

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

March 15, 2015

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

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 and the investigation, prosecution, punishment, and prevention of certain offenses; creating an offense and increasing a criminal penalty.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB3, As Introduced: a negative impact of (\$31,946,500) through the biennium ending August 31, 2017.

Due to the unavailability of reliable data related to the bill's proposed changes to the offense of smuggling of persons, there could be an indeterminate significant impact on state correctional agency populations, programs, or workloads. Further, the Comptroller of Public Accounts has indicated that while the new and revised offenses would increase revenues from consolidated court costs and fines, the amount of the increase cannot be estimated due to the lack of comparable data on the type of offense and conviction rate.

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	(\$17,736,713)
2017	(\$14,209,787)
2018	(\$14,209,787)
2019	(\$14,209,787)
2020	(\$14,209,787)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Change in Number of State Employees from FY 2015
2016	(\$17,736,713)	12.0
2017	(\$14,209,787)	12.0
2018	(\$14,209,787)	12.0
2019	(\$14,209,787)	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 define 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 hire a law enforcement officer with previous law enforcement experience in the position of Trooper II if the individual has at least four years of experience as a commissioned peace officer in the state.
- 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 require DPS to investigate the feasibility of assisting federal authorities in establishing vehicle inspection checkpoints for vehicles departing Texas into Mexico. Should DPS determine such assistance is feasible, DPS would be authorized to establish such checkpoints in cooperation with federal agencies. The bill would also authorize the Attorney General with the assent of the Governor to enter into an agreement on behalf of the state with a federal agency to implement the provisions of the bill. The bill would also authorize a law enforcement agency to enter into an agreement with a corporation or other private entity to provide goods and services, including inspections, for the establishment and operation of a checkpoint.
- 6) 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.
- 7) Amend the Local Government Code to require a certain sheriff's department and municipal police department jointly to establish and operate the South Texas Border Crime Information 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 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.
- 8) 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.

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.

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:

- 1) 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).
- 2) 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.
- 3) 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.
- 4) No additional costs associated with benefits, such as retirement contributions, are assumed because overtime pay is not subject to benefits contributions.

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	\$13,367,885	\$13,367,885
Benefits and & Payroll Contribution				\$0	\$0
Total Overtime Pay for Commission Positions for SB 3 Intro				\$13,367,885	\$13,367,885
Average Hour Cost of Overtime:			\$ 52.92326		

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 would

be required to fund increased maintenance costs and replace 21 vehicles in the first year.

This fiscal note assumes the bill's requirement to authorize DPS to hire a law enforcement officer with previous law enforcement experience in the position of Trooper II presumably may result in increased cost to the agency, to the degree the agency adds these more costly troopers, rather than less costly recruit school graduates.

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.

This fiscal note assumes any costs to the Office of the Attorney General and the Office of the Governor associated with entering into an agreement on behalf of the state with a federal agency to establish certain checkpoints could be absorbed within each agency's existing resources.

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). Benefits costs of $\$178,890$ per fiscal year are also assumed.

These training and support staff would be responsible for informing law enforcement agencies of the requirement to submit their 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.

This fiscal note assumes the bill's requirement that a certain sheriff's department and municipal police department jointly establish and operate the South Texas Border Crime Information Center with the assistance of DPS would entail costs both to the state and local agencies of government. 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 fulfill the mission of 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.

The probable impact of implementing the bill's provisions which amend the Penal Code cannot be determined due to the unavailability of reliable data related to the proposed changes to the offense of smuggling of persons. The additional prohibited behaviors, removal of certain defenses to prosecution, and certain punishment enhancements could significantly expand the number of persons subject to prosecution under the offense of smuggling of persons. This expansion could result in a significant impact on state correctional agencies, though the impact's extent cannot be determined.

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: 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, 405 Department of Public Safety

LBB Staff: UP, FR, AI, JAW, LM, TBo, EMo, LCO, LBe, ESi, KVe