

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 16, 2015

TO: Honorable Larry Phillips, Chair, House Committee on Homeland Security & Public Safety

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB3 by Birdwell (Relating to the powers and duties of the Texas Department of Public Safety, military and law enforcement training, and the investigation, prosecution, punishment, and prevention of certain offenses; creating an offense and increasing a criminal penalty; authorizing fees.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for SB3, As Engrossed: a negative impact of (\$310,140,254) through the biennium ending August 31, 2017.

The bill would authorize the Department of Public Safety (DPS) to set and collect fees associated with other entities' usage of the multi-use training facility created by the bill. While revenues from these fees are presumed to have a positive impact to DPS, the actual fee revenues would depend on the fee levels set by DPS and the training facility's frequency of usage by entities other than DPS.

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	(\$236,683,492)
2017	(\$73,456,762)
2018	(\$73,456,762)
2019	(\$73,456,762)
2020	(\$73,456,762)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Probable Savings/(Cost) from <i>Interagency Contracts</i> 777	Change in Number of State Employees from FY 2015
2016	(\$236,683,492)	(\$372,501)	13.0
2017	(\$73,456,762)	(\$335,481)	13.0
2018	(\$73,456,762)	(\$335,481)	13.0
2019	(\$73,456,762)	(\$335,481)	13.0
2020	(\$73,456,762)	(\$335,481)	13.0

Fiscal Analysis

The bill would:

- 1) Amend the Government Code to establish within the Office of the Attorney General (OAG) a Transnational and Organized Crime Division with prosecution and human trafficking units that would provide assistance to certain law enforcement agencies and prosecutors.
- 2) Amend the Government Code to require the Department of Public Safety (DPS) periodically to review the agency's information technology system.
- 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 allow DPS to implement a 10-hour work day and 50-hour work week for all the agency's commissioned officers.
- 5) Amend the Government Code to require DPS to establish the Texas Transnational Intelligence Center. The bill would require DPS to establish the Center in a certain county if the county's sheriff and municipality's police department agree jointly to establish and operate the 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.
- 6) 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.
- 7) Amend the Government Code to require DPS to provide 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 establish a goal that by September 1, 2019, at least 36 percent of all local law enforcement agencies who have previously submitted crime data

to DPS during the biennium ending on August 31, 2015, will have implemented an incident-based crime reporting system that meets the reporting requirements of the National Incident-Based Reporting System (NIBRS) and use the system to submit crime statistics to DPS. The bill would require DPS periodically to evaluate which additional law enforcement agencies would need adopt to NIBRS to generate reasonable statewide crime data estimates. The bill would require DPS to provide quarterly reports to the Legislative Budget Board specifying which law enforcement agencies have been recommended by DPS for adoption of NIBRS as well as law enforcement agencies' progress in implementing NIBRS. The bill would require DPS to promulgate rules necessary to implement these requirements by December 31, 2015.

9) Amend the Government Code to require the Texas Facilities Commission (TFC) to construct a multi-use training facility for use by DPS, Texas Military Department (TMD) and local law enforcement agencies, and any other military or law enforcement agency, including agencies of the federal government. The bill would authorize a municipality to make a donation of real property to DPS for purposes of establishing this facility. The bill would require DPS, with the assistance of TFC, to design the training facility. The bill would stipulate that upon completion of the facility TFC shall transfer ownership to DPS. The bill would authorize DPS to manage the training facility and set and collect fees for the use of the training facility.

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) The bill would amend the Penal Code to prohibit certain behaviors for pecuniary benefit 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. The bill would enhance the punishment for certain individuals convicted of engaging in organized criminal activity related to continuous smuggling of persons.

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, with the exception of certain costs noted for the Texas Facilities Commission, which would be funded out of Inter-Agency Contracts.

1) It is assumed the bill's requirement that the OAG establish a Transnational and Organized Crime Division would require additional resources. Currently, the OAG provides prosecutorial and investigative assistance to local and state agencies in Texas. Under the bill's provisions, the Criminal Prosecutions Division within the OAG estimates twenty additional cases each fiscal year related to human trafficking, organized crime, and border security. The Human Trafficking Unit estimates an additional four to six operations related to human trafficking, organized crime, and border security.

The OAG estimates the bill provisions would require one Assistant Attorney General III (1.0 FTE), one Assistant Attorney General V (1.0 FTE), one Legal Assistant III (1.0 FTE), three Investigator V (3.0 FTEs), and one Information Specialist III (1.0 FTE) with a combined fiscal year cost of \$613,302 for salaries (\$489,099) and related benefits (\$155,203) related to expanded prosecutorial and investigative assistance for border security, organized crime, and human

trafficking.

The additional investigators would be commissioned peace officers and require specialized equipment such as weapons, radios, safety equipment, and vehicles. The OAG estimates travel associated with the bill provisions would be greater than average due to potential investigations and prosecution assistance. Additionally, the OAG estimates it would not be able house the additional personnel in existing office space and would be required to lease space.

2) It is assumed 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.

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 and 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 3.8 hours per week, the actual annual pay for a probationary trooper increases to approximately \$49,135. 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 3.8 hours per week, the actual annual pay for a new transfer trooper increases to approximately \$72,361. This \$23,226 per trooper differential would, for example, equate to a cost of \$2.3 million if 100 troopers were hired under this provision, plus another \$700,000 in estimated benefits costs. 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) DPS has indicated an annual cost of \$71,300,000 to implement a 10-hour work day and 50-hour work week for all the agency's approximately 3,600 commissioned officers across the state. No additional costs associated with benefits, such as retirement contributions, are assumed because overtime pay is not subject to benefits contributions.

