

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

March 16, 2009

TO: Honorable Tommy Merritt, Chair, House Committee on Public Safety

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

IN RE: HB1260 by Hopson (Relating to a registration program for persons who commit certain intoxication offenses; providing criminal penalties.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1260, As Introduced: an impact of \$0 through the biennium ending August 31, 2011.

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

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from <i>Texas Mobility Fund</i> 365	Probable Revenue Gain/(Loss) from <i>New General Revenue</i> <i>Dedicated - DWI</i> <i>Offender Registration</i> <i>Account</i>	Probable Savings/ (Cost) from <i>State Highway Fund</i> 6	Change in Number of State Employees from FY 2009
2010	\$855,000	\$4,617,000	(\$4,251,203)	37.0
2011	\$1,600,000	\$8,640,000	(\$2,195,584)	37.0
2012	\$2,700,000	\$9,450,000	(\$1,987,650)	37.0
2013	\$4,450,000	\$10,260,000	(\$1,987,650)	37.0
2014	\$6,350,000	\$11,070,000	(\$1,987,650)	37.0

Fiscal Analysis

The bill would amend the Code of Criminal Procedure, the Family Code, the Government Code, and the Transportation Code as it relates to a registration program for persons who commit certain intoxication offenses.

Sections 1 and 2 of the bill would add the DWI Offender Registration Program which would require adults and juveniles with reportable convictions or adjudications of certain DWI offenses to register with local law enforcement. The bill would require the Department of Public Safety (DPS) to establish and maintain a computerized database of people who are required to register in the DWI Offender Registration Program. The bill requires DPS to release information from the database to licensing

agencies and law enforcement agencies. The bill permits the release of information by local law enforcement agencies to the public and allows for the collection of a reasonable fee for the service.

The bill provides process and procedures for registration and verification requirements, development of the registration form, and when a person in the program is required to update residency information including change of residence and annual registration updates. The bill also establishes process and procedures for expiration of registration, penalties for non compliance, and the removal of registration information. Subchapter G establishes the DWI Offender Registration Account in the General Revenue Fund and requires the funds in the account may only be appropriated to DPS to implement the provisions of Chapter 66, Code of Criminal Procedure. The bill would also establish an offense for failing to register as required by Chapter 66, Code of Criminal Procedure.

Section 3 of the bill would amend Section 1, Article 42.01, Code of Criminal Procedure, to require that a judgment of a court include a statement of the registration requirement in the DWI Offender Registration Program for convictions of offenses specified under Chapter 66, Criminal Procedure.

Section 4 of the bill would require a person with a reportable adjudication to apply for an original or renewal driver's license or personal identification certificate, and that DPS include in its records an indication that the person is subject to the registration requirements of Chapter 66, Code of Criminal Procedure.

Section 6 of the bill would amend the Code of Criminal Procedure by imposing a \$150 fee on persons who are convicted of crimes requiring registration under the provisions of the bill.

Section 8 of the bill would amend Section 54.051, Family Code, to allow that juveniles who are placed on probation for an offense which would require registration as a DWI offender may be deferred from the program until completion of substance abuse treatment as outlined under Subchapter F, Chapter 66, Code of Criminal Procedure. This section also allows the court the option to excuse a juvenile from further compliance with the registration requirements of the program.

Sections 10-13 would add Government Code, Sections 102.0413, 102.0613, and 102.0813 which require the district courts, the statutory county courts, and the county courts, to collect the DWI Offender Fee upon conviction.

Section 17 of the bill would add Transportation Code, Section 521.1031 which imposes a \$25 fee on persons subject to the registration requirements of Chapter 66, Code of Criminal Procedure, at the time of application for an original or renewal driver's license or personal identification certificate.

Section 21 of the bill would add Transportation Code, Section 521.421(j) which would impose a \$25 fee on persons subject to the registration requirements of Chapter 66, Code of Criminal Procedure, for issuance or renewal driver's license, a provisional license, an instructional permit, or hardship license.

Section 22 of the bill would amend the Transportation Code by imposing a \$25 fee on persons subject to the registration requirements of Chapter 66, Code of Criminal Procedure, for a personal identification certificate.

