

## LEGISLATIVE BUDGET BOARD

Austin, Texas

### FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

March 20, 2019

**TO:** Honorable Donna Campbell, Chair, Senate Committee on Veteran Affairs & Border Security

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: SB616** by Birdwell (Relating to the continuation and functions of the Department of Public Safety of the State of Texas, the conditional transfer of the driver licensing program to the Texas Department of Motor Vehicles, the abolition of the Texas Private Security Board, the transfer of the motorcycle and off-highway vehicle operator training programs to the Texas Department of Licensing and Regulation, and the regulation of other programs administered by the Department of Public Safety; imposing an administrative penalty; authorizing and repealing the authorization for fees.), **As Introduced**

**The General Revenue fiscal impact of the bill cannot be determined at this time due to the unavailability of certain fiscal estimates associated with the transfer of the driver license program. There would be fiscal impacts to the Texas Mobility Fund and the Motorcycle Education Account which are described in the text below.**

#### Fiscal Analysis

##### Regulatory Functions and Activities

The bill authorizes DPS to obtain and use criminal history record information maintained by the FBI or DPS for certain regulatory functions for applicants for licensure. The bill authorizes DPS to require applicants to submit fingerprints for the purpose of obtaining criminal history record information.

The bill removes statutory criminal history disqualifiers and requires the adoption of disqualifying offenses for vehicle inspections. The bill also repeals the definition of certain convictions, and authorizes the establishment of licensing fees for inspector and station certifications and repeals certain statutory fees.

The bill establishes a two year expiration date for ignition interlock certifications, repeals the requirement to register with DPS as a peyote distributor, and repeals: fees for issuance of certificate of registration and renewal in metals; certain administrative penalties in metals; authority to investigate metal recyclers; certain provisions related to denial and revocation of suspension of certain certificates; authority to require certificate holders on probation to report to DPS; certain provisions related to hearings on denial, revocation, suspension of certain certificates; provisions regarding complaints related to inspectors; and fees for certain certifications.

### **Controlled Substances**

The bill repeals the requirement of a permit, and the offense for failing to obtain a permit, for chemical and laboratory apparatus equipment. The bill establishes reporting requirements in case of loss or theft, to maintain records and inventories in accordance with department rules, and to allow a member of the department or a peace officer to conduct audits and inspect records.

### **Private Security Functions and Activities**

The bill abolishes the Private Security Board and replaces it with an advisory committee. The bill defines company and individual licenses and eliminates the terms 'registrations' and 'endorsements'. The bill eliminates the licensing/registration requirements for the following: guard dog companies and guard dog trainers; qualified managers, supervisors, and branch office managers of security companies; security and alarm salespersons; security consulting companies and consultants; employees of a license holder; and private business or government letters of authority. The bill stipulates the company and individual licenses will have a two year expiration period.

Further, the bill directs DPS to create a registry of commissioned security officers who have received disciplinary actions; requires an individual license for each service; repeals statute regarding the procedures for appeal of administrative actions; and sets the expiration date for certain certifications to September 1, 2019.

### **Driver License Functions and Activities**

The bill requires DPS to contract with an independent third party to conduct a study of the opportunities and challenges of transferring the agency's current driver licensing functions and activities to the Texas Department of Motor Vehicles (DMV) to be submitted on or before September 1, 2020.

The bill transfers all DPS' driver license FTEs, funds, property, contracts, etc. to the DMV on September 1, 2021. However, this provision takes effect only in the case where the transfer study report is not submitted by September 1, 2020.

### **Expiration Dates and Fee for Driver Licenses**

The bill extends the expiration date of an original driver license from six to eight years for most applicants. The bill also changes the fee for an original and renewal driver license from \$24 to \$32. This results in an increase in the Texas Mobility Fund.

### **Motorcycle and Off-Road Vehicle Operator Training Functions and Activities**

The bill transfers the motorcycle safety and off-highway vehicle programs, and any associated material and financial assets, to the Texas Department of License and Regulation (TDLR). The bill requires TDLR to establish curriculum standards, approve courses that meet these standards, and charge a fee not to exceed \$50 for an instructor's license and \$100 for a motorcycle school license.

