

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION**

**May 11, 2011**

**TO:** Honorable John Carona, Chair, Senate Committee on Business & Commerce

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

**IN RE: HB1123** by Dutton (Relating to the regulation of athlete agents; providing administrative and criminal penalties.), **Committee Report 2nd House, As Amended**

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

The bill would require the Secretary of State (SOS) to publish on SOS's website the information that prescribes the compliance responsibilities of an institution of higher education pertaining to athlete agents (agent) and would require SOS to notify the athletic director or other appropriate official of any changes to the compliance responsibilities.

The bill would require a registered agent to be certified as an agent by a national professional sports association (NPSA) unless a sport does not have an NPSA.

An applicant for registration or renewal as an agent would be required to provide certain information on a form prescribed by SOS.

An agent, before contracting an athlete or entering into an agent contract with an athlete in Texas, would be required to deposit with SOS a surety bond in the amount of \$50,000 payable to the state and conditioned on certain criteria.

SOS would be required, to the extent practicable, to have the form for an agent contract or financial services contract conform to the contract form approved by the NPSA for the sport the athlete would represent.

The bill would prohibit an agent from furnishing a thing of value to an athlete or certain individuals related to the athlete before completing the athlete's last intercollegiate sports contest and would prohibit an agent from committing certain acts that would cause an athlete to violate certain rules and regulations. SOS would be required to assess an administrative penalty, not to exceed \$50,000, if this is violated. The bill would also make these offenses a third degree felony.

SOS would be required to send notice of an athlete agent's conviction of certain offenses to each NPSA that has certified the agent.

The bill would repeal the following sections of the Occupations Code: Section 2051.103 related to effect of personal service contract, Section 2051.004 related to athlete agent contract, and Section 2051.153 related to exempting agents who enter into only an agent contract with an athlete from certain bond requirements.

The change in law made by this bill would only apply to an offense committed on or after the effective date of the bill.

SOS would be required to notify each institute of higher education of the changes in the athlete agent statute and post on SOS's website the compliance responsibilities by January 1, 2012.

The bill would take effect on September 1, 2011.

According to SOS, there were 80 registered agents on February 1, 2011 and most of the agents are currently certified by one or more NPSAs. SOS assumes that there may be a small decrease in the number of agents due to the increase in liability insurance.

It is assumed that the costs associated with modifications to existing SOS system applications, revisions to forms, rules, and publications, and notifications to each NPSA of agent convictions could be absorbed within existing resources.

It is not known how many administrative penalties and criminal offenses would occur, but it is assumed that there would be no significant fiscal implication.

It is anticipated that any additional costs associated with implementation of the legislation could be absorbed within existing resources.

### **Local Government Impact**

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

**Source Agencies:** 307 Secretary of State

**LBB Staff:** JOB, AG, BTA