and each fiscal year afterwards to pay for an estimated 6,100 DNA tests at approximately \$319 each.

Dallas County, the Montgomery County Sheriff's Office, the Nueces County Sheriff's Office, and Tarrant County Juvenile Services reported that implementing the provisions of the bill would have no effect on their budgets.

The section of the bill relating to the liability of a government unit for action taken by a peace officer engaged in the pursuit of a motor vehicle could create an indeterminate amount of savings to local governments in legal costs and damage awards that might otherwise be incurred if an action by a peace officer were to result in a lawsuit.

**Source Agencies:** 405 Department of Public Safety, 752 University of North Texas, 758 Texas State University System, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 407 Commission on Law Enforcement Officer Standards and Education

**LBB Staff:** JOB, KJG, ES, GG, CT, LG