

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

March 22, 2021

TO: Honorable Chris Turner, Chair, House Committee on Business & Industry

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB820 by White (Relating to requiring certain business entities to audit the business's supply chain and on-site services for the use of forced labor; providing an administrative penalty.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB820, As Introduced : a negative impact of (\$11,696,364) through the biennium ending August 31, 2023.

Additionally, depending on the number of businesses found to be in violation of the provisions of the bill and the penalties assessed on those businesses, there could be an indeterminate revenue impact on the state.

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:

<i>Fiscal Year</i>	<i>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</i>
2022	(\$9,385,652)
2023	(\$2,310,712)
2024	(\$2,322,256)
2025	(\$2,334,020)
2026	(\$2,346,007)

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	<i>Probable (Cost) from General Revenue Fund 1</i>	<i>Change in Number of State Employees from FY 2021</i>
2022	(\$9,385,652)	27.0
2023	(\$2,310,712)	27.0
2024	(\$2,322,256)	27.0
2025	(\$2,334,020)	27.0
2026	(\$2,346,007)	27.0

The bill would create a new chapter in the Business and Commerce Code that requires certain business entities to audit their supply chains and on-site services for the use of forced labor. Businesses subject to the bill would be required to conduct an annual audit to investigate the use of forced labor and submit a report to the Secretary of State (SOS).

The bill would authorize the SOS to assess an administrative penalty of up to \$100 million against a covered

business if the agency determines that the business violated a requirement established by the bill. This section would also authorize the SOS to increase that penalty to not more than \$500 million for a willful violation.

The bill would permit the SOS to ask the Office of the Attorney General (OAG) to institute a civil action in certain circumstances. The bill would require the SOS to submit an annual report to the Governor and Legislature that identifies certain covered business and would direct the agency to adopt rules to implement the bill's requirements.

Fiscal Analysis

The SOS estimates that 3,800 corporations in Texas would be subject to the conditions of this bill. According to the agency, this estimate could understate the number of corporations subject to the bill as it is derived from IRS tax records while the bill would include all worldwide gross receipts. The agency states that auditing this scale of business activity would have a significant fiscal impact.

The bill envisages that the audit activities could result in fines and penalties for businesses that are found to be in violation of the provisions of the new chapter, as added by the bill. According to SOS, if fines were levied against covered businesses, those fines could offset these costs; however, the agency has no basis to estimate whether or not such fines would be realized.

According to the Comptroller of Public Accounts, given the wide range of possible violations of the bill's audit and reporting requirements, as well as the wide range of allowable penalties for violations, as determined by SOS, the fiscal impact on the state cannot be estimated.

According to the OAG, no significant cost to the state is anticipated for that agency to fulfill the requirements of the bill.

Methodology

According to the SOS, the agency currently does not have sufficient staff to administer the required audits. The agency anticipates that the bill would require a staff of 27 FTEs: a Director (\$69,416/year), System Analysts for Help Desk support (2 at \$71,537/year), Program Specialists (5 at \$36,976/year), Administrative Assistants (2 at \$29,439/year), Attorneys (2 at \$48,278/year), Investigators (5 at \$31,144/year), and Auditors (10 at \$42,400/year). The agency estimates benefits for these positions would be an additional \$378,941 per year.

In addition to staffing costs for this new function, the SOS states that it would require new lease space for these employees at \$175,000 per year. Estimated start up costs for enterprise content and customer relation management systems to fulfill the requirements of the bill would be \$7,682,537 in fiscal year 2022 with \$607,597 in continuing costs beginning with fiscal year 2023 and increasing at the rate of inflation.

Local Government Impact

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

Source Agencies: 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 307 Secretary of State

LBB Staff: JMc, SZ, LCO, GP