

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

March 16, 2007

TO: Honorable Burt R. Solomons, Chair, House Committee on Financial Institutions

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

IN RE: HB490 by Solomons (Relating to property in the custody of a pawnbroker; providing criminal penalties.), **As Introduced**

No fiscal implication to the State is anticipated.

The bill would add Section 371.1821 to Chapter 371, Finance Code, to authorize the chief law enforcement officer of a sheriff's office or of a municipal police department to place a hold order on goods in the possession of a pawnbroker if the officer has reasonable suspicion to believe those goods are misappropriated. Procedures for placing and removing the hold and relating to the length of the hold are stipulated in the bill. A person who pledges with or sells misappropriated property to a pawnbroker under the subsection commits a Class B misdemeanor.

The bill would add Subchapter H to Chapter 371, Finance Code, to require a pawnbroker who generates computerized pawn and purchase tickets to transmit, as required by the chief law enforcement officer, all reportable data to the law enforcement agency electronically in a format used by the pawnbroker's computer software or to transmit all transaction data electronically in the format used by the pawnbroker's computer software directly to a provider of a repository system approved by the Consumer Credit Commissioner (CCC). If the data is transmitted to the law enforcement agency, the agency would be required to maintain a secure database using a minimum 128-bit encryption. The law enforcement agency would not be allowed to charge a fee for the preparation, compilation, conversion, or transmission of data. If transaction data is sent to a repository, the pawnbroker and the chief law enforcement officer may agree on another means of transferring transaction data to the law enforcement agency.

If a provider is used to establish and maintain a repository of the pawnshop data, the repository would be allowed to charge a law enforcement agency a fee to access the data. The provider would be prohibited from charging a fee to a pawnshop or its customers for compiling, transmitting, creating, maintaining, or using the repository. Disclosure of information maintained by the repository to anyone other than a law enforcement agency for investigative purposes or to the CCC for administrative purposes would be a Class A misdemeanor. Fraudulently gaining access to information in the repository would also be a Class A misdemeanor.

If the CCC approves a provider to establish and maintain a repository, the CCC would be required to receive and evaluate competitive proposals from the provider and other potential providers at least once every two years. A provider or a law enforcement agency would be required to report to the CCC on or before January 1 of each year the total number of transactions reported by each reporting pawnbroker in the preceding calendar year.

The bill would authorize the Finance Commission of Texas to adopt rules to establish procedures to address computer-related malfunctions and errors under the new subchapter.

A pawnbroker who electronically reports information would be required to make available for on-site inspection to any appropriate law enforcement officer on request, paper copies of pawn or purchase transaction documents for 180 days after the date the data is transmitted electronically.

The CCC and the Department of Banking, for which the Finance Commission has oversight, indicate that requirements of the bill could be implemented using existing resources.

Local Government Impact

The Legislative Budget Board contacted sheriff's offices and police departments from various sized counties and municipalities. Responses provided only discussed the fiscal impact of implementing the provisions under Subchapter H.

Harris County, with a population of 3.4 million, reported that its sheriff's office already has an electronic data system capable of handling submissions from pawnshops, although the feature is not currently activated. Computer programming required to activate the feature would result in a one-time cost of \$8,000, which the county indicates is an insignificant impact. The Travis County Sheriff's Office, in a county with a population of 812,280, and the Fort Bend County Sheriff's Office, in a county with a population of 354,452, indicated there would be no fiscal impact to their offices. The Collin County Sheriff's Office (county population of 491,675) reported that the office already has a similar procedure in place as described in the bill and that there are very few pawn shops in the area; therefore, there would be no fiscal impact to the department.

The City of Houston Police Department (HPD) estimates, based on four years of research, that if the department were to utilize a repository system, the cost of the contract would be conservatively \$150,000 per year. No estimate was given regarding costs of access fees. The department assumes automating the transaction data would result in a savings of approximately \$80,000 in manhours for manual entry (based on salaries only). If the department were to use its own automated system, there would be initial programming costs of \$10,000. The City of Houston's population reported in the 2000 Census is 1.9 million.

The City of Austin (2000 Census population of 656,562) reports that the Austin Police Department has been in a pilot program with a repository system provider. In addition to the base cost of the contract, the repository charges anywhere from 30-cents to 60-cents per item in access fees, depending on the number of items searched. The city reports that it expects it would run searches for 30,500 to 31,000 stolen items every two months, which would be charged at the 30-cent per item rate, resulting in annual access charges of between \$54,900 and \$55,800.

The City of Abilene Police Department currently uses volunteers to manually enter pawn data, and under the provisions of the bill would choose to contract with a repository service rather than having the pawnshops report electronically directly to the department. Having checked with possible service providers, the department anticipates expending \$8,400 the first year of a contract, \$8,820 the second year, and up to \$10,210 annually by fiscal year 2012. The department did not provide an estimated cost related to access fees. The city's 2000 Census population is 115,930.

The fiscal impact would vary by law enforcement agency depending on the number of pawnshops within the agency's jurisdiction, the amount of data generated and searched, existing automation capabilities within the department, compatibility of the department's automation with that of the pawnshops, and costs of contracts and access fees charged by a repository provider.

Source Agencies: 451 Department of Banking, 466 Office of Consumer Credit Commissioner

LBB Staff: JOB, JRO, JB, DB, TGI