The bill also: requires TDLR to establish an Advisory Board; establishes eligibility criteria for an instructor license, including a mandatory training program administered by the Texas Engineering Extension Service; creates a new motorcycle safety grant program out of the Motorcycle Education Fund; and requires the Texas Transportation Institute to promulgate research, advocacy, and education on motorcycle safety.

### **Methodology**

### **Regulatory Functions and Activities**

According to DPS, there will be an estimated increase in Appropriated Receipts revenue of \$766,649 in fiscal year 2020, and \$758,880 in each fiscal year thereafter, to reflect the increase in fingerprinting background checks authorized in Article III of the bill.

### **Controlled Substances**

It is assumed the provisions in this article can be performed using existing resources.

### **Private Security Functions and Activities**

The elimination of certain licenses and registrations, and the extension of renewal licenses to two years, results in a loss in revenue to the General Revenue Fund. The elimination of some private security registrations are estimated to reduce revenue by \$555,655 in each fiscal year, and the change from a one-year license period to a two-year license period for some private security licenses is estimated to reduce revenue by \$3,273,710 in each even-numbered fiscal year.

According to DPS, there would be a small cost savings to General Revenue because of the elimination of certain licenses and registrations.

### **Drivers License Functions and Activities**

If the third party study is not submitted by September 1, 2020, the transfer of the driver license program will result in a significant All Funds decrease for DPS, with a corresponding increase for DMV.

Should the report not be submitted by this date, DPS estimates the transfer of the driver license program in fiscal year 2022 will result in a decrease to DPS of 2,250.8 FTEs and \$145,323,210 in All Funds, of which \$140,712,892 is General Revenue and \$4,610,318 is Appropriated Receipts.

DPS, however, did not include in its estimate the savings associated with finance and accounting, facilities and equipment maintenance, information technology, customer service, and other support functions that support the driver license program that would be included in the transfer. DPS assumes many of the details associated with the transfer of DPS driver license functions will be addressed in the required study and by the working group established by this bill.

DMV assumed an additional 346.0 FTEs would be required to provide the support services indicated above. DMV's analysis also assumed DPS staff and funding that support the administrative license revocation hearings function would not be transferred from DPS to DMV. DMV estimated it would need an additional 56.0 FTEs, including attorneys and legal support staff, to accommodate this function.

Based on DMV's analysis, total costs for an additional 402.0 FTEs, including salaries and wages, associated operating costs, and employee benefits are estimated to be \$41.7 million from the General Revenue Fund in each fiscal year beginning in fiscal year 2021. However, if ultimately the administrative functions and FTEs associated with the driver license program were transferred to DMV, the DMV cost estimate would likely be significantly offset. As a result, the General Revenue fiscal impact of the program transfer cannot be determined.

Further, DPS is not required to house their data center services through the Department of Information Resources (DIR), while DMV is required to do so. DIR indicates the additional costs to expanding DCS to include the drivers license function at DMV cannot be estimated at this time.

According to DPS, the study to transfer the driver license program to DMV would cost \$250,000 in fiscal year 2020.

### **Expiration Dates and Fees for Drivers Licenses**

The bill extends the term of an original driver license from six to eight years and increases the fee for an original or renewal driver license from \$24 to \$32. According to DPS' analysis, these changes are estimated to increase revenues to the Texas Mobility Fund by \$25,456,184 in fiscal year 2020 and \$22,467,304 in fiscal year 2021.

### **Motorcycle and Off-Road Vehicle Operator Training Functions and Activities**

The transfer of the motorcycle safety and off-highway vehicle programs to TDLR results in a savings to General Revenue and the Motorcycle Safety Education Account for DPS, with corresponding increases for TDLR. This analysis assumes that any increased cost to TDLR, which is statutorily required to generate sufficient revenue to cover its costs of operation, would be offset by an increase in fee generated revenue.

The bill transfers the motorcycle operator safety training program, and any associated material and financial assets, from DPS to TDLR. According to DPS, there will be minimal impact to DPS' Education, Training, and Research (ETR) Division. ETR's Motorcycle Safety Unit provides its own training to meet statutory requirements, and the transfer of this Unit will not have an impact on any other training by other units in ETR. There would be a small savings to DPS from the Motorcycle Education Account No. 501 resulting from the decrease of 9.0 FTEs.

