LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 21, 2009

TO: Honorable Jim Pitts, Chair, House Committee on Appropriations

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

IN RE: **SB2567** by Duncan (Relating to state fiscal matters; providing the authority to issue bonds; providing civil penalties.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for SB2567, As Engrossed: a negative impact of ($24,266,982) 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	($10,125,991)
2011	($14,140,991)
2012	($14,140,991)
2013	($14,140,991)
2014	($14,140,991)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from *General Revenue Fund* 1	Change in Number of State Employees from FY 2009
2010	($10,125,991)	11.0
2011	($14,140,991)	11.0
2012	($14,140,991)	11.0
2013	($14,140,991)	11.0
2014	($14,140,991)	11.0

Fiscal Analysis

The bill would amend various sections of the Education code, Government Code relating to certain fiscal matters.

The bill would create the Federal American Recovery and Reinvestment fund (ARRA fund) as a special fund in the state treasury outside the general revenue fund. A state agency would be required to deposit funds received under the American Recovery and Reinvestment Act (ARRA) of 2009 to the ARRA fund to allow the Comptroller to hold and account for ARRA funds. Additional funds may be deposited as outlined in the bill. As the Comptroller determines necessary, funds would be transferred between the ARRA fund and other accounts and funds. Interest earned on the ARRA fund balances would be retained in the fund.

The bill would add additional statutory duties and responsibilities to the State Auditor's Office (SAO). The bill would authorize the SAO to conduct audits of special water authorities and require the SAO to conduct comprehensive financial-related audits, including operations and performance, of the Brazos River Authority and Lower Colorado River Authority. Audits of special water authorities proposed under this bill would be subject to the SAO's risk assessment process and would be included in the audit plan, and subject to Legislative Audit Committee approval.

The bill would amend the Education Code to grant additional authority to the Board of Regents of the University of Texas (UT) System for the recovery and reconstruction of the University of Texas Medical Branch at Galveston. This authority would include the irrevocable pledging of revenue for the payment for bonds; transfer funds, subject to Legislative Budget Board approval, from other institutions within the UT System; and necessary actions in the acquisition of real property and the construction or reconstruction of improvements. This bill would exempt these bonds from oversight of the Texas Higher Education Coordinating Board.

The bill would re-enact Section 495.025(c) of the Government Code, as added by Chapter 100 (SB 1580), Acts of 80th Legislature, Regular Session, 2007, to require the Texas Department of Criminal Justice (TDCJ) to transfer, annually, the first $10 million of the vendor commission to GR Account 0469—Compensation to Victims of Crime. TDCJ would transfer half of the vendor commission to that account and the other half to the undedicated portion of General Revenue Fund 0001. The Comptroller of Public Accounts indicates currently there is insufficient data to determine vendor concession commissions, so the fiscal impact relating to this provision cannot be estimated at this time.

The bill would amend Chapter 801 of the Government Code to change the scope of the Pension Review Board (PRB) beyond its oversight of public retirement systems in Texas, and add board oversight of the investment of public funds by the Comptroller; the Permanent University Fund (PUF); Permanent School Fund (PSF); the Employees Retirement System, including a retirement system administered by the system; the Teacher Retirement System; the Texas Municipal Retirement System; the Texas County and District Retirement System; and the Texas Emergency Services Retirement System. The bill would also direct the PRB to develop, by rule, actuarial standards that may be used by public retirement systems. In addition, the bill would also direct the PRB to develop rules and procedures for receiving and investigating complaints against investment managers, as well as the review of contracts and fees paid to investment managers.

The bill would take effect immediately if it receives the required two-thirds vote in each house. Otherwise, the bill would take effect September 1, 2009.

Methodology

The SAO assumes audits of the Brazos River Authority and Lower Colorado River Authority would begin in fiscal year 2010 for completion no later than January 1, 2011 and will require approximately 4,500 hours. It is estimated the combined cost of the audits to be $615,720 in FY 2010 and $236,520 in FY 2011. This estimate is based on a current billing rate of $90 per hour and including travel costs for the Brazos River Authority audit. Under the provisions of the bill, the Brazos River Authority and the Lower Colorado River authority would be required to reimburse the SAO for the cost of performing the audit.

