

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 25, 2007

TO: Honorable Byron Cook, Chair, House Committee on Civil Practices

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

IN RE: HB3550 by Haggerty (Relating to false claims against the state and school districts and actions by private persons to prosecute those claims; providing a civil penalty.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3550, As Introduced: an impact of \$0 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	\$0
2009	\$0
2010	(\$736,297)
2011	(\$898,859)
2012	(\$880,922)

All Funds, Five-Year Impact:

Fiscal Year	Probable (Cost) from GENERAL REVENUE FUND 1	Change in Number of State Employees from FY 2007
2008	\$0	0.0
2009	\$0	0.0
2010	(\$736,297)	7.0
2011	(\$898,859)	9.0
2012	(\$880,922)	9.0

Fiscal Analysis

The bill would amend the Government Code and prohibit a person from making any false or fraudulent claim for payment to the state or school districts. The bill would also provide for expanded investigative responsibilities for the Office of the Attorney General (OAG) related to any false claims made against the state.

The bill would also provide for a private litigant to bring an action on behalf of the state (qui tam action) to recover funds. The OAG may take over the qui tam action and may limit the private litigants’ participation. The state may also pursue any alternative remedy available to it, including seeking any administrative penalties.

The bill would also prohibit an employer from retaliating against a person who brought or participated in any action as described above. A person who is purportedly retaliated against may bring an action in the appropriate district court, and may be entitled to reinstatement, and two times the amount of back pay, interest on back pay, compensation for special damages, and attorney's fees if he/she prevails.

Methodology

The OAG anticipates that an increase in workload would result for the agency as it relates to investigation and litigation arising out of provisions within the bill. It is assumed that for the 2008 and 2009 the agency could reasonably absorb the costs associated with this increased work load. However, for 2010, it is assumend the agency would require an additional 7 FTEs to handle the increased volume of cases arising out of fraudulent claims against the state and school districts. The salary costs associated with these 7 FTEs would be \$602,660 in General Revenue for each year. In addition, associated general overhead costs for items such as travel, computers, and consumables would cost \$133,637 in General Revenue in 2010 and \$60,070 in General Revenue for the remaining years.

The OAG indicates that cases for fraudulent claims will increase, as a result, it is assumend that the agency would require and additional 2 FTEs in 2011 and 2012 at a salary cost of \$201,762 in General Revenue per year. Associated general overhead costs for items such as travel, computers, and consumables would cost \$34,367 in General Revenue per year and \$16,430 in General Revenue for the reaming years.

Any revenue generated as a result of additional recoveries made by the state would depend upon the number of cases and the amounts recovered, and therefore, the amount of revenue cannot be estimated. However, the Office of the Attorney General indicates that the costs associated with implementing the provisions of the bill shown in the table above could reasonably be expected to be offset by future recoveries the State.

Technology

There would be no significant technology costs associated with implementation of the provisions of the bill.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General

LBB Staff: JOB, SD, MN, JM