

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

April 7, 2015

TO: Honorable John T. Smithee, Chair, House Committee on Judiciary & Civil Jurisprudence

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2154 by Dutton (Relating to the functions and operation of the State Office of Administrative Hearings.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Government Code, Transportation Code, and Utilities Code relating to the functions and operation of the State Office of Administrative Hearings (SOAH).

The bill would make several amendments to the Government Code relating to interagency contracts and anticipated hourly usage and cost estimates. The bill would authorize SOAH to enter into an interagency contract and require the referring agency to pay SOAH either a lump-sum amount or a fixed amount at the start of each fiscal quarter of the biennium, and only requires SOAH to adjust a payment amount if an agency's actual use is not within 10 percent of estimated use.

The bill would authorize SOAH to set its hourly billing rate to sufficiently cover the full cost of conducting a hearing or procedure for an agency beginning in the 2018-2019 biennium. An increase to SOAH's billing rate from \$100 per hour to \$128 per hour would be contingent on the 85th Legislature approving the increase and appropriating any incremental increase in appropriations to the agency. This analysis assumes that the request to increase the hourly rate would be granted and that the incremental appropriation increase would also be granted to the agency.

The bill would require a state agency that has entered into a contract with SOAH for the conduct of hearings and alternative dispute resolution procedures during any of the three most recent fiscal years to submit to SOAH and the Legislative Budget Board information regarding the agency's anticipated hourly usage of SOAH's services for each fiscal year of the that biennium.

The bill would amend the Government Code by eliminating the requirement that SOAH establish specific divisions and require dedicated judges to hear cases related to contested case hearings referred to SOAH from the Texas Commission on Environmental Quality, the Public Utility Commission of Texas, and tax hearings related to the collection, receipt, administration, and enforcement of taxes, fees, and other amounts prescribed by the Tax Code.

The bill would amend the Transportation Code to require SOAH and the Department of Public Safety (DPS) to enter into and update at least biennially a memorandum of understanding (MOU) establishing that SOAH has primary scheduling responsibility for administrative license revocation (ALR) hearings under the Transportation Code. The bill provides for the transfer of

funding for DPS employees responsible for scheduling these hearings from DPS to SOAH when SOAH assumes responsibility for initial scheduling of the hearings. The bill requires SOAH and DPS to adopt an initial MOU not later than September 1, 2016. Based on information provided by DPS and the Sunset Commission, this analysis assumes a transfer of 3.0 FTEs and related appropriations for salaries and wages totaling \$111,822 per fiscal year to SOAH. The bill directs DPS and SOAH to consult with the Department of Information Resources (DIR) and the Office of Court Administration (OCA) in developing any information technology solutions needed to complete the transfer of scheduling responsibilities as outlined in the MOU.

The bill would amend the Utilities Code by requiring SOAH to charge the Railroad Commission a fixed annual rate for hearings conducted by SOAH, only if the Legislature appropriates money for that purpose. If the Legislature does not appropriate money for that purpose, SOAH would charge the Railroad Commission an hourly rate set by the office under Government Code, Section 2003.024.

Based on information provided by the Sunset Commission, SOAH, DPS, DIR, OCA, the Texas Commission on Environmental Quality, and the Railroad Commission, this analysis assumes that all duties and responsibilities necessary to implement the provisions of the bill could be accomplished utilizing existing staff and resources.

Section 524.032 (b) of the Transportation Code takes effect September 1, 2016. All other provisions of the bill take effect September 1, 2015.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 116 Sunset Advisory Commission, 212 Office of Court Administration, Texas Judicial Council, 313 Department of Information Resources, 360 State Office of Administrative Hearings, 405 Department of Public Safety, 455 Railroad Commission, 582 Commission on Environmental Quality

LBB Staff: UP, FR, NV, ER, NHe, TB