

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

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

**Revision 1**

**May 30, 2009**

**TO:** Honorable David Dewhurst , Lieutenant Governor, Senate  
Honorable Joe Straus, Speaker of the House, House of Representatives

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

**IN RE: HB2730** by Kolkhorst (relating to the continuation and functions of the Department of Public Safety of the State of Texas and the Texas Private Security Board; providing a penalty. ),  
**Conference Committee Report**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB2730, Conference Committee Report: a positive impact of \$410,946 through the biennium ending August 31, 2011.

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

<b>Fiscal Year</b>	<b>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</b>
2010	\$205,473
2011	\$205,473
2012	(\$5,299,027)
2013	(\$5,299,027)
2014	(\$2,774,027)

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

<b>Fiscal Year</b>	<b>Probable Revenue (Loss) from General Revenue Fund 1</b>	<b>Probable Revenue Gain/ (Loss) from Trauma Facility And Ems 5111</b>	<b>Probable Revenue Gain from General Revenue Fund 1</b>
2010	\$0	\$0	\$205,473
2011	\$0	\$0	\$205,473
2012	(\$5,504,500)	(\$5,395,500)	\$205,473
2013	(\$5,504,500)	(\$5,395,500)	\$205,473
2014	(\$2,979,500)	(\$2,920,500)	\$205,473

**Fiscal Analysis**

The Department of Public Safety (DPS) and the Private Security Board (the Board) are subject to the Sunset Act and will be abolished on September 1, 2009 unless continued by the Legislature. The bill contains the following Sunset Commission recommendations regarding DPS and the Board, among others.

- Requires the Vehicle Inspection Advisory Committee to meet at least once per quarter instead of twice a year. The Sunset Advisory Commission (Sunset) states that because advisory committee members are authorized to be reimbursed for expenses, the provision could have a small cost, but Sunset does not have the information to estimate the cost. This analysis assumes that DPS would be able to implement these provisions of the bill with existing resources.

- Requires DPS to manage the Vehicle Inspection Program (VIP) as a civilian business and licensing operation with established goals and expected performance outcomes. The Sunset Advisory Commission (Sunset) states Section 1.02 of the bill would not have a significant fiscal impact because DPS already operates VIP with a director.
- Changes Governor's Division of Emergency Management to Texas Division of Emergency Management (TDEM) and clarifies that it is a division of DPS and specifies that DPS' director appoints the chief of TDEM with the approval of the Governor.
- Requires DPS to consider developing a pilot program to test reentry credentials for allowing reentry to an area after a disaster or threat of disaster. Sunset states these provisions could have a cost, but Sunset does not have the information to estimate that cost. This analysis assumes that DPS would be able to implement these provisions of the bill with existing resources.
- Authorizes the Private Security Board to receive reimbursement for travel expenses and to license by endorsement to streamline the licensing process and reduce regulation. Sunset states the travel provisions in the bill would not have a significant fiscal impact since the Board currently receives travel reimbursement. Sunset states the endorsement provisions in Section 4.01 could result in significant reduction in license issuance responsibilities and efficiencies that would reduce staffing needs. However, until the agency is funded for and implements information technology improvements, these staffing reductions may not be realized.

DPS reported to Sunset that their database is outdated (the agency originally planned upgrades to the database in fiscal year 2009) and the database needs to be upgraded before it can implement the proposed endorsement provisions. DPS states the estimated cost of upgrading the database at \$2,000,000 for the biennium. However, Sunset states DPS put the upgrade on hold after an outside audit reorganized the agency's IT priorities. Sunset states the endorsement provisions would be part of the DPS planned upgrade and separating the cost of the provision from the rest of the upgrade would be difficult to determine.

Sunset also states current statute requires the administration of the Private Security Act be a self-leveling function through fees charged to the regulated community. Sunset assumes that any potential savings or costs associated with changes to the Private Security Act would be offset by increases or decreases in fees and therefore the fee generating provisions of the bill would be revenue neutral.

