

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

April 16, 2019

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

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

IN RE: SB1256 by Bettencourt (Relating to employing, terminating, and reporting the misconduct of public school personnel and related entity personnel, including creating a registry of persons ineligible for hire; creating criminal offenses.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for SB1256, Committee Report 1st House, Substituted: a negative impact of (\$1,273,324) 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	(\$522,073)
2021	(\$751,251)
2022	(\$377,484)
2023	(\$377,484)
2024	(\$377,484)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund 1	Change in Number of State Employees from FY 2019
2020	(\$522,073)	4.0
2021	(\$751,251)	4.0
2022	(\$377,484)	4.0
2023	(\$377,484)	4.0
2024	(\$377,484)	4.0

Fiscal Analysis

The bill would amend the Education Code to require the Texas Education Agency (TEA) to create a registry of persons not eligible for employment in public schools and related entities. TEA would be required to maintain the registry and make it available to appropriate hiring entities through an internet portal. The bill would further require TEA to subscribe to the clearinghouse of criminal history information maintained by the Department of Public Safety (DPS). A school district, district of innovation, open-enrollment charter school, home-rule charter school, regional education service center, or shared services arrangement would be required to confirm a person being considered for employment and a person already employed is not on registry. The bill would require TEA to create the registry as soon as practicable, not later than January 1, 2020, and the internet portal as soon as practicable.

The bill would require the principal of a public school or related entity to notify the superintendent or director not later than the seventh business day after the date of an employee's termination or resignation based upon misconduct. The superintendent or director would be required to submit a written report to the TEA commissioner not later than the seventh business day after the date the superintendent or director receives the report. Failure on the part of either the principal or superintendent or director to notify or file a report by the required date with the intent to conceal an employee's criminal record or alleged incident of misconduct would be a state jail felony offense. The internet portal created by TEA would be required to allow for misconduct reporting.

Under the bill, a person who is not certified by the State Board for Educator Certification (SBEC) who is the subject of a report that alleges the person abused, committed a crime with, was involved in a romantic relationship with, or solicited sexual contact with a student or minor would be entitled to a hearing with the State Office of Administrative Hearings (SOAH) to contest the allegations. If the person did not request a hearing, the TEA Commissioner would be required to decide whether the person engaged in misconduct. If the Commissioner or hearing determined that the person did engage in misconduct, TEA would be required to add the person's name to the registry.

The bill would require TEA to periodically conduct site visits and review the records of public schools and related entities to ensure employers comply with requirement to discharge or refuse to employ persons listed on the registry.

Methodology

This analysis assumes TEA would require 4.0 additional FTEs for a cost of \$397,484 in fiscal year 2020 and \$377,484 per year thereafter to review and investigate reports of misconduct against non-certified employees. This analysis assumes TEA would require 2.0 Program Specialist Vs (\$91,237 per FTE in fiscal year 2020 and \$86,237 per FTE each year thereafter) to review prior revocations and determine applicability to the section, log new reports of misconduct, perform an initial review of allegations, and process reports for investigation. Additionally, it is assumed TEA would require 1.0 Investigator VI (\$97,261 in fiscal year 2020 and \$92,216 each year thereafter) and 1.0 Attorney IV (\$117,794 in fiscal year 2020 and \$112,794 each year thereafter) to investigate reported misconduct and litigate registry cases before SOAH. Included in these costs per FTE are salaries, benefits, payroll contributions, other operating expenses, and additional software licenses to access the case management software (\$400 per individual per year).

TEA assumes technology costs to implement the registry, internet portal, and subscription to the DPS clearinghouse required by the bill would total \$124,589 in fiscal year 2020 and \$373,767 in fiscal year 2021. (See Technology section.)

TEA notes that it may require additional staff to periodically conduct site visits to ensure compliance with the bill's provisions. This analysis assumes costs associated with site visits could be absorbed using existing resources.

SOAH assumes any additional work associated with implementing the provisions of the bill regarding hearings for alleged misconduct by non-certified employees could be absorbed using existing resources.

This analysis assumes the provisions of the bill addressing felony sanctions for criminal offenses would not result in a significant impact on state correctional agencies.

Technology

TEA assumes it would need to modify the Educator Certification Online System (ECOS) to create a new application for entry, search, view, and management of employment eligibility data. The application would require secure access for approved users, including TEA, school districts, charter schools, education service centers, and local education agencies. Additionally, TEA would be required to develop a new misconduct reporting internet portal and to access DPS clearinghouse criminal background check information. TEA assumes these modifications would cost \$124,589 in fiscal year 2020 and \$373,767 in fiscal year 2021.

Local Government Impact

TEA assumes there would likely be costs to districts and charter schools to conduct investigations and report allegations of misconduct involving non-certified educators. TEA assumes costs may include human resources staff and other resources needed to verify potential hires and to investigate and report allegations.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 360 State Office of Administrative Hearings, 696 Department of Criminal Justice, 701 Texas Education Agency

LBB Staff: WP, CPa, JPo, HL, AM, ASa, RC