

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

April 5, 2021

TO: Honorable Bryan Hughes, Chair, Senate Committee on State Affairs

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: SB1678 by Campbell (Relating to the prohibited release by a public agency of information regarding the members, supporters, or volunteers of or donors to certain nonprofit organizations; creating a criminal offense.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB1678, As Introduced : a negative impact of (\$1,013,651) through the biennium ending August 31, 2023.

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	(\$888,860)
2023	(\$124,791)
2024	(\$124,791)
2025	(\$124,791)
2026	(\$124,791)

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	<i>Probable Savings/(Cost) from General Revenue Fund 1</i>	<i>Change in Number of State Employees from FY 2021</i>
2022	(\$888,860)	2.0
2023	(\$124,791)	2.0
2024	(\$124,791)	2.0
2025	(\$124,791)	2.0
2026	(\$124,791)	2.0

Fiscal Analysis

The bill would amend the Government Code to prohibit agencies from requiring or releasing certain information relating to donations to certain nonprofit organizations. The release of this information would be punishable as a Class B misdemeanor.

According to the Secretary of State (SOS), the bill would have a significant fiscal impact on the office. The agency maintains business and commercial records for nonprofit organizations and other entities with federal tax-exempt status. Under current statute, these filing entities are not required to indicate federal income tax

exemption status. Other statutory provisions require the SOS to maintain business filings as public records, and these statutes contain specific procedures governing the provision of such information to members of the public.

Methodology

According to the SOS, there are approximately 175,000 active nonprofit entities registered with the agency, some of which could have federal income tax-exempt status. An unknown number of other entities could also possess federal non-profit status. Required public disclosure of the filings of these entities is provided through the SOSDirect online access system and in response to public information requests. These public disclosures would include information that would constitute donor information under the provisions of the bill. The office has no means currently of determining whether a nonprofit organization is federally tax-exempt.

To fulfill the provisions of the bill, the SOS would be required to establish a process for obtaining tax-exempt status information in bulk, on a regular basis, from the IRS and to incorporate that information into existing systems. Prior to the development of an automated system for this purpose, the agency would rely on manual processes to redact required information. The SOS anticipates that this manual redaction would require two additional Administrative Assistant V positions (\$36,976 per FTE per year) with \$25,831 in associated benefits. These positions would then continue following the development of an automated redaction system to monitor and maintain it.

The Texas Department of Criminal Justice, the Texas Department of Agriculture, the Texas Department of Insurance, the Office of Court Administration, the Office of the Attorney General, the Department of Information Resources, and the Department of Licensing and Regulation state that the bill would not result in a significant fiscal impact to those agencies.

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.

The Office of the Governor states that the fiscal impact to the office cannot be determined.

According to the Comptroller of Public Accounts, the fiscal impact on the state cannot be estimated.

Technology

The SOS estimates that modifications to existing systems would require 1,040 hours of work by a senior developer at an hourly rate of \$144.24 through a Texas Department of Information Resources' IT Staff Augmentation Contract rates for an estimated cost of \$150,010.

The SOS would also be required to implement an electronic system to assist in preventing the public disclosure of donor information contained in business filings maintained by SOS. Based on vendor input, the agency estimates this system would cost approximately \$629,983 in fiscal year 2022 for setup costs and requiring an ongoing \$20,000 in each subsequent year for annual recurring costs.

In addition, based on previous expenditures, the SOS estimates that it would incur technology hardware and software costs of \$9,084 in fiscal year 2022, and annual recurring costs of \$5,008 in subsequent years for the two FTEs that would be required by the provisions of the bill.

Local Government Impact

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

A Class B misdemeanor is punishable by a fine of not more than \$2,000, confinement in jail for a term not to exceed 180 days, or both. Costs associated with enforcement, prosecution and confinement could likely be absorbed within existing resources. Revenue gain from fines imposed and collected is not anticipated to have a

significant fiscal implication.

Source Agencies: 212 Office of Court Admin, 300 Trusteed Programs - Gov, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 307 Secretary of State, 313 Department of Information Resources, 452 Dept of License & Reg, 454 Department of Insurance, 551 Department of Agriculture, 696 Department of Criminal Justice

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