

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 22, 2017

TO: Honorable Eddie Lucio, Jr., Chair, Senate Committee on Intergovernmental Relations

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB4180** by Coleman (Relating to the creation, operations, functions, and regulatory authority of certain governmental entities and officials; changes in certain judicial procedures; imposing civil penalties.), **Committee Report 2nd House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB4180, Committee Report 2nd House, Substituted: a negative impact of (\$344,000) through the biennium ending August 31, 2019. The Comptroller is not required to implement the provisions of this legislation relating to the establishment of a database in the absence of an appropriation.

The potential revenue to the state resulting from the collection of various fees, assessments, and civil fines in various provisions of the bill are indeterminate.

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	(\$262,000)
2019	(\$82,000)
2020	(\$82,000)
2021	(\$82,000)
2022	(\$82,000)

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 2017
2018	(\$262,000)	1.0
2019	(\$82,000)	1.0
2020	(\$82,000)	1.0
2021	(\$82,000)	1.0
2022	(\$82,000)	1.0

Fiscal Analysis

The cost for the bill is generated through the requirement that the Comptroller of Public Accounts (Comptroller) create and post on the internet a Special Purpose District Public Information Database containing certain information on special purpose districts that: (1) are authorized to impose an ad valorem tax or a sales and use tax, to impose an assessment, or to charge a fee, and (2) during the most recent fiscal year had bonds outstanding, had gross receipts in excess of \$250,000, or had cash and temporary investments in excess of \$250,000. The bill would require the Comptroller to include certain information for each district in the database, including, but not limited to, the following information: local debt information required under Section 140.008(b) or (g) of the Local Government Code; total amount of bonds authorized by voters and the aggregate initial principal amount of the bonds issued that are payable wholly or partly by ad valorem taxes; rate of any sales and use tax imposed; and ad valorem tax rate information. The bill would require the Comptroller to develop and post the database by September 1, 2018. The Comptroller would be required to update information in the database annually.

Districts would be required to transmit records and other information annually to the Comptroller, in a form and manner prescribed by the Comptroller, for the purpose of operating and updating the database. The bill would require the Comptroller to maintain a noncompliance list of districts that have not submitted the required information. The bill would require the Comptroller to provide written notice to a district that does not provide the required information that the district is in violation of Section 203.062 of the Local Government Code, as added by the bill, and that the district will be subject to a penalty of \$1,000 if the district does not report the required information on or before the 30th day after the date the notice is provided. If after 30 days the district does not submit the required information, the district would be subject to the \$1,000 civil penalty. The Comptroller would be required to provide a second notice informing the district that the district is liable for the initial \$1,000 penalty and would be subject to an additional \$1,000 penalty if the district does not report the required information on or before the date the second notice is provided. The bill would authorize the Office of the Attorney General (OAG) to sue to collect the civil penalties.

The bill would require the Comptroller to implement the provisions of the bill relating to the database only if the Legislature appropriates funding specifically for that purpose and would allow the agency to implement the provisions using other appropriations if available.

The remaining provisions of the bill would either have no fiscal or no significant fiscal impact to the state.

The bill would amend the Code of Criminal Procedure to authorize an acquitted individual, or an attorney for the state, to request an expunction order. It is assumed any costs associated with implementing this provision could be absorbed within current resources.

The bill would amend the Code of Criminal Procedure to authorize a court that grants a petition for expunction of a criminal record to order that any fee, or portion of a fee, required to be paid in relation to the petition be returned to the petitioner. Based on the analysis of the Office of Court Administration (OCA), Department of Public Safety, and Comptroller of Public Accounts, duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources. Based on the analysis of OCA, a decrease in revenue is anticipated from reimbursing fees associated with the filing of a petition for expunction. The exact amount of the impact cannot be determined because fees vary from county to county and reimbursement of the fees is discretionary, not mandatory; however, the fiscal impact to the state is not anticipated to be significant.

The bill would amend the Government Code to authorize a court issuing an order of nondisclosure of criminal history record information to also order that any fee, or portion of a fee, required to be paid in relation to the petition and order of nondisclosure be returned to the person who is the subject of that order. Implementing the provisions of the bill would result in a decrease in revenue from reimbursing fees associated with the filing of a petition for expunction, but this decrease is not anticipated to be significant based on the analysis of the Office of Court Administration and Comptroller of Public Accounts.

