LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 13, 2007

TO: Honorable Robert Duncan, Chair, Senate Committee on State Affairs

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

IN RE: **SB278** by Gallegos (Relating to the creation of a state occupational health and safety plan; establishing a maintenance tax.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB278, 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	$0
2011	$0
2012	$0

All Funds, Five-Year Impact:

Fiscal Year	Probable (Cost) from *GENERAL REVENUE FUND* 1	Probable Revenue Gain from *GENERAL REVENUE FUND* 1	Probable (Cost) from *FEDERAL FUNDS* 555	Probable Revenue Gain from *FEDERAL FUNDS* 555
2008	($301,771)	$301,771	($92,770)	$92,770
2009	($2,727,565)	$2,727,565	($3,128,802)	$3,128,802
2010	($9,446,145)	$9,446,145	($5,330,390)	$5,330,390
2011	($9,446,145)	$9,446,145	($5,330,390)	$5,330,390
2012	($9,581,507)	$9,581,507	($5,465,753)	$5,465,753

Fiscal Year	Probable Revenue Gain from *DEPT INS OPERATING ACCT* 36	Change in Number of State Employees from FY 2007
2008		3.0
2009		201.5
2010		201.5
2011		201.5
2012	$6,583,857	201.5

Fiscal Analysis

The bill would amend the Labor Code to establish the State Occupational Health and Safety Plan. The bill would provide the Texas Department of Insurance (TDI) regulatory authority regarding occupational safety and health issues over all Texas employers with one or more employees and duties to gather, maintain, and publish research relating to the prevention of occupational injuries and illnesses, to provide consultations, safety training, and safety publications, to gather occupational injury and illness information from all Texas employers for classification purposes. The bill would transfer the regulation of the Hazard Communication Act from the Department of State Health Services (DSHS) to the Division of Workers' Compensation (DWC) at TDI.

The bill provides for the creation of funding through an additional maintenance tax collected from workers' compensation insurance carriers, to be assessed and collected by TDI. TDI would remit taxes and revenues collected under the bill to the Comptroller for deposit into General Revenue.

The bill would take effect September 1, 2007.

Methodology

It is assumed the private sector enforcement program as administered by TDI would be similar in organization and scope as the current federal enforcement by OSHA. The latest available federal enforcement data indicates that 5,022 inspections of private sector employers would be conducted each year. Based on the analysis of TDI, this would require 107 FTEs, Inspector IV's, to each conduct an average of 47 inspections per year. These inspectors would be required to travel 50 to 75 percent of the time to conduct inspections. Costs for the private sector enforcement program would also include an additional 23 FTEs: eight Clerk III, eight Administrative Assistant III, six Manager II, and one Director II.

It is assumed the state would also establish public sector enforcement and that there would be 753 inspections of public sector employers conducted each year. This would require 16 FTEs, Inspector IV's, to each conduct an average 47 inspections per year. These inspectors would be required to travel 50 to 75 percent of the time to conduct inspections. Costs for the public sector enforcement program would also include an additional 3 FTEs, one Clerk III and two Manager II.

It is assumed the state would establish public sector consultation and that there would be 457 consultation visits to public sector employers each year. This would require 4 FTEs, Inspector IV's, to each conduct 114 consultations per year. Costs for the public sector consultation program would also include an additional 3.5 FTEs, 2.5 Administrative Assistant III and one Manager III.

It is assumed the bill's requirement that TDI collect data regarding the frequency of accidents would require TDI to retain 7 FTEs, six Research and Statistics Technicians I and one Program Specialist I, to collect and process data collection forms as well as build an analysis and entry system and integrate that system into the current claims system.

It is assumed the bill's requirement that TDI collect data regarding the existence and implementation of private safety programs by the employers would require TDI to retain 27 FTEs, 26 Research and Statistics Technicians I and one Program Specialist I, to collect and process data collection forms. It is also assumed there would be start-up costs for developing a database incurred in fiscal year 2008 and maintenance costs associated with the database in subsequent fiscal years. The cost of mailouts to collect this data, including postage, would be $1,296,040 in fiscal year 2009 and $2,592,080 in subsequent fiscal years.

It is assumed DWC would need 3.0 FTEs, two Attorney III and one Legal Secretary IV, each fiscal year to assist in drafting the state plan and comply with the rulemaking requirements of the bill.

Costs for TDI also include FTEs necessary in order to maintain the current support personnel to staff ratios. Information Technology Services would require an additional 1 FTE, Network Specialist II, to be added to the Helpdesk and 1 FTE, Network Specialist III, for the Desktop/Telecommunications Support section. Financial Services would require an additional 4 FTEs, one Accountant I, one

Accountant II, one Clerk IV, and one Budget Analyst I, for duties including budget development and monitoring, auditing and paying travel vouchers, and federal grant administration. Human Resources would require an additional 2 FTEs, two Human Resources Specialist II, to support the additional employees.

House Resolution 4818 of the United States Consolidated Appropriations Act requires that no less than 50 percent of the costs of state occupational safety and health programs required to be incurred under plans approved by the U.S. Secretary of Labor under section 18 of the Occupational Health and Safety (OSH) Act must come from federal funds. These costs would total $185,541 in fiscal year 2008, $6,257,604 in fiscal year 2009, $10,660,781 in fiscal years 2010 and 2011, and $10,931,506 in fiscal year 2012. This analysis assumes 50 percent of these costs would be paid for by federal funds.

It is assumed any costs not paid from federal funds would be paid from the new maintenance tax revenues generated under the bill. Based on the analysis of the Comptroller, the bill would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. Legislative policy, implemented as Government Code 403.094, consolidated special funds (except those affected by constitutional, federal, or other restrictions) into the General Revenue Fund as of August 31, 1993 and eliminated all applicable statutory revenue dedications as of August 31, 1995. Each subsequent Legislature has reviewed bills that affect funds consolidation. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

It is assumed the bill would result in a revenue gain to General Revenue – Dedicated Account Fund 36 in fiscal year 2012. The enforcement program would generate revenue when penalties are assessed for violations. Based on analysis by TDI, it is assumed penalties would not be collected during the first 3 years of plan development. In fiscal year 2006 $5,725,093 in penalties was collected by OSHA in Texas. It is assumed that in addition to this amount, $858,764 in penalties from public sector employees would be collected each year for a total of $6,583,857 each year. Since General Revenue - Dedicated Account Fund 36 is a self-leveling account, this analysis assumes all revenue generated would go toward fund balances or the maintenance tax would be set to recover a lower level of revenue the following year.

Based on the analysis of DSHS, it is assumed that agency would not realize any savings associated with the transfer of the regulation of the Hazard Communication Act. DSHS conducts, on average, two inspections and one enforcement action per year under this Act.

Technology

There would be a technology impact to TDI of $4,332 in fiscal year 2008, $334,981 in fiscal year 2009, and $270,725 in fiscal year 2012.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 454 Department of Insurance, 537 State Health Services, Department of

LBB Staff: JOB, KJG, MW, SK