

SENATE AMENDMENTS

2nd Printing

By: Guillen

H.B. No. 963

A BILL TO BE ENTITLED

1 AN ACT

2 relating to a criminal history evaluation letter determining
3 occupational license eligibility.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Chapter 53, Occupations Code, is amended by
6 adding Subchapter D to read as follows:

7 SUBCHAPTER D. PRELIMINARY EVALUATION OF LICENSE ELIGIBILITY

8 Sec. 53.101. DEFINITIONS. In this subchapter:

9 (1) "License" means a license, certificate,
10 registration, permit, or other authorization that:

11 (A) is issued by a licensing authority; and

12 (B) a person must obtain to practice or engage in
13 a particular business, occupation, or profession.

14 (2) "Licensing authority" means a department,
15 commission, board, office, or other agency of the state that issues
16 a license.

17 Sec. 53.102. REQUEST FOR CRIMINAL HISTORY EVALUATION

18 LETTER. (a) A person may request a licensing authority to issue a
19 criminal history evaluation letter regarding the person's
20 eligibility for a license issued by that authority if the person:

21 (1) is enrolled or planning to enroll in an
22 educational program that prepares a person for an initial license
23 or is planning to take an examination for an initial license; and

24 (2) has reason to believe that the person is

1 ineligible for the license due to a conviction or deferred
2 adjudication for a felony or misdemeanor offense.

3 (b) The request must state the basis for the person's
4 potential ineligibility.

5 Sec. 53.103. AUTHORITY TO INVESTIGATE. A licensing
6 authority has the same powers to investigate a request submitted
7 under this subchapter and the requestor's eligibility that the
8 authority has to investigate a person applying for a license.

9 Sec. 53.104. DETERMINATION OF ELIGIBILITY; LETTER. (a) If
10 a licensing authority determines that a ground for ineligibility
11 does not exist, the authority shall notify the requestor in writing
12 of the authority's determination on each ground of potential
13 ineligibility.

14 (b) If a licensing authority determines that the requestor
15 is ineligible for a license, the licensing authority shall issue a
16 letter setting out each basis for potential ineligibility and the
17 authority's determination as to eligibility. In the absence of new
18 evidence known to but not disclosed by the requestor or not
19 reasonably available to the licensing authority at the time the
20 letter is issued, the authority's ruling on the request determines
21 the requestor's eligibility with respect to the grounds for
22 potential ineligibility set out in the letter.

23 (c) A licensing authority must provide notice under
24 Subsection (a) or issue a letter under Subsection (b) not later than
25 the 90th day after the date the authority receives the request.

26 Sec. 53.105. FEES. A licensing authority may charge a
27 person requesting an evaluation under this subchapter a fee adopted

1 by the authority. Fees adopted by a licensing authority under this
2 subchapter must be in an amount sufficient to cover the cost of
3 administering this subchapter.

4 SECTION 2. Not later than January 1, 2010, a department,
5 commission, board, office, or other agency of the state that issues
6 a license to practice or engage in a particular business,
7 profession, or occupation shall adopt rules necessary to administer
8 Subchapter D, Chapter 53, Occupations Code, as added by this Act.

9 SECTION 3. This Act takes effect immediately if it receives
10 a vote of two-thirds of all the members elected to each house, as
11 provided by Section 39, Article III, Texas Constitution. If this
12 Act does not receive the vote necessary for immediate effect, this
13 Act takes effect September 1, 2009.

ADOPTED

MAY 25 2009

Rotay Saur
Secretary of the Senate

By: Guillen/Whitmire

H. B. No. 963

Substitute the following for H.B. No. 963:

By: Chris Hawn

C.S. ____ B. No. ____

A BILL TO BE ENTITLED

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3 occupational license eligibility.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Chapter 53, Occupations Code, is amended by
6 adding Subchapter D to read as follows:

SUBCHAPTER D. PRELIMINARY EVALUATION OF LICENSE ELIGIBILITY

Sec. 53.101. DEFINITIONS. In this subchapter:

11 (A) is issued by a licensing authority; and

Sec. 53.102. REQUEST FOR CRIMINAL HISTORY EVALUATION

18 LETTER. (a) A person may request a licensing authority to issue a
19 criminal history evaluation letter regarding the person's
20 eligibility for a license issued by that authority if the person:

23 or is planning to take an examination for an initial license; and
24 (3) has reason to believe that the person is

1 ineligible for the license due to a conviction or deferred
2 adjudication for a felony or misdemeanor offense.

