

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

March 9, 2011

TO: Honorable Jane Nelson, Chair, Senate Committee on Health & Human Services

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

IN RE: SB355 by Ellis (Relating to the elimination of smoking in certain workplaces and public places; providing penalties.), **Committee Report 1st House, Substituted**

No direct significant fiscal implication to the State is anticipated; however, it is likely that secondary effects of the bill's provisions would result in significant cost savings to the state's various health care and health insurance programs.

The bill would prohibit smoking in public places, places of employment, and seating areas of outdoor events; exceptions are provided. The Department of State Health Services (DSHS) would be required to guide employers, owners, operators, and managers in complying with the chapter and would be responsible for enforcement of the chapter. The bill establishes offenses and penalties for violation of the provisions of the chapter. The bill would take effect September 1, 2011.

DSHS is required to engage in public education, in part through a brochure, and serve as a guide to compliance with the new chapter, but the bill does not specify a delivery method. According to the agency, a brochure could be published on one of DSHS' existing tobacco program websites. It is assumed that any costs would be minimal and could be absorbed by the agency. DSHS indicates that an existing toll-free service would be used to receive complaints about violations, and that the increased volume of calls would not affect the existing contract.

The Office of the Attorney General indicates that the new complaints, investigations, or cases associated with implementation of the bill could be absorbed within existing resources.

According to various studies, the bill may result in significant savings in health care costs, especially as related to the effects of secondhand smoke. The greatest impact would be seen on the costs associated with low birth weight, childhood asthma, and coronary heart disease. These savings would likely increase over time, and would include impacts to both the state employee health care program and Medicaid. The Health and Human Services Commission (HHSC) projects potential Medicaid savings of approximately \$13 million in General Revenue Funds (approximately \$31 million All Funds) for the 2012-13 biennium; the estimated five-year savings would total \$35 million in General Revenue Funds (\$83 million in All Funds).

Local Government Impact

The bill would repeal Section 48.01 of the Penal Code, and Section 2, Chapter 290, Acts of the 64th Legislature, Regular Session, 1975. There would be some costs to local governments associated with implementing the provisions of the bill, mostly consisting of purchasing and installing signage in public places to inform citizens of the ban, which also would result in ongoing costs to replace broken, worn, or stolen signs.

There would be costs to local law enforcement to enforce a ban, but this would depend on the number of offenders, and some of the costs would be offset by the fines imposed on offenders.

There would be costs to municipalities that choose to hold an election to enact an ordinance that prohibits or restricts smoking to a lesser degree than the one in the provisions of the bill. It is assumed that a municipality would hold an election only if sufficient funds are available.

Source Agencies: 302 Office of the Attorney General, 537 State Health Services, Department of, 529 Health and Human Services Commission

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