

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 8, 2007

TO: Honorable David Dewhurst, Lieutenant Governor, Senate

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

IN RE: SB823 by Whitmire (Relating to the interception of or the collection of other information from certain communications in an investigation of criminal conduct.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would amend the Code of Criminal Procedure regarding who is authorized to respond to and deal with life-threatening situations and who, upon proper training and certification, may own, possess, install, operate, or monitor a pen register, ESN reader, or similar equipment. The provisions in the bill would apply to a sheriff's office in a county with a population of 3.3 million or more and a police department in a municipality with a population of 500,000 or more. Based on the 2000 U.S. Census, the bill would apply to Harris County and the cities of Austin, Dallas, El Paso, Fort Worth, Houston, and San Antonio.

The applicable local law enforcement agencies would be required to adopt a written policy regarding a pen register, ESN reader, or similar equipment, and to submit the policy to the director of the Department of Public Safety (DPS) for approval. The local agency would also be required to submit a written report to the DPS of expenditures made for the purchase and maintenance of those items. The DPS would be authorized to conduct an audit of an agency to ensure compliance with the applicable statutory requirements. Provisions of the bill outline what actions the DPS would be required to take if a law enforcement agency is not in compliance and what actions would be required of an agency to come into compliance. DPS would be required to annually post on its website or by other public means the expenditure information submitted by the applicable local law enforcement agencies.

DPS reports that the costs associated with implementing provisions of the bill would not create a significant fiscal impact to the agency.

Local Government Impact

The costs to an applicable local law enforcement agency would vary depending on whether the agency were to choose to exercise the authorization provided in the bill, and what equipment would be purchased. It is assumed an agency would exercise the authority given in the bill only if the costs could be absorbed within the agency's budget.

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 405 Department of Public Safety

LBB Staff: JOB, DB, ES