The bill would amend the Transportation Code to increase the civil penalty to not more than \$5,000, in addition to a criminal penalty, on a person who operates an automotive wrecking and salvage yard in violation of the chapter. A penalty collected would be deposited into the county or municipal treasury, as applicable.

The bill would require a recipient or former recipient of a limitation on appraised value under Chapter 313 of the Tax Code to contract with an independent certified public account to verify data certified to the Comptroller. According to the Comptroller and Workforce Commission, any costs associated with implementation of this provision could be absorbed within existing resources.

The bill would amend the Local Government Code by adding Section 140.012 regarding the authorization of certain political subdivisions and other public entities to spend money on lobbying activities. These provisions would only apply to: a political subdivision that imposes a tax or issues bonds; a special district that issues bonds; a regional mobility authority; a transit authority; a regional tollway authority; a special purpose district; a public institution of higher education; a community college district; a utility owned by the state or a political subdivision; or a river authority. The bill would require the political subdivision or entity (henceforward referred to entity) to vote on the expenditure of funds to influence legislation as a stand-alone item on the agenda. The entity would be required to report to the Texas Ethic Commission (Ethics Commission) and publish on the entity's website the amount of money authorized, the name of any person required to register as a lobbyist, and a copy of any contract for services. These provisions would require the entity to report to the Ethics Commission and publish the amount of public money spent for membership fees and dues to any nonprofit organization or association that directly or indirectly attempt to influence pending legislation. The Ethics Commission would be required to create and make available to the public a searchable database on Ethic's website the data from the above reports. Based on the information provided by the Ethics Commission, this analysis assumes that any costs associated with implementing this provision could be absorbed within existing resources.

The bill would amend Chapter 33 of the Tax Code, regarding property tax delinquency, to prohibit a chief appraiser from disqualifying an individual who is 65 years of age or older from the entitlement to receive a property tax deferral or abatement because the relevant property is no longer the individual's principal residence without first providing written notice. The notice would be required to include a form on which the individual may indicate that the property remains the individual's principal residence and a self-addressed postage prepaid envelope with instructions. The chief appraiser would be required to consider the individual's response on the form in determining whether the property remains the individual's principal residence. If chief appraiser does not receive a response on or before the 60th day after the date the notice is mailed, the chief appraiser may make a determination that the property is no longer the individual's principal residence on or after the 30th day after the expiration of the 60-day period, but only after making a reasonable effort to locate the individual and determine whether the property remains the individual's principal residence. An additional notice that includes certain specified language and

information sent by first class mail, return service requested, or notice in another manner determined by the chief appraiser, would constitute a reasonable effort. The bill's requirement that a chief appraiser must provide written notice and make a reasonable effort to locate an individual who is 65 years of age or older before disqualifying the individual from receiving a property tax deferral or abatement because the relevant property is no longer the individual's principal residence could create a cost to local taxing units and to the state through the school finance formulas because the payment of some taxes may be deferred that would otherwise not be. The number of individuals who might receive a tax deferral or abatement as a result of the provision is unknown but the cost is not anticipated to be significant.

The bill would amend the Government Code allowing Tarrant County to set the salary of a full-time magistrate to not exceed 90 percent of the sum of the salary of a district judge paid by the state and the maximum amount of county contributions and supplements allowed by law. The bill would also clarify the powers of Tarrant County criminal law magistrates.

The bill would amend the Government Code to exclude from the statutory maximum salary of a judge compensation for extrajudicial services performed by a district judge for a court located in a county with a population of 1.8 million or more that is adjacent to a county with a population of 2.2 million or more. Based on the analysis of the Office of Court Administration, duties and responsibilities associated with implementing the provisions could be accomplished using existing resources.

The bill would amend the Local Government Code to prohibit counties with a population equal to or more than 3.3 million from using various county revenue sources to fund the improvement or redevelopment of an obsolete sports facility if the improvement or redevelopment would cost \$10 million or more unless the funding is approved by voters of the county at an election held for that purpose. Defines obsolete sports facility. According to the Comptroller of Public Accounts, the provisions of the bill would have no fiscal impact on the state.

