

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 18, 2007

TO: Honorable David Dewhurst, Lieutenant Governor, Senate

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

IN RE: SB914 by Shapleigh (Relating to the continuation and functions of the Texas Real Estate Commission and the regulation of real estate brokers, salespersons, inspectors, appraisers, residential service companies, and timeshares; providing administrative penalties.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for SB914, As Passed 2nd House: a positive impact of \$136,625 through the biennium ending August 31, 2009.

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:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2008	\$43,477
2009	\$93,148
2010	\$93,148
2011	\$93,148
2012	\$93,148

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/ (Loss) from <i>GENERAL REVENUE FUND</i> 1	Probable (Cost) from <i>GENERAL REVENUE FUND</i> 1	Change in Number of State Employees from FY 2007
2008	\$206,000	(\$162,523)	1.0
2009	\$200,000	(\$106,852)	1.0
2010	\$206,000	(\$112,852)	1.0
2011	\$200,000	(\$106,852)	1.0
2012	\$206,000	(\$112,852)	1.0

Fiscal Analysis

The bill would amend the Occupations Code relating to the continuation and functions of the Texas Real Estate Commission (TREC) and the regulation of real estate brokers, salespersons, inspectors, appraisers, residential service companies, and timeshares; providing administrative penalties. The bill authorizes TREC to create advisory committees to perform the advisory functions assigned to the committees by TREC, and authorizes committee members to receive reimbursement for expenses.

The bill would remove the statutory fee caps on fees related to real estate brokers and salespersons and

would require TREC to charge a fee for conducting a criminal background check in connection with the annual renewal of a license.

The bill establishes a method for license renewal and a time frame and penalty structure for delinquent renewals and provides that a person whose license has been expired for 90 days or less may renew the license by paying a renewal fee equal to 1-1/2 times the standard renewal fee, rather than the cost of obtaining an original license. The bill also provides that a person whose license has been expired for more than 90 days, but less than one year may renew the license by paying a renewal fee equal to two times the normally required renewal fee.

The bill transfers TREC and the Texas Appraiser Licensing and Certification Board's (TALCB) contested hearings to the State Office of Administrative Hearings (SOAH).

The bill authorizes TREC to approve, recognize, prepare, or administer a continuing education program for inspectors. The bill does not require the agency to create or approve a new continuing education program, to approve continuing education providers, or to track the individual continuing education courses taken by inspectors. While implementing this recommendation could result in some costs for programming changes to the agency's computer system, these would be minimal and the agency could cover these costs within existing resources by prioritizing these changes over other programming changes.

The bill also authorizes TREC to impose administrative penalties of up to \$5,000 per violation, per day, against residential service companies.

The bill requires inspectors to offer proof of liability insurance coverage with a minimum limit of \$100,000 per occurrence in order to obtain a license or renew an unexpired license. Applicants will submit proof that the applicant carries insurance as required by the bill. Applicants for renewal will submit proof of insurance prior to license renewal.

This bill would take effect September 1, 2007.

Methodology

Based on information provided by TREC and the Sunset Advisory Commission, it is assumed that nine members would serve on each of the two committees and that each committee would meet four times a year at an average cost of \$300 per person per meeting, totaling \$21,600. The bill also authorizes advisory committees to meet by teleconference, which would allow committees to carry out their functions with minimal travel costs. The ability to meet by teleconference is expected to reduce travel by half that amount to approximately \$10,800 annually. It is assumed that these costs could be absorbed within existing resources.

For the purpose of this analysis, it is assumed that 77,000 licenses will be renewed in even numbered years and that 71,000 licenses will be renewed in odd numbered years. It is further assumed that the Department of Public Safety will continue to charge \$1 per background check. Revenue is projected to increase by \$77,000 in even numbered years and \$71,000 in odd numbered years. Corresponding costs in the same amounts will offset the increased revenue.

This analysis also assumes the penalty for delinquent license renewal on the license renewal fee, rather than the fee for obtaining an original license, which will result in a revenue gain to the General Revenue Fund of approximately \$129,000 annually. TREC currently charges late brokers \$75 to renew for one year, and \$50 for salespersons to renew for one year. According to the TREC, approximately 6,149 sales persons and 765 brokers renewed late in fiscal year 2006. The agency estimates that 61 percent of salespersons renewed less than 90 days late, and 39 percent of salespersons renewed more than 90 days late. TREC estimates a contract programmer will be needed to program the existing computer system. The programmer will be required for 4 weeks at \$63 per hour, totaling \$10,080 for fiscal year 2008.

Based on information provided by TREC to the Sunset Advisory Commission, the agency estimates that the number of contested cases would decline from approximately 140 per year to 20-30.

According to information provided to the Sunset Commission by SOAH, it is assumed that SOAH would be able to conduct TREC and TALCB contested cases with existing resources, at no additional cost to the state.

The analysis provided by TREC assumes that the number of new penalties assessed against residential service companies annually would be approximately eight at \$500 each, and four at \$1,000 each, resulting in a gain to General Revenue of \$8,000. However, since an actual number of violations and penalties assessed cannot be determined, these amounts are not included in the table above.

According to the agency, a contract programmer will be required for 3 months plus one FTE to examine and verify proof of insurance. Costs in 2008 include \$32,760 for the contract programmer, salary for an administrative assistant (\$27,946) plus employee benefits (\$7,906), and office equipment for the employee (\$6,831). Costs in subsequent years would be \$35,852 (\$27,946 salary and \$7,906 employee benefits.)

It is assumed that the agency would adjust license fees to cover any additional costs associated with the implementation of this bill.

Technology

The agency estimates an additional cost of \$46,361 in fiscal year 2008 to make changes to the agency's licensing system. Estimated costs include funding for a part-time contract programmer needed for 17 weeks.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 329 Real Estate Commission, 116 Sunset Advisory Commission, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 360 State Office of Administrative Hearings

LBB Staff: JOB, JRO, MN, MW, NV