

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 6, 2011

TO: Honorable Larry Phillips, Chair, House Committee on Transportation

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

IN RE: HB1938 by Simpson (Relating to the regulation of body imaging scanning equipment in airports; providing criminal and civil penalties.), **Committee Report 1st House, Substituted**

No fiscal implication to the State is anticipated.

The bill would add Section 22.902 to Subchapter Z of the Transportation Code to prohibit the installation or operation of body imaging scanning equipment that has the capability of capturing or transmitting data for use in creating a visual image of a person's unclothed body and that is intended to detect concealed objects in an airport owned or controlled by a local governmental entity. The bill would exclude body imaging scanning equipment that is used exclusively as part of an investigation of a person who the equipment operator has probably cause to believe has committed an offense; or the airport operator establishes a procedure that prohibits a person from being scanned unless the person gives written consent to the scan immediately before the scan is performed.

An airport operator commits an offense if the operator fails to comply with the provisions. An offense would be a civil penalty not to exceed \$10,000 for each day. The bill would authorize the attorney general to bring suit in a Travis County district court for injunctive relief or to collect civil penalties, plus court costs and reasonable attorney's fees incurred by the attorney general if an offense occurs.

The bill would require the Attorney General, with the consent of the local county or district attorney, as appropriate, to take any actions necessary on behalf of the state to defend the validity of the statute if any person challenges the validity of Section 22.902 of the Transportation Code.

The Office of the Attorney General reported any legal work associated with the provisions of the bill could be reasonably absorbed with current resources.

Local Government Impact

If a local governmental entity owns or controls an airport that currently has installed or operates a whole-body scanner, there could be costs associated with the removal or disabling of the equipment.

The City of Houston reported the provisions of the bill would not have a fiscal impact on the city because the bill would be preempted by federal law. However, if the attorney general filed a suit to enforce the provisions of the bill, local governmental entities would incur litigation costs.

The City of Austin reported the city does not own or operate whole-body scanners; therefore, there would be no fiscal impact.

Source Agencies: 302 Office of the Attorney General

LBB Staff: JOB, KJG, TP