5) 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.

6) 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 DPS.

7) This fiscal note assumes the bill's requirement that DPS provide federal authorities at international border checkpoints with interdiction assistance could be absorbed within the agency's current resources. Note, the bill would allow any costs DPS might incur by rendering this assistance to be shared with federal entities, where the level of cost-sharing would depend on whatever agreements may be negotiated between DPS and those entities.

8) This fiscal note assumes there will be both local and state costs associated with the bill's goal that by September 1, 2019 at least 36 percent of all local law enforcement agencies who have previously submitted crime data to DPS will have implemented the NIBRS crime reporting system. The local costs are indicated below in the Local Government impact section. For DPS, is assumed additional resources would be required to evaluate which additional law enforcement agencies would adopt the NIBRS crime reporting system; provide quarterly reports to the Legislative Budget Board; and promulgate rules necessary to implement these requirements.

It is assumed DPS would require the following: 2 Training Specialist III positions ($\$46,976 \times 2 = \$93,952$ per fiscal year), as well as travel costs for these Training Specialists ($\$29,000$ per fiscal year \times 2 Training Specialists = $\$58,000$ per fiscal year); 1 Research Specialist I position ($\$41,876$); and 1 Administrative Assistant IV position ($\$41,876$ per fiscal year). Associated costs for benefits for these positions is estimated to be $\$60,206$ 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 processes to NIBRS, as well as supporting existing NIBRS agencies; maintaining agency contact information; and finally working with law enforcement agencies to correct any errors or to troubleshoot any problems that the agency may be experiencing.

9) This fiscal note assumes the bill's requirement that the Texas Facilities Commission (TFC) construct a multiuse training facility would have a total project cost of $\$154,163,846$. While this cost is shown in fiscal year 2016, the project financing would presumably require some provision of unexpended balances authority.

The $\$154,163,846$ cost is based on facility requirements provided to TFC by DPS and TMD. TFC has indicated that based on discussions with DPS and TMD, the new training facility would require the following: a minimum land space of 5,000 acres; a 3,000 square foot administrative building; a 6,000 square foot enclosed pavilion/instructional area; a 500 bed dormitory; parking for 500 vehicles; an 11,000 square foot medical clinic; a 16,000 square foot dining facility; a 75 square yard tactical training area; a 1,000 yard rifle shooting range; a 50 yard pistol shooting range; a 30,000 square foot staging and storage area; site lighting; and considerable development of site infrastructure, including establishment of access to basic utilities.

Based on these requirements, TFC has provided the following project cost components: land ($\$7,031,100$); technical services ($\$17,377,500$); site improvements ($\$25,282,784$); construction and testing ($\$87,332,071$); furniture, fixtures and equipment ($\$5,080,000$); contingency ($\$7,061,691$); and other costs ($\$4,998,700$).

This fiscal note assumes TFC would require the following positions to manage this project: one Project Manager IV ($\$90,000$), one Project Manager II ($\$67,000$), one Inspector V ($\$47,000$), and one Administrative Assistant IV ($\$42,000$). Benefits costs associated with these salaries are estimated to be $\$83,345$ per fiscal year. Other costs to support these positions are assumed to be $\$43,156$ in fiscal year 2016 and $\$6,136$ in fiscal year 2017 and beyond.

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 x 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 x 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 x 7 centers = \$1.4 million). Thus:

Fiscal Year 2016 (\$1.5 million x 5 centers) + (\$0.2 million x 2 centers) = \$7,900,000

Fiscal Years 2017+ (\$0.2 million x 7 centers) = \$1,400,000 per fiscal year

11) 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 Texas Transnational Intelligence 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.

It is assumed the OAG would incur a technology impact related to computer hardware, software, telecommunications equipment, and network storage estimated to be \$35,905 in fiscal year 2016 and \$16,380 in subsequent years.

Local Government Impact

It is estimated that approximately 320 law enforcement agencies would be affected by the bill's goal to transition at least 36 percent of all local law enforcement agencies who have previously submitted crime data to DPS to the NIBRS crime reporting system. The fiscal impact of such a transition to a law enforcement agency would depend on the agency's resources and whether the agency has already initiated a shift to an incident-based crime reporting system. The bill would not impose a penalty on a law enforcement agency which does not successfully transition to the NIBRS 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 NIBRS would have a significant fiscal impact on the department, as it may require a significant rewrite of the current Records Management System. The current record management system would be due for a replacement in ten years.

The bill would also require a border county with a population of not more than 800,000 and a municipal police department within that county to jointly establish the Texas Transnational Intelligence Center to gather information regarding criminal activity along the border. There would be a cost to the both the county and the municipality, depending on the degree resources are provided to the Center. Each border law enforcement agency will submit major crime information to the Center and the Center will share the information with law enforcement agencies statewide.

In addition, there may be costs to local governments associated with prosecution, confinement, and 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: 302 Office of the Attorney General, 405 Department of Public Safety, 212 Office of Court Administration, Texas Judicial Council, 301 Office of the Governor, 303 Facilities Commission, 304 Comptroller of Public Accounts, 401 Military Department, 458 Alcoholic Beverage Commission, 802 Parks and Wildlife Department, 327 Employees Retirement System

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