

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

March 16, 2007

TO: Honorable Jane Nelson, Chair, Senate Committee on Health & Human Services

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

IN RE: SB368 by Ellis (Relating to the elimination of smoking in all workplaces and public places; providing penalties.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB368, As Introduced: a negative impact of (\$270,360) 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	(\$270,360)
2009	\$0
2010	\$0
2011	\$0
2012	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable (Cost) from GENERAL REVENUE FUND 1
2008	(\$270,360)
2009	\$0
2010	\$0
2011	\$0
2012	\$0

Fiscal Analysis

The bill would prohibit smoking in public places, places of employment, and seating areas of outdoor events; exceptions are provided. The Department of State Health Services (DSHS) is required to engage in a continuing program to explain and clarify the purpose and requirements of the newly created Chapter 169, Health and Safety Code; DSHS is also required to guide employers, owners, operators, and managers in complying with the chapter. DSHS is responsible for enforcement of the chapter. The bill allows an owner, operator, manager, or other person in control of an establishment, facility, or outdoor area to declare it a nonsmoking place in its entirety. An owner, manager, or operator of a public place or an employer in a place of employment must clearly post signage indicating smoking is prohibited and must remove all ashtrays from areas where smoking is prohibited. Employers must provide written notice that smoking is prohibited in job applications and to new and existing employees. State agencies, or those of a political subdivision of the state, that

issue licenses, certificates, registrations, or other business permits must provide notice to applicants of the provisions of the chapter. Complaints regarding violations of the chapter may be filed with DSHS. DSHS, another state agency, or an agency of a political subdivision of the state is authorized to inspect establishments for compliance. The Attorney General, at the request of DSHS or a person aggrieved by a violation of the chapter, may bring action for injunctive relief to enforce the chapter. The bill establishes offenses and penalties for violation of the provisions of the chapter.

Methodology

DSHS estimates a cost of \$270,360 to prepare and distribute a brochure to explain the new chapter to employers, owners, operators, and managers. It is assumed that these costs would apply in fiscal year 2008 only; costs in fiscal year 2009 and beyond would be minimal (for distribution to new businesses only) and could be absorbed within available resources. It is assumed that any additional costs from complaints regarding violations or requests for injunctive relief could also be handled with available resources.

Local Government Impact

There would be costs to local governments to implement the provisions of the bill, mostly consisting of purchasing and installing signage in public places to inform citizens of the ban. The Texas Association of Counties estimated that a sign could range in cost from \$10 to \$50, depending on materials, size, and other factors. There would also be ongoing costs to replace signs that are broken, worn, stolen, or otherwise put out of commission.

There would be costs to local law enforcement to enforce the ban, but this would depend on the number of offenders. Some, but not all, of the costs would be recovered from the fines imposed on offenders.

Source Agencies: 537 State Health Services, Department of, 696 Department of Criminal Justice, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 320 Texas Workforce Commission, 452 Department of Licensing and Regulation

LBB Staff: JOB, CL, KJG, JRO, PP, LR