- Requires the Board to adopt rules necessary to comply with Chapter 53 regarding offenses that would prohibit a person from obtaining or retaining a license under the Private Security Act. Sunset states the Section 4.02 provisions could require staff time to develop the rules, but this is a typical staff responsibility. Sunset states DPS predicts these provisions could result in 30 percent more applicants being eligible and would require three additional staff to process an increase in applications. However, Sunset states that while the number of approvals for licensure may increase, the number of applicants, and the resulting background checks and investigations, would not likely change. In addition, Sunset states the license approval rate would depend on the rules adopted by the Board. Sunset states no significant fiscal impact for these provisions.
- Applies standard Sunset across-the-board language requiring the Board to develop a policy that encourages the use of negotiated rule making and alternative dispute resolution (ADR), as well as designate a trained person to coordinate the Board's ADR efforts. The person designated by the Board to coordinate ADR efforts must be an existing employee of the agency, who would expand on existing efforts to achieve agreed settlements. Sunset assumes the potential minimal training costs could be more than offset by reduced costs from avoiding protracted rule making or lengthy contested case hearings.
- Authorizes the Private Security Board to require jurisprudence exams to ensure all licensees understand the laws and rules that guide their professions. Sunset states the Board could experience costs from developing exam questions (should it decide to require exams). However, Sunset states the overall Section 4.73 costs could be recovered through exam fees and therefore the jurisprudence provisions of the bill would be revenue neutral.
- Eliminates fee caps in the Private Security Act. Regarding Section 4.19, Sunset states the Private Security Act specifies that fees collected must produce sufficient revenue to administer the chapter without producing unnecessary fund balances. Therefore, Sunset assumes the fee generating provisions of the bill would be revenue neutral.
- Increases the amount of the Private Security Act's maximum administrative penalty from \$500

to \$5,000. Regarding Section 4.98, Sunset states the Board's ability to assess higher administrative penalties could potentially increase revenue deposited to the General Revenue Fund, but the Board does not anticipate assessing the maximum penalty often, if ever. Sunset states the administrative penalty provisions of this bill would have no significant revenue impact.

- Requires the Public Safety Commission to hire the Director of the Office of Inspector General (OIG) and to directly oversee the activities of the Office. Sunset states DPS already operates the OIG with seven FTEs. Sunset states staff outside of the Office currently perform additional internal affairs investigations and these resources could be transferred to the OIG. DPS states these provisions would require an additional 36 FTEs to comply with the bill requirements. Sunset states the provisions of the bill would not increase the overall number of internal affairs investigations, but merely consolidate efforts within a single office. Therefore, Sunset assumes these provisions in the bill would have no significant fiscal impact.
- Authorizes DPS to put the classroom portion of the concealed handgun licensing renewal class and written test online. Sunset states that DPS staff indicates the agency would not develop the class and test, but that qualified concealed handgun license instructors would, which is current practice. Because these instructors do not work for the State, Sunset assumes the instructors would absorb the cost of developing an online class and exam and that there would be no significant fiscal impact to the state for these provisions.
- Requires the Sunset Commission to conduct a limited scope review of DPS in 2011 that studies the agency's implementation of the 2008 information technology audit and a civilian business management model for the driver license program. DPS states this provision would require the agency to move the current commission based driver license division to a civilian based business model. DPS states they would require an additional 264 civilian FTEs to accommodate the suggested change. As part of DPS exceptional items for fiscal years 2010-11, DPS' driver license restructure plan is to move commissioned officers into the Highway Patrol Division, but leave the salaries for the troopers in the Driver License Division to help pay for the additional civilian FTEs. DPS has not requested additional funds for the 264 civilians, but they did request an additional \$32,737,176 in fiscal years 2010 and 2011 for trooper salary costs to pay for the FTEs that moved to Highway Patrol.

It is assumed that Sunset views the civilian model concept costs as not significant because the movement of troopers from the Driver License Division to Highway Patrol would address current trooper vacancies. The concept is that DPS could use current vacancy salary funds to pay for the movement of troopers between divisions. However, DPS states they need additional funds for this purpose. Sunset states the bill does not contain agency requirements related to the civilian business model. Sunset states they would accomplish this study within existing resources and that the bill does not require any action by DPS.

Regarding the 2008 information technology audit reporting requirement, DPS states the following fiscal analysis based on the Gartner Assessment implementation plan developed for the agency. To upgrade software, hardware, and various program upgrades to increase agency security, the assessment determined \$11,471,790 in fiscal year 2010 and \$2,950,000 in fiscal year 2011 for equipment would be required with an additional \$4,160,000 in fiscal year 2011 for staff augmentation. Sunset states the bill does not contain agency requirements related to the information technology audit. Sunset states they would accomplish this study within existing resources and that the bill does not require any action by DPS.

- Requires DPS to make and distribute to the public a list of concealed handgun license instructors' phone numbers, and email and website addresses. Sunset states DPS already maintains the list and currently redacts the information that is now required to be public, so Sunset assumes DPS will not incur any expense to make all of the information public.
- Requires DPS to develop customer service, cultural diversity, and proof of citizenship document training to be completed by all driver license staff that interact with the public. Sunset states these provisions could have a fiscal impact, but Sunset does not have the information to estimate any cost the agency might incur. DPS states these provisions could have some fiscal impact. This analysis assumes that DPS would be able to implement these provisions of the bill with existing resources.
- Requires state law enforcement agencies to have physical fitness programs for officers in addition to physical fitness standards, and requires each law enforcement agency to adopt a reward policy that provides incentives to officers who participate in the program and meet the

standards. The bill states the reward incentives offered must be in an amount of administrative leave of not more than four days per year. Sunset states that the manner by which DPS would choose to administer the program is unknown, but Sunset assumes the reward incentives could likely be accomplished with existing resources.