3 (b) The request must state the basis for the person's
4 potential ineligibility.

5 Sec. 53.103. AUTHORITY TO INVESTIGATE. A licensing
6 authority has the same powers to investigate a request submitted
7 under this subchapter and the requestor's eligibility that the
8 authority has to investigate a person applying for a license.

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10 a licensing authority determines that a ground for ineligibility
11 does not exist, the authority shall notify the requestor in writing
12 of the authority's determination on each ground of potential
13 ineligibility.

14 (b) If a licensing authority determines that the requestor
15 is ineligible for a license, the licensing authority shall issue a
16 letter setting out each basis for potential ineligibility and the
17 authority's determination as to eligibility. In the absence of new
18 evidence known to but not disclosed by the requestor or not
19 reasonably available to the licensing authority at the time the
20 letter is issued, the authority's ruling on the request determines
21 the requestor's eligibility with respect to the grounds for
22 potential ineligibility set out in the letter.

23 (c) A licensing authority must provide notice under
24 Subsection (a) or issue a letter under Subsection (b) not later than
25 the 90th day after the date the authority receives the request.

26 Sec. 53.105. FEES. A licensing authority may charge a
27 person requesting an evaluation under this subchapter a fee adopted

1 by the authority. Fees adopted by a licensing authority under this
2 subchapter must be in an amount sufficient to cover the cost of
3 administering this subchapter.

4 SECTION 2. Not later than September 1, 2010, a department,
5 commission, board, office, or other agency of the state that issues
6 a license to practice or engage in a particular business,
7 profession, or occupation shall adopt rules necessary to administer
8 Subchapter D, Chapter 53, Occupations Code, as added by this Act.

9 SECTION 3. This Act takes effect immediately if it receives
10 a vote of two-thirds of all the members elected to each house, as
11 provided by Section 39, Article III, Texas Constitution. If this
12 Act does not receive the vote necessary for immediate effect, this
13 Act takes effect September 1, 2009.

3rd Reading

ADOPTED

FLOOR AMENDMENT NO. 1

MAY 25 2009 BY: Vander Park

Lotay Drew

1 Amend H.B. 963 by adding ^{Secretary of the Senate} the following appropriately
2 numbered SECTION to the bill and renumbering subsequent SECTIONS
3 of the bill accordingly:

4 SECTION _____. (a) The heading to Chapter 55, Occupations
5 Code, is amended to read as follows:

6 CHAPTER 55. LICENSING OF [RENEWAL OF LICENSE WHILE ON] MILITARY
7 MEMBER OR MILITARY SPOUSE [DUTY]

8 SECTION 2. Chapter 55, Occupations Code, is amended by
9 adding Section 55.004 to read as follows:

10 Sec. 55.004. TEMPORARY LICENSE. (a) In this section,
11 "military" means the armed forces of the United States.

12 (b) A state agency that issues a license shall adopt rules
13 for the expedited issuance of a temporary license to an
14 applicant who:

15 (1) is serving on active duty as a member of the
16 military;

17 (2) was honorably discharged from active duty as a
18 member of the military not more than one year before the date of
19 the application; or

20 (3) is the spouse of a person who is serving on
21 active duty as a member of the military.

22 (c) The state agency shall issue the temporary license
23 under this section to a qualified applicant who:

24 (1) submits an application on a form prescribed by
25 the agency; and

26 (2) pays the required fees.

27 SECTION 3. This Act takes effect immediately if it
28 receives a vote of two-thirds of all the members elected to each
29 house, as provided by Section 39, Article III, Texas

✓ ↗

1 Constitution. If this Act does not receive the vote necessary
2 for immediate effect, this Act takes effect September 1, 2009.

