

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

March 2, 2011

TO: Honorable Byron Cook, Chair, House Committee on State Affairs

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

IN RE: HB623 by Bonnen (Relating to the detection and reporting of unauthorized immigration, the collection and dissemination of information concerning unauthorized immigration, the legal treatment or classification of unauthorized immigrants for certain purposes, the enforcement of certain laws governing immigration, and the establishment of English as the official language of this state.), **As Introduced**

The total fiscal impact to the state from the provisions of this bill is indeterminate due to the case-by-case nature of the impact on institutions of higher education, differences in current practices regarding the collection of information for services provided across state agencies, and varying state requirements for licensure. The fiscal impact anticipated for the Department of Public Safety is shown below.

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, Six-Year Impact:

| Fiscal Year | Probable Net Positive/(Negative) Impact to General Revenue Related Funds |
|--------------------|---|
| 2012 | \$0 |
| 2013 | \$0 |
| 2014 | \$0 |
| 2015 | \$0 |
| 2016 | \$0 |
| 2017 | \$0 |

All Funds, Six-Year Impact:

| Fiscal Year | Probable Savings/(Cost) from State Highway Fund 6 | Change in Number of State Employees from FY 2011 |
|--------------------|--|---|
| 2012 | (\$802,328) | 11.0 |
| 2013 | (\$564,792) | 11.0 |
| 2014 | (\$510,532) | 11.0 |
| 2015 | (\$510,532) | 11.0 |
| 2016 | (\$510,532) | 11.0 |
| 2017 | (\$510,532) | 11.0 |

Fiscal Analysis

Section 1.01 of the bill would amend the Code of Criminal Procedure to require a law enforcement agency to verify the immigration status of any person that is arrested and notify United States Immigration and Customs Enforcement if a person is not a citizen or national of the United States and is unlawfully here. Section 1.02 of the bill would add a chapter to the Code of Criminal Procedure to

require the Department of Public Safety to maintain a database containing information regarding each person arrested who has been determined to not be a United States citizen and unlawfully here.

Section 2.01 of the bill would amend the Texas Education Code to eliminate the ability of a student to qualify for in-state tuition at a public university by maintaining continuous residency for three years before earning a high school diploma and the year preceding the academic term in which the student is enrolled at a public university. The bill would also prohibit a person not lawfully authorized to be in the United States from establishing residency for purposes of in-state tuition.

Section 3.01 of the bill would require each state agency to include a supporting schedule that accounts for amounts spent by the agency to provide services directly or indirectly to persons that were not lawfully present in the United States in their legislative appropriations request. This accounting would also include amounts distributed to a local governmental entity that were spent to provide services to persons not lawfully present in the United States.

Section 4.01 of the bill would amend the Local Government Code to prohibit the governing body of a municipality, county, special district or authority, or any officer or employee of that entity from adopting a policy under which the entity would not fully enforce state or federal laws, including laws relating to immigrants or immigration. A local government or any officer or employee of that entity would be prohibited from receiving or retaining state funds if a rule or ordinance is adopted that would not fully enforce state and federal immigration laws. The bill would permit the attorney general to make a determination of eligibility of state funds and notify the entity of the determination; requiring the entity to forfeit and repay all unexpended state money.

Section 5.01 would add a chapter to the Occupations Code to require an applicant for a license, certificate, registration, permit, or other authorization issued by a department, commission, board, office, state agency, or political subdivision to provide an original or copy of documents used to establish identity and employment authorization as provided by Form I-9 or verify that they provided their current or most recent employer a correct Form I-9. The licensing authority would be required to determine the applicant's employment eligibility within 21 days and would be authorized to issue a temporary license until eligibility is verified.

Methodology

This analysis assumes that the Department of Public Safety would require additional full-time equivalent positions and programming costs to create and maintain the database that would be required by Section 1.02 of the bill.

Section 2.01 would impact students at universities, health-related institutions, state colleges, and technical universities. It is assumed some students who would no longer be eligible for in-state tuition would choose not to enroll or re-enroll in Texas institutions. This would result in a loss of tuition revenue for the institutions and possible savings in General Revenue formula funding. The extent of tuition revenue that would be lost and General Revenue formula funding that would possibly be saved would depend on each affected student's decision to pay the increased tuition costs, the demand for higher education from other students not currently enrolled, and the level of state support for formula funding.

Based on information received from state agencies, the accuracy of information collected and reported by agencies in their legislative appropriations request that would be required by Section 3.01 of this bill would vary depending upon program requirements and procedures. Some agencies report conflicts could arise with federal program requirements which could result in penalties or loss of revenue. Some agencies also anticipate difficulty complying with this provision if funding for services is provided directly to business or non-state entities rather than individuals.

According to the Office of the Attorney General, the provisions of the bill in Section 4.01 could result in new litigation raising constitutional challenges or seeking declaratory judgments; however, any additional legal work could be absorbed within current resources.

Some agencies report a cost would be incurred to implement the licensing requirements that would be created by Section 5.01 as a result of increased administrative functions, programming costs, or the need for additional full-time equivalents. Some licensing agencies noted a revenue loss may be incurred as a result of fewer international applicants for State of Texas licenses. Other agencies report this provision could be implemented within existing resources but the processing time for licenses would increase or fees would be raised to cover additional costs. Some agencies also anticipate compliance issues with implementation of the bill due to license business hiring practices.

Technology

Some agencies report that requirements of this bill would result in the reprogramming or creation of databases. The Department of Public Safety estimates technology costs of approximately \$160,000 in the 2012-13 biennium.

Local Government Impact

The provisions of Section 1.01 of the bill could result in a fiscal impact; however, the impact would vary depending on the current procedures in a locality. According to the Texas Association of Counties (TAC), Comal County reported the fiscal impact would not be significant. However, TAC also noted that the majority of counties, especially smaller counties, could experience a significant fiscal impact to implement the provisions of the bill. Harris County reported the fiscal impact would not be significant unless the county would be responsible for transporting offenders to other state or federal facilities.

Section 4.01 of the bill would have a fiscal impact for a local governmental entity that does not comply with the proposed changes in statute and that would otherwise qualify for and receive state funding, would experience a revenue loss. The amount of revenue loss would vary depending on what grant funds had been available and otherwise awarded to the entity.

According to TAC, the majority of counties, especially smaller counties, could experience a significant fiscal impact to implement the provisions of the bill. According to the Texas Municipal League (TML), costs associated with implementing the provisions of the bill could be significant. The City of Houston reported the fiscal impact could be significant, but would vary depending on the type of program the city chose to participate in. One program available is the Secure Communities program that the city estimated would cost \$75,000 as a one-time fee for software that allows a fingerprint to be taken and sent in for verification through Homeland Security.

Source Agencies: 302 Office of the Attorney General, 307 Secretary of State, 320 Texas Workforce Commission, 405 Department of Public Safety, 452 Department of Licensing and Regulation, 458 Alcoholic Beverage Commission, 503 Texas Medical Board, 507 Texas Board of Nursing, 508 Board of Chiropractic Examiners, 515 Board of Pharmacy, 529 Health and Human Services Commission, 582 Commission on Environmental Quality, 608 Department of Motor Vehicles, 701 Central Education Agency, 710 Texas A&M University System Administrative and General Offices, 720 The University of Texas System Administration, 781 Higher Education Coordinating Board, 537 State Health Services, Department of

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