Section 23 of the bill would amend the Transportation Code by imposing a \$25 fee on persons subject to the registration requirements of Chapter 66, Code of Criminal Procedure, for commercial driver's license issued to certain DWI offenders.

The bill would take effect on January 1, 2010.

Methodology

The bill would require a person convicted of an offense for which registration is required under the provisions of the DWI Offender Registry to pay \$150 on conviction of the offense which would be collected in a new General Revenue account. The Comptroller of Public Accounts (CPA) (taken from data received from the Department of Public Safety) states the following conviction estimates where the defendant would be required to register in the program: 38,000 in fiscal year 2010, 64,000 in fiscal

year 2011, 70,000 in fiscal year 2012, 76,000 in fiscal year 2013 and 82,000 in fiscal year 2014. CPA assumes an estimated collection rate of 91 percent in fiscal year 2010 and also assumes 10 percent of the collections are to remain with the counties each fiscal year. For fiscal year 2010, CPA estimates the bill would generate \$4,617,000 in revenue to the new DWI Offender Registration Account $((38,000 * 90\%) = 34,200 * \$150 = \$5,130,000 (.10) = \$513,000 - \$5,130,000 = \$4,617,000)$. For fiscal year 2011, CPA assumes they will collect 12 months of revenue which could generate \$8,640,000 per year in revenue to the new DWI Offender Registration Account $((64,000 * \$150) - .10 = \$8,640,000)$. For fiscal year 2012, CPA assumes they will collect 12 months of revenue which could generate \$9,450,000 per year in revenue to the new DWI Offender Registration Account $((70,000 * \$150) - .10 = \$9,450,000)$. For fiscal year 2013, CPA assumes they will collect 12 months of revenue which could generate \$10,260,000 per year in revenue to the new DWI Offender Registration Account $((76,000 * \$150) - .10 = \$10,260,000)$. For fiscal year 2014, CPA assumes they will collect 12 months of revenue which could generate \$11,070,000 per year in revenue to the new DWI Offender Registration Account $((82,000 * \$150) - .10 = \$11,070,000)$.

The bill would create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either within or outside of the Treasury, or create a dedicated revenue source. Therefore, the fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

The bill would create a DWI Offender Registration Program that would be operated by the Department of Public Safety (DPS). The bill states individuals registered in the program are required to renew their driver's license every year and pay a \$25 fee after their initial driver license renewal which expires after two years. The bill requires the same renewal requirements and \$25 fee for identification cards and commercial driver licenses, but DPS' assumes individuals in the program will only renew their driver's license since this is the license which allows people to continue to drive in Texas. This analysis is based on OCA's fiscal year 2008 affected population of 78,606 convictions that would be required to register. Since the bill does not take affect until January 1, 2010, this analysis also assumes in the first fiscal year (2010), only five months of the new revenue would be realized by DPS because February would be the first month in which the new court cost would be collected and counties remit to the State at the end of the month following each calendar quarter which would include 32,753 people $(78,606 * (5/12))$. For fiscal year 2010, DPS also estimates lost revenue from the current \$24 license renewal fee by the addition of the \$25 renewal fee. For fiscal year 2010, this analysis estimates the bill would generate \$32,753 in revenue to the Texas Mobility Fund $(32,753 * \$25 \text{ new renewal fee}) - (32,753 * \$24 \text{ the old renewal fee})$ which is $\$818,825 - \$786,072 = \$32,753$.

For fiscal years 2011 through 2012, the analysis assumes DPS will collect 12 months of revenue each year. For fiscal year 2011, DPS would generate \$1,965,150 per year in revenue to the Texas Mobility Fund $(78,606 * \$25)$. For fiscal year 2012, DPS would generate \$1,997,903 per year in revenue to the Texas Mobility Fund $(78,606 * \$25 \text{ or } \$1,965,150 \text{ from fiscal year 2012 new registrations} + \$32,753 \text{ renewals from fiscal year 2010})$. For fiscal year 2013, DPS would generate \$3,963,053 per year in revenue to the Texas Mobility Fund $(78,606 * \$25 \text{ or } \$1,965,150 \text{ from fiscal year 2013 new registrations} + \$32,753 \text{ renewals from fiscal year 2010} + \$1,965,150 \text{ renewals from fiscal year 2011})$. For fiscal year 2014, DPS would generate \$5,960,956 per year in revenue to the Texas Mobility Fund $(78,606 * \$25 \text{ or } \$1,965,150 \text{ from fiscal year 2014 new registrations} + \$32,753 \text{ renewals from fiscal year 2010} + \$1,965,150 \text{ renewals from fiscal year 2011} + \$1,997,903 \text{ renewals from fiscal year 2012})$.

