

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 3, 2017

TO: Honorable Carol Alvarado, Chair, House Committee on Urban Affairs

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2365 by Romero, Jr. (Relating to the regulation of migrant labor housing facilities.),
Committee Report 1st House, Substituted

Estimated Two-year Net Impact to General Revenue Related Funds for HB2365, Committee Report 1st House, Substituted: an impact of \$0 through the biennium ending August 31, 2019. Under the provisions of the bill, it is assumed that the ability to establish a penalty fee schedule for violations of the migrant labor housing program could result in an impact to revenue in the General Revenue Fund beginning in fiscal year 2019; however because the number of violations and the amount of the fee penalties to be set by TDHCA is unknown, an estimate on revenue cannot be determined.

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
2018	\$0
2019	\$0
2020	\$0
2021	\$0
2022	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Probable Revenue Gain/(Loss) from <i>General Revenue Fund</i> 1	Change in Number of State Employees from FY 2017
2018	(\$1,852,048)	\$1,852,048	15.0
2019	(\$1,678,648)	\$1,678,648	15.0
2020	(\$1,679,998)	\$1,679,998	15.0
2021	(\$1,680,898)	\$1,680,898	15.0
2022	(\$1,680,898)	\$1,680,898	15.0

Fiscal Analysis

The bill would amend the Government Code relating to the regulation of migrant labor housing facilities. The bill would amend requirements of the outreach, licensing, regulation, inspection and enforcement of violations of the migrant labor housing inspection program at the Texas Department of Housing and Community Affairs (TDHCA). The bill would require an application for a migrant labor housing facility license to be accompanied by a license fee in an amount set by the board and eliminates the cap of \$250 on the fee. Under the provisions of the bill, the fee collected would be deposited into the General Revenue Fund and could be appropriated to TDHCA for the enforcement of Subchapter LL, Chapter 2306, Government Code. The bill would require TDHCA to provide notice to the providers of a migrant labor housing facility prior to inspection and would require TDHCA to inspect a migrant labor housing facility upon the receipt of a complaint and at least once during the probable period of use of the facility. The bill would require TDHCA to establish an annual quota of proactive inspections of suspected unlicensed or noncompliant migrant labor housing facilities. Under the provisions of the bill, the quota would be required to be at least 50% of the number of migrant labor housing facilities licensed at TDHCA in the preceding year. The bill would require an inspector to conduct interviews with at least 10% of the occupants of the migrant labor housing facility being inspected. The bill would require TDHCA to adopt procedures through which third parties could appeal the issuance or denial of a license. The bill would require TDHCA to establish procedures for the submission, investigation, and resolution of complaints of alleged violations, including a procedure through which other state agencies can report the complaint to TDHCA.

The bill would amend the amount of a civil penalty for a violation of Subchapter LL, Chapter 2306, Government Code from \$200 each day a violation occurs to up to \$50 for each person occupying the facility for each day that the violation occurs. Under the provisions of the bill, TDHCA, a county attorney, the Attorney General, or a migrant agricultural worker could bring action to collect a penalty. The bill would require TDHCA to adopt a penalty schedule that increases the amount of the penalty assessed against a person who repeatedly violates Subchapter LL, Chapter 2306, Government Code. Under the provisions of the bill, a penalty collected would be deposited to the General Revenue fund and could be appropriated only to TDHCA for the enforcement of Subchapter LL, Chapter 2306, Government Code. Under the provisions of the bill, a person who is required to pay civil penalties under the provisions of the bill, would be liable for paying the costs and attorney's fees of the person who brought forth action.

The bill would require TDHCA to provide certain materials to migrant agricultural workers and to a person who owns or provides migrant labor housing facilities. Under the provisions of the bill, TDHCA would be required to ensure there are persons capable of providing information in English, Spanish, or other appropriate languages to individuals in applicable parts of the state and conduct research on what types of migrant housing facilities are most common and what regions of the state are in most need of additional or improved migrant labor housing facilities.