3

ADOPTED

MAY 25 2009

Lotay Dow
Secretary of the Senate

BY: *John H. Johnson*

FLOOR AMENDMENT NO. 1

1 Amend H.B. No. 963 by adding the following appropriately
2 numbered SECTIONS to the bill and renumbering subsequent SECTIONS
3 of the bill accordingly:

4 SECTION _____. Section 53.002, Occupations Code, is amended
5 to read as follows:

6 Sec. 53.002. APPLICABILITY OF CHAPTER. This chapter does
7 not apply to:

8 (1) the Supreme Court of Texas, a person licensed
9 under the court's authority on behalf of the judicial department of
10 government, or an applicant for a license issued under the court's
11 authority on behalf of the judicial department of government;

12 (2) a peace officer or an applicant for a license as a
13 peace officer described by Article 2.12, Code of Criminal
14 Procedure, or to a reserve law enforcement officer, a county
15 jailer, or a public security officer licensed or applying for a
16 license under Chapter 1701; [or]

17 (3) a person licensed or applying for a license under
18 Chapter 1702;

19 (4) a person licensed or applying for a license issued
20 by the Texas State Board of Public Accountancy;

21 (5) a person licensed or applying for a license under
22 Chapter 156, Finance Code; or

23 (6) a person who:

24 (A) is licensed or is applying for a license
25 issued by the Texas ~~Medical~~ [State] Board [of ~~Medical~~ Examiners],
26 the Texas State Board of Pharmacy, the State Board of Dental
27 Examiners, the Texas State Board of Examiners of Psychologists, the
28 Texas Board of Nursing, the Texas Optometry Board, or the State
29 Board of Veterinary Medical Examiners; and

(B) has been convicted of:

(i) a felony under Chapter 481 or 483 or

3 Section 485.033, Health and Safety Code

(ii) an offense listed in Section 3g,

5 Article 42.12, Code of Criminal Procedure; or

(iii) a sexually violent offense, as

7 defined by Article 62.001, Code of Criminal Procedure.

8 SECTION _____. Subsection (a), Section 53.021, Occupations
9 Code, is amended to read as follows:

17 SECTION _____. Subchapter B, Chapter 53, Occupations Code,
18 is amended by adding Section 53.0211 to read as follows:

19 Sec. 53.0211. LICENSING OF CERTAIN APPLICANTS WITH PRIOR
20 CRIMINAL CONVICTIONS. (a) Notwithstanding any other law and
21 unless the applicant has been convicted of an offense described by
22 Section 53.021(a), a licensing authority shall issue to an
23 otherwise qualified applicant who has been convicted of an offense:

24 (1) the license for which the applicant applied; or

25 (2) a provisional license described by Subsection (b).

26 (b) A licensing authority may issue a provisional license
27 for a term of six months to an applicant who has been convicted of an
28 offense.

29 (c) The licensing authority shall revoke a provisional
30 license if the provisional license holder:

(2) commits an act or omission that causes the person's community supervision, mandatory supervision, or parole to be revoked, if applicable; or

(3) violates the law or rules governing the practice
of the occupation for which the provisional license is issued.

6 (d) The licensing authority shall issue the license for
7 which the applicant originally applied to a provisional license
8 holder on the expiration of the provisional license term if the
9 provisional license holder does not engage in conduct described by
10 Subsection (c).

11 (e) If the licensing authority revokes a provisional
12 license under Subsection (c), the provisional license holder is
13 disqualified from receiving the license for which the applicant
14 originally applied.

15 (f) An applicant who is on community supervision, mandatory
16 supervision, or parole and who is issued a provisional license
17 under this section shall provide to the licensing authority the
18 name and contact information of the probation or parole department
19 to which the person reports. The licensing authority shall notify
20 the probation or parole department that a provisional license has
21 been issued. The probation or parole department shall notify the
22 licensing authority if the person's community supervision,
23 mandatory supervision, or parole supervision is revoked during the
24 term of the provisional license.

25 SECTION _____. The changes in law made by this Act by the
26 amendment of Sections 53.002 and 53.021(a), Occupations Code, and
27 the addition of Section 53.0211, Occupations Code, apply only to an
28 application for a license filed with a licensing authority, to
29 which Chapter 53, Occupations Code, applies, on or after the
30 effective date of this Act. An application filed before that date
31 is governed by the law in effect when the application is filed, and

1 the former law is continued in effect for that purpose.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 28, 2009

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB963 by Guillen (Relating to a criminal history evaluation letter determining occupational license eligibility.), As Passed 2nd House

Estimated Two-year Net Impact to General Revenue Related Funds for HB963, As Passed 2nd House: an impact of \$0 through the biennium ending August 31, 2011.

