

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

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

**May 23, 2011**

**TO:** Honorable Joe Straus, Speaker of the House, House of Representatives

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

**IN RE: HB1242** by Geren (Relating to the regulation of certain metal dealers; providing criminal penalties. ), **As Passed 2nd House**

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

The bill would expand the list of regulated metals. The bill would authorize additional documentation, confidentiality, and record keeping provisions for metal recycling entities and provide penalties for non-compliance. The bill would modify a metal recycling entities practices for verifying, maintaining, and processing a seller's documentation. The bill would require a seller to provide additional documentation to the metal recycling entity when attempting to sell a regulated material. The bill would require dealers who purchase and sell crafted precious metal to retain certain crafted precious metal items subject to reporting requirements for 21 days after the report is filed unless authorized to dispose of the item. The bill provides that a crafted precious metals dealer may pay for a purchase of crafted precious metal by check or prepaid debit card.

The bill would authorize the Department of Public Safety (DPS) to contract for services to manage the statewide electronic reporting system used to track the sales of regulated metal and provides for the confidentiality of the information maintained in the system. The bill would require DPS to post on its website a publicly accessible list of all registered metal recycling entities. The bill would require DPS to appoint an advisory committee to direct DPS on the regulation of metal recycling entities, and provides for the structure and duties of committee. The bill would require DPS to issue a notice to each owner or operator of a metal recycling entity informing the owner or operator of the requirement to obtain a certificate of registration, license, or permit.

The bill would expand the list of prohibited acts relating to the regulation of metal recycling entities; providing criminal penalties. The bill would make the unlicensed operation of a metal recycling entity, or failing to properly purchase or report the purchase of regulated material, or buying certain wire material, an offense punishable as a state jail felony if it is shown that the person has previously been convicted; otherwise the offense would be punishable as a misdemeanor by a fine not to exceed \$10,000. The bill would amend the Penal Code as it relates to the offense of theft to provide state jail felony punishment if the value of the property stolen is less than \$20,000 and the property stolen is aluminum, bronze, copper, or brass; rather than if the value of the property stolen is less than \$20,000 and the property stolen involves certain materials that consists of at least 50 percent aluminum, bronze, or copper. The bill would authorize DPS to limit the manner in which a metal recycling entity may pay for the purchase of a regulated metal if the entity is in violation of the provisions of the bill.

The bill would require certain fines be remitted to the comptroller. The comptroller would be required to deposit proceeds to the credit of an account in the general revenue fund, and those proceeds would be appropriated only to DPS to finance its administration of metal recycling entities or fund a grant program intended to prevent the theft of scrap metal. The Public Safety Commission would be required to adopt rules to establish and implement a grant program. Grants would fund local law enforcement efforts to prevent the theft of regulated material.

It is anticipated that the additional costs associated with the bill could be absorbed within the existing resources of the Department of Public Safety. It is assumed implementing the provisions of the bill would not result in a significant impact on the programs and workload of state corrections agencies or

on the demand for resources of those agencies.

The bill would take effect September 1, 2011. The enhancement of the punishment of an offense under the provisions of the bill would apply only to an offense committed on or after March 1, 2012.

**Local Government Impact**

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

**Source Agencies:** 304 Comptroller of Public Accounts, 405 Department of Public Safety

**LBB Staff:** JOB, AG, GG, DH, SZ, KKR