

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

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

**April 17, 2009**

**TO:** Honorable Burt R. Solomons, Chair, House Committee on State Affairs

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

**IN RE: HB1234** by Menendez (Relating to the delivery sale of graffiti materials; providing penalties.), **Committee Report 1st House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB1234, Committee Report 1st House, Substituted: a negative impact of (\$2,334,000) through the biennium ending August 31, 2011.

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	(\$1,884,000)
2011	(\$450,000)
2012	(\$450,000)
2013	(\$450,000)
2014	(\$450,000)

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

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1
2010	(\$1,884,000)
2011	(\$450,000)
2012	(\$450,000)
2013	(\$450,000)
2014	(\$450,000)

Fiscal Year	Change in Number of State Employees from FY 2009
2010	4.0
2011	4.0
2012	4.0
2013	4.0
2014	4.0

**Fiscal Analysis**

The bill would add Chapter 204 to the Business & Commerce Code to prohibit persons from making a delivery sale, mailing, or shipping of graffiti materials unless certain reporting, information, and notification requirements are met. The bill would require these persons to first register with the Comptroller of Public Accounts and provide required information in memoranda or copies of invoices

for each previous month's delivery sales by the 10th day of a month. The bill would define graffiti materials as aerosol paint, an indelible marker, or an etching or engraving device.

The bill would create a misdemeanor offense for general violations of the bill's requirements. The fine for this offense could not exceed \$1,000 and subsequent offenses would be a Class B Misdemeanor. Falsification of certifications or intentional violations of the bill would be a third degree felony.

The bill would mandate the forfeiture of graffiti materials, associated retail fixtures, and equipment to the state for noncompliance with provisions of the bill. The Office of the Attorney General (OAG) would be authorized to bring action to prevent or restrain a violation.

The bill would take effect September 1, 2009, and would only affect delivery sales on or after that date.

### **Methodology**

The Comptroller of Public Accounts estimates that the agency would require the addition of four new full-time positions and seasonal staff to handle the anticipated increased workload resulting from the new required invoice report. In addition, there would be a one-time cost of more than \$1.4 million for programming/project management in fiscal year 2010.

It is unknown how many offenses would occur or how much property may be forfeited; therefore, this analysis only shows anticipated costs and does not show anticipated revenue gain.

Based on analysis by the OAG, it is assumed that any increased caseload for that office could be absorbed within existing resources.

Unless there are numerous third degree convictions that result in a significant increase in persons sentenced to the Institutional Division of the Texas Department of Criminal Justice, no significant fiscal impact is anticipated from enforcement or imposing punishment of the various offense levels.

### **Technology**

There would be a one-time cost for the Comptroller of Public Accounts of more than \$1.4 million for programming/project management in fiscal year 2010.

### **Local Government Impact**

Fiscal impact to units of local government would depend on the number of offenses prosecuted and the level of punishment imposed.

**Source Agencies:** 302 Office of the Attorney General, 304 Comptroller of Public Accounts

**LBB Staff:** JOB, KJG, DB