

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

**FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION**

**May 1, 2013**

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

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB3575** by Fallon (relating to the investigation and prosecution of offenses against public administration, including ethics offenses, offenses involving insurance fraud, and offenses involving motor fuels tax.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB3575, As Introduced: a negative impact of (\$1,536,630) through the biennium ending August 31, 2015.

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:**

<b>Fiscal Year</b>	<b>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</b>
2014	(\$787,975)
2015	(\$748,655)
2016	(\$748,655)
2017	(\$748,655)
2018	(\$748,655)

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

<b>Fiscal Year</b>	<b>Probable (Cost) from General Revenue Fund 1</b>	<b>Change in Number of State Employees from FY 2013</b>
2014	(\$787,975)	6.0
2015	(\$748,655)	9.0
2016	(\$748,655)	9.0
2017	(\$748,655)	9.0
2018	(\$748,655)	9.0

**Fiscal Analysis**

The bill would amend the Government Code relating to the creation of a public integrity unit in the Office of the Attorney General (OAG). The unit would be authorized to investigate offenses

involving public administration, insurance fraud, or motor fuels tax fraud. Under bill provisions, the OAG, at the request of the appropriate prosecuting attorney, may assist in the prosecution of or assume the duty of prosecuting described offenses.

Under bill provisions, the OAG indicates it would need additional resources to investigate alleged offenses, and assist with or assume duties of prosecution. Also, the State provides an appropriation to the Public Integrity Unit (PIU) of Travis County in the Judiciary Section, Comptroller's Department. Bill provisions would result in a minimal savings to the PIU should a local prosecutor other than the PIU request the OAG assume investigation and prosecution of offenses involving public administration. The PIU indicates that of 150 cases currently indicted in the General State Division, only 8 are in Travis County because of a statutory venue provision, and 142 are in Travis County because an element of the offense occurred in Travis County. Accordingly, the fiscal implication of this portion of bill provisions is not anticipated to be significant.

To the extent the OAG would prosecute insurance fraud or motor fuels tax fraud cases at the request of the local prosecutor, the PIU could realize savings from the divisions funded with the State Highway Fund No. 6 (Other Funds) and the General Revenue - Insurance Companies Maintenance Tax and Insurance Department Fees. The PIU indicates that of 42 cases currently indicted in the Insurance Fraud Division, 25 are in Travis County due to a statutory venue provision, and 17 are in Travis County because an element of the offense occurred in Travis County. Similarly, of cases indicted in the Motor Fuels Tax Fraud Division, 24 are in Travis County due to a statutory venue provision, and 2 are in Travis County because an element of the offense occurred in Travis County. However, this analysis does not include an estimate of any savings to the appropriation for the PIU for cases where the offense occurred outside of Travis County, although such savings from these methods of finance could be used to offset costs if the OAG assumed these prosecutions in the future.

The bill would require the OAG to establish the public integrity unit no later than March 1, 2014. The bill would take effect January 1, 2014.

## **Methodology**

The OAG anticipates needing \$787,975 in fiscal year 2014, including 6 FTEs and \$748,655 in fiscal year 2015 and each year thereafter from General Revenue, including 9 FTEs, to process an additional 20-40 investigations per fiscal year and to assist, upon request, in any subsequent prosecutions. Costs would include assistant attorneys general (3 FTEs) and investigators (6 FTEs, who would be commissioned law enforcement officers), with salaries, wages, and benefits totaling \$656,743 per fiscal year (prorated for 8 months at \$437,829 in fiscal year 2014). Start up costs for the new positions in fiscal year 2014 would total \$258,234 and would include law enforcement equipment, including weapons, radios, officer safety equipment, capital equipment, and vehicles. Ongoing expenses of \$91,912 per fiscal year would include general operating expenses, travel, and gas and repairs for law enforcement vehicles.

As an office of the prosecuting attorney in Travis County, the PIU indicates that office would not likely request the OAG's assistance in prosecution of offenses against public administration. Accordingly, no savings for establishing this function in the OAG's office is included in this estimate, although a minimal savings from the OAG assuming investigatory responsibilities for these investigations could occur if other local prosecutors request assistance. Also, the PIU reports that over 93 percent of its General State Investigations cases are cases involving fraud or financial crimes, rather than offenses under public administration statutes, and would not be

affected by bill provisions.

This estimate includes no savings from appropriations to the PIU under bill provisions that provide the OAG with authority to investigate and prosecute insurance and motor fuels tax fraud for two reasons:

- 1) The PIU's budget is primarily for prosecution of these offenses, and under the local right of prosecution, other statutory provisions, as well as bill provisions, Travis County would continue to have primary venue or special venue over general state, insurance fraud and motor fuels tax fraud cases; and,
- 2) Currently, other state agencies are responsible for investigating cases that are then brought to the PIU for prosecution --the Comptroller of Public Accounts investigates cases involving motor fuels tax fraud; the Workers Compensation Commission investigates cases involving worker's insurance fraud, and the Department of Insurance investigates other insurance fraud cases.

Accordingly, it is assumed that providing the OAG with authority to investigate these types of cases would not result in corresponding savings at state agencies with primary duties to investigate the offenses described.

### **Local Government Impact**

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

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General

**LBB Staff:** UP, AG, ZS, TB, KKR