LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

March 31, 2019

TO: Honorable Bob Hall, Chair, Senate Committee on Agriculture

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

IN RE: **SB697** by Rodríguez (Relating to the regulation of migrant labor housing facilities.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB697, As Introduced: an impact of $0 through the biennium ending August 31, 2021.

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
2020	$0
2021	$0
2022	$0
2023	$0
2024	$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain from *Appropriated Receipts* 666	Probable (Cost) from *Appropriated Receipts* 666	Change in Number of State Employees from FY 2019
2020	$700,000	($700,000)	6.0
2021	$800,000	($800,000)	7.0
2022	$900,000	($900,000)	8.0
2023	$1,000,000	($1,000,000)	9.0
2024	$1,100,000	($1,100,000)	10.0

The bill would amend the Government Code to clarify the licensure requirements of migrant housing facilities. Specifically, the bill would prohibit a person from procuring, making arrangements for, or otherwise providing housing for migrant agricultural workers without ensuring that the housing facility is licensed. The bill would clarify aspects of the licensing fee. It would require the Texas Department of Housing and Community Affairs (TDHCA) to establish a complaint process for unlawful migrant housing activity. There would be requirements created related to violations, adjustments to civil penalties, and outreach and education. TDHCA would have until March 1, 2020 to adopt the necessary rules to implement the specified changes.

The bill would take effect September 1, 2019.

Fiscal Analysis

The bill would require that a person may not procure, make arrangements for, or otherwise provide housing for migrant agricultural workers without ensuring that the applicable migrant labor housing facility is licensed under this law. The bill would require the TDHCA governing board to establish the required fees in rule. A collected fee would be deposited to the credit of the general revenue fund and may be appropriated to TDHCA for enforcement of this provision.

TDHCA would be required to conduct facility inspections on receipt of a complaint, at least once during the probable period of use of the facility, and establish an annual quota of proactive inspections of suspected unlicensed or noncompliant facilities, which may be no less than 50 percent of the number of licensed facilities in the preceding fiscal year. The bill would require TDHCA to inform a facility in writing if it has failed the inspection, and state the reasons in writing. The bill would amend existing law to say that an applicant may remedy the deficiency and request that TDHCA re-inspect no later than the 10th day after the date the reasons for failing inspection are given. The bill would amend the civil penalty amount and process, and would provide that penalties be deposited to the General Revenue Fund.

The bill would require the facility to post its license and information in English and Spanish that describes the complaint procedure provided for in the bill.

Methodology

The agency anticipates approximately 500 facilities which could require licensing. Two inspections would be required for every licensee and an additional quota of inspections of unlicensed or noncompliant facilities equal to not less than 50 percent of the active licensees.

While the Manufactured Housing Division at TDHCA has been administering the migrant farmworker housing facility licensing through an administrative agreement (due to various capacities over the past twelve years which are no longer present), TDHCA would instead shift the licensing to itself under the bill. The agency estimates a need for six full-time equivalents (FTE) in FY 2020, seven in FY 2021, and one additional FTE in each year thereafter until FY 2024. The staffing needs grow due to the anticipated growth in the number of facilities to be inspected and licensed.

This includes 5.0 Inspector V, 0.5 Director IV, and 0.5 Legal Assistant IV in FY 2020. The agency would add 1.0 Inspector V in FY 2021, and 1.0 Investigator IV in each year thereafter. Inspectors and investigators would be required to travel extensively to all regions of the state where migrant labor facilities are located. The employees would require expertise in inspections and enforcement, be capable of conducting bilingual interviews, building enforcement cases, and working extended hours in remote areas.

The FTE costs in FY 2020 (6.0 FTEs) include $379,641 for salaries, $167,750 for travel, $20,000 for equipment (computer hardware/software/smartphones) and office supplies/furniture, and $132,609 for retirement and benefits. These costs increase incrementally each year due to the addition of one FTE per year in this cost estimate.

TDHCA assumes that fees collected would cover anticipated costs. Based on anticipated costs and the estimated number of facilities to be licensed, TDHCA would develop a per capacity or per bed fee calculation. The agency estimates that each licensed facility in the future will have an average capacity of 10 beds. The annual fee for each unit of capacity would be $200 per bed. The current fee is limited at a flat $250 per facility. The average cost for the smallest operator license for a facility with a three bed capacity would be $600 per year.

The agency assumes a total number of inspections as follows: 610 in FY 2020, 710 in FY 2021, 810 in FY 2022, 910 in FY 2023, and 1,010 in FY 2024.

The total number of licensed facilities by year end would be: 350 in FY 2020, 400 in FY 2021, 450 in FY 2022, 500 in FY 2023, and 550 in FY 2024.

The total bed capacity would be 3,500 in FY 2020, 4,000 in FY 2021, 4,500 in FY 2022, 5,000 in FY 2023, and 5,500 in FY 2024.

At a per bed fee of $200 per bed, the anticipated fee revenue collected is $700,000 in FY 2020 (3,500 beds x $200 = $700,000), $800,000 in FY 2021, $900,000 in FY 2022, $1,000,000 in FY 2023, and $1,100,000 in FY 2024.

This revenue is assumed to be Appropriated Receipts, due to the characterization of such revenue in the Introduced Bill for the FY 2020-21 biennium. It is assumed that these Appropriated Receipts would be deposited to the credit of the General Revenue Fund.

Due to uncertainty inherent in penalty collection, TDHCA did not assume significant penalties would be collected. However, should penalties be collected, they would be applied to costs and may reduce licensing fees in future periods.

The Office of Court Administration and the Office of the Attorney General indicate the bill would have no significant fiscal impact to them. The Comptroller of Public Accounts stated the cost could not be determined, as they could not predict the licensure fees that TDHCA would implement. The cost estimate for the bill is based on the analysis that TDHCA has provided.

Local Government Impact

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

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 332 Department of Housing and Community Affairs

LBB Staff: WP, SZ, SGr, MB, AF