This 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
2010	\$0
2011	\$0
2012	\$0
2013	\$0
2014	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i>	Probable Revenue Gain/ (Loss) from <i>General Revenue Fund</i>	Change in Number of State Employees from FY 2009
1	1	1	
2010	(\$1,421,943)	\$1,421,943	13.5
2011	(\$892,093)	\$892,093	13.5
2012	(\$836,093)	\$836,093	13.5
2013	(\$810,093)	\$810,093	13.5
2014	(\$810,093)	\$810,093	13.5

Fiscal Analysis

The bill would allow a person enrolled or planning to enroll in an educational program in preparation for a state-issued license, or planning to take an examination for a state-issued license, who has reason to believe that the person may be ineligible for a license, to request from that licensing agency a criminal history evaluation letter to determine the person's eligibility for the license. The licensing agency would be required to determine the person's eligibility based on criminal history background checks and to respond to the person's request within 90 days. The bill would exempt certain agencies from its requirements under Chapter 53, Occupations Code.

This bill authorizes licensing agencies to charge and collect a fee in an amount sufficient to cover the costs of the administration of the provisions of this bill. The bill would require the licensing agencies

to adopt rules necessary to administer the provisions of the bill no later than September 1, 2010.

The bill would require state agencies that issue licenses to adopt rules for the expedited issuance of a temporary license to a qualified applicant who is serving on active duty as a member of the military, was honorably discharged from active duty, or is the spouse of a person who is serving on active duty.

The bill would amend the Occupations Code to allow various regulatory agencies to provide licenses or provisional licenses to applicants who have had certain previous criminal convictions. The bill would also authorize the licensing agency to revoke the provisional license if the provisional license holder commits a new offense, commits an act or omission that causes the person's community supervision, mandatory supervision, or parole to be revoked, or violates the law or rules governing the practice of the occupation for which the license is issued. The bill requires the licensing authority to notify the probation or parole department that a provisional license has been issued. The bill requires the licensing authority to issue the license for which the applicant originally applied to a provisional license holder on the expiration of the provisional license term if there are no violations.

The bill would take effect immediately if it receives a vote of two-thirds of all the members elected to each house. If not, the bill would take effect September 1, 2009.

Methodology

According to the analysis of the Board of Podiatric Medical Examiners, the Texas State Board of Dental Examiners, the Department of Banking, the Real Estate Commission, the Executive Council of Physical Therapy & Occupational Therapy Examiners, the Board of Public Accountancy, the Funeral Service Commission, the Texas Board of Nursing, the Comptroller of Public Accounts, the Department of Savings and Mortgage Lending, the Board of Plumbing Examiners, the Department of Public Safety, and the Department of Insurance, these agencies would be able to absorb the costs of implementing the provisions of the bill relating to issuing determination letters within the existing resources of the agency.

Based on the analysis of the Texas State Board of Pharmacy, the Real Estate Commission, the Texas Board of Nursing, the Board of Chiropractic Examiners, the Texas Department of Licensing and Regulation, the Board of Plumbing Examiners, and the Texas Department of Insurance, duties and responsibilities associated with implementing the provisions relating to the expedited issuance of a license for military personnel could be accomplished by utilizing existing resources.

The Board of Chiropractic Examiners and the Department of Licensing and Regulation estimate increased costs for additional FTEs to implement the provisions of the bill regarding issuing determination letters. The calculations of these agencies are based on the number of licensees, the percent of existing licensee population with criminal histories, and the licensees required to take exams or enroll in an education program to become eligible for the license.

