

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

05/27/2017

Date

Honorable Dan Patrick
President of the Senate

Honorable Joe Straus
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on HOUSE BILL 3270 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Larry Taylor
TAYLOR, LARRY

Bob Hall
HALL

Bryan Hughes
HUGHES

Van Taylor
TAYLOR, VAN

Royce West
WEST On the part of the Senate

D. Bohac
BOHAC

DESHOTEL

Dan Huberty
HUBERTY

My Meyer
MEYER

James Murphy
MURPHY On the part of the House

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

CONFERENCE COMMITTEE REPORT

3rd Printing

H.B. No. 3270

A BILL TO BE ENTITLED

AN ACT

relating to criminal background checks for persons employed by certain public school contractors.

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

SECTION 1. Section 22.0834, Education Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) Except as provided by Subsection (a-1), this ~~[This]~~ subsection applies to a person who is not an applicant for or holder of a certificate under Subchapter B, Chapter 21, and who on or after January 1, 2008, is offered employment by an entity that contracts with a school district, open-enrollment charter school, or shared services arrangement to provide services, if:

(1) the employee or applicant has or will have continuing duties related to the contracted services; and

(2) the employee or applicant has or will have direct contact with students.

(a-1) This section does not apply to a contracting entity, subcontracting entity, or other person subject to Section 22.08341.

SECTION 2. Subchapter C, Chapter 22, Education Code, is amended by adding Section 22.08341 to read as follows:

Sec. 22.08341. CRIMINAL HISTORY RECORD INFORMATION REVIEW BY CERTAIN PUBLIC WORKS CONTRACTORS. (a) In this section:

(1) "Contracting entity" means an entity that

contracts directly with a school district, open-enrollment charter school, or shared services arrangement to provide engineering, architectural, or construction services to the district, school, or arrangement.

(2) "Instructional facility" has the meaning assigned by Section 46.001.

(3) "Subcontracting entity" means an entity that contracts with another entity that is not a school district, open-enrollment charter school, or shared services arrangement to provide engineering, architectural, or construction services to a school district, open-enrollment charter school, or shared services arrangement.

(b) This subsection applies to a person who is not an applicant for or holder of a certificate under Subchapter B, Chapter 21, and who is employed by a contracting or subcontracting entity on a project to design, construct, alter, or repair a public work if the person has or will have:

(1) continuing duties related to the contracted services; and

(2) the opportunity for direct contact with students in connection with the person's continuing duties.

(c) For purposes of Subsection (b), a person does not have the opportunity for direct contact with students if:

(1) the public work does not involve the construction, alteration, or repair of an instructional facility;

(2) for a public work that involves construction of a new instructional facility, the person's duties related to the

1 contracted services will be completed not later than the seventh
2 day before the first date the facility will be used for
3 instructional purposes; or

4 (3) for a public work that involves an existing
5 instructional facility:

6 (A) the public work area contains sanitary
7 facilities and is separated from all areas used by students by a
8 secure barrier fence that is not less than six feet in height; and

9 (B) the contracting entity adopts a policy
10 prohibiting employees, including subcontracting entity employees,
11 from interacting with students or entering areas used by students,
12 informs employees of the policy, and enforces the policy at the
13 public work area.

14 (d) A contracting entity or subcontracting entity may not
15 permit an employee to whom Subsection (b) applies to provide
16 services at an instructional facility if the employee, during the
17 preceding 30 years, was convicted of any of the following offenses
18 and the victim was under 18 years of age or was enrolled in a public
19 school:

20 (1) a felony offense under Title 5, Penal Code;

21 (2) an offense on conviction of which a defendant is
22 required to register as a sex offender under Chapter 62, Code of
23 Criminal Procedure; or

24 (3) an offense under the laws of another state or
25 federal law that is equivalent to an offense under Subdivision (1)
26 or (2).

27 (e) For a person to whom Subsection (b) applies, the

1 contracting entity or subcontracting entity that employs the person
2 shall:

3 (1) send or ensure that the person sends to the
4 department information that is required by the department for
5 obtaining national criminal history record information, which may
6 include fingerprints and photographs;

7 (2) obtain all criminal history record information
8 that relates to the person through the criminal history
9 clearinghouse as provided by Section 411.0845, Government Code; and

10 (3) certify to the school district, open-enrollment
11 charter school, shared services arrangement, or contracting
12 entity, as applicable, that the contracting entity or
13 subcontracting entity that employs the person has received all
14 criminal history record information relating to the person.

15 (f) A contracting entity shall certify to the school
16 district, open-enrollment charter school, or shared services
17 arrangement, as applicable, that the contracting entity has
18 obtained written certifications from any subcontracting entity
19 that the subcontracting entity has complied with Subsection (e) as
20 it relates to the subcontracting entity's employees.

21 (g) On receipt of information described by Subsection
22 (e)(1), the department shall obtain the person's national criminal
23 history record information and report the results through the
24 criminal history clearinghouse as provided by Section 411.0845,
25 Government Code.

26 (h) A school district, open-enrollment charter school, or
27 shared services arrangement may directly obtain the criminal

1 history record information of a person to whom Subsection (b)
2 applies through the criminal history clearinghouse as provided by
3 Section 411.0845, Government Code.

4 (i) If a contracting entity or subcontracting entity
5 determines that Subsection (b) does not apply to an employee, the
6 contracting or subcontracting entity shall make a reasonable effort
7 to ensure that the conditions or precautions that resulted in the
8 determination that Subsection (b) does not apply to the employee
9 continue to exist throughout the time that the contracted services
10 are provided.

