LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 7, 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.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2942, As Introduced: 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:

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

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from *General Revenue Fund* 1
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 Texas Fiscal Responsibility Office (TFRO) and prescribe new requirements and responsibilities for the TFRO. The Legislative Audit Committee would be renamed as the Legislative Audit Board.

The bill would require the State Auditor to appoint a Counselor that would be required to 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 bill would require the SAO 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 increases membership of the boards of the TFRO (from 6 to 12 members), the LBB (from 10 to 14 members), and the Texas Legislative Council, or TLC (from 14 to 18 members). In addition, beginning July 1, 2009, the bill would require TFRO and the LBB boards to meet at least monthly to take testimony and receive evidence on funds received under the American Recovery and Reinvestment Act (ARRA). In addition TLC and the Legislative Reference Library (LRL) would be required to meet at least every two months for the same purpose. Requirements for meetings generally expire on January 1, 2011, except for the LRL, which expires January 1, 2010. Members would be permitted to attend meetings by teleconference or video conference.

The TFRO, 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 a 26-member 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 TFRO.

The bill would create the Office of Inspector General within the TFRO 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, 2009.

Methodology

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 ($292,000 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 TFRO, 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 TFRO.

Regarding the creation of the Office of Inspector General, 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. Texas Youth Commission -- $2,260,025 out of the General Revenue Fund and 40 FTEs.
3. Texas Department of Criminal Justice -- $2.5 million in General Revenue Funds and 37 FTEs (related to investigations of waste, fraud and abuse).
4. The Texas Department of Transportation did not provide an estimate of the funds currently budgeted for an Office of Inspector General.
5. The Texas Education Agency does not currently have an Office of Inspector General, therefore no funds would be available for transfer.

It is assumed that the TFRO 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.

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 X 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 x 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, 308 State Auditor's Office

LBB Staff: JOB, KJG, MS, TP