- Requires DPS to collect data regarding collisions of automobiles driven by students taught by different driver education programs, and to report annually on the data. Sunset reports DPS states this provision is revenue neutral. DPS did not include a cost estimate for these provisions in their fiscal note response. This analysis assumes that DPS would be able to implement these provisions of the bill with existing resources.
- Increases the fee for a provisional license or instruction permit from \$5 to \$15 and makes the provisional license expire on the youth's 18th birthday, instead of the first birthday after the date of application. Sunset states DPS reports this provision is revenue neutral. DPS did not include a cost estimate for these provisions in their fiscal note response. This analysis assumes that DPS would be able to implement these provisions of the bill with existing resources.
- Requires DPS to establish a system for verifying that a person actually lives at the address they've provided on their driver license or identification certificate application. Sunset reports DPS states this provision is revenue neutral. DPS did not include a cost estimate for these provisions in their fiscal note response. This analysis assumes that DPS would be able to implement these provisions of the bill with existing resources.
- Requires DPS to adopt rules for determining whether a person's domicile has been established, and allows DPS to contract with a third party to verify claims of domicile. Sunset reports DPS anticipates no significant fiscal impact to the state. DPS did not include a cost estimate for these provisions in their fiscal note response. This analysis assumes that DPS would be able to implement these provisions of the bill with existing resources.
- Requires DPS to participate in an inmate identification verification pilot program to issue driver licenses' and identification cards to inmates at the Department of Criminal Justice. Sunset states DPS reports no fiscal impact to the agency and the fiscal note for Senate Bill 1783 assumes any additional fiscal impact created by the provisions in the bill could be absorbed within current appropriations.
- Increases the administrative fine for parking violations in the Capitol Complex from \$10 to \$25, and increases the late fee from \$2 to \$5. Sunset states that DPS estimates an annual gain to General Revenue of \$205,473 per year.
- Protects judge's addresses from being revealed through concealed handgun license (CHL) records, eases testing requirements for judges to obtain CHLs, allows handgun instructors to renew online and clarifies several provisions of CHL statutes. Sunset states DPS indicates they have the ability to provide online renewal for handgun instructors without additional resources.
- Requires subcontractors of school contractors to obtain criminal history record information on their employees that will work on school ground. Sunset states the subcontractor or its employees would be required to pay the cost of obtaining the criminal history background check resulting in no fiscal impact. This analysis assumes that DPS would be able to implement these provisions of the bill with existing resources.
- Authorizes the DPS director to appoint a deputy director. Sunset states the agency already has and is funded for such a position.
- Allows DPS public security officers to earn comp time on holidays that fall on Saturday or Sunday. The fiscal note for House Bill 3712 reports no significant fiscal impact to the State.
- Makes changes to the Driver Responsibility Program, including payment plans and reducing or eliminating payments for indigent persons; however these provisions do not take effect until September 1, 2011, resulting in no fiscal impact for the FY 10-11 biennium. Based on information from the Comptroller's Office, General Revenue loss in 2012 would be \$5.525 million and the same again in 2013, with \$2.475 million lost each year in GR account 5111-Trauma. For fiscal year 2014, General Revenue loss would be \$5.959 million and \$5.841 million in GR account 5111-Trauma.
- Clarifies that people that repair or maintain computers or work for several governmental entities do not fall under the Private Security Act licensing requirements. Sunset states these people do not currently obtain private security licenses or endorsements so no change in revenue or expenses will occur.

