

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

March 30, 2011

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

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

IN RE: HB892 by Howard, Charlie (Relating to the creation of the offense of unlawful transport of an illegal alien.), **Committee Report 1st House, Substituted**

The probable impact of implementing the bill cannot be determined due to the unavailability of reliable data or information related to the circumstances involved in the unlawful transport of illegal alien and future prosecutorial decisions to try these cases in state versus federal court.

The bill would amend the Penal Code by creating the offense of unlawful transport of an illegal alien punishable as a state jail felony except that it would be punishable as a felony of the third degree if committed for pecuniary benefit or if there is substantial likelihood that the illegal alien will suffer bodily injury. Under the provisions of the bill, a person commits an offense if the person knowingly transports an illegal alien in a manner that is designed to conceal the illegal alien from local, state, or federal law enforcement authorities. The bill would take effect on September 1, 2011.

Broadening the definition of the types of behavior punishable is expected to result in increased demands upon the correctional resources of counties or of the State due to an increase in offenses. It is expected that individuals who would be affected under the provisions of this bill are currently being sentenced under federal statute. According to the Bureau of Justice Statistics Federal Justice Statistics Program website (<http://bjs.ojp.usdoj.gov/fjsrc/>), there were 84,749 arrests nationwide for immigration offenses between October 1, 2008 and September 30, 2009. Approximately 4.4 percent of those arrests were for alien smuggling. It is unknown how many of those arrests took place in Texas or, how many in the future would be convicted under this statute versus federal statute.

A review of Bureau of Justice Statistics information, Texas Department of Criminal Justice records, Department of Public Safety records, Office of Court Administration records, and Jail Standards Commission records did not reveal any information that would help in an accurate assumption regarding unlawful transport of illegal alien and future prosecutorial decisions to try these cases in state versus federal court; therefore, the probable impact of implementing the bill cannot be determined.

Local Government Impact

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

Source Agencies:

LBB Staff: JOB, LM, KJG, GG