

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 21, 2015

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1490 by Huberty (Relating to public school interventions for truancy and eliminating a criminal penalty and authorizing a civil penalty for truancy.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1490, As Engrossed: a positive impact of \$4,407,776 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:

| Fiscal Year | Probable Net Positive/(Negative) Impact to General Revenue Related Funds |
|-------------|--|
| 2016 | \$2,203,888 |
| 2017 | \$2,203,888 |
| 2018 | \$2,203,888 |
| 2019 | \$2,203,888 |
| 2020 | \$2,203,888 |

All Funds, Five-Year Impact:

| Fiscal Year | Probable Revenue Gain from <i>General Revenue Fund</i> 1 | Probable Revenue Gain/(Loss) from <i>General Revenue Fund</i> 1 | Probable Revenue Gain/(Loss) from <i>General Revenue</i> <i>Dedicated</i> | Probable Revenue Gain/(Loss) from <i>Judicial Fund</i> 573 |
|-------------|---|--|---|---|
| 2016 | \$2,344,650 | (\$140,762) | (\$880,169) | (\$140,679) |
| 2017 | \$2,344,650 | (\$140,762) | (\$880,169) | (\$140,679) |
| 2018 | \$2,344,650 | (\$140,762) | (\$880,169) | (\$140,679) |
| 2019 | \$2,344,650 | (\$140,762) | (\$880,169) | (\$140,679) |
| 2020 | \$2,344,650 | (\$140,762) | (\$880,169) | (\$140,679) |

| Fiscal Year | Probable Revenue Gain/(Loss) from Other Fund Law Enforcement and Custodial Officer Supplement Retirement Trust Fund |
|--------------------|--|
| 2016 | (\$104,502) |
| 2017 | (\$104,502) |
| 2018 | (\$104,502) |
| 2019 | (\$104,502) |
| 2020 | (\$104,502) |

Fiscal Analysis

This bill would repeal Section 25.094(e) of the Education Code, which makes the failure to attend school a Class C misdemeanor, and would amend Section 25.094 of the Education Code to make the failure to attend school punishable by a civil penalty payable to the state in an amount not to exceed \$100. The bill makes filings and referrals to court after 10 absences optional instead of mandatory, and changes the deadline for schools to file or refer to 10 days after the most recent absence, rather than the 10th absence.

The bill also allows a school district to adopt specific progressive truancy interventions and apply them before referring a child to court. A progressive truancy intervention system is defined as having at least three tiers of interventions which are specified in the bill. The first tier may be applied to a student who has at least three unexcused absences within a school year. The bill also requires records related to a truancy offense to be automatically expunged.

Methodology

In fiscal year 2014, there were 93,786 cases filed for failure to attend school. Repeal of failure to attend school as a Class C misdemeanor would result in loss of court costs assessed and collected for the state of approximately \$1.3 million per year. However, this will be offset by the collection of civil penalties for the same conduct with an estimated gain to the state of about \$2.3 million per year.

Class C misdemeanor failure to attend school cases generate revenue to the state for court costs collected by justice and municipal courts. It is estimated that 50 percent of the cases filed result in convictions or deferred dispositions where court costs were assessed. The typical court cost revenue from one of these cases in justice court is \$87. The portion directed to the state is \$54, and the portion retained by the county is \$33. The typical court cost revenue from one of these cases in municipal court is \$86 (\$54 to the state; \$32 retained by the municipality). This analysis assumes a 50 percent conviction rate and a 50 percent collection rate. Based on fiscal year 2014 case numbers, repeal of the Class C misdemeanor offense for failure to attend school will result in reduction in court costs assessed and collected for the state of about \$1.3 million per year.

This estimate assumes 93,786 civil truancy cases would continue to be referred per year in the future. The Office of Court Administration and the Comptroller estimated that 50 percent of the cases filed will result in a court finding that an individual engaged in failure to attend school conduct, and a typical civil penalty would be \$100. Assuming a 50 percent conviction rate and a 50 percent collection rate applied to the number of cases, collection of civil penalties is estimated to yield a gain to the state of \$2.3 million per year.

Local Government Impact

The bill would clarify that courts are required to dismiss failure to attend school complaints that lack statutorily required elements, are filed against defendants outside the age range for the offense, or are filed after the required deadline. Courts would be required to dismiss complaints before scheduling a hearing and without requiring the presence of the defendant.

County and municipal governments will see reduced revenue from the local portion of court costs collected for the repealed Class C misdemeanor offense, as well as a reduction in fines collected. Assuming 93,786 failure to attend cases in which court costs were assessed and a collection rate of 50%, there would be a decrease of \$770,772 in revenue to local governments per year. Additionally, there may be an indeterminate loss in fine revenue to local governments.

The bill would also repeal the current \$30 fee is collected and retained by local governments to defray the cost of expunctions. Travis, Midland, and El Paso Counties indicated they may have to add or reassign staff to expunge the records as required by the bill and to meet other requirements of the bill. The impact may be significant but cannot be determined at this time and would vary by jurisdiction.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304
Comptroller of Public Accounts, 644 Juvenile Justice Department, 701
Central Education Agency

LBB Staff: UP, KJo, JJ, JQ, ESi, SD, KVe, JBi, JPo