

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

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

**February 22, 2017**

**TO:** Honorable Larry Taylor, Chair, Senate Committee on Education

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

**IN RE: SB653** by Taylor, Van (Relating to improper relationships between educators or certain other school personnel and students; creating an offense and expanding the applicability of existing offenses.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for SB653, As Introduced: a negative impact of (\$3,278,994) through the biennium ending August 31, 2019.

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:**

| <b>Fiscal Year</b> | <b>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</b> |
|--------------------|---|
| 2018               | (\$2,041,532)   |
| 2019               | (\$1,237,462)   |
| 2020               | (\$1,237,462)   |
| 2021               | (\$1,237,462)   |
| 2022               | (\$1,237,462)   |

**All Funds, Five-Year Impact:**

| <b>Fiscal Year</b> | <b>Probable Savings/(Cost) from General Revenue Fund</b> |
|--------------------|--|
| 2018               | (\$2,041,532)  |
| 2019               | (\$1,237,462)  |
| 2020               | (\$1,237,462)  |
| 2021               | (\$1,237,462)  |
| 2022               | (\$1,237,462)  |

| <b>Fiscal Year</b> | <b>Change in Number of State Employees from FY 2017</b> |
|--------------------|---|
| 2018               | 11.0  |
| 2019               | 11.0  |
| 2020               | 11.0  |
| 2021               | 11.0  |
| 2022               | 11.0  |

## **Fiscal Analysis**

The bill would amend the Penal Code to expand the prohibition on improper employee and student relationships for certain persons. The bill would amend the Family Code to expand the prohibition on the false report of abuse or neglect and failure to report abuse and neglect to certain persons.

The bill would amend the Education Code to expand reporting requirements to include certain information regarding misconduct for certain persons at school districts, open-enrollment charter schools, and districts of innovation. The bill would authorize the Commissioner of Education to conduct a review of certain schools to verify compliance with educator misconduct reporting requirements.

The bill would amend the Education Code to require educator preparation programs to provide information related to appropriate educator-student relationship, boundaries, and communications and would require continuing education for educators and principals to include instruction regarding appropriate educator-student relationships, boundaries, and communications.

The bill would amend the Education Code to authorize the State Board of Educator Certification (SBEC) to temporarily suspend a teacher's certification on an emergency basis and require the State Office of Administrative Hearings (SOAH) to conduct the probable cause hearings following the ex parte temporary suspensions. The bill would require a SOAH preliminary hearing to be held not later than the 17th day after the issuance of the temporary suspension to determine if probable cause existed that continued work as an educator by the certificate holder would constitute a continuing or imminent threat to the safety and welfare of students, educators, or school personnel.

The bill would amend the Education Code to require the Texas Education Agency (TEA) to create a registry of persons barred from employment as soon as practicable, but not later than September 1, 2017. The registry would list certain persons with particular criminal backgrounds and educators whose certification to teach has been revoked by SBEC because they committed certain improper or illegal acts with students. The bill would require that persons listed on the registry could not be employed or serve as a teacher, librarian, educational aide, administrator, or school counselor or in any other position with direct, unsupervised contact with students for a school district, open-enrollment charter school, or shared services arrangement. The employment prohibition includes a person hired as an independent contractor. The registry would include persons or educators who, after a contested case hearing at the SOAH, were found to have abused, committed an unlawful act, been involved in a romantic relationship, or engaged in sexual contact with a student or minor.

The bill would amend the Family Code require the Child Protective Services (CPS) division at the Department of Family and Protective Services to develop a system that allows an education professional to report anonymously an allegation of abuse or neglect of a child, or indecency with

a child using a unique identifier that allows the education professional to document that he or she made a report and to verify that the CPS division has responded to the report. The bill would require DFPS to develop and implement the anonymous reporting system by January 1, 2018.

