

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 1, 2017

TO: Honorable Dan Patrick, Lieutenant Governor, Senate

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB4 by Perry (Relating to the enforcement by campus police departments and certain local governmental entities of state and federal laws governing immigration and to related duties and liability of certain persons in the criminal justice system; providing a civil penalty; creating a criminal offense.), **As Passed 2nd House**

No significant fiscal implication to the State to administer the provisions of the bill is anticipated, save for indeterminate costs and revenue gains associated with two provisions of the legislation as follows:

This analysis reflects a negative but indeterminate fiscal impact to the state related to the implementation of a new grant program to reimburse local entities for enforcing immigration laws and complying with detainer requests. There would also be a positive but indeterminate revenue gain to General Revenue-Dedicated Compensation to Victims of Crime associated with new civil penalties.

The bill would amend multiple codes relating to the enforcement by campus police departments and certain local governmental entities of state and federal laws governing immigration and to related duties and liability of certain persons in the criminal justice system. Under the provisions of the bill, a local entity or campus police department may not adopt or enforce an ordinance, order, rule, policy or other measure under which the entity or department prohibits the enforcement of immigration laws, or prohibits enforcement of immigration laws as demonstrated by pattern or practice.

The bill would allow certain citizens to file a complaint with the Attorney General. The bill would allow the Attorney General to file a petition for writ of mandamus or apply for other appropriate equitable relief in a district court in Travis County or in a county in which the principal office of the entity or department is located. The Attorney General could recover reasonable expenses in obtaining relief from the local entity or campus police department. In addition, the Attorney General may file a petition seeking removal of the responsible public official from office.

The bill would create a civil penalty, the amount of which would be determined by the court and deposited into the Compensation to Victims of Crime General Revenue-Dedicated account, in a range from \$1,000 to \$1,500 for the first offense, and from \$25,000 to \$25,500 for each subsequent violation. Sovereign immunity of the state and governmental immunity of a county or municipality is waived and abolished.

The bill would establish a competitive grant program under which the Criminal Justice Division in the Office of the Governor to provide financial assistance to local entities to offset costs

associated with immigration enforcement and fulfilling immigration detainer requests.

The bill would direct the Attorney General to defend a local entity in suits related to immigration detainer requests under certain circumstances. The bill would also establish a criminal offense for the failure by certain officials to comply with an immigration detainer request, which would be a Class A misdemeanor.

The LBB estimates a negative, but indeterminate, fiscal impact to the state associated with the implementation of a new grant program by the Criminal Justice Division. This analysis assumes that funding is not diverted from existing programs to fund grants to local entities related to offsetting costs to local entities for enforcing immigration laws and complying with detainer requests. The fiscal impact cannot be determined due to a lack of information on how such grants would be structured by the Governor's office and due to inadequate available data on potential applications for grant funds by local entities. The Governor's office assumes all costs would be absorbed, but does not quantify the amount.

The Office of the Attorney General, the Office of Court Administration, the Comptroller of Public Accounts, the Department of Public Safety, the Commission on Law Enforcement, the Department of Criminal Justice, the Board of Pardons and Paroles, Texas A&M University System, the University of Texas System, and the University of Houston System indicated that the duties and responsibilities associated with implementing the provisions of the bill could be accomplished within each agency's existing resources.

According to the Comptroller of Public Accounts, collections from fines, court costs and civil and criminal penalties, and from the recovery of reasonable expenses by the Attorney General, cannot be determined.

The bill 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 the bill would be subject to funds consolidation review by the current Legislature.

The bill would take effect immediately upon receiving two-thirds majority vote in each house. Otherwise, the bill would take effect September 1, 2017.

Local Government Impact

There could be a fiscal impact to local governmental entities depending on if the entity has such rules, ordinances, or policies relating to provisions in the bill, the number of complaints filed by individuals and the number of complaints investigated and pursued by the Attorney General. The civil penalty could have a major cost to local entities depending on how the penalty is assessed. The grant program would provide additional funding to local entities, but that amount is indeterminate.

According to the Texas Municipal League, no fiscal impact is anticipated.

According to El Paso County, the bill would cost \$1.7 million per year and require the hiring of 10 FTEs. According to Denton County, there would be costs associated with implementing and monitoring new procedures performed by law enforcement, prosecution, and judicial officials, which would cost an estimated \$25,000 to \$50,000 per year.

Source Agencies: 302 Office of the Attorney General, 405 Department of Public Safety, 212 Office of Court Administration, Texas Judicial Council, 300 Trusteed Programs Within the Office of the Governor, 304 Comptroller of Public Accounts, 407 Commission on Law Enforcement, 696 Department of Criminal Justice, 697 Board of Pardons and Paroles, 710 Texas A&M University System Administrative and General Offices, 720 The University of Texas System Administration, 768 Texas Tech University System Administration, 783 University of Houston System Administration

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