- Requires camera system installers to obtain an endorsement under the private security act. Sunset states any costs incurred by these provisions of the bill would be recovered through fees.
- Requires certain counties to establish a local data advisory board to plan for the adequate collection and transmission of records under rules to be established by the DPS director. Sunset states that local governments could incur minor costs; however, there is no state fiscal impact.
- Allows donation of compensatory or annual leave time from and to certain DPS employees for DPS Officers Association and Texas State Troopers Association legislative matters. Sunset states while DPS will spend a small amount of time managing the accounts, the change will not have a fiscal impact.
- Requires DPS to conduct a study of private vendors performing criminal history background checks and identity verification. Sunset assumes this study can be done with existing resources.
- Authorizes DPS to establish a driver record monitoring pilot program. The fiscal note for Senate Bill 512 reports no significant fiscal impact to the State.
- Authorizes a county to pilot a school bus video monitoring system. These provisions of the bill also clarify that school districts need only comply with school bus seat belt requirements if the Texas Education Agency (TEA) grants appropriated funds for that purpose. Sunset states these provisions are similar to language in current law. Sunset states no fiscal impact is expected since the state nor TEA are required to appropriate funds for this purpose, although the state could choose to do so.
- Limits the release of criminal history and other records regarding school employees. These provisions would prohibit release of criminal history record information regarding employees obtained by school districts, charter schools, or other entities approved to collect such information on public education employees except as authorized by the provisions of bill. The bill would specify that other related information is not subject to disclosure, and provides that certain related information may not be released to an ineligible party. Sunset states there is no fiscal impact to the state.
- Allows buses registered but not kept in Texas to use certificates of inspection in compliance with federal law. Sunset states no significant fiscal impact to the state.
- Creates an interagency council to develop a plan to transfer controlled drugs prescription information from DPS to the Board of Pharmacy. Sunset assumes agencies would participate in the council using existing resources.
- The bill repeals the following provisions in the Occupations Code: Section 1702.002(4), 1702.045, 1702.046, 1702.065, 1702.069, 1702.113(e), 1702, Subchapter K, and 1702.364(j) as well as Government Code, Sections 411.0195(d) and (e), and 421.072, and Transportation Code, Chapter 601, Subchapter N. The bill also repeals Occupations Code, Section 1702.003 which removes the Private Security Board's separate Sunset date, but it continues the Board and the Act.
- Continues DPS for 12 years.

The bill would take effect on September 1, 2009.

## **Methodology**

Senate Floor Amendments 9 and 26 establish minimum lengths for installment agreements to pay Driver Responsibility Program (DRP) surcharges and an indigency program for driver license holders who have been assessed a surcharge in the program. These provisions do not take effect until September 1, 2011, resulting in no fiscal impact in the 2010-2011 biennium. The Comptroller of Public Accounts (CPA) states that deferring installment agreements would have a cost of \$5.0 million annually, of which 50.5 percent would be from the General Revenue Fund and 49.5 percent would be from General Revenue-Dedicated Account 5111 (Trauma Fund), in fiscal years 2012 and 2013. The CPA assumes there would be no revenue loss in fiscal year 2014 and beyond. CPA assumes the indigency program would have a revenue loss of \$5.9 million annually starting in fiscal year 2012, of which \$3.0 million would be from the General Revenue Fund and \$2.9 million would be from the Trauma Fund.

Section 16 of the bill would increase the driver license reinstatement fee from \$50 to \$100 for certain motor vehicle offenses. Based on specific bill text for the revenue collected to deposit into the General

Revenue Fund (instead of the Mobility Fund where these fees are currently deposited), the assumption would be that this section of the bill could produce additional General Revenue for the state. However, a fiscal note has not been completed on this bill text and therefore cannot be determined at this time.

Section 20 of the bill would amend the Government Code, Sections 411.067 (a), (b), and (c) to increase the parking fees in the Capitol Complex from \$10 to \$25 each and increases late fees from \$2 to \$5 each. The bill also associates security and parking enforcement to the Department of Public Safety highway patrol district who is responsible for the Capitol Complex. DPS states that approximately 12,173 parking citations are paid annually at the current rate of \$10 each. DPS estimates that a \$15 increase in the each fine could result in a General Revenue gain of approximately \$182,595 per year ( $12,173 * 10$ ). DPS also states that approximately 7,626 parking citations are paid annually with a current late fee of \$2 each. DPS estimates that a \$3 increase in the late fee could result in a General Revenue gain of approximately \$22,878 per year ( $7,626 * 3$ ). DPS states this bill could result in a total General Revenue gain of approximately \$205,473 per year ( $\$182,595 + \$22,878$ ).

The bill also includes various sections that would establish a fee for licenses or personal identification certificates issued to an applicant who is not a citizen of the United States. The CPA states the fee amounts for the licenses and certificates to be issued to noncitizens by DPS would be set by agency rule. The CPA states that because the amount of the license or certificate fee is not known, and the number of noncitizens applying for these licenses or certificates is not known, the fiscal impact of this provision of the bill cannot be estimated. This analysis assumes that the fiscal impact to DPS would not be significant.

The Office of the Governor and the Office of Administrative Hearings anticipate no significant fiscal impact to their agencies. The CPA states the net fee amounts set by the Private Security Board are not known and can not be estimated. The CPA also states the administrative penalties imposed on a person licensed, commissioned, or registered under the chapter, who violated the chapter or rule, can not be determined.

### **Local Government Impact**

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

**Source Agencies:** 116 Sunset Advisory Commission, 304 Comptroller of Public Accounts, 405 Department of Public Safety

**LBB Staff:** JOB, KK, SD, GG, LG