

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

April 8, 2015

TO: Honorable Gary Elkins, Chair, House Committee on Government Transparency & Operation

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3443 by Laubenberg (Relating to a prohibition on and destruction of unauthorized individual information collected or maintained by a state agency.), **As Introduced**

The fiscal implications of the bill cannot be determined at this time.

Costs associated with compliance would be dependent on agency determinations as to whether the collection and maintenance of personally identifiable information is authorized by statute. In cases where agencies are required to modify applications and data systems and purge unauthorized data, costs could be significant.

The bill would prohibit a state agency from collecting or maintaining any information that alone or in conjunction with other information could identify an individual unless the agency has specific statutory authority to collect or maintain the information. The bill would require a state agency to destroy all information that is in conflict with this provision. The bill would allow an agency to destroy the information by shredding, erasing, or modifying the records so as to make the information unreadable or indecipherable. "State agency" would include a department, commission, board, office, council, authority, or other agency in the executive, legislative, or judicial branch, including university systems and institutions of higher education.

For agencies that have specific statutory authority to house all information that they collect, the cost of the bill would not be fiscally significant. However, some agencies indicated that they lacked such authority with respect to some of their data systems and thus reported costs to comply with the bill's provisions.

According to the Texas Workforce Commission, by limiting the ability of an agency to maintain personally identifiable information that was not directly authorized by statute, the bill would limit the agency's ability to identify misrepresented and fraudulent Unemployment Insurance (UI) benefit claims. As part of its investigations, the agency shares Unemployment Insurance information and wage records with other state agencies that may not have the authority to collect or maintain that information. The agency indicated that such data sharing would not be permitted

under the legislation. In addition, in its investigations the agency uses data from sources that are not specifically authorized in statute. These data sources have allowed the agency to identify fraudulent UI benefit claims. If the agency lost access to these data sources, the fiscal impact would be a cost of \$133.2 million to the Unemployment Compensation Fund in the 2016-17 biennium.

According to the Texas Department of Transportation, statutes and administrative rules govern the agency's authority but in some cases do not specifically require the collection and maintenance of information associated with its duties. Therefore, the agency indicated that some of its data collection practices may not meet the test of "specific statutory authority" that would be established by the bill. According to the agency, the cost of analyzing existing systems, adding information to its contract management database, and reconfiguring systems that are not statutorily authorized but contain personally identifiable information would be \$22.6 million in Other Funds in the 2016-17 biennium. The agency could experience other costs related to the destruction of data that is not authorized but the agency was unable to estimate the cost of doing so.

According to the Texas Education Agency, the bill would require modification to several of the agency's data collection systems and that additional contract resources would be required to modify those systems. The agency maintains historical student data that was been collected under statutory authority that existed when the data was collected but may no longer exist. The agency estimates that the cost of complying with the bill would be \$2.5 million in General Revenue Funds in fiscal year 2016.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 320 Texas Workforce Commission, 452 Department of Licensing and Regulation, 529 Health and Human Services Commission, 537 State Health Services, Department of, 601 Department of Transportation, 608 Department of Motor Vehicles, 701 Central Education Agency, 710 Texas A&M University System Administrative and General Offices, 720 The University of Texas System Administration, 781 Higher Education Coordinating Board, 802 Parks and Wildlife Department

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