

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION**

**April 19, 2015**

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

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: SB1252** by Hall (Relating to an interstate compact on border security and immigration enforcement; authorizing fines and fees.), **As Introduced**

The fiscal implications of this bill cannot be determined at this time because information regarding variables such as when the Interstate Compact for Border Security would take effect, the amount of assessments that Texas would be obligated to provide, or the timing of and resources that would be shared between compacting states is not available.

The bill would make no appropriation but could provide the legal bases for an appropriation of funds to implement the provisions of the bill.

**Fiscal Analysis**

The bill would amend the Government Code to enact the Interstate Compact for Border Security (Compact) and establish Texas as a member state. The Compact would be effective when the Texas Legislature and the legislature of at least one other state have enacted the Compact into law.

The bill sets forth that Compact member states recognize they are responsible for enforcing existing federal immigration law. Member states would be authorized to prosecute criminal activity of illegal border crossers through state attorneys general and incarcerate persons convicted in state prisons. The bill would authorize member states to form a dedicated border security force and to share personnel and equipment resources. Member states would invalidate certain federal restrictions relating to border enforcement activities.

The Compact's commission would have the power to adopt rules that have the force and effect of statutory law. The bill provides that the Compact or rule controls in instances in which they would conflict with state laws; except that if a conflict exists between a rule and the Texas Constitution the Texas Constitution would control. The Compact's commission would be required to collect standardized data related to the interstate movement and activity within compacting member states of individuals who are in the United States illegally and deportable. The commission would establish bylaws and rules to specify the data to be collected, means of collection, data exchange, and reporting requirements.

The commission would be required to establish a budget and collect an annual assessment from each member state to cover the cost of the budget. The formula used to determine the assessment would consider the population of illegal aliens, magnitude of illegal smuggling and criminal activity, and miles of international border in each member state. The Commission would have the

authority to impose penalties on member states that default on the Compact's obligations or responsibilities, including imposing fines and fees. The governor would be required to appoint a commissioner to manage the state's participation in the Compact.

## **Methodology**

The Office of the Attorney General (OAG) reports that federal offenses involving unauthorized border crossers are currently prosecuted at the federal level by U.S. Attorney Offices. Additionally, state law provides primary jurisdiction to locals in the types of cases the bill contemplates for prosecution by member states of the Compact. Therefore, if the offenses were prosecuted at the state level under the provisions of the bill, OAG assumes they would be prosecuted by district or county attorney's who could request OAG assistance. OAG did not estimate the number of additional cases that would be prosecuted at the local level and reported they anticipate prosecutorial and investigative assistance would not generally be requested from OAG for these cases. Therefore, OAG could absorb any additional duties and responsibilities within existing resources. The Office of Court Administration stated no significant fiscal impact to the state court system is anticipated.

Implementing the provisions of the bill would result in a negative fiscal impact to the state as a result of additional admissions into state correctional institutions. Whether the bill would result in a significant fiscal impact is indeterminate due to the lack of data on the number of times the state would enforce federal immigration law and the enforcement of federal immigration laws would result in incarceration within state correctional institutions.

Provisions of the bill relating to the state enforcing existing federal immigration law and invalidating certain federal restrictions relating to border enforcement activities could result in a loss of certain federal funds. However, the fiscal implication of this cannot be determined because it is unknown which federal regulations would not be enforced.

Because the Texas Department of Public Safety (DPS), Texas Military Department (TMD), and Texas Parks and Wildlife Department (TPWD) currently provide personnel and equipment for border security, it is assumed provisions of the bill authorizing a border security force could be implemented within existing resources. If other states that are members of the Compact were to share personnel and equipment for border security in Texas, it is assumed there could be savings as a result of needing fewer resources from DPS, TMD, or TPWD for border security. Conversely, if Texas were to share personnel and equipment resources with other states beyond what is currently dedicated to border security in Texas, it is assumed there could be a cost to the state. Because the timing and extent to which other resources would be shared for operation within Texas or in another state are unknown, the fiscal implications of this provision cannot be determined at this time.

The fiscal implications of rules that would be adopted by the Compact's commission cannot be determined because the nature of the rules that would be adopted and how they would relate to current state law are unknown. The fiscal impact of provisions of the bill related to data collection and reporting cannot be determined at this time because it is unknown what data would be required to be collected and how it would be required to be reported. Depending upon these variables, there could be an insignificant cost if state agencies are able to implement this within current activities or there could be an associated cost that would vary by agency and requirements for data.

It is assumed there would be a cost associated with the annual assessment levied on member states by the Compact. This cost cannot be determined at this time because the amount of the Compact's

budget and compacting states are unknown. However, because the number of unauthorized border crossers apprehended by U.S. Customs and Border Patrol in Texas makes up a large percentage of total persons apprehended for unauthorized crossings and Texas has the second longest international border of any state, both of which are factors that would be included in the formula for the assessment according to the provisions of the bill, it is assumed this cost could be significant. The Comptroller of Public Accounts reports the fiscal impact from assessments, fines, and fees cannot be determined.

The Office of the Governor stated there would be a cost and FTEs required to manage the state's participation in the Compact. These costs are not significant.

The fiscal year in which the impact of any fiscal implications associated with the compact would occur is unknown. This is because the date upon which another state's legislature would enact this compact into law, thereby making it effective, cannot be anticipated.

**Local Government Impact**

Based on information provided by the OAG, because state law would grant primary jurisdiction to county and district attorney's in prosecutions contemplated by the bill it is assumed these cases would be tried by local prosecutors for purposes of this fiscal note. Because locals do not currently prosecute most criminal offenses related to unauthorized border crossings, it is assumed there could be costs to local courts, prosecutors, and law enforcement entities associated with prosecuting these cases at the state level.

The Texas Association of Counties reports the fiscal impact of this bill cannot be determined at this time.

**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, 401 Military Department, 405 Department of Public Safety, 696 Department of Criminal Justice, 802 Parks and Wildlife Department

**LBB Staff:** UP, FR, JJ, MMe, JN, JHa, LBe