

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 25, 2023

TO: Honorable Dade Phelan, Speaker of the House, House of Representatives

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB7 by Guillen (Relating to measures to address public safety threats in this state presented by transnational criminal activity, including by establishing a Texas Border Force, and to compensate persons affected by those threats; increasing criminal penalties; creating criminal offenses.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for HB7, As Passed 2nd House : a negative impact of (\$82,703,104) through the biennium ending August 31, 2025 for certain programs administered by the Office of Court Administration. Additional costs, while assumed to be significant, cannot be determined due to the size and scope of the Texas Border Force being unknown.

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>
2024	(\$62,682,832)
2025	(\$20,020,272)
2026	(\$62,031,497)
2027	(\$20,103,997)
2028	(\$62,077,874)

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 2023</i>
2024	(\$62,682,832)	18.8
2025	(\$20,020,272)	18.8
2026	(\$62,031,497)	18.8
2027	(\$20,103,997)	18.8
2028	(\$62,077,874)	18.8

Fiscal Analysis

The bill would require the Department of Public Safety (DPS) to periodically review technologies that may be deployed for border security operations to ensure the agency is utilizing innovative solutions for those operations.

The bill would create the Texas Border Force (TBF) as a division of the Texas Rangers to conduct border security operations, including law enforcement operations, intelligence gathering, surveillance, tactical operations, and training.

The bill would only allow commissioned officers of the TBF to carry out the duties assigned to a commissioned peace officer. Noncommissioned staff may support commissioned peace officers and infrastructure operations.

The bill would allow DPS to enter into a written agreement with the Texas Military Department (TMD) to assign service members of the Texas military forces to the TBF and reimburse TMD for hiring, training, salary and benefits costs incurred with as a result.

The bill would require DPS to purchase and deploy technology and equipment to detect and suppress criminal activity along the Texas-Mexico border including razor wire, buoy barriers, and surveillance and detection technology at each port to inspect passenger and commercial vehicles for smuggling of individuals or controlled substances. DPS would be granted all purchasing and procurement capabilities related to technologies and equipment for border security operations.

The bill would allow DPS to offer credit for up to four years of experience as a Border Patrol Agent of the United States Customs and Border Protection or a member of the armed forces of the United States for the purpose of calculating an officer's salary under Schedule C.

The bill would allow DPS to provide a cash balance group member hired for the TBF who served active federal duty in the armed forces of the United States and obtains a peace officer license issued under Chapter 1701, Occupations Code, the option to establish verified military service credit not to exceed six months in the retirement system.

The bill would restrict a municipality, county, or special purpose district from limiting the jurisdiction or authority of the TBF.

The bill would create the Class A misdemeanor offense of improper entry from a foreign nation. The penalty would be increased to a state jail felony in the case of a previous conviction of the offense and increased to a second- or first-degree felony in the case of certain previous felony convictions. The bill would require a law enforcement officer of DPS who arrests a person for such an offense, to the extent feasible, to detain the person in a facility established under Operation Lone Star (OLS) or a similar border security operation of this state. The impact on state correctional populations or on the demand for state correctional resources cannot be determined due to a lack of data to estimate the prevalence of conduct outlined in the bill's provisions that would be subject to criminal penalties.

The bill would establish a 10-year term of imprisonment for the third-degree felony offense of smuggling of persons and would increase the minimum term of imprisonment to 10 years for the second- and first-degree felony offenses of smuggling of persons and continuous smuggling of persons. The average length of stay for an individual released from prison in fiscal year 2022 for the offenses of smuggling of persons and continuous smuggling of persons was approximately 1.0 year. The impact on state correctional populations and the demand for state correctional resources could be significant due to the increased terms of confinement and the subsequent compounding increase in demand for prison bed capacity.

The bill would establish the Border Protection Court Program to support the operation of courts in the border region with the adjudication of border-related offenses. OCA would establish and administer a grant program to support the operation of the program.

The bill would require OCA to conduct a study to identify offenses for which prosecutions have increased because of OLS.

The bill would expand the duties of the Interagency Work Group on Border Issues to identify and develop solutions to challenges and threats to state agencies along the border and adds the heads of the Texas Division of Emergency Management, the Texas Alcoholic Beverage Commission, and the TMD as designees.

The bill would allow funds appropriated to the Trusteed Programs within the Office of the Governor (OOG Trusteed Programs) to be made available to state agencies and local governments for the construction and maintenance of facilities related to prosecuting and adjudicating offenses committed in the border region; construction and improvement in the vicinity of a port of entry to enhance vehicle inspection; construction and maintenance of temporary security infrastructure; and other activities determined to be necessary to address offenses committed related to transnational criminal activity.

The bill would give the Governor authority to execute agreements with the United Mexican States and the states of the United Mexican States for the protection and defense of the citizens of Texas.

The bill would take effect September 1, 2023.

Methodology

According to DPS, the costs associated with implementing the provisions of the bill, while assumed to be significant, cannot be determined at this time due to the size and scope of the TBF being unknown. For context, if it was determined DPS would contract 300 Texas State Guardsmen, the agency would require \$27,960,750 in General Revenue in fiscal year 2024 and \$23,176,000 in fiscal year 2025. This estimate assumes \$75,000 per fiscal year for each Texas State Guardsmen for salary and benefits, \$4,784,625 in fiscal year 2024 for 75 vehicles equipped with radios, and \$676,125 each fiscal year for fuel and maintenance.

According to OCA, the Border Protection Court Program would cost \$62,682,832 in fiscal year 2024 and \$20,020,272 in fiscal year 2025, including one-time costs associated with establishing the program, 18.8 FTE positions to administer the program, and \$58,913,640 in estimated grant costs in fiscal year 2024 and \$17,250,372 in fiscal year 2025.

The grant costs represent funding estimates for seven district and or county courts that presently receive grant funding from the OOG Trusteed Programs, and eleven new courts whose respective law enforcement agencies have either already received grant funding or the court is experiencing an uptick in OLS driven case volume. Also included in the grant total is an estimate for indigent defense representation and funding for additional attorney staff for the Fourth Court of Appeals to process OLS appeals.

According to OCA, the costs associated with the salary, benefits, and related expenses for prosecution personnel, while assumed to be significant, cannot be determined due to the number of personnel that would be funded by grants being unknown.

According to the Texas Commission on Law Enforcement, it is assumed that any agency costs associated with the bill could be absorbed using existing resources.

Technology

In addition to the amounts above, DPS estimates that technology costs would total \$52,000,000 in fiscal year 2024 and \$12,000,000 in fiscal year 2025 for advanced scanning stations at five ports of entry (\$40,000,000 in fiscal year 2024 only) and intelligence software (\$12,000,000 per fiscal year).

Local Government Impact

According to OCA, local courts could see a positive fiscal impact as the border court grants could provide eligible jurisdictions with expanded capacity to handle increased OLS-related filings.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 300 Trusteed Programs Within the Office of the Governor, 401 Military Department, 405 Department of Public Safety

LBB Staff: JMc, DDeI, KFB, DA, LBO