

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

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

**April 15, 2011**

**TO:** Honorable Pete Gallego, Chair, House Committee on Criminal Jurisprudence

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

**IN RE: HB1640** by Dutton (Relating to the prosecution of and punishment for the offense of official oppression.), **As Introduced**

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

The bill would amend the Penal Code to provide further conditions for the offense of official oppression, including excessive force. The bill would also make the intentionally subjecting another to mistreatment, including excessive force, or to unlawful arrest, detention, search, seizure, dispossession, assessment, or lien, punishable as a felony of the third degree if the actor is a peace officer. At present, the offense of official oppression is punishable as a Class A Misdemeanor. The bill would take effect September 1, 2011 and apply only to an offense committed on or after the effective date.

Increasing the penalty for any criminal offense is expected to result in increased demands upon the correctional resources of counties or of the State due to longer terms of probation, or longer terms of confinement in county jails or prison. However, in the case of this bill, it is assumed the number of offenders convicted under this statute would not result in a significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies.

**Local Government Impact**

The bill would amend Section 39.03, Penal Code, to specifically include use of excessive force as an act of official oppression and would make an offense under Subsection (a)(1) a felony of the third degree if the actor is a peace officer.

Implementing the provisions of the bill could increase the number of offenders to be remanded to state jails rather than county jails which would provide a savings to counties. The average cost per day to house an inmate in a county jail varies by county. Savings to local entities would depend on the number of peace officers convicted under this section; however fiscal impact is not anticipated to be significant.

**Source Agencies:**

**LBB Staff:** JOB, ESi, GG, ADM, KKR