

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

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

**May 1, 2009**

**TO:** Honorable Yvonne Davis, Chair, House Committee on Urban Affairs

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

**IN RE: HB3390** by Harper-Brown (Relating to the continuation and functions of the Texas Commission on Fire Protection. ), **Committee Report 1st House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB3390, Committee Report 1st House, Substituted: a negative impact of (\$94,880) 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	(\$47,440)
2011	(\$47,440)
2012	(\$47,440)
2013	(\$47,440)
2014	(\$47,440)

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

Fiscal Year	Probable Revenue Gain from <i>General Revenue Fund</i> 1	Probable (Cost) from <i>Insurance Maint Tax Fees</i> 8042	Change in Number of State Employees from FY 2009
2010	\$64,500	(\$111,940)	1.0
2011	\$98,900	(\$146,340)	1.0
2012	\$98,900	(\$146,340)	1.0
2013	\$98,900	(\$146,340)	1.0
2014	\$98,900	(\$146,340)	1.0

**Fiscal Analysis**

The Texas Commission on Fire Protection (TCFP) is subject to the Sunset Act and will be abolished on September 1, 2009, unless continued by the Legislature. The bill continues the agency for the standard 12-year period and contains the following Sunset Commission recommendations and other provisions:

- Changes the name of the agency to the Texas Fire Protection Agency (TFPA).
- Permits TFPA to adopt minimum education and training standards for volunteer fire fighters, and authorizes TFPA to prevent any person from serving as a volunteer fire fighter if they do not meet minimum education and training standards. Requires TFPA to adopt rules and procedures for the administration of a training assistance program for volunteer fire departments and volunteer firefighters.
- Removes provisions relating to the Fire Fighters Advisory Committee that restrict TFPA's ability to effectively decide and implement policy.
- Requires TFPA to conduct fingerprint-based state and national criminal background checks of all applicants for certifications if not separately provided by applicants or fire departments, and to collect a fee in an amount necessary to recover costs. Provides authority to raise fees for certification and fingerprinting in order to recover associated costs.

- Requires fire departments to submit continuing education records to TFPA at the time of certification renewal.
- Authorizes TFPA to establish a risk-based approach to conducting inspections and provides risk criteria to guide TFPA.
- Requires TFPA to timely open a complaint case on a violation found during an inspection.
- Requires TFPA to establish an enforcement matrix in rule to guide TFPA in determining penalty amounts or disciplinary actions for regulated entities and certified personnel.
- Authorizes TFPA to issue a default order when a regulated entity does not respond to attempts to resolve the violation.
- Requires TFPA to develop a method for analyzing trends in complaints and violations.
- Authorizes TFPA to temporarily suspend a certification.
- Requires TFPA to review fire fighter injury information and make recommendations to the State Fire Marshal's Office for reducing these injuries. Allows TFPA, based on these investigations, to provide technical assistance to identified fire departments.
- Applies and updates other standard Sunset Across-the-Board recommendations.

The majority of the bill would become effective September 1, 2009. TFPA authority to regulate volunteer firefighters would become effective September 1, 2010. Authority to increase fees would become effective January 1, 2010.

## **Methodology**

The bill would provide TFPA with the ability to increase certification fees and collect additional fees for fingerprinting to cover the costs of these procedures. However, Government Code, Section 419.026 requires collected certification fees to be sent to the Comptroller of Public Accounts for deposit into the General Revenue Fund. This means that unless the Legislature makes a specific appropriation to the agency, TFPA would not have authority to use the funds for the intended purpose. The Sunset Commission has agreed to add this issue to the Sunset contingency rider to request a Legislative appropriation to provide TFPA the authority to spend collected fees.

The bill would add 45,000 volunteer fire fighters and 2,000 volunteer fire departments to the agency's regulatory authority. While permissive, any new regulation implemented through agency rules would have a significant fiscal impact to the State. If TFPA chooses to regulate volunteer fire departments and firefighters, additional FTEs may be necessary in future years. However, since these provisions are permissive, costs for these provisions are not included in the fiscal note.

This analysis assumes that the provisions of the bill would require one additional FTE related to submittal of education records, reviewing complaint data, and reviewing firefighter injury information. The Eighty-first Legislature is considering allocating additional staff and funding to the agency for similar regulatory functions. If realized, the additional funding and staffing would be able to cover the cost of the bill.

## **Technology**

No significant technology impact is anticipated.

## **Local Government Impact**

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

**Source Agencies:** 116 Sunset Advisory Commission, 411 Commission on Fire Protection, 576 Texas Forest Service

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