

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

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

**May 8, 2009**

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

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

**IN RE: HB2942** by Dunnam (Relating to fiscal accountability and transparency in government operations by providing for effective legislative oversight; providing penalties.), **Committee Report 1st House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB2942, Committee Report 1st House, Substituted: a negative impact of (\$587,684) 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:**

<b>Fiscal Year</b>	<b>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</b>
2010	(\$434,342)
2011	(\$153,342)
2012	(\$64,285)
2013	(\$64,285)
2014	(\$64,285)

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

<b>Fiscal Year</b>	<b>Probable Savings/(Cost) from General Revenue Fund 1</b>
2010	(\$434,342)
2011	(\$153,342)
2012	(\$64,285)
2013	(\$64,285)
2014	(\$64,285)

**Fiscal Analysis**

The bill would have the effect of renaming the State Auditor's Office (SAO) as the State Accountability Office (the Office) and prescribe new requirements and responsibilities for the Office. The Legislative Audit Committee would be renamed as the Legislative Audit Board.

The bill would require the State Auditor to appoint a Counselor that could issue advisory opinions related to the appropriate use of and authority to spend state funds. In addition, the State Auditor would be allowed to appoint a Chief Clerk to receive, file and preserve all documents and records provided to the SAO and to serve as secretary to the Legislative Audit Board. The Auditor would have expanded authority to hire staff including special agents to detect, investigate and prevent fraud, waste, and abuse. The bill would require the Office to receive the same contract information from

state agencies currently reported to the Legislative Budget Board (LBB), and to post the information received in a timely manner on an Internet site available to the public.

The bill would provide for a felony offense and penalties for failure to cooperate in relation to the use of federal stimulus funds and would authorize the State Auditor to request information. Collection of the penalty could be referred to the Office of the Attorney General, the Travis County district attorney, or local prosecuting attorney. The bill provides for referral of matters related to the Recovery Act to the Travis County district attorney or local prosecuting attorney.

The bill would require the Legislative Audit Board to meet at least once a month and the LBB to meet at least once every other month to take testimony and receive evidence on funds received under the American Recovery and Reinvestment Act (ARRA). Members would be permitted to attend meetings by teleconference or video conference.

The Office, LBB, TLC and LRL would be subject to Sunset review but would not be abolished under that chapter. The bill establishes the criteria for continuation of a legislative agency, board or council as the extent to which the agency, board or council discharged its responsibilities relating to the ARRA funds.

TLC would be required to maintain information on the Internet about legislative oversight of the ARRA funds, including the committees of each house and each legislative agency responsible for oversight of ARRA funds. The LRL would be required to serve as a central depository for all ARRA publications and reports issued by agencies, political subdivisions, or private entities receiving ARRA funds.

The bill would establish the Recovery Act Accountability Board (RAAB) and each member would be entitled to reimbursement for actual expenses incurred in carrying out the duties of the board. The board would be abolished December 31, 2013. The RAAB is to coordinate the auditing and reviews of funds received by the state under the ARRA.

The bill would transfer current LBB responsibilities relating to conducting performance reviews of school districts, interscholastic competition, institutions of higher education, and efficiency reviews of state agencies to the Office.

The bill would create the Inspector General division within the Office and would transfer the powers, duties and functions of an inspector general or other officer or employee of a department that relate to the investigation of fraud and abuse to the State Auditor. The section also transfers the personnel, property, and obligations of inspectors general or other officers and employees of the departments that relate to the investigation of fraud and abuse to the State Auditor.

The bill takes effective immediately if it receives a two-thirds vote of all members elected to each House. Otherwise, the bill is effective September 1, 2010.

## **Methodology**

For the purposes of this fiscal note, it is assumed that the bill would take immediate effect.

The LRL projects that an additional full-time-equivalent position (FTE) would be necessary to maintain the depository for the ARRA records and reports. During the first year, these costs are estimated to be \$50,000 in salaries, \$14,285 in benefits and \$9,000 for capital and other necessary equipment for a total of \$73,285. The remaining years would total \$64,285 for salary and benefits.

TLC estimates that \$9,000 would be needed for the teleconferencing option; \$317,000 to establish and operate a video conferencing system; and \$62,400 biennially for travel expenses. However, for the purposes of this fiscal note, it is estimated that video conferencing option would be deployed at a cost of \$329,857 the first year (\$272,000 for the system, \$45,000 for salary and \$12,857 in benefits). In fiscal year 2011, costs are estimated at \$57,857 for a technician to operate the system. In addition, the agency estimates that \$62,400 would be needed biennially for travel expenses. The authorization for the required meetings would expire on January 1, 2011.

Regarding the functions transferred from the LBB to the Office, it is anticipated that the full-time-equivalent positions (31) and appropriations associated with administering these functions would be transferred from the LBB to the Office.

Regarding the creation of the Inspector General division, although the bill does not specifically state that the appropriations related to the investigation of fraud and abuse are transferred to the State Auditor, for the purposes of this fiscal note it is assumed that it is the intent of the legislation that the appropriations and FTEs at the following agencies would be transferred:

1. Health and Human Services Commission -- \$19.9 million in General Revenue; \$13.4 million in Other Funds; \$28.0 million in Federal Funds; and 659 FTEs.
2. The Texas Department of Transportation did not provide an estimate of the funds currently budgeted for an Inspector General division.
3. The Texas Education Agency does not currently have an Inspector General division, therefore no funds would be available for transfer.

It is assumed that the Office would assign deputy inspector generals and support staff to the agencies and therefore no additional appropriations would be necessary. Any potential revenue impact from expanded enforcement and investigation has not been estimated by the affected agencies and is not included in this estimate.

For purposes of this analysis, it is assumed that any additional costs associated with implementation of the bill could be absorbed within existing state resources.

### **Local Government Impact**

The Texas Municipal League reported the fiscal impact to cities is not anticipated to be significant.

The Texas Association of Counties provided information from four counties, three of which (Denton, El Paso, and Ward) reported the fiscal impact is not anticipated to be significant. However, Ector County reported the bill would cost an estimated \$40,000 for internal audit and \$5,000 for external audit each year. Extrapolating statewide costs based on the 2007 population estimates from the Census Bureau resulted in an estimated \$737,467 fiscal impact to counties in the first year ( $(\$45,000 \times 23,904,380) / 1,486,864$ ). The extrapolation used zero dollars for the fiscal impact of three counties and \$45,000 for Ector. Since the counties that responded are generally larger than average, the extrapolation based on the number of counties resulted in a much larger estimate of \$2.9 million ( $(\$45,000 \times 254) / 4$ ).

The fiscal impact to local governmental entities could be significant with estimated statewide annual costs of \$730,000 or higher for the first year.

**Source Agencies:** 103 Legislative Council, 116 Sunset Advisory Commission, 302 Office of the Attorney General, 308 State Auditor's Office, 360 State Office of Administrative Hearings

**LBB Staff:** JOB, KJG, MS, JM, TP