The bill would amend the Local Government Code to modify certain existing reporting requirements imposed on regional planning commissions. Specifies the information that must be reported on the expenditures of funds by these commissions. Clarifies that the reporting period is the fiscal year of the commission. Requires the report be delivered to members of the Legislature who represent a district located wholly or in part in the region of the commission as well as to each participating governmental unit in the region. Specifies that, in the event a receiver is appointed by the Governor due to a failure of the commission, no funds may be expended by the commission other those necessary to correct the failure. According to the Office of the Governor, the provisions are anticipated to have no fiscal implication to state government.

The bill would amend the Government Code, Water Code, and Local Government Code relating to the notice requirements for special purpose districts. The bill would require the annexation of land to a special purpose district to use the same notice required for establishing a special purpose district.

The bill would amend the Government Code allowing Bowie County to appoint bailiffs to serve the certain district courts of the county. The bill would require the sheriff of the county to deputize these appointments and would classify the bailiffs as peace officers for certain purposes of the Code of Criminal Procedure. The Office of Court Administration does not anticipate this provision of the bill creating a significant fiscal impact for the State or local government.

The bill would amend the Health and Safety Code by adding a chapter to establish a health care provider participation program for certain counties that have a population more than 75,000, are

not served by a hospital district or a public hospital, and borders or includes a portion of the Sam Rayburn Reservoir. The health care provider participation program would authorize a county to collect mandatory payments from nonpublic hospitals that provide inpatient hospital services. These payments would be deposited into a local provider participation fund to fund intergovernmental transfers and subsidize indigent care programs. Intergovernmental transfers would be used by the Health and Human Services Commission (HHSC) as the nonfederal share to draw down Medicaid supplemental payments including payments to the Medicaid managed care program that are dedicated for payment to hospitals. The bill specifies that if a state agency determines that a waiver from a federal agency is necessary, the agency shall request the waiver and delay implementation until such waiver is received. The nonfederal share of Texas Medicaid supplemental payments is provided largely by local public funds provided to HHSC by intergovernmental transfer. The bill's amendments do not contain any implications for state General Revenue funds. According to the Department of Health and Human Services, there would be no significant fiscal impact to the agency resulting from implementation of the bill. According to the Health and Human Services Commission, the agency has an oversight role in this process and would absorb any administrative costs within existing resources.

The bill would amend the Local Government Code to establish that a county judge in a meeting conducted by videoconference is the presiding officer of a commissioners court only when the county judge is located at the physical space made available to the public for the meeting. The Office of Court Administration indicates that no significant fiscal implication to the state is anticipated from this provision of the bill.

The bill would amend the Health and Safety Code to modify the composition and eligibility of certain emergency services commissions that serve multiple counties. Exempts certain counties from certain election requirements of emergency service commissions that serve multiple counties. Validates, ratifies, and confirms the acts and proceedings of certain emergency services districts.

The bill would amend the Health and Safety Code to authorize commissioner's courts to dissolve programs established by these courts.

The bill would amend the Health and Safety Code by requiring a local mental health authority at least once per year to consult with the sheriff or a representative of the sheriff regarding the use of funds received. The Commission on Law Enforcement, Department of State Health Services, and Health and Human Services Commission anticipate no fiscal impact from this provision of the bill to the State.

The bill would amend the Local Government Code to restrict an existing authorization for counties and municipalities to require property owners to remove graffiti. The limitation would limit this authorization to commercial property and explicitly prohibit this requirement for residential property.

Certain specified provisions in the bill would take effect September 1, 2017. For provisions not so specified, the bill would take effect with immediate effect if it receives a vote of two-thirds of both houses. For these provisions, if the bill does not receive the vote needed for immediate effect, it would take effect on September 1, 2017.

Methodology

The provisions of the bill relating to the establishment of a database has fiscal implications for the Comptroller. This analysis estimates the costs of implementing the provisions of the bill assuming

that either the Legislature appropriates money specifically for that purpose or that the agency identifies available funds.