The bill would require TDHCA to adopt rules to implement the changes under the provisions of the bill by March 1, 2018. The bill would take effect on September 1, 2017.

Methodology

The provisions of the bill would result in a cost of \$1,852,048 in General Revenue fiscal year 2018 and a cost of \$1,678,648 in General Revenue in fiscal year 2019.

According to TDHCA, the agency anticipates an additional 459 licenses and corresponding

inspections in fiscal year 2018, including existing licensees (54), housing facilities for temporary foreign workers (394), new facilities from outreach (5) and new facilities from outside complaints (6) and 475 licenses and corresponding inspections in fiscal year 2019, including existing licensees (54), housing facilities for temporary foreign workers (405), new facilities from outreach (8) and new facilities from outside complaints (8). TDHCA anticipates inspecting each facility twice per year under the provisions of the bill.

TDHCA estimates an additional 15.0 Full-Time Equivalents (FTEs) would be needed to implement the inspections, investigations and outreach requirements of the bill, resulting in a cost of \$1,420,848 in General Revenue including \$1,040,000 in salaries and \$380,848 in employee benefits and other payroll contributions. The additional FTEs include 13.0 Program Specialist FTEs (with an annual salary of \$70,000); 1.0 Paralegal FTE (with an annual salary of \$56,000); and 1.0 Attorney FTE (with an annual salary of \$74,000). According to the agency, there would be a one-time technology start-up cost of \$24,300 in General Revenue for the additional FTEs and \$48,800 in rent and other ongoing operating expenses beginning in fiscal year 2018. According to TDHCA, the FTEs would require approximately \$208,100 in General Revenue for travel costs in fiscal year 2018; \$209,000 in fiscal year 2019; \$210,350 in fiscal year 2020, \$211,250 in fiscal year 2021 and 2022.

TDHCA reports additional one-time costs of \$150,000 in General Revenue in fiscal year 2018 to conduct research on types of migrant labor housing facilities that are most common in different regions of the state and what regions of the state are in most need of improved facilities.

Currently, TDHCA charges \$250 for 44 licenses, generating approximately \$11,000 in General Revenue. Based on information submitted by TDHCA, it is assumed the agency would now establish three different license types for migrant labor housing facilities, a license for small facilities (housing 3-50 occupants), medium facilities (housing 50-100 occupants) and large facilities (housing over 100 occupants) and set fees in amounts sufficient to cover the costs of operating the program. According to TDHCA, the licensing fee for facilities would range between \$2,506 to \$13,749 depending on the type of facility and the associated operating costs of the program for each fiscal year. According to TDHCA, revenue to the General Revenue Fund would total \$1.9 million in fiscal year 2018 and approximately \$1.7 million in each fiscal year beginning in fiscal year 2019. It is unknown if the level of fee assessment anticipated to be set by the agency could be borne by the migrant labor housing facilities.

Under the provisions of the bill, certain penalties collected in association with the migrant labor housing program would be credited to the General Revenue fund and could be appropriated to TDHCA for the enforcement of the program. Due to the unavailability of data, an estimate on revenue to the General Revenue fund under the provisions of the bill cannot be determined because the number of penalties assessed and the amount of penalty fees that would be set by TDHCA is unknown under the bill provisions.

According to the Comptroller of Public Accounts, the license fee and civil penalty amount that would be set by TDHCA under the provisions of the bill are unknown, therefore the revenue implications of the bill cannot be determined.

This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

The Office of the Attorney General, State Office of Administrative Hearings and the Office of

Court Administration anticipate any additional work resulting from the passage of the bill could be reasonably absorbed within current resources.

Technology

Technology costs included in the amounts above total \$36,000 in General Revenue in fiscal year 2018, including computers, software, and phones for the additional FTEs. Technology costs in fiscal year 2019 and following years total \$11,700 for phones for additional FTEs.

Local Government Impact

According to the Office of Court Administration, the fiscal impact to local courts is not anticipated to be significant.

According to the Texas Association of Counties, the fiscal impact to counties is not anticipated to be significant.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 332 Department of Housing and Community Affairs

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