11 (j) In the event of an emergency, a school district,
12 open-enrollment charter school, or shared services arrangement may
13 allow a person to whom Subsection (b) applies to enter an
14 instructional facility if the person is accompanied by an employee
15 of the district, school, or arrangement. A school district,
16 open-enrollment charter school, or shared services arrangement may
17 adopt a policy regarding an emergency for purposes of this
18 subsection.

19 (k) The commissioner may adopt rules necessary to implement
20 this section.

21 SECTION 3. Section 22.085(c), Education Code, is amended to
22 read as follows:

23 (c) A school district, open-enrollment charter school, or
24 shared services arrangement may not allow a person who is an
25 employee of or applicant for employment by an entity that contracts
26 with the district, school, or shared services arrangement to serve
27 at the district or school or for the shared services arrangement if

1 the district, school, or shared services arrangement obtains
2 information described by Subsection (a) through a criminal history
3 record information review concerning the employee or applicant. A
4 school district, open-enrollment charter school, or shared
5 services arrangement must ensure that an entity that the district,
6 school, or shared services arrangement contracts with for services
7 has obtained all criminal history record information as required by
8 Section 22.0834 or 22.08341.

9 SECTION 4. Section 411.097(a), Government Code, is amended
10 to read as follows:

11 (a) A school district, charter school, private school,
12 regional education service center, commercial transportation
13 company, or education shared services arrangement, or an entity
14 that contracts to provide services to a school district, charter
15 school, or shared services arrangement, is entitled to obtain from
16 the department criminal history record information maintained by
17 the department that the district, school, service center, shared
18 services arrangement, or entity is required or authorized to obtain
19 under Subchapter C, Chapter 22, Education Code, that relates to a
20 person who is:

21 (1) an applicant for employment by the district,
22 school, service center, or shared services arrangement;

23 (2) an employee of or an applicant for employment with
24 a public or commercial transportation company that contracts with
25 the district, school, service center, or shared services
26 arrangement to provide transportation services if the employee
27 drives or the applicant will drive a bus in which students are

1 transported or is employed or is seeking employment as a bus monitor
2 or bus aide on a bus in which students are transported; or

3 (3) an employee of or applicant for employment by an
4 entity that contracts to provide services to a school district,
5 charter school, or shared services arrangement as provided by
6 Section 22.0834 or 22.08341, Education Code.

7 SECTION 5. Section 22.0834, Education Code, as amended by
8 this Act, and Section 22.08341, Education Code, as added by this
9 Act, apply only to a public works contract executed on or after the
10 effective date of this Act. A public works contract executed before
11 the effective date of this Act is governed by the law in effect on
12 the date the contract was executed, and the former law is continued
13 in effect for that purpose.

14 SECTION 6. This Act takes effect September 1, 2017.

House Bill 3270
Conference Committee Report
Section-by-Section Analysis

HOUSE VERSION	SENATE VERSION (IE)	CONFERENCE
SECTION 1. Section 22.0834, Education Code, is amended.	SECTION 1. Same as House version.	SECTION 1. Same as House version.
SECTION 2. Subchapter C, Chapter 22, Education Code, is amended by adding Section 22.08341.	SECTION 2. Same as House version.	SECTION 2. Same as House version.
SECTION 3. Section 22.085(c), Education Code, is amended.	SECTION 3. Same as House version.	SECTION 3. Same as House version.
SECTION 4. Section 411.097(a), Government Code, is amended.	SECTION 4. Same as House version.	SECTION 4. Same as House version.
SECTION 5. Saving provision.	SECTION 5. Same as House version.	SECTION 5. Same as House version.
SECTION 6. This Act takes effect September 1, 2017.	SECTION 6. Same as House version.	SECTION 6. Same as House version.
<i>No equivalent provision.</i>	SECTION __. Article 42.01, Code of Criminal Procedure, is amended by adding Section 12. [FA1]	Same as House version.
<i>No equivalent provision.</i>	SECTION __. Chapter 42, Code of Criminal Procedure, is amended by adding Article 42.0192. [FA1]	Same as House version.
<i>No equivalent provision.</i>	SECTION __. Subchapter A, Chapter 814, Government Code, is amended by adding Section 814.013. [FA1]	Same as House version.

House Bill 3270
Conference Committee Report
Section-by-Section Analysis

HOUSE VERSION	SENATE VERSION (IE)	CONFERENCE
<i>No equivalent provision.</i>	SECTION __. Subchapter A, Chapter 824, Government Code, is amended by adding Section 824.009. [FA1]	Same as House version.
<i>No equivalent provision.</i>	SECTION __. Transition provision relating to Articles 42.01 and 42.0192, Code of Criminal Procedure. [FA1]	Same as House version.
<i>No equivalent provision.</i>	SECTION __. Transition provision relating to Sections 814.013 and 824.009, Government Code. [FA1]	Same as House version.
<i>No equivalent provision.</i>	SECTION __. Saving provisions relating to Sections 814.013 and 824.009, Government Code. [FA1]	Same as House version.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 27, 2017

TO: Honorable Dan Patrick, Lieutenant Governor, Senate
Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB3270** by Bohac (Relating to criminal background checks for persons employed by certain public school contractors.), **Conference Committee Report**

No significant fiscal implication to the State is anticipated.

The bill would amend the Education Code to require fingerprinting and criminal background checks for contractors and subcontractors hired to provide construction or maintenance work on public works projects for school districts, open-enrollment charter schools, and shared services arrangements. The bill would also establish certain conditions and exceptions under which fingerprinting and criminal background checks would not apply to a contractor or subcontractor engaged in public works projects for schools or shared services arrangements.

It is assumed that all duties and responsibilities associated with the bill could be absorbed utilizing existing staff and resources, based on information provided by the Texas Education Agency (TEA) and the Department of Public Safety (DPS).

The bill would require DPS to process information on contractors and subcontractors needed to obtain national criminal history record information