

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

**FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION**

**May 18, 2015**

**TO:** Honorable Donna Campbell, Chair, Senate Committee on Veteran Affairs & Military Installations

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

**IN RE: HB11** by Bonnen, Dennis (Relating to the powers and duties of the Texas Department of Public Safety and the investigation, prosecution, punishment, and prevention of certain offenses; creating an offense and increasing a criminal penalty.), **As Engrossed**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB11, As Engrossed: a negative impact of (\$40,150,386) through the biennium ending August 31, 2017.

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>
2016	(\$24,540,599)
2017	(\$15,609,787)
2018	(\$15,609,787)
2019	(\$15,609,787)
2020	(\$15,609,787)

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

<b>Fiscal Year</b>	<b>Probable Savings/(Cost) from General Revenue Fund</b>	<b>Change in Number of State Employees from FY 2015</b>
	<b>1</b>	
2016	(\$24,540,599)	12.0
2017	(\$15,609,787)	12.0
2018	(\$15,609,787)	12.0
2019	(\$15,609,787)	12.0
2020	(\$15,609,787)	12.0

**Fiscal Analysis**

The bill would:

- 1) Amend the Government Code to require the Department of Public Safety (DPS) periodically to review the agency's information technology system.
- 2) Amend the Government Code to provide DPS with the option of defining the daily and weekly hourly work load for DPS commissioned officers assigned to certain border regions to be 10 hours and 50 hours, respectively.
- 3) Amend the Government Code to authorize DPS to credit up to 4 years of experience as a law enforcement officer in the state as years of service for Schedule C salary purposes. The bill would also stipulate all officers are subject to a one-year probationary period regardless of rank or salary classification.
- 4) Amend the Government Code to authorize the Public Safety Commission to establish a reserve officer corps and authorize the DPS Director to call the reserve officer corps into service at any time. The bill would also amend the Code of Criminal Procedure to include as "peace officers" members of the reserve officer corps.
- 5) Amend the Government Code to authorize DPS to admit certain military veterans to the agency's trooper training academy.
- 6) Amend the Government Code to establish a new legislative State Law Enforcement Operations Oversight Committee to monitor and regularly report to the legislature on the progress of state operations targeting transnational gang and cartel activity, including monitoring conditions at the local level.
- 7) Amend the Government Code to require DPS to study the feasibility of providing federal authorities at international border checkpoints with assistance in the interdiction of weapons, bulk currency, stolen vehicles, and other contraband, and of fugitives, being smuggled from Texas into Mexico. The bill would authorize DPS to share the costs of staffing any such international border checkpoint with relevant federal entities.
- 8) Amend the Government Code to require DPS to provide assistance to local law enforcement agencies along the Texas-Mexico border upon request by those agencies on offenses punishable as a third-degree felony or higher.
- 9) Amend the Government Code to require each local law enforcement agency to implement an incident-based crime reporting system that meets the reporting requirements of the National Incident-Based Reporting System by September 1, 2019. If a local law enforcement agency is not in compliance by September 1, 2019, any grant funds awarded to the agency by DPS or the Criminal Justice Division of the Office of the Governor may only be used to come into compliance with this requirement. The bill would require DPS to promulgate rules necessary to implement this requirement by no later than December 31, 2015.
- 10) Amend the Government Code to reenact statute pertaining to the Texas Anti-Gang Grant Program. The reenacted statute would require the Office of the Governor's Criminal Justice Division to administer a competitive grant program to support regional and multidisciplinary approaches to combat gang violence.
- 11) Amend the Local Government Code to require a certain sheriff's department and municipal police department to jointly establish and operate the Texas Transnational Intelligence Center. DPS would be required to assist in the establishment and operation of this Center. Each local law enforcement agency in a county located along the Texas-Mexico border, as well as the Texas Alcoholic Beverage Commission and Texas Parks and Wildlife Department, would be required to

report certain crime information to the Center. The bill would require the information in the Center shall be made available to each law enforcement agency in the state, as well as to the Texas Alcoholic Beverage Commission and Texas Parks and Wildlife Department.

12) The bill would amend the Penal Code to prohibit certain additional behaviors, remove certain defenses to prosecution, and enhance certain punishments under the offense of smuggling of persons. The bill would also create the new offense of continuous smuggling of persons and include this offense among other offenses eligible for prosecution under the offense of engaging in organized criminal activity.

Except as otherwise noted above, the bill would take effect September 1, 2015.

**Methodology**

This fiscal note assumes all costs associated with implementing the provisions of the bill would be funded out of the General Revenue Fund.

1) This fiscal note assumes the bill's requirement that the Department of Public Safety (DPS) periodically review the agency's information technology system can be absorbed within existing resources.

