

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

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

**May 12, 2009**

**TO:** Honorable Jane Nelson, Chair, Senate Committee on Health & Human Services

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

**IN RE: SB544** by Ellis (Relating to the elimination of smoking in certain workplaces and public places; providing penalties.), **Committee Report 1st House, Substituted**

**No significant fiscal implication to the State is anticipated.**

The bill would prohibit smoking in public places, places of employment, and seating areas of outdoor events; exceptions are provided. The Department of State Health Services (DSHS) would be required to engage in a continuing program to explain and clarify the purpose and requirements of the newly created Chapter 169, Health and Safety Code; DSHS would also be required to guide employers, owners, operators, and managers in complying with the chapter and would be responsible for enforcement of the chapter. Complaints regarding violations of the chapter may be filed with DSHS. DSHS, another state agency, or an agency of a political subdivision of the state is authorized to inspect establishments for compliance. The Attorney General, at the request of DSHS or a person aggrieved by a violation of the chapter, may bring action for injunctive relief to enforce the chapter. The bill establishes offenses and penalties for violation of the provisions of the chapter.

The Office of the Attorney General indicates that the new complaints, investigations, or cases associated with implementation of the bill could be absorbed within existing resources.

It is assumed that DSHS could absorb the cost of preparing and distributing a brochure to explain the new chapter to employers, owners, operators, and managers if the agency reduced postage costs through the use of state contracts for mail services. It is assumed that these costs would apply in fiscal year 2010 only; costs in fiscal year 2011 and beyond would be minimal (for distribution to new businesses only).

**Local Government Impact**

The bill would repeal Section 48.01 of the Penal Code, and Section 2, Chapter 290, Acts of the 64th Legislature, Regular Session, 1975. There would be some costs to local governments associated with implementing the provisions of the bill, mostly consisting of purchasing and installing signage in public places to inform citizens of the ban, which also would result in ongoing costs to replace broken, worn, or stolen signs.

There would be costs to local law enforcement to enforce a ban, but this would depend on the number of offenders, and some of the costs would be offset by the fines imposed on offenders.

There would be costs to municipalities that choose to hold an election to enact an ordinance that prohibits or restricts smoking to a lesser degree than the one in the provisions of the bill. It is assumed that a municipality would hold an election only if sufficient funds are available.

**Source Agencies:** 302 Office of the Attorney General, 537 State Health Services, Department of

**LBB Staff:** JOB, CL, PP, VJC, TP