

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**May 28, 2009**

**TO:** Honorable Joe Straus, Speaker of the House, House of Representatives

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

**IN RE: HB963** by Guillen ( Relating to a criminal history evaluation letter determining occupational license eligibility.), **As Passed 2nd House**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB963, As Passed 2nd House: an impact of \$0 through the biennium ending August 31, 2011.

This 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
2010	\$0
2011	\$0
2012	\$0
2013	\$0
2014	\$0

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Probable Revenue Gain/ (Loss) from <i>General Revenue Fund</i> 1	Change in Number of State Employees from FY 2009
2010	(\$1,421,943)	\$1,421,943	13.5
2011	(\$892,093)	\$892,093	13.5
2012	(\$836,093)	\$836,093	13.5
2013	(\$810,093)	\$810,093	13.5
2014	(\$810,093)	\$810,093	13.5

**Fiscal Analysis**

The bill would allow a person enrolled or planning to enroll in an educational program in preparation for a state-issued license, or planning to take an examination for a state-issued license, who has reason to believe that the person may be ineligible for a license, to request from that licensing agency a criminal history evaluation letter to determine the person's eligibility for the license. The licensing agency would be required to determine the person's eligibility based on criminal history background checks and to respond to the person's request within 90 days. The bill would exempt certain agencies from its requirements under Chapter 53, Occupations Code.

This bill authorizes licensing agencies to charge and collect a fee in an amount sufficient to cover the costs of the administration of the provisions of this bill. The bill would require the licensing agencies

to adopt rules necessary to administer the provisions of the bill no later than September 1, 2010.

The bill would require state agencies that issue licenses to adopt rules for the expedited issuance of a temporary license to a qualified applicant who is serving on active duty as a member of the military, was honorably discharged from active duty, or is the spouse of a person who is serving on active duty.

The bill would amend the Occupations Code to allow various regulatory agencies to provide licenses or provisional licenses to applicants who have had certain previous criminal convictions. The bill would also authorize the licensing agency to revoke the provisional license if the provisional license holder commits a new offense, commits an act or omission that causes the person's community supervision, mandatory supervision, or parole to be revoked, or violates the law or rules governing the practice of the occupation for which the license is issued. The bill requires the licensing authority to notify the probation or parole department that a provisional license has been issued. The bill requires the licensing authority to issue the license for which the applicant originally applied to a provisional license holder on the expiration of the provisional license term if there are no violations.

The bill would take effect immediately if it receives a vote of two-thirds of all the members elected to each house. If not, the bill would take effect September 1, 2009.

## **Methodology**

According to the analysis of the Board of Podiatric Medical Examiners, the Texas State Board of Dental Examiners, the Department of Banking, the Real Estate Commission, the Executive Council of Physical Therapy & Occupational Therapy Examiners, the Board of Public Accountancy, the Funeral Service Commission, the Texas Board of Nursing, the Comptroller of Public Accounts, the Department of Savings and Mortgage Lending, the Board of Plumbing Examiners, the Department of Public Safety, and the Department of Insurance, these agencies would be able to absorb the costs of implementing the provisions of the bill relating to issuing determination letters within the existing resources of the agency.

Based on the analysis of the Texas State Board of Pharmacy, the Real Estate Commission, the Texas Board of Nursing, the Board of Chiropractic Examiners, the Texas Department of Licensing and Regulation, the Board of Plumbing Examiners, and the Texas Department of Insurance, duties and responsibilities associated with implementing the provisions relating to the expedited issuance of a license for military personnel could be accomplished by utilizing existing resources.

The Board of Chiropractic Examiners and the Department of Licensing and Regulation estimate increased costs for additional FTEs to implement the provisions of the bill regarding issuing determination letters. The calculations of these agencies are based on the number of licensees, the percent of existing licensee population with criminal histories, and the licensees required to take exams or enroll in an education program to become eligible for the license.

With respect to issuing licenses or provisional licenses to licensees with previous criminal convictions, it is assumed that Board of Chiropractic Examiners would need 0.5 additional FTEs (Administrative Assistant) at a salary of \$19,558 each fiscal year to implement the database changes and to monitor ongoing criminal records for provisional license holders. It is also assumed that \$15,000 in professional fees would be required in fiscal year 2010 in addition to \$5,000 operating and equipment costs with \$1,000 in operating costs continuing in each subsequent fiscal year. Based on information provided by the Board of Professional Land Surveyors, it is assumed that implementing the provisions of the bill would require modifying database for the provisional license status at a cost of \$4,000 in fiscal year 2010.

The analysis assumes each agency would assess and collect fees for supplying the criminal history background check eligibility letter or for issuing provisional licenses sufficient to cover the cost of implementing the provisions of the bill.

The Texas Education Agency (TEA) anticipates 50,000 to 60,000 requests each year for the eligibility letters. Based on the analysis of the agency, this would result in a significant increase in the number of investigations conducted and would require a new software system to track the receipt of requests for

determination and the disposition of letters within 90 days of receipt of the request. TEA anticipates needing an additional 3.0 administrative assistants and 3.0 customer service representatives to verify the receipt of requests and ensure responses within 90 days. TEA also anticipates needing an additional 5.0 investigators to conduct investigations of the positive criminal history records of applicants. For the purposes of this estimate, it is assumed that the majority of educator certification candidates enrolled in educator preparation programs would submit a request for a criminal history evaluation letter. To the extent that a smaller proportion of that population actually submits requests, the cost and personnel requirements may be reduced.

### **Technology**

Based on the analysis of the Board of Chiropractic Examiners, it is assumed that the computer system would necessitate upgrades to accommodate the new applications authorized by the bill. The costs for upgrades and modifications to the computer systems in Fiscal Year (FY) 2010 would cost \$13,000 for the Board of Chiropractic Examiners.

Based on the analysis of TEA, the agency would be required to develop new software to serve the population of individuals that would otherwise not be in either the TEA or State Board for Educator Certification systems. The system would track receipts of requests for determination of eligibility and disposition of the requests within 90 days of receipt. The estimated costs of developing and maintaining the system are \$510,000 in FY 2010, \$112,000 in FY 2011, \$56,000 in 2012, and \$30,000 each subsequent year.

### **Local Government Impact**

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

**Source Agencies:** 520 Board of Examiners of Psychologists, 701 Central Education Agency, 304 Comptroller of Public Accounts, 312 Securities Board, 329 Real Estate Commission, 405 Department of Public Safety, 450 Department of Savings and Mortgage Lending, 451 Department of Banking, 452 Department of Licensing and Regulation, 454 Department of Insurance, 456 Board of Plumbing Examiners, 457 Board of Public Accountancy, 464 Board of Professional Land Surveying, 503 Texas Medical Board, 504 Texas State Board of Dental Examiners, 507 Texas Board of Nursing, 508 Board of Chiropractic Examiners, 512 Board of Podiatric Medical Examiners, 513 Funeral Service Commission, 514 Optometry Board, 515 Board of Pharmacy, 533 Executive Council of Physical Therapy & Occupational Therapy Examiners

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