2) This fiscal note assumes the bill's requirement to increase the work week of certain Department of Public Safety troopers to 50 hours would result in additional overtime costs of \$13,367,885 in General Revenue in each fiscal year covered. This overtime cost is based on the following assumptions:

a) 725 troopers would be stationed in counties along the Texas-Mexican border. This number was reported by DPS and is based on the agency's count of the number of troopers stationed in the affected counties as of January 31, 2015 (analogous to DPS Regions III and IV).

b) Each average hour of overtime is \$52.92325. This is the average dollar per hour cost of overtime for troopers in different commissioned positions, as shown in the table below.

c) The total hours of overtime worked each year for each category of trooper is 348.4 hours. This number of hours of overtime per year is based on ten hours of overtime per week multiplied by a 52 week work year. This 520 overtime hours annual value is then prorated to reflect current ongoing overtime funding. The Eighty-second Legislature, Regular Session, appropriated \$55.9 million to fund a 45-hour work week for all DPS troopers. This funding remains in the agency's baseline funding. The agency estimates the \$55.9 million now funds about 3.3 hours of overtime per week. Accordingly, this fiscal note prorates the cost of adding ten overtime hours per week by the 3.3 overtime hours currently funded. This proration leaves a net 6.7 hours of overtime cost per week. Thus, 6.7 overtime hours per week multiplied by 52 = 348.4 annual overtime hours. See below table.

d) No additional costs associated with benefits, such as retirement contributions, are assumed because overtime pay is not subject to benefits contributions.

e) This fiscal note assumes that the extra hours on the road resulting from overtime patrolling would accelerate DPS' vehicle maintenance and replacement schedule. It is assumed \$1,096,113 per year would be required to fund increased maintenance costs and replace 21 vehicles per year.

Commissioned Positions	Regions 3 & 4	Prorated Hours	Avg. Overtime Rate (Rounded)	2016	2017
------------------------	---------------	----------------	------------------------------	------	------

Troopers	598	348.4	\$51.02	\$10,629,670	\$10,629,670
Sergeants	93	348.4	\$59.30	\$1,921,391	\$1,921,391
Lieutenants	22	348.4	\$65.11	\$499,055	\$499,055
Captains	10	348.4	\$74.08	\$258,095	\$258,095
Majors	2	348.4	\$85.64	\$59,674	\$59,674
Total	725	348.4	\$52.72	<b>\$13,367,885</b>	<b>\$13,367,885</b>
Benefits and & Payroll Contribution				\$0	\$0
Total Overtime Pay for Commission Positions for HB 11 Intro				\$13,367,885	\$13,367,885
<b>Average Hour Cost of Overtime:</b>			<b>\$ 52.92326</b>		

3) Depending on the extent to which DPS utilizes the bill's provision allowing DPS to credit up to 4 years of experience as a law enforcement officer in the state as years of service for Schedule C salary purposes state cost would increase. These costs would be realized to the degree the agency adds these more costly troopers, rather than less costly recruit school graduates. However, while these costs could be significant, the utilization and scope cannot be determined at this time. By extension, the costs are not included in the tables above. Specifically, probationary troopers graduating from the agency's 6-month recruit school are currently paid a base salary of \$43,007 during a one-year probationary period following graduation. Assuming current (fiscal year 2014-15) levels of overtime funding at an additional 3.3 hours per week, the actual annual pay for a probationary trooper increases to approximately \$48,330. Transfer troopers, however, would start at a significantly higher pay level. The starting pay for a trooper with up to 4 years of experience is at least \$63,336. Assuming current levels of overtime funding at an additional 3.3 hours per week, the actual annual pay for a new transfer trooper increases to approximately \$71,175. This \$22,845 per trooper differential would, for example, equate to a cost of almost \$2.3 million if 100 troopers were hired under this provision. Therefore a transfer trooper presumably would start at a pay level about 47 percent higher than a probationary trooper. This increased pay presumably would represent a significant cost to the agency to the degree the agency opts to hire transfer troopers. The higher level of starting pay for each transfer trooper would also represent an increased cost to the state in retirement contributions.

4) This fiscal note assumes the reserve office corps created by this bill would be composed of volunteers, and thus would not represent a significant cost to the agency.

5) This fiscal note assumes the bill's authorization for DPS to admit certain military veterans to the agency's trooper training academy would not result in any fiscal impact.

6) It is assumed any costs associated with the bill's establishment of a new legislative State Law Enforcement Operations Oversight Committee could be absorbed within existing resources.

7) It is assumed the bill's requirement for DPS to study the feasibility of providing certain assistance to federal authorities at international border checkpoints could be absorbed within existing resources. The bill would authorize DPS to share the costs of staffing any such international border checkpoint with relevant federal entities.

8) This fiscal note assumes the bill's requirement for DPS to provide assistance to local law enforcement agencies along the Texas-Mexico border could entail some degree of additional cost to the agency, should the bill cause the number of such requests to exceed the number of requests currently processed by the agency.

9) This fiscal note assumes there will be both local and state costs associated with the bill's

requirement that each local law enforcement agency in the state implement a crime reporting system that meets the reporting requirements of the National Incident-Based Reporting System (NIBRS) by September 1, 2019. The local costs are indicated below in the Local Government impact section. This fiscal note assumes the state cost would center on the bill's requirement that DPS promulgate rules necessary to implement this reporting standard across the state. It is assumed DPS would require the following: 5 Training Specialist III positions ( $\$46,976 \times 5 = \$234,880$  per fiscal year), as well as travel costs for these Training Specialists ( $\$27,000$  per fiscal year  $\times$  5 Training Specialists =  $\$135,000$  per fiscal year); and 7 Administrative Assistant IV positions ( $\$41,876 \times 7$  Administrative Assistants =  $\$293,132$  per fiscal year). Associated costs for benefits for these positions is estimated to be  $\$178,890$  per year.

