

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

April 13, 2011

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

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

IN RE: **HB1929** by Zedler (Relating to the regulation of owners, operators, employees, and independent contractors of sexually oriented businesses to reduce risks to public and occupational health and to prevent human trafficking; providing penalties.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1929, As Introduced: a positive impact of \$651,691 through the biennium ending August 31, 2013.

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, Five-Year Impact:

| Fiscal Year | Probable Net Positive/(Negative) Impact to General Revenue Related Funds |
|-------------|--|
| 2012 | \$602,768 |
| 2013 | \$48,923 |
| 2014 | \$45,991 |
| 2015 | \$54,304 |
| 2016 | \$41,263 |

All Funds, Five-Year Impact:

| Fiscal Year | Probable (Cost) from General Revenue Fund 1 | Probable Revenue Gain from General Revenue Fund 1 | Change in Number of State Employees from FY 2011 |
|-------------|---|--|---|
| 2012 | (\$842,482) | \$1,445,250 | 9.1 |
| 2013 | (\$1,557,277) | \$1,606,200 | 12.1 |
| 2014 | (\$1,560,209) | \$1,606,200 | 12.1 |
| 2015 | (\$1,551,896) | \$1,606,200 | 12.1 |
| 2016 | (\$1,564,937) | \$1,606,200 | 12.1 |

Fiscal Analysis

The bill would add a chapter to the Occupations Code requiring the Department of State Health Services (DSHS) to license owners, operators, employees, and independent contractors of sexually oriented businesses who meet the eligibility criteria set forth in the bill; exemptions are provided. The bill authorizes a licensing fee in an amount to cover the costs of administering the chapter. The bill authorizes inspections to ensure compliance with the chapter and requires DSHS to investigate complaints.

The bill would authorize civil and administrative penalties for a violation of the chapter or a rule adopted under the chapter. Owners, operators, employees, and independent contractors of sexually

oriented businesses would not be required to hold a license under the chapter until September 1, 2012; the bill would take effect September 1, 2011.

Methodology

DSHS estimates 1,835 establishments in the state meet the proposed definition of “sexually oriented business” and estimates that each business employs an average of seven workers, for a total of 12,845 workers. DSHS assumes that 100 percent of these regulated businesses and workers would seek to obtain a license by September 1, 2012; the initial licenses would be split between one-year and two-year licenses and then renewal licenses would be for a two-year period beginning in fiscal year 2013. No new regulated businesses or workers are assumed in the calculations.

Costs for DSHS would be offset by fees (deposited to the General Revenue Fund). It is assumed they would be set in an amount to cover expenses associated with issuing and renewing licenses, as authorized in the bill. Additional funding and full-time equivalents (FTEs) would, however, need to be appropriated to DSHS. The bill requires that DSHS establish separate categories of licenses for owners and operators (establishments) and employees or independent contractors (workers). Based on the costs below, the fee for a two-year license for establishments is assumed to be approximately \$700 (\$350 for the one-year license), a renewal valid for two years is assumed to cost approximately \$1,050 and would be collected in fiscal years 2013-2016. The fee for a two-year license for workers is assumed to be approximately \$50 (\$25 for the one-year license), and a renewal valid for two years is assumed to cost approximately \$100 and would be collected in fiscal years 2013-2016.

Total costs for DSHS are estimated to be \$0.8 million in fiscal year 2012 and approximately \$1.6 million in fiscal years 2013-2016. DSHS would need 9.0 FTEs in each fiscal year to issue licenses, establish public health standards, and perform inspections and investigations. Approximately 0.1 FTE in each fiscal year is assumed for enterprise support services.

DSHS estimates that there will be approximately 257 violations found for the 14,680 licensees, which they estimate will result in approximately 80 State Office of Administrative Hearings (SOAH) hearings per fiscal year beginning in fiscal year 2013. DSHS anticipates needing an additional 3.0 FTEs in fiscal years 2013-2016 to handle these violations and provide legal support during these hearings. DSHS assumes a cost of approximately \$320,000 to participate in the hearings (\$4000 x 80 hearings).

SOAH and the Office of the Attorney General indicate that any costs to implement the provisions of the bill could be absorbed within current resources. The Health and Human Services Commission does not anticipate any fiscal impact related to implementation.

Technology

DSHS estimates IT costs of approximately \$45,000 in fiscal year 2012 for modifications to the existing health facility licensing Regulatory Automated System (RAS/VERSA).

Local Government Impact

The bill would make it a Class A misdemeanor offense to engage in a business transaction at a sexually oriented business without a license as prescribed by the bill.

A Class A misdemeanor is punishable by a fine of not more than \$4,000, confinement in jail for a term not to exceed one year, or both. Costs associated with enforcement, prosecution, and confinement could be absorbed within existing resources. Revenue gain from fines imposed and collected would not have a significant fiscal implication.

Source Agencies: 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 360 State Office of Administrative Hearings, 529 Health and Human Services Commission, 537 State Health Services, Department of

LBB Staff: JOB, KJG, JF, KKR, CL, VJC, MB, NB