Based on the analysis of the Comptroller, there would be a General Revenue cost of \$262,000 in fiscal year 2018 and an ongoing cost of \$82,000 in each following year. This analysis includes a one-time technology cost of \$180,000 in fiscal year 2018 for the Comptroller to develop the Special Purpose District Public Information Database. The Comptroller also indicates there would be staff costs of \$82,000 for one program specialist IV to maintain and verify data submissions from districts. This estimate is based on the agency's current costs to review and post debt-related information submitted by political subdivisions.

The Office of the Attorney General indicates that their costs to implement provisions of the bill could be absorbed within existing resources.

The bill would provide for civil penalties of up to \$2,000 to a special purpose district which does not comply with provisions of the bill requiring the reporting of information to the Comptroller to operate and update the database. The frequency of which the penalties would be applied and collected is unknown and therefore, any potential revenue increase to the General Revenue Fund is indeterminate.

Technology

The provisions of the bill relating to the establishment of a database results in a one-time technology cost of \$180,000 in General Revenue funds in fiscal year 2018 to the Comptroller to develop the database. The cost reflects an estimated 1,200 hours of design, architecture, and coding, including the creation of mainframe tables, a security portal, an application to enter and update information, and an application to view and sort information for public use.

Local Government Impact

The provisions of the bill relating to the development of a database require the Comptroller to give notice and impose up to two penalties each of \$1,000 and authorizes the Office of the Attorney General to sue to collect penalties. This analysis assumes the imposition of state civil penalty could have a fiscal impact on special purpose districts for non-compliance.

Authorization of expunction orders is anticipated to have no significant impact to local courts. Local governments are anticipated to realize a decrease in revenues from reimbursing fees associated with the filing of a petition for expunction; however, a significant fiscal impact is not anticipated.

Based on the analysis of the Office of Court Administration and Comptroller of Public Accounts, duties and responsibilities associated with implementing the provisions of the bill relating to non-disclosure of criminal history record information would result in a decrease in revenue to local governments from reimbursing fees associated with the filing of a petition for expunction. This decrease is not anticipated to be significant.

From the provisions of the bill related to an increase in fines associated with operation of a salvage yard, there would be a positive fiscal impact to a local governmental entity that would vary depending on the number of violations, the amount of the penalty and the amounts collected.

According to the Texas Municipal League, the fiscal impact from the provisions of the bill related to lobbying activities is not anticipated to be significant to municipalities.

According to the Office of Court Administration, for the provisions of the bill adjusting judicial compensation in certain counties, amount of additional compensation allowed to be paid to district judges by counties would increase; however, the increase would be permissive. Therefore, any fiscal impact would be made voluntarily by counties. No significant fiscal impact is anticipated. According to Dallas County, no fiscal impact is anticipated.

According to Harris County, the provisions of the bill relating to the prohibition of certain stadia redevelopments would have a negative fiscal impact. The county indicated the bill would cost approximately \$4 million for a stand-alone election and \$2.5 million for a uniform election day election. Also according to the county, further fiscal effects of the bill would be contingent on voter approval in Harris County and these additional fiscal effects cannot be determined.

According to the Office of the Governor, the provisions of the bill related to regional planning commissions are anticipated to have no fiscal implication to local government.

According to Angelina County, the provisions of the bill relating to indigent care programs would have a minimal fiscal impact on the county. While certain administrative costs in the billing, collecting, accounting and disbursement of the funds would be incurred these are specifically allowed for reimbursement in the text of the bill. According to the Texas Association of Counties, the fiscal impact from the provisions of the bill relating to videoconferencing by county judges and authorization of program dissolution would not be significant. The Office of Court Administration indicates that no significant fiscal implication to local courts is anticipated.

Because the provisions of the bill relating to certain emergency service commissions would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the House/Senate as to its probable fiscal implication on units of local government.

For the provisions of the bill relating to consultation of local mental health authorities and sheriffs, according to the Texas Association of Counties, no significant fiscal impact is anticipated. According to the Health and Human Services Commission, local governments may experience a fiscal impact due to an increased diversion effort from the criminal justice system. Due to variation across communities the number of diversions and fiscal impact cannot be determined at this time.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 529 Health and Human Services Commission, 302 Office of the Attorney General, 304 Comptroller of Public Accounts

LBB Staff: UP, JGA, GP, GG, LCO, WP, NV, JSm