These training and support staff would be responsible for informing law enforcement agencies of the requirement to submit crime statistics data to DPS; providing all field/classroom training; making presentations to law enforcement, advocacy and non-law enforcement groups regarding the new crime statistics reporting; assisting agencies in converting their processes to NIBRS, as well as supporting existing NIBRS agencies; maintaining agency contact information; and finally work with law enforcement agencies to correct any errors or to troubleshoot any problems that the agency may be experiencing.

10) This fiscal note assumes the bill's reenactment of the statute pertaining to the Texas Anti-Gang Grant Program would result in costs associated with providing anti-gang grants to localities. This fiscal note assumes historical costs for these grants. Specifically, in the last 4 years, the Office of the Governor's Criminal Justice Division (CJD) provided grants to two anti-gang centers (Houston and Dallas area), which averaged  $\$1.5$  million for establishment costs and  $\$0.1$  million for ongoing costs each. The Office of the Governor indicates that to administer the program enacted by the bill, CJD would expand current operations in Houston and Dallas and establish five new anti-gang centers ( $\$1.5$  million  $\times$  5 new centers =  $\$7.5$  million in 2016). This fiscal note assumes that to expand the operations, current ongoing costs would double for each center from  $\$0.1$  million to  $\$0.2$  million per year ( $\$0.2$  million  $\times$  2 centers =  $\$0.4$  million in 2016). In 2017 and beyond, the ongoing operational expenses would be for the seven established anti-gang centers around Texas ( $\$0.2$  million  $\times$  7 centers =  $\$1.4$  million). Thus:

Fiscal Year 2016      $(\$1.5 \text{ million} \times 5 \text{ centers}) + (\$0.2 \text{ million} \times 2 \text{ centers}) = \$7,900,000$   
Fiscal Years 2017+    $(\$0.2 \text{ million} \times 7 \text{ centers}) = \$1,400,000$  per fiscal year

11) This fiscal note assumes the bill's requirement that DPS establish the Texas Transnational Intelligence Center in a certain county if the county's sheriff and municipality's police department agree jointly to establish and operate the Center would entail costs both to the state and to certain local entities. The potential local impact is noted below in the Local Government Impact section. It is assumed DPS would be required to provide computing, networking, and support applications to establish the Center. One-time start-up costs for fiscal year 2016 are assumed to be  $\$2,132,000$  for computers, network hardware, and other IT equipment, as well as  $\$298,812$  for an IT contractor to assist in establishing the Center's network in fiscal year 2016 only. It is assumed any ongoing technology costs associated with DPS' assistance in operating the Center can be absorbed within existing resources. It is also assumed that the bill's requirement that the Texas Alcoholic Beverage Commission and Texas Parks and Wildlife Department provide certain criminal record data to the Center can be accomplished within each agency's existing resources.

12) The probable impact of implementing the bill's provisions which would amend the Penal Code is not assumed to be significant.

## **Technology**

It is assumed DPS would be required to provide computing, networking, and support applications to fulfill the mission of the South Texas Border Crime Information Center. One-time start-up costs for fiscal year 2016 are assumed to be \$2,132,000 for computers, network hardware, and other IT equipment, as well as \$298,812 for an IT contractor to assist in establishing the Center's network in fiscal year 2016 only. It is assumed any ongoing costs associated with DPS' assistance in operating the Center can be absorbed within existing resources.

## **Local Government Impact**

The bill's requirement that each local law enforcement agency in the state implement an incident-based crime reporting system that meets the reporting requirements of the National Incident-Based Reporting System (NIBRS) by September 1, 2019 could constitute a significant fiscal impact to local law enforcement agencies. The impact to each law enforcement agency would depend on a given's agency's resources and whether the agency has already initiated a shift to an incident-based crime reporting system. The City of El Paso reported that the fiscal impact to implement the provisions of the bill is not anticipated to be significant. The Houston Police Department reported that conversion to the NIBRS would have a significant fiscal impact on the department, as it may require a significant rewrite of the current Records Management System.

The bill's requirement to establish and operate the South Texas Crime Information Center presumably would result in costs to the two affected law enforcement agencies as well as the affected municipality, to the degree the municipality opts to provide resources for the Center.

There may be costs to local governments associated with prosecution, confinement, enforcement of a new offense. Harris County reported that the creation of a new offense related to the smuggling of persons may create an additional 3,000 jail bookings per year; the cost for county jail bed stays, averaging 30 days per inmate, and processing fees would be \$5,130,000 per year.

**Source Agencies:** 405 Department of Public Safety, 212 Office of Court Administration, Texas Judicial Council, 301 Office of the Governor, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 327 Employees Retirement System

**LBB Staff:** UP, FR, AI, JAW, JHa, ESi, KVe