

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

**FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION**

**March 15, 2017**

**TO:** Honorable Byron Cook, Chair, House Committee on State Affairs

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

**IN RE: SB4** by Perry (Relating to the enforcement by certain state and local governmental entities and campus police departments of state and federal laws governing immigration and to related duties of certain law enforcement and judicial entities in the criminal justice system; providing civil and criminal penalties.), **As Engrossed**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Local Government Code to prohibit a local entity, state criminal justice agency, or campus police from adopting rules, orders, ordinances, or policies that prohibit enforcement of state and federal immigration laws. Under the provisions of the bill, a local entity, state criminal justice agency, or campus police department may not prohibit an individual employed or under the direction of the agency from participating in certain activities associated with the immigration status of certain individuals. The bill would deny state grants to an entity for the following year after a court finds that the entity adopted such rules or policies or prohibited the enforcement of immigration laws.

Any citizen residing in the jurisdiction of an entity described above would be allowed to file a complaint with the attorney general. After finding a complaint valid, the attorney general may file a petition for a writ of mandamus or apply for other equitable relief to compel the entity to comply with the provisions of the bill. The attorney general may recover reasonable expenses incurred in the legal proceedings. An entity found in violation would be subject to a civil penalty equal to \$1,000 to \$1,500 for the first violation and \$25,000 to \$25,500 for each subsequent day in violation.

A local entity, state criminal justice agency, or campus police that releases from custody a person that is subject to a detainer request is liable for damages resulting from a felony committed by the person in this state within 10 years following the person's release if the entity did not detain the person as requested, the person was not a citizen of the United States, and the attorney general petitioned the chief justice of the supreme court to convene a special three-judge panel. Sovereign immunity of the state and governmental immunity of a county or municipality is waived and abolished.

An elected official of a local entity commits a Class A Misdemeanor if they intentionally or knowingly violate the provisions of the bill.

Each law enforcement agency may adopt a written policy requiring the agency to perform community outreach activities to educate the public. The policy shall state that an employee of the law enforcement agency may not inquire the immigration status of a detained person if the

detention occurred solely because the person is a victim or witness of a criminal offense or if they are reporting a criminal offense.

This analysis assumes any state costs associated with the implementation of the bill could be absorbed within existing resources.

### **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.

According to the Texas Municipal League (TML), the cost of the bill cannot be determined.

According to the City of Houston in fiscal year 2016 the city received \$43.7 million in state grant funds. If the city was deemed to be in violation of the bill, the result could be a forfeiture of the grant funds. Houston also noted that the processing time for increased number of arrests and housing detainees in secure correction facilities could have a cost but the cost could not be determined.

According to the City of Austin in fiscal year 2017 the city has received \$9.7 million in state grant funding and \$11.8 million in pass through federal funding. It is unclear to the City of Austin how the provisions of the bill would apply to these sources of grant funding.

According to the City of El Paso the additional arrests and processing requirements would cost the city an estimated \$130,000 each fiscal year.

According to Bexar County, Denton County, El Paso County, and the City of Galveston no significant fiscal impact from the bill is anticipated.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 405 Department of Public Safety, 696 Department of Criminal Justice, 710 Texas A&M University System Administrative and General Offices, 720 The University of Texas System Administration, 768 Texas Tech University System Administration, 769 University of North Texas System Administration, 783 University of Houston System Administration, 407 Commission on Law Enforcement

**LBB Staff:** UP, AG, GG, BM, SD, JSm, JAW, FR