With respect to issuing licenses or provisional licenses to licensees with previous criminal convictions, it is assumed that Board of Chiropractic Examiners would need 0.5 additional FTEs (Administrative Assistant) at a salary of \$19,558 each fiscal year to implement the database changes and to monitor ongoing criminal records for provisional license holders. It is also assumed that \$15,000 in professional fees would be required in fiscal year 2010 in addition to \$5,000 operating and equipment costs with \$1,000 in operating costs continuing in each subsequent fiscal year. Based on information provided by the Board of Professional Land Surveyors, it is assumed that implementing the provisions of the bill would require modifying database for the provisional license status at a cost of \$4,000 in fiscal year 2010.

The analysis assumes each agency would assess and collect fees for supplying the criminal history background check eligibility letter or for issuing provisional licenses sufficient to cover the cost of implementing the provisions of the bill.

The Texas Education Agency (TEA) anticipates 50,000 to 60,000 requests each year for the eligibility letters. Based on the analysis of the agency, this would result in a significant increase in the number of investigations conducted and would require a new software system to track the receipt of requests for

determination and the disposition of letters within 90 days of receipt of the request. TEA anticipates needing an additional 3.0 administrative assistants and 3.0 customer service representatives to verify the receipt of requests and ensure responses within 90 days. TEA also anticipates needing an additional 5.0 investigators to conduct investigations of the positive criminal history records of applicants. For the purposes of this estimate, it is assumed that the majority of educator certification candidates enrolled in educator preparation programs would submit a request for a criminal history evaluation letter. To the extent that a smaller proportion of that population actually submits requests, the cost and personnel requirements may be reduced.

Technology

Based on the analysis of the Board of Chiropractic Examiners, it is assumed that the computer system would necessitate upgrades to accommodate the new applications authorized by the bill. The costs for upgrades and modifications to the computer systems in Fiscal Year (FY) 2010 would cost \$13,000 for the Board of Chiropractic Examiners.

Based on the analysis of TEA, the agency would be required to develop new software to serve the population of individuals that would otherwise not be in either the TEA or State Board for Educator Certification systems. The system would track receipts of requests for determination of eligibility and disposition of the requests within 90 days of receipt. The estimated costs of developing and maintaining the system are \$510,000 in FY 2010, \$112,000 in FY 2011, \$56,000 in 2012, and \$30,000 each subsequent year.

Local Government Impact

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

Source Agencies: 520 Board of Examiners of Psychologists, 701 Central Education Agency, 304 Comptroller of Public Accounts, 312 Securities Board, 329 Real Estate Commission, 405 Department of Public Safety, 450 Department of Savings and Mortgage Lending, 451 Department of Banking, 452 Department of Licensing and Regulation, 454 Department of Insurance, 456 Board of Plumbing Examiners, 457 Board of Public Accountancy, 464 Board of Professional Land Surveying, 503 Texas Medical Board, 504 Texas State Board of Dental Examiners, 507 Texas Board of Nursing, 508 Board of Chiropractic Examiners, 512 Board of Podiatric Medical Examiners, 513 Funeral Service Commission, 514 Optometry Board, 515 Board of Pharmacy, 533 Executive Council of Physical Therapy & Occupational Therapy Examiners

LBB Staff: JOB, ES, JRO, MW

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 14, 2009

TO: Honorable Troy Fraser, Chair, Senate Committee on Business & Commerce

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB963 by Guillen (Relating to a criminal history evaluation letter determining occupational license eligibility.), **Committee Report 2nd House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB963, Committee Report 2nd House, Substituted: an impact of \$0 through the biennium ending August 31, 2011.

This 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
2010	\$0
2011	\$0
2012	\$0
2013	\$0
2014	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund	Probable Revenue Gain/ (Loss) from General Revenue Fund	Change in Number of State Employees from FY 2009
	1	1	
2010	(\$1,593,869)	\$1,593,869	16.5
2011	(\$1,041,262)	\$1,041,262	16.5
2012	(\$986,419)	\$986,419	16.5
2013	(\$960,419)	\$960,419	16.5
2014	(\$961,634)	\$961,634	16.5

Fiscal Analysis

The bill would allow a person enrolled or planning to enroll in an educational program in preparation for a state-issued license, or planning to take an examination for a state-issued license, who has reason to believe that the person may be ineligible for a license, to request from that licensing agency a criminal history evaluation letter to determine the person's eligibility for the license. The licensing agency would be required to determine the person's eligibility based on criminal history background checks and to respond to the person's request within 90 days.

