

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

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

**May 19, 2011**

**TO:** Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

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

**IN RE: HB1994** by Weber (Relating to the creation of a first offender prostitution prevention program.), **As Engrossed**

**Any fee revenue resulting from the provisions of the bill cannot be estimated.**

The bill would add Chapter 169 to Subtitle H, Title 2 of the Health and Safety Code relating to the creation of first offender prostitution prevention program as defined by the provisions of the bill. The bill would establish the operational procedures, eligibility requirements, and the powers and duties of the program. The commissioners court of a county or the governing body of a municipality would be authorized to establish a first offender prostitution prevention program for defendants charged with an offense under Section 43.02(a) (2) of the Penal Code in which the defendant offered or agreed to hire a person to engage in sexual conduct.

The bill would authorize a program to collect from a participant a nonrefundable program fee in a reasonable amount not to exceed \$1,000 and must be based on the participant's ability to pay. The bill specifies the costs and amounts that must be paid from the program fee to cover costs provided by the program include a victim services fee in an amount equal to 10 percent of the total fee and a law enforcement training fee in an amount equal to five percent of the total fee. The victim services fee of 10 percent is to be deposited to the credit of the general revenue fund to be appropriated only to cover costs associated with the grant program described by Section 531.383 of the Government Code. The law enforcement training fee of five percent is to be deposited to the credit of the treasury of the county or municipality that established the program to cover costs for training law enforcement personnel on domestic violence, prostitution and the trafficking of persons. A counseling and services fee collected in an amount necessary to cover the costs of the counseling and services must be paid from the remaining 85 percent of the program fee.

The Lieutenant Governor and the Speaker of the House of Representatives would be authorized to assign appropriate legislative committees duties relating to the oversight of the program. The legislative committee or the Governor could request the State Auditor to perform a management, operations, or financial or accounting audit of the program.

The bill would authorize a judge or magistrate administering the program would be authorized to suspend a requirement, as a condition of community supervision, that a participant in the program work a specified number of hours at a community service project and upon successful completion, excuse the participant from community supervision.

The Department of Public Safety (DPS) reported the department would need to update the agency's Standard Operating Procedure manual and train data integrity staff on the new qualifications required for non-disclosures. This analysis assumes that any additional costs could be reasonably absorbed within existing resources.

The Comptroller of Public Accounts (CPA) reported the fiscal impact associated with the provisions of the bill cannot be estimated. In addition, any administrative costs would not result in a fiscal impact to the agency.

According to the analysis by the State Auditor's Office (SAO), because the requirement would be new, the SAO does not anticipate receiving a request from a legislative committee or the Governor for an audit of a program during fiscal years (FY) 2012 or 2013. The SAO further assumes that the SAO would receive one request for an audit of one program in one county or municipality during FY 2014 and one request in FY 2016. The SAO estimated that each audit would require 1,500 hours and based on SAO's billing rate of \$92 per hour, the audit would cost \$152,400 (including \$14,400 travel expenses). The SAO also reported the costs to the SAO would not be significant and could be absorbed within the existing budget.

The bill would take effect immediately if it receives the required vote of two-thirds of all the members elected to each house; otherwise, the bill would take effect September 1, 2011.

### **Local Government Impact**

There would be a positive fiscal impact to a county or a municipality that chose to create a first offender prostitution prevention program for the collection of the victim services fee, but the amount would vary depending on the number of participants and the amount of the program fee. In addition, there would be costs associated with establishing a program that would offset some of the revenue amounts. It is assumed that a county or a municipality would establish a program only if sufficient resources were available within the entity's budget or the program would not result in a negative fiscal impact.

According to the analysis of the Office of the Court Administration (OCA), an entity that creates a program would receive 85 percent of the program fees which are assessed and collected, but would be required to pay a counseling and services fee in an amount necessary to cover the costs of the counseling and services provided by the program. Since prostitute defendants would not be eligible to participate in the proposed program, the number of potential participants is comparatively low. The program fee could not exceed \$1,000 and must be based on the participant's ability to pay which could result in the actual amount being set significantly less than \$1,000. Therefore, a program may not be implemented and operated without the county or municipality providing some additional funding.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 301 Office of the Governor, 304 Comptroller of Public Accounts, 308 State Auditor's Office, 405 Department of Public Safety

**LBB Staff:** JOB, ESi, SD, TP, YD, TB