

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

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

**April 14, 2011**

**TO:** Honorable Joe Deshotel, Chair, House Committee on Business & Industry

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

**IN RE: HB2846** by Madden (Relating to certain procedures and civil penalties under the Deceptive Trade Practices-Consumer Protection Act.), **Committee Report 1st House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB2846, Committee Report 1st House, Substituted: an impact of \$0 through the biennium ending August 31, 2013.

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2012	\$0
2013	\$0
2014	\$0
2015	\$0
2016	\$0

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Revenue Gain/(Loss) from <i>Judicial Fund</i> 573
2012	(\$468,000)
2013	(\$468,000)
2014	(\$468,000)
2015	(\$468,000)
2016	(\$468,000)

**Fiscal Analysis**

The bill would amend Chapter 17 of the Business and Commerce Code. The bill would reduce civil penalties collected under the Deceptive Trade Practices Act (DTPA) from not more than \$20,000 per violation to the lesser of the following: \$10,000 per violation; \$10,000 plus three times the amount of actual damages caused by the violations; or 25 percent of the net worth of the person against whom or which an action was brought. The bill would extend the time allowed to respond to requests for information. The bill would require the use of identified versus identifiable consumers as a basis for determining restitution.

Civil penalties from DTPA actions are allocated to the Supreme Court Judicial Fund. Because the bill would reduce civil penalties that can be recovered, it would have a negative impact on the Judicial Fund.

The bill would take effect September 1, 2011.

## **Methodology**

The bill would reduce the basic per violation penalty for DTPA violations. The Office of Attorney General (OAG) estimates that the bill's penalty structure would decrease the amount of civil penalties recovered by half. In fiscal year 2011, the OAG collected \$936,539 in civil penalties under the DTPA. Based on those collections, the OAG projects that the bill would reduce penalties by \$468,000 a year. That reduction would affect the Judicial Fund, which receives its funding from civil penalties under Section 402.007 of the Government Code.

The OAG anticipates any additional costs associated with implementation of the legislation could be absorbed within existing resources.

## **Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 302 Office of the Attorney General, 304 Comptroller of Public Accounts

**LBB Staff:** JOB, AG, SD