This bill authorizes licensing agencies to charge and collect a fee in an amount sufficient to cover the costs of the administration of the provisions of this bill. The bill would require the licensing agencies to adopt rules necessary to administer the provisions of the bill no later than September 1, 2010.

The bill would take effect immediately if it receives a vote of two-thirds of all the members elected to each house. If not, the bill would take effect September 1, 2009.

Methodology

According to the analysis of the Board of Podiatric Medical Examiners, the Texas State Board of Dental Examiners, the Department of Banking, the Real Estate Commission, the Executive Council of Physical Therapy & Occupational Therapy Examiners, the Board of Public Accountancy, the Funeral Service Commission, the Texas Board of Nursing, the Comptroller of Public Accounts, the Department of Savings and Mortgage Lending, the Board of Plumbing Examiners, the Department of Public Safety, and the Department of Insurance, these agencies would be able to absorb the costs of implementing the bill within the existing resources of the agency.

The Board of Chiropractic Examiners, the Texas Medical Board, the Optometry Board, the Department of Licensing and Regulation, the Board of Examiners of Psychologists, and the Texas State Board of Pharmacy estimate increased costs for additional FTEs to implement the provisions of the bill. The calculations of these agencies are based on the number of licensees, the percent of existing licensee population with criminal histories, and the licensees required to take exams or enroll in an education program to become eligible for the license.

The Texas Education Agency (TEA) anticipates 50,000 to 60,000 requests each year for the eligibility letters. Based on the analysis of the agency, this would result in a significant increase in the number of investigations conducted and would require a new software system to track the receipt of requests for determination and the disposition of letters within 90 days of receipt of the request. TEA anticipates needing an additional 3.0 administrative assistants and 3.0 customer service representatives to verify the receipt of requests and ensure responses within 90 days. TEA also anticipates needing an additional 5.0 investigators to conduct investigations of the positive criminal history records of applicants. For the purposes of this estimate, it is assumed that the majority of educator certification candidates enrolled in educator preparation programs would submit a request for a criminal history evaluation letter. To the extent that a smaller proportion of that population actually submits requests, the cost and personnel requirements may be reduced.

The analysis assumes each agency would assess and collect fees for supplying the criminal history background check eligibility letter to cover the cost of implementing the provisions of the bill.

Technology

Based on the analysis of the Texas State Board of Pharmacy, the Board of Chiropractic Examiners and the Board of Examiners of Psychologists, it is assumed that their computer systems will necessitate upgrades to accommodate the new applications authorized by the bill. The costs for upgrades and modifications to the computer systems in Fiscal Year (FY) 2010 would cost \$8,139 for the Board of Pharmacy, \$13,000 for the Board of Chiropractic Examiners, and \$3,500 for the Board of Examiners of Psychologists.

Based on the analysis of TEA, the agency would be required to develop new software to serve the population of individuals that would otherwise not be in either the TEA or State Board for Educator Certification systems. The system would track receipts of requests for determination of eligibility and disposition of the requests within 90 days of receipt. The estimated costs of developing and maintaining the system are \$510,000 in FY 2010, \$112,000 in FY 2011, \$56,000 in 2012, and \$30,000 each subsequent year.

Local Government Impact

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

Source Agencies: 520 Board of Examiners of Psychologists, 701 Central Education Agency, 304 Comptroller of Public Accounts, 312 Securities Board, 329 Real Estate Commission, 405 Department of Public Safety, 450 Department of Savings and Mortgage Lending,

451 Department of Banking, 452 Department of Licensing and Regulation, 454 Department of Insurance, 456 Board of Plumbing Examiners, 457 Board of Public Accountancy, 464 Board of Professional Land Surveying, 503 Texas Medical Board, 504 Texas State Board of Dental Examiners, 507 Texas Board of Nursing, 508 Board of Chiropractic Examiners, 512 Board of Podiatric Medical Examiners, 513 Funeral Service Commission, 514 Optometry Board, 515 Board of Pharmacy, 533 Executive Council of Physical Therapy & Occupational Therapy Examiners

LBB Staff: JOB, ES, JRO, MW

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 11, 2009

TO: Honorable Troy Fraser, Chair, Senate Committee on Business & Commerce

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB963 by Guillen (Relating to a criminal history evaluation letter determining occupational license eligibility.), As Engrossed

Estimated Two-year Net Impact to General Revenue Related Funds for HB963, As Engrossed: an impact of \$0 through the biennium ending August 31, 2011.

