

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

April 6, 2011

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

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

IN RE: HB2886 by Workman (Relating to the establishment of a work program for certain persons not legally authorized to be in the United States; providing penalties.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2886, As Introduced: a positive impact of \$1,348,311 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	\$263,653
2013	\$1,084,658
2014	\$1,084,658
2015	\$1,084,658
2016	\$1,084,658

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/ (Loss) from <i>General Revenue Fund</i> 1	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Change in Number of State Employees from FY 2011
2012	\$39,630,000	(\$39,366,347)	123.0
2013	\$13,430,000	(\$12,345,342)	107.1
2014	\$13,430,000	(\$12,345,342)	107.1
2015	\$13,430,000	(\$12,345,342)	107.1
2016	\$13,430,000	(\$12,345,342)	107.1

The table above does not include a fiscal impact estimate for revenue that would be generated from the state tax proposed in the bill. The fiscal impact of this tax cannot be determined.

Fiscal Analysis

The bill would authorize a foreign national who is not lawfully present to apply for a Texas resident alien card that may be obtained by paying a fee of \$4,000 and would be valid for eight years. The bill would authorize a person issued a resident alien card to legally work in Texas.

The bill would require the Texas Workforce Commission (TWC), by rule, to adopt a form to be used to apply for a resident alien card. The bill requires the resident alien card to be designed in a manner that prevents forgery and sets forth certain criteria the card must meet. The bill would require an

applicant for a resident alien card to submit a criminal history record information review by the Department of Public Safety (DPS).

The bill would require an employer who hires an unlawful resident alien to withhold a state tax at the rate withheld from federal income taxes from the unlawful resident alien's paycheck. The state tax withheld would be required to be sent to the Comptroller of Public Accounts (CPA). The CPA would be required to issue a unique identification number for each cardholder.

The bill would require TWC employees to serve as compliance officers to monitor employers and unlawful resident aliens throughout the state. A compliance officer would have the authority to enter a place of business for inspection purposes and to question the employer and employees regarding compliance. The bill sets forth that an employer who employs a foreign national who is not lawfully present in the state and who has not been issued a resident alien card would be subject to a \$10,000 fine for each incident.

The bill would require taxes collected under the provisions of the bill to be used to ensure compliance and provide supplemental money to a political subdivision that provides services to an unlawful resident alien. The bill sets forth the manner and priority in which the money would be used.

Methodology

This analysis assumes any fines and fees collected under the provisions of the bill would be deposited to the General Revenue Fund. The CPA reports that the fiscal impact of the bill cannot be determined because of the unclear nature of the proposed state tax to be withheld from the paycheck of unlawful aliens and because it is not possible to determine how many people would be subject to the tax.

The CPA estimates additional costs would be incurred for technology and 1 full time equivalent position needed to process tax forms and payments due to the creation of a new state payroll tax as a result of the bill.

The analysis provided by TWC assumes that the fee for a resident alien card would cover all expenses associated with issuance of the card and monitoring employers and unlawful residents aliens throughout the state. Based on information from the Pew Research Center, TWC estimates that 9,620 persons would apply for a resident alien card in fiscal year 2012 and 3,070 persons would apply in subsequent fiscal years. Consistent with current inspection processes, TWC assumes two percent of all employers would be inspected and estimates that 115 employers per fiscal year would be subject to the fine that would be created by the bill.

TWC reports that the costs incurred to implement the provisions of the bill would result from the opening of four border offices; the establishment of six field offices to monitor and inspect employers and unlawful resident aliens; an additional 105 FTEs required to staff these offices and administer the program; and direct operating costs for supplies, utilities, phone service, maintenance, travel, professional fees, machine rental, and other operating expenses. Additional one-time expenses would arise from the need for nonrecurring office equipment and technology.

DPS reports costs would be incurred to complete a criminal history background check for each applicant of a resident alien card as required by the bill. These costs would include an additional 17 FTEs during fiscal year 2012. DPS assumes only 1.1 FTEs would be required in subsequent years due to the expected decrease in applications for resident alien cards.

Note: This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. Legislative policy, implemented as Government Code, Section 403.094, consolidated special funds (except those affected by constitutional, federal, or other restrictions) into the General Revenue Fund as of August 31, 1993 and eliminated all applicable statutory revenue dedications as of August 31, 1995. Each subsequent Legislature has reviewed bills that affect funds consolidation. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

Technology

The CPA would incur a one-time technology cost of \$793,000 in fiscal year 2012 for development, programming, project management, and security control assessments.

TWC assumes a tracking system would be developed to facilitate tracking applicants and interfacing with the CPA and DPS. TWC estimates the cost to implement the tracking system, provide technical support, and mail necessary information to applicants would be \$28 million during fiscal year 2012. In fiscal years 2013 and beyond TWC estimates costs for ongoing technical support and mailing information would be \$3 million.

DPS does not anticipate any technology impact as a result of the bill.

Local Government Impact

Funds collected under the provisions of the bill would be used to provide supplemental money to political subdivisions that provide services to unlawful resident aliens, including reimbursing political subdivisions for money spent for unlawful resident aliens and supplementing the cost of medical care in local communities.

Revenue gains to units of local government would depend on the total amount of funds generated under the provisions of the bill and the manner in which funds were disbursed to local entities.

Source Agencies: 304 Comptroller of Public Accounts, 320 Texas Workforce Commission, 405 Department of Public Safety, 529 Health and Human Services Commission

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