The bill would amend the Government Code to revoke eligibility for full pension annuity payments from the Employees Retirement System (ERS) and the Teacher Retirement System (TRS) if a person who is a member is convicted of an offense against a minor student, if the offense rises from the person's employment as described in the bill, or if the offense is punishable as a felony. The retirement system would resume making full annuity payments if the person made ineligible for a full annuity is subsequently found not guilty of the offense, or if the person meets other requirements for innocence under the provisions of the Civil Practice and Remedies Code. A person not eligible to receive a full annuity would be entitled to request and receive a refund of the member's retirement contributions, not including interest earned on those contributions. A person who accepts a refund would terminate membership in the retirement system. Benefits payable to an alternate recipient, including a spouse or dependent child, would not be affected by a conviction of the member.

The majority of the provisions in the bill take effect immediately upon passage by two-thirds majority, or on September 1, 2018 and apply beginning in school year 2017-18.

## **Methodology**

This analysis assumes the Texas Education Agency would require 11 additional full-time equivalent (FTE) positions to implement the provisions of the bill. The estimated costs of those 11 FTEs, including salary, benefits, and other operating expenses, would be \$1,249,874 in fiscal year 2018 and \$1,161,874 in subsequent years.

According to the Texas Education Agency (TEA), seven FTEs would be required to implement the temporary suspension provisions of the bill, to prepare for the hearing to determine whether the person would be placed on the Registry of Person Barred from Employment, to administer and maintain the registry, and to conduct reviews for reporting compliance as required by the bill.

TEA estimates three FTEs would be required to handle the increased caseload to investigate allegations against non-certified educators to determine whether those persons should be added to the registry. According to the agency, TEA currently has approximately 1,100 open educator misconduct cases. The agency anticipates the provisions of the bill would result in a ten percent increase in the number of cases, or 110 new cases, reported each year by school districts and charter schools.

This analysis assumes one FTE would be required to assist in development and ongoing support of the Registry of Persons Barred from Employment as required by the bill.

This analysis assumes the Department of Family and Protective Services, the State Office of Administrative Hearings, and the Juvenile Justice Department could implement the provisions of the bill within existing resources. The Employees Retirement System (ERS) and Teacher Retirement System (TRS) anticipate no significant fiscal implication to the state in relation to the loss of retirement eligibility. In addition, TRS and ERS anticipate no significant fiscal impact on the actuarial soundness of the funds, including the unfunded actuarial accrued liability, the funded ratio of the retirement funds, or the amortization period of each retirement system's unfunded actuarial accrued liability. The value of future benefits paid by TRS and ERS could only decrease under the proposed bill, but the savings are anticipated to be small.

## Technology

According to TEA, the agency would need professional contractors to assist in development of the Registry of Persons Barred from Employment estimated to be \$716,070 in order to comply with the requirement that it be completed by September 1, 2017. This cost is included in FY 2018, but to be active by September 1, 2017 the work would need to be completed in FY 2017. Following completion of the registry, TEA anticipates software licensing and server leasing costs of \$75,588 each year.

## Local Government Impact

The bill would create a Class C misdemeanor offense for assisting employees involved in certain misconduct with a minor or student. A Class C misdemeanor is punishable by a fine of not more than \$500. In addition to the fine, punishment can include up to 180 days of deferred disposition. This analysis assumes costs associated with enforcement and prosecution could likely be absorbed within existing resources and any resulting revenue generated would not be significant.

The bill would expand reporting requirements for school districts and charter schools and add requirements related to verifying new hires in the Registry of Persons Barred from Employment. The bill would require school districts to adopt policies concerning electronic communications between a school employee and student enrolled in the district. The bill would also require schools districts to reimburse educators for any wrongful suspension of employment due to lack of probable cause.

School districts and charter schools may incur costs related to increased administration and reporting. School districts and charter schools may also incur costs associated with modifying existing policies to comply with provisions of the bill. These costs would vary depending on the size of the district.

**Source Agencies:** 323 Teacher Retirement System, 327 Employees Retirement System, 360 State Office of Administrative Hearings, 530 Family and Protective Services, Department of, 644 Juvenile Justice Department, 701 Texas Education Agency

**LBB Staff:** UP, THo, AM, JGA, JLi, AW, KFa, JPo, EK