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	1	1	
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2011	(\$1,041,262)	\$1,041,262	16.5
2012	(\$986,419)	\$986,419	16.5
2013	(\$960,419)	\$960,419	16.5
2014	(\$961,634)	\$961,634	16.5

Fiscal Analysis

The bill would allow a person enrolled or planning to enroll in an educational program in preparation for a state-issued license, or planning to take an examination for a state-issued license, who has reason to believe that the person may be ineligible for a license, to request from that licensing agency a criminal history evaluation letter to determine the person's eligibility for the license. The licensing agency would be required to determine the person's eligibility based on criminal history background checks and to respond to the person's request within 90 days.

This bill authorizes licensing agencies to charge and collect a fee in an amount sufficient to cover the costs of the administration of the provisions of this bill. The bill would require the licensing agencies to adopt rules necessary to administer the provisions of the bill no later than January 1, 2010.

The bill would take effect immediately if it receives a vote of two-thirds of all the members elected to each house. If not, the bill would take effect September 1, 2009.

Methodology

According to the analysis of the Board of Podiatric Medical Examiners, the Texas State Board of Dental Examiners, the Department of Banking, the Real Estate Commission, the Executive Council of Physical Therapy & Occupational Therapy Examiners, the Board of Public Accountancy, the Funeral Service Commission, the Texas Board of Nursing, the Comptroller of Public Accounts, the Department of Savings and Mortgage Lending, the Board of Plumbing Examiners, the Department of Public Safety, and the Department of Insurance, these agencies would be able to absorb the costs of implementing the bill within the existing resources of the agency.

The Board of Chiropractic Examiners, the Texas Medical Board, the Optometry Board, the Department of Licensing and Regulation, the Board of Examiners of Psychologists, and the Texas State Board of Pharmacy estimate increased costs for additional FTEs to implement the provisions of the bill. The calculations of these agencies are based on the number of licensees, the percent of existing licensee population with criminal histories, and the licensees required to take exams or enroll in an education program to become eligible for the license.

The Texas Education Agency (TEA) anticipates 50,000 to 60,000 requests each year for the eligibility letters. Based on the analysis of the agency, this would result in a significant increase in the number of investigations conducted and would require a new software system to track the receipt of requests for determination and the disposition of letters within 90 days of receipt of the request. TEA anticipates needing an additional 3.0 administrative assistants and 3.0 customer service representatives to verify the receipt of requests and ensure responses within 90 days. TEA also anticipates needing an additional 5.0 investigators to conduct investigations of the positive criminal history records of applicants. For the purposes of this estimate, it is assumed that the majority of educator certification candidates enrolled in educator preparation programs would submit a request for a criminal history evaluation letter. To the extent that a smaller proportion of that population actually submits requests, the cost and personnel requirements may be reduced.

The analysis assumes each agency would assess and collect fees for supplying the criminal history background check eligibility letter to cover the cost of implementing the provisions of the bill.

Technology

Based on the analysis of the Texas State Board of Pharmacy, the Board of Chiropractic Examiners and the Board of Examiners of Psychologists, it is assumed that their computer systems will necessitate upgrades to accommodate the new applications authorized by the bill. The costs for upgrades and modifications to the computer systems in Fiscal Year (FY) 2010 would cost \$8,139 for the Board of Pharmacy, \$13,000 for the Board of Chiropractic Examiners, and \$3,500 for the Board of Examiners of Psychologists.

Based on the analysis of TEA, the agency would be required to develop new software to serve the population of individuals that would otherwise not be in either the TEA or State Board for Educator Certification systems. The system would track receipts of requests for determination of eligibility and disposition of the requests within 90 days of receipt. The estimated costs of developing and maintaining the system are \$510,000 in FY 2010, \$112,000 in FY 2011, \$56,000 in 2012, and \$30,000 each subsequent year.

