

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

March 29, 2011

TO: Honorable Tommy Williams, Chair, Senate Committee on Transportation & Homeland Security

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

IN RE: SB9 by Williams (Relating to homeland security.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB9, As Introduced: a positive impact of \$12,164,000 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	\$3,679,000
2013	\$8,485,000
2014	\$8,182,000
2015	\$7,897,000
2016	\$7,663,000

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain from General Revenue Fund 1	Probable (Cost) from State Highway Fund 6	Change in Number of State Employees from FY 2011
2012	\$3,679,000	(\$1,809,727)	15.0
2013	\$8,485,000	(\$929,398)	15.0
2014	\$8,182,000	(\$877,398)	15.0
2015	\$7,897,000	(\$907,514)	15.0
2016	\$7,663,000	(\$877,398)	15.0

Fiscal Analysis

The bill would amend the Code of Criminal Procedure to require peace officers or the law enforcement agency with custody of an arrested person or person in custody to verify the immigration status of persons by use of the Federal Secure Communities program and notify United States Immigration and Customs Enforcement if the person’s immigration status cannot be verified. The bill would permit the installation and use of a mobile tracking device without a court order in the course of certain criminal investigations.

The bill would amend the Code of Criminal Procedure, Government Code, Transportation Code, and Penal Code as they relate to penalties for engaging in organized criminal activity, and directing activities of criminal street gangs. The bill would amend the Health and Safety Code by providing exceptions to preparatory offenses under the Texas Controlled Substances Act relating to the performance of an overt act involving criminal conspiracy.

The bill would amend the Code of Criminal Procedure by adding Article 102.0179, which creates a law enforcement fee of \$100 for misdemeanor offenses and \$200 for felony offenses listed within the Health and Safety Code, Chapter 481. This chapter includes offenses related to the possession, delivery and manufacturing of drugs. The bill would require that revenue from the fee be remitted to the Comptroller of Public Accounts (CPA) and deposited in the General Revenue Fund.

The bill would amend the Government Code to require the Department of Public Safety (DPS) to establish a pilot program relating to the use of automatic license plate readers in law enforcement motor vehicles and include a request for proposal process to select a contractor for the installation of the license plate readers. The bill would permit the Public Safety Commission of DPS to call special rangers and special Texas Rangers into service under certain criteria. The bill would require county jails to report to the Texas Commission on Jail Standards (TCJS) certain data regarding inmates who are not US citizens or are unlawfully present in the US and the costs associated with housing those inmates. The bill would permit DPS to establish a program for the purposes of establishing checkpoints to ensure operators of motor vehicles possess required licenses and financial responsibility. DPS may establish and share costs of the checkpoint program with local law enforcement authorities. The bill includes provisions regarding the procedures required of the checkpoint program. The bill would require DPS to ensure an applicant for a driver's license, permit, commercial driver's license, or personal identification card is not a fugitive from justice through authentication of a facial image and the thumbprints or fingerprints of the applicant.

The bill would take effect September 1, 2011.

Methodology

DPS indicates the Crime Records Section (CRS) of DPS where fugitive information is maintained does not have capability for facial verification, but they would be able to verify applicants are not fugitives by checking both thumbprints and all fingerprints. Currently, only thumbprints are used to verify other information regarding applicants for the applicable documents and would not be sufficient to check against CRS records. This would require DPS to obtain programming and equipment to obtain full sets of fingerprints from all applicants and allow the CRS to interface with the Driver License System. Additionally, DPS will require an additional 15 Fingerprint Technician IIIs to analyze and process the additional submitted fingerprints to comply with the provisions of the bill. This analysis assumes all other provisions of the bill affecting DPS could be implemented within existing resources.

According to the CPA and the Office of Court Administration (OCA), the creation of a \$100 court fee for misdemeanors and a \$200 court fee for felonies for drug-related offenses would result in a revenue gain to the state, which would be deposited to the General Revenue (GR) Fund as required by the bill. For fiscal year (FY) 2012 the CPA estimates a \$3.7 million revenue gain to GR from this court cost, which reflects a partial year implementation. The agency anticipates a revenue gain to GR ranging from \$7.7 million to \$8.5 million in FY 2013 to FY 2016. The CPA based this estimate on historical convictions for applicable offenses and historical court cost collection rates. According to the OCA, in FY 2010 there were approximately 29,893 misdemeanor and 47,782 felony convictions or deferred dispositions for drug related cases.

Expanding the list of behaviors for which a penalty is applied for any criminal offense or 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 probation, or longer terms of confinement in county jail, state jail or prison. In the case of this bill, the impact on correctional populations would depend on how many persons would be prosecuted under the provisions of the bill, and the extent to which punishment would be enhanced under the proposed statute compared to existing statute. 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.

Technology

DPS estimates technology costs to implement the provisions of the bill related to determining if applicable applicants are fugitives from justice at \$843,000 in FY 2012, \$52,000 in FY 2013, and \$10,600 in FY 2015. These costs include additional programming equipment, and maintenance of additional equipment necessary to capture all the fingerprints of all applicants for the applicable documents and allow the CRS to interface with the Driver License System.

Local Government Impact

It is anticipated that all requirements of local law enforcement could be absorbed with existing resources.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts, 405 Department of Public Safety, 696 Department of Criminal Justice

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