This analysis assumes that an additional 37 FTEs per year would be required to implement the provisions of the bill (19 administrative and training assistants, 10 record technicians, 5 clerks, 2 auditors, and 1 program supervisor) to confirm registration requirements, collect data, provide public access, program verification, perform data entry, record updates, and document archival, provide local field representative support, fee collection and reconciliation, and information notices to people in the program. DPS estimates that additional office space will be required to accommodate the additional personnel at an estimated lease cost of \$217,934 per year for fiscal years 2010 and 2011, which is also included in the cost estimate. Other operating expenses such as maintenance and repair of office machines and computer equipment, computer supplies, non-capital computer equipment, and furniture and equipment, are also included in the cost estimate.

The Juvenile Probation Commission, the Youth Commission, and the Department of Criminal Justice anticipate no significant fiscal impact to their agencies.

Technology

DPS states the technology costs estimated to comply with the development of a DWI Offender Registration Program would include computer database program development and public website enhancement, crime records image enhancement software, additional electronic storage for new records, along with computers and enterprise software agreements for each additional employee. The development of the DWI Offender Registration Program database is estimated to require 2,253 hours of programming at \$200 per hour totaling \$450,600 for a total of \$1,685,762 in fiscal year 2010, \$177,685 in fiscal year 2011, \$187,685 in fiscal year 2012, \$326,349 in fiscal year 2013 and \$287,015 in fiscal year 2014.

Local Government Impact

The bill would add Chapter 66 to the Code of Criminal Procedure relating to the creation of a “DWI Offender Registration Program” that would apply to all offenses committed under Chapter 49 of the Penal Code. The bill would require a convicted offender, including a youth adjudicated in juvenile court, to register with the local law enforcement authority where the person is residing for more than seven days on a form prescribed by the Department of Public Safety. If a registered offender intends to relocate for work or school, change their name, or make any other changes as defined by the bill, the offender must report in person to the local law enforcement authority and provide the authority with the required new information.

The department would be required to create and maintain a database of registered offenders that would be automatically available to local law enforcement authorities, and considered public information with exceptions for certain information. Local law enforcement would be required to release any information considered public information to any person making a request, including a licensing agency.

According to several local law enforcement entities, the costs associated with implementing the provisions of the bill would vary, but would be significant to most.

The Travis County Sheriff’s Office reported the bill would cost an estimated total of \$44,008 in 2010 to hire a Senior Office Specialist to manage the database, and office equipment, including a computer, phone, digital camera, and printer.

The Harris County Sheriff’s Office reported the bill would require an estimated 2,000 new convicted offenders to register in Harris County that would result in an estimated total cost of \$264,160 in 2010 for additional staff to manage the database, and operating costs, including office space and equipment. Harris County also stated the costs could be much higher than indicated if local agencies choose to pursue, charge, and incarcerate people for failure to comply with registration requirements.

The Midland County Sheriff’s Office reported the bill would cost an estimated total of \$5,352,000 in 2010 for 15 additional staff, capital outlay expenses (60 jail cells at a cost of \$75,000 per cell for a total of \$4,500,000, and 12 computers at a cost of \$1,000), operational costs, and other costs, including clothing, uniforms, toiletries, cleaning supplies, and maintenance. Midland County also stated the costs incurred by counties to comply with the provisions of the bill would be significant.

Dallas County officials reported that the increased costs and workload incurred to comply with the provisions of the bill would be minimal to their county based on the fact that community supervisions and corrections departments currently supervise clients on probation.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts, 405 Department of Public Safety, 665 Juvenile Probation Commission, 694 Youth Commission, 696 Department of Criminal Justice

LBB Staff: JOB, ESi, GG, LG, TP, MWU, AI