

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: HB3396 by Hernandez Luna (Relating to the prosecution of and punishment for the offense of breach of computer security.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend the Penal Code as it relates to the prosecution of and punishment for the offense of breach of computer security. The bill would expand the definitions of computer crimes provided in the Penal Code to include “Critical infrastructure facility” and “Identifying information”. The bill would amend the Penal Code by making knowingly accessing a computer, computer network, or computer system without the effective consent of the owner a state jail felony if the defendant has been previously convicted two or more times, or it involves certain government property or critical infrastructure facility. The bill would also make certain breach of computer security committed with the intent to obtain a benefit, defraud or harm, or alter or damage property punishable at various felony levels, contingent upon the total dollar amount of the losses incurred or if it involves obtaining personal identifying information of another. Under current statute, the offense of breach of computer security is punishable as a Class B Misdemeanor; and punishment is enhanced to various levels, misdemeanor and felony, contingent upon the total dollar amount of the losses incurred.

The bill would also provide a defense to prosecution related to the lawful seizure, search or access for a legitimate law enforcement purpose, for the offense of breach of computer security. The bill would take effect on September 1, 2011 and apply to offenses committed on or after that date.

Increasing the penalty for any criminal offense is expected to result in increased demands upon the correctional resources of counties or of the State due to longer terms of supervision in the community, or longer terms of confinement in county jail, state jail or prison. When an offense is changed from a misdemeanor to a felony, there is a transfer of the burden of confinement of convicted offenders from the counties to the State. For this analysis it is assumed the number of offenders convicted under this statute would not result in a significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: JOB, ADM, ESi, GG