The Texas Education Agency (TEA) reports that the bill would have no direct fiscal implication for the Foundation School Program (FSP) and no significant impact on the operations of TEA, but that it may be required to seek an opinion from the Attorney General to clarify the relationship between the PRB and the State Board of Education, which has the current oversight of the PSF.

The cost to issue bonds is based on an assumed 20-year level debt service amoritazation with a 6 percent interest rate. Included in the tables above, the debt service payment for fiscal year 2010 would be $9,000,000. Beginning in fiscal year 2011 the debt service would increase to $13,080,000. UT anticipates the entire $150 million to be issued during fiscal year 2010; however, they do not expect to make principal payments in fiscal year 2010. As a result, it is assumed interest-only debt service payments in fiscal year 2010.

The PRB reports it would need eleven additional full-time-equivalents (FTEs) to carry out the provisions of the bill. These would include a General Counsel and a staff attorney to ensure that the agency has sufficient legal expertise to meet the board's new oversight authority. An Investment Analyst IV would serve in a senior-level position, with two Investment Analyst I positions to provide support. A full-time Database Administrator V would ensure that all information and data received by the PRB is securely and properly stored in the agency databases. A Program Specialist III would work with the staff actuary, and two additional Research Specialist I positions would provide data entry support. Finally, two additional Administrative Assistant I positions would support the administrative functions of the agency. The projected salary and benefits costs for these positions is approximately $1.6 million for the 2010-11 biennium. The PRB reports that other costs associated with the new FTEs total approximately $0.7 million for the 2010-11 biennium, which includes approximately $0.1 million in one-time costs for new office furniture equipment and moving costs.

Although not reflected in the tables above, the University of Texas Investment Management Company (UTIMCO), the investment manager of the PUF, estimates increased administrative costs of approximately $0.3 million for the 2010-11 biennium as a result of the bill's provisions. It is believed that these costs could be absorbed with current resources. Both the Comptroller of Public Accounts and the State Auditor's Office report that the bill's provisions would have no fiscal impact on their operations.

Local Government Impact

The fiscal impact on local governmental entities public retirement system could be significant related to implementation of this provision of the bill. The bill would remove the language that a rule adopted by the board may not be enforced against a public retirement system if compliance with the rule would cause the system to incur a major expense.

Two public retirement system entities reported the provisions of the bill could have a significant fiscal impact on counties and cities.

The Texas County and District Retirement System (TCDRS), a statewide public employee retirement system that provides retirement, death and disability benefits for full-time employees reported some of the provisions that require certain reports and filings would have a cost impact, but until there is an opportunity to review the policies and procedures that would be set by PRB, TCDRS is unable to provide a definitive amount or a reasonable estimate of the total fiscal impact of the bill. The TCDRS also noted that they do not receive state funds; each subdivision participating in TCDRS separately funds its own benefits from both employers and employees contributions to the system.

The Texas Municipal Retirement System (TMRS) which centrally administers retirement plans for over 830 cities and receives no state funding reported that funds held in trust for the members of the plans are invested by the TMRS Board of Trustees. Investment earnings are used to supplement and offset employer contributions made by the cities to their plans. The ability of the TMRS Board to perform its fiduciary duty with regard to investments could be impaired or delayed by the provisions of the bill, which could result in losses (or lower gains) to the fund. The impairment or delay could also result in increasing city contribution rates which pay for the current level of benefits provided by each TMRS city. It is impossible to quantify such increases. Because the procedures and policies created by the bill would be new, it is difficult to assess what effect the reviewing function of the PRB would have on TMRS' investment practices. TMRS also noted the potential costs of a slower contracting process may be higher than for other funds. TMRS began the diversification of its $14 billion trust fund in 2008, moving from a 100 percent fixed income portfolio into a diversified one more typical of large investment funds. As diversification progresses, the timing of individual 2 of 3 contracts may play a critical role, and losses resulting from the system's delay in diversification would translate directly into increased benefit costs for the cities.

Source Agencies: 304 Comptroller of Public Accounts, 308 State Auditor's Office, 338 Pension Review Board, 701 Central Education Agency, 720 The University of Texas System Administration

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