

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 17, 2023

TO: Honorable Brian Birdwell, Chair, Senate Committee on Border Security

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB7 by Guillen (Relating to border protection and economic development services, programs, and other measures, including establishing educational programs and the border protection unit, in this state to address the effects of ongoing disasters, including disasters caused by transnational and other criminal activity and public health threats.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for HB7, As Engrossed : a negative impact of (\$95,552,451) through the biennium ending August 31, 2025 for programs administered by the Office of Court Administration, the Office of the Governor, and the Office of the Attorney General. Additional costs, while assumed to be significant, cannot be determined due to uncertainty about the level of funding for grants and programs, as well as the size and scope of the Border Patrol Unit 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	(\$63,881,104)
2025	(\$31,671,347)
2026	(\$21,751,244)
2027	(\$21,815,000)
2028	(\$21,808,181)

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	<i>Probable Savings/(Cost) from General Revenue Fund</i>	<i>Change in Number of State Employees from FY 2023</i>
2024	(\$63,881,104)	29.7
2025	(\$31,671,347)	29.7
2026	(\$21,751,244)	29.7
2027	(\$21,815,000)	29.7
2028	(\$21,808,181)	29.7

Fiscal Analysis

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. The Office of Court Administration (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 Operation Lone Star (OLS).

The bill would allow the Trusteed Programs within the Office of the Governor (OOG Trusteed Programs) to make funds available to state agencies and local governments for border protection and public safety.

The bill would establish a Border Property Damage Compensation Program to be administered by the Office of the Attorney General (OAG). The program would allow OAG to compensate a person residing in the border region for actual damages, not to exceed \$75,000 per incident, to their real or personal property caused by a person who entered or attempted to enter the state by crossing the border with Mexico at any time or place other than a port of entry.

The bill would require the transfer of proceeds from the sale of forfeited property related to a smuggling of persons offense to the Comptroller of Public Accounts (CPA) for deposit to the credit of the program.

The bill would establish the Border Institution Grant Program to be administered by the Texas Higher Education Coordinating Board (THECB) to grant financial assistance to institutions of higher education in the border region with programs related to border safety research and workforce development.

The bill would create a Border Protection Economic Development Initiative for the Texas Economic Development and Tourism Office to promote businesses and tourism in the border region.

The bill would amend statute to ensure the safety and welfare of the southern border region of Texas and establish the legal framework to create a Border Protection Unit (BPU), headquartered in the border region, as a separate division under the Public Safety Commission (PSC).

The bill would amend the powers and duties of the Department of Public Safety (DPS) to include air, maritime, and land border defense and create a Unit Chief position to direct the newly created BPU. The Unit Chief would be appointed by the Governor for an indefinite term and be authorized to appoint deputies and assistants and adopt rules necessary to control the BPU.

The bill would create a Class A misdemeanor offense for using the term "Border Protection Unit" with the intent to create the appearance that an object belongs to or is being used by BPU.

The bill would require OOG to establish an office of Audit and Review and an Office of Inspector General to investigate and oversee BPU operations and property. The directors of both offices would be appointed by the Governor for an indefinite term.

The bill would authorize the BPU to acquire equipment and facilities and conduct training as necessary to fulfill the operational duties outlined in the strategic plan.

The bill would require the BPU to develop a strategic plan that establishes a framework for the budget and operation of the unit and report annually to the Governor and the Legislature the implementation of the strategic plan.

The BPU would be abolished December 31, 2030, unless continued by the Legislature.

The bill would take effect immediately if it receives a vote of two-thirds in each chamber, or September 1, 2023.

Methodology

According to OCA, the Border Protection Court Program would cost \$60,825,084 in fiscal year 2024 and \$29,486,687 in fiscal year 2025, including one-time costs associated with establishing the program, 13.7 FTE positions to administer the program, and \$57,584,912 in estimated grant costs in fiscal year 2024 and \$27,250,372 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 OAG, it would require 10.0 FTEs to establish and administer the Border Property Damage Compensation program. This analysis assumes a cost of \$1,898,821 in fiscal year 2024 and \$1,048,461 in fiscal year 2025 for salaries, onetime technology costs to develop a reporting system, and other operating expenses.

For context, OAG estimates that it may receive 500 applications or more in fiscal year 2024 for property damage compensation. If each applicant is awarded an average of \$50,000, the total cost for the program could be \$25,000,000 in fiscal year 2024 alone. However, with no verifiable statewide data to determine the number of applications or the average amount paid, the fiscal impact cannot be determined.

THECB is unable to estimate the cost of the grants, as provisions regarding eligible institutions and grant amounts are subject to further rulemaking. This analysis assumes that agency costs associated with this program could be absorbed using existing resources.

According to OOG, it would require 6.0 FTEs to administer a border protection economic development initiative. This analysis includes \$1,157,199 in fiscal year 2024 and \$1,136,199 in fiscal year 2025 for salaries, professional fees for a new tourism campaign, and other operating expenses.

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 BPU being unknown. For context, if it is determined to add 100.0 Commissioned Officer positions, the agency would require \$45,871,688 in General Revenue in fiscal year 2024 and \$21,691,332 in fiscal year 2025. This includes funding for an additional 32.2 FTE support positions and 125.0 Trooper Trainee positions. If it is determined to add 1,000.0 Commissioned Officer positions, the agency would require \$458,704,392 in fiscal year 2024 and \$219,602,055 in fiscal year 2025. This includes funding for an additional 321.9 FTE support positions and 1,250.0 Trooper Trainee positions.

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.

According to CPA, the amount to be deposited to the credit of the Border Property Damage Compensation Program from the sale of forfeited property cannot be determined at this time due to the amount of property that may be forfeited being unknown.

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.

In addition, OOG reports that local governments could see a positive fiscal impact due to various grant programs funding the construction and maintenance of border infrastructure, facilities, equipment, and border region tourism.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 300 Trusteed Programs Within the Office of the Governor, 302 Office of the Attorney General, 303 Facilities Commission, 304 Comptroller of Public Accounts, 327 Employees Retirement System, 405 Department of Public Safety, 407 Commission on Law Enforcement, 529 Health and Human Services Commission, 537 State Health Services, Department of, 575 Texas Division of Emergency Management, 696 Department of Criminal Justice, 781 Higher Education Coordinating Board, 802 Parks and Wildlife Department

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