TDLR reports it would need to hire 6.0 FTEs to fulfill the the motorcycle program requirements. TDLR also reports it would need to contract for the printing of the MSB-8 and estimates this would result in a cost for the approximately 34,000 cards issued annually. In addition, DPS currently contracts for the use of a licensing system and database called REMS for the regulation of the motorcycle program. Taking over the contract and making the changes necessary to reflect TDLR as the agency regulating the program would result in an annual cost of \$20,000 in fiscal years 2020 and 2021. Finally, TDLR estimates a cost of \$100,000 per fiscal year for a staff augmentation contract to have the motorcycle safety training information transferred into TDLR's existing licensing systems. These costs would no longer appear after fiscal year 2021 as the motorcycle licenses would be within the existing TDLR database.

The bill authorizes a renewal license fee of \$100 for a motorcycle school and \$50 for an instructor license. According to TDLR analysis, approximately 80 schools and 400 instructors renew each year and about 25 instructors and 2 schools submit new applications each year. Based on TDLR's response, this analysis assumes new application fees for schools will be \$200 and new application fees for instructors will be \$100. This would result in a General Revenue gain of approximately \$30,700 per fiscal year. As an agency that has its appropriations limited to revenue collections, TDLR is statutorily required to generate sufficient revenue to cover its costs of operation. However, this analysis assumes the disparity between annual expenses and licensing fees for this program would come from the Motorcycle Education Fund Account (General Revenue Dedicated Fund 0501) because current statute (Section 662) authorizes funds from this account to be used to defray the cost of administering the motorcycle operator training and safety program.

The ATV safety program currently operates through a no-cost cooperative agreement with the All-Terrain Vehicle Safety Institute, which will be continued at TDLR, resulting in no fiscal impact.

The bill retains the motorcycle license fee at the current \$32 while extending the term of the license to eight years. The deposit to the Texas Mobility Fund will decrease by \$8 for each motorcycle renewal in the seventh and eighth fiscal year after the effective date of this bill. Current motorcycle licensure data is used to estimate the fiscal impact of this decrease in deposits to the Texas Mobility Fund starting in fiscal year 2026. As of December 2018, there were 985,000

licenses with a motorcycle endorsement. DPS estimates a resulting revenue decrease to the Texas Mobility Fund of \$7,880,000 in each affected fiscal year.

Note: The bill would reduce, rescind, or repeal the dedication of a specific source or portion of revenue dedicated to the Texas Mobility Fund. Article 3, Section 49-k, of the Texas Constitution, specifies that while money in the Texas Mobility Fund is pledged for the payment of any outstanding debt obligations, the Legislature may not reduce, rescind, or repeal the dedication of a specific source or portion of revenue dedicated to the Texas Mobility Fund unless the Legislature by law dedicates a substitute or different source of revenue that is projected by the Comptroller to be of a value equal to or greater than the source or amount being reduced, rescinded, or repealed.

**Technology**

The bill requires programming to the Driver License System (DLS) to extend expiration dates from six to eight years for original driver licenses only, update fees and financial files, and testing with the Comptroller of Public Accounts. Additionally, the Department of Information Resources (DR) will be required to program the Over the Counter (OTC) application for the fee changes. Information Technology (IT) resources include a DLS developer, finance developer, and quality assurance resources to test the changes in DLS and OTC.

The bill also requires modifications to the Private Security program's online licensing application (TOPS). Several registration types will need to be removed, most notably the company manager registration, which would require a major change from application through licensing as this is integrated into the company rules. There is also a change for Letter of Authority registry which would include application and fee changes.

BR>DPS' Information Technology Division will need contractors to provide programming support for development, security, networking and project management.

Should the driver license functions be transferred to DMV in fiscal year 2022, there would be significant, if undetermined, one time IT costs associated with the program transfer. DPS assumes these costs will be addressed in the study required by this bill. Currently, the Driver License Division includes \$5,152,555 in General Revenue Funds specifically for ongoing IT operations related to the maintenance and improvement of the driver license program.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 116 Sunset Advisory Commission, 302 Office of the Attorney General, 313 Department of Information Resources, 405 Department of Public Safety, 452 Department of Licensing and Regulation, 608 Department of Motor Vehicles, 716 Texas A&M Engineering Extension Service, 727 Texas A&M Transportation Institute

**LBB Staff:** WP, SLE, AI, SMi, AF, JMO, SD