

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

April 12, 2017

TO: Honorable Drew Darby, Chair, House Committee on State & Federal Power & Responsibility, Select

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB2338** by Bell (Relating to the Texas Sovereignty Act.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend sections of the Government Code and the Civil Practice and Remedies Code to create the joint legislative committee on constitutional enforcement, which would consist of six members of the House and six members of the Senate. The bill would require the committee to examine the constitutionality of federal actions, and to submit a report to the Governor, the Attorney General, Speaker of the House of Representatives, and the Lieutenant Governor regarding any federal action that might be unconstitutional. The Legislature would then vote on the constitutionality of the action. Any federal action determined to be unconstitutional would have no force or effect in the state, and the bill would require the Attorney General (OAG) to represent the state, its political subdivisions, and its citizens in any action arising from a decision not to recognize or abide by an action determined to be unconstitutional. OAG would be authorized to prosecute a person for abuse of office or other offenses who attempts to implement or enforce a federal action declared to be unconstitutional. The bill would require a state court to grant declaratory relief from any federal action the court determines is unconstitutional.

According to the OAG, the bill could have a significant impact on the OAG Criminal Prosecutions Division if there are numerous legislative determinations on the constitutionality of certain federal laws and if there are government officials or employees that may violate the legislative determination. There are volumes of federal laws and rules that may be considered by the Joint Legislative Committee on Constitutional Enforcement which could conceivably develop into hundreds of new cases for the OAG.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General, 307 Secretary of State

LBB Staff: UP, CL, SD