

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 28, 2009

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

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

IN RE: **HB3737** by Anchia (Relating to criminal history checks for employees of, and applicants for employment at, special care facilities.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3737, As Passed 2nd House: a negative impact of (\$1,689,531) 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	(\$1,689,531)
2012	\$19,037,818
2013	\$19,047,045
2014	\$19,047,055

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from <i>General Revenue Fund</i> 1	Probable Revenue Gain/(Loss) from <i>Appropriated Receipts</i> 666	Probable (Cost) from <i>General Revenue Fund</i> 1	Probable (Cost) from <i>GR Match For Medicaid</i> 758
2010	\$0	\$0	\$0	\$0
2011	\$0	\$0	(\$1,689,118)	(\$413)
2012	\$19,526,713	\$2,695,623	(\$488,657)	(\$238)
2013	\$19,526,713	\$2,695,623	(\$479,472)	(\$196)
2014	\$19,526,723	\$2,695,623	(\$479,472)	(\$196)

Fiscal Year	Probable (Cost) from <i>Federal Funds</i> 555	Probable (Cost) from <i>State Highway Fund</i> 6	Probable (Cost) from <i>Appropriated Receipts</i> 666	Change in Number of State Employees from FY 2009
2010	\$0	\$0	\$0	0.0
2011	(\$4,667)	\$0	\$0	25.8
2012	(\$3,748)	(\$10,414,230)	(\$2,695,623)	73.7
2013	(\$2,279)	(\$10,414,230)	(\$2,695,623)	73.7
2014	(\$2,279)	(\$10,414,230)	(\$2,695,623)	73.7

Fiscal Analysis

The bill would amend the Health and Safety Code as it relates to criminal history checks for employees of, and applicants for employment at, special care facilities.

The bill would expand the name of Chapter 250, Health and Safety Code, to include Persons with Terminal Illness. The bill would also amend Section 250.001(3), Health and Safety Code, to replace references to Texas Department of Human Services and Texas Department of Mental Health and Mental Retardation with the Department of Aging and Disability Services (DADS) and add a special care facility licensed by the Department of State Health Services (DSHS) under Chapter 248 to the definition of a facility for purposes of Chapter 250, Health and Safety Code.

House Floor Amendment #1 would amend Chapter 161 of the Human Resources Code by adding a new section that would require the submission of a set of fingerprints for all employees and prospective employees by a director, owner or operator of a facility or agency serving patients who are elderly and/or disabled and licensed by the Department of Aging and Disability Services (DADS). The bill authorizes DADS to charge a fee equal to administrative costs.

The bill would specify that the provisions relating to background and criminal history checks apply only to those checks performed on or after September 1, 2011, and that adoption of rules must occur no later than September 1, 2010. For all other provisions of the bill, the effective date would be September 1, 2009.

Methodology

It is assumed that any cost related to sections 1-2 of the bill can be absorbed by the agencies.

House Floor Amendment #1:

Calculations assume that implementation of the bill would require that 570,123 additional background and criminal history checks that would include FBI fingerprint-based checks, be performed in each fiscal year from 2012 through 2014. This analysis assumes that, since DFPS already processes fingerprint check results for certain individuals and systems and procedures are already in place, DADS would contract with DFPS for their fingerprint check processing requirements.

The bill would result in a total increase in revenue of \$66,667,008 for the five years covered by this cost estimate from fees collected for the fingerprint checks. Costs for the Department of Public Safety (DPS) listed below are assumed to be offset by this revenue increase starting in fiscal year 2012. However, a portion of this revenue (approximately \$29.5 million for the five year period) is returned to the FBI for professional services as required by federal statute.

Costs for DFPS are estimated to be \$512,199 in All Funds for fiscal year 2011, \$963,894 for fiscal year 2012, and \$960,660 for fiscal years 2013 and 2014. Full-time-equivalent (FTE) needs are estimated at 7.8 in 2011 and 15.6 in each fiscal year thereafter. These costs and FTEs include the additional fingerprint check processing for DADS. Although the provisions of the bill do not impact fiscal year 2011 directly, the agency indicates a need to begin hiring and training staff to handle the influx expected at the start of fiscal year 2012.

Costs for DPS are estimated to be \$10,414,230 in All Funds in fiscal years 2012-2014, including approximately \$9.8 million per year returned to the FBI. These costs include 22.0 FTEs in fiscal years 2012-2014.

Costs for DADS are estimated to be \$1,181,998 in All Funds in fiscal year 2011, \$2,224,370 in fiscal year 2012, and \$2,216,907 in fiscal years 2013-2014 for 18 FTEs in fiscal year 2011 and 36.1 FTEs in fiscal years 2012-2014, for the additional workload associated with the fingerprint check results.

Technology

There would be an estimated technology impact at DPS of \$111,482 in fiscal years 2012-2014 for computers, printers, and enterprise agreements. These amounts are included in the costs above.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 405 Department of Public Safety, 537 State Health Services, Department of, 539 Aging and Disability Services, Department of, 530 Family and Protective Services, Department of

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