Local Government Impact

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

Source Agencies: 520 Board of Examiners of Psychologists, 701 Central Education Agency, 304 Comptroller of Public Accounts, 312 Securities Board, 329 Real Estate Commission, 405 Department of Public Safety, 450 Department of Savings and Mortgage Lending,

451 Department of Banking, 452 Department of Licensing and Regulation, 454 Department of Insurance, 456 Board of Plumbing Examiners, 457 Board of Public Accountancy, 464 Board of Professional Land Surveying, 503 Texas Medical Board, 504 Texas State Board of Dental Examiners, 507 Texas Board of Nursing, 508 Board of Chiropractic Examiners, 512 Board of Podiatric Medical Examiners, 513 Funeral Service Commission, 514 Optometry Board, 515 Board of Pharmacy, 533 Executive Council of Physical Therapy & Occupational Therapy Examiners

LBB Staff: JOB, ES, JRO, MW

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

March 10, 2009

TO: Honorable Edmund Kuempel, Chair, House Committee on Licensing & Administrative Procedures

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB963 by Guillen (Relating to a criminal history evaluation letter determining occupational license eligibility.), As Introduced

Estimated Two-year Net Impact to General Revenue Related Funds for HB963, As Introduced: an impact of \$0 through the biennium ending August 31, 2011.

This 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
2010	\$0
2011	\$0
2012	\$0
2013	\$0
2014	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Probable Revenue Gain/ (Loss) from <i>General Revenue Fund</i> 1	Change in Number of State Employees from FY 2009
2010	(\$329,704)	\$329,704	5.0
2011	(\$272,097)	\$272,097	5.0
2012	(\$272,097)	\$272,097	5.0
2013	(\$272,097)	\$272,097	5.0
2014	(\$272,097)	\$272,097	5.0

Fiscal Analysis

The bill would allow a person enrolled or planning to enroll in an educational program in preparation for a state-issued license, or planning to take an examination for a state-issued license, to request from that licensing agency a criminal history evaluation letter to determine the person's eligibility for the license. The licensing agency would be required to determine the person's eligibility based on criminal history background checks and to respond to the person's request within 90 days.

This bill authorizes the licensing agency to charge and collect a fee in an amount sufficient to cover the costs of the administration of the provisions of this bill.

Methodology

According to the analysis of the Board of Podiatric Medical Examiners, the Texas State Board of Dental Examiners, the Department of Banking, the Real Estate Commission, the Executive Council of Physical Therapy & Occupational Therapy Examiners, the Board of Public Accountancy, the Funeral Service Commission, the Texas Board of Nursing, the Comptroller of Public Accounts, the Department of Savings and Mortgage Lending, the Board of Plumbing Examiners, the Department of Public Safety, and the Department of Insurance, these agencies would be able to absorb the costs of implementing the bill within the existing resources of the agency.

The Board of Chiropractic Examiners, the Texas Medical Board, the Optometry Board, the Department of Licensing and Regulation, and Texas State Board of Pharmacy estimate increased costs for additional FTEs to implement the provisions of the bill. The calculations of these agencies are based on the number of licensees, the percent of existing licensee population with criminal histories, and the licensees required to take exams or enroll in an education program to become eligible for the license.

The analysis assumes each agency would assess and collect fees for supplying the criminal history background check eligibility letter to cover the cost of implementing the provisions of the bill.

Local Government Impact

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

Source Agencies: 304 Comptroller of Public Accounts, 312 Securities Board, 329 Real Estate Commission, 405 Department of Public Safety, 450 Department of Savings and Mortgage Lending, 451 Department of Banking, 452 Department of Licensing and Regulation, 454 Department of Insurance, 456 Board of Plumbing Examiners, 457 Board of Public Accountancy, 464 Board of Professional Land Surveying, 503 Texas Medical Board, 504 Texas State Board of Dental Examiners, 507 Texas Board of Nursing, 508 Board of Chiropractic Examiners, 512 Board of Podiatric Medical Examiners, 513 Funeral Service Commission, 514 Optometry Board, 515 Board of Pharmacy, 533 Executive Council of Physical Therapy & Occupational Therapy Examiners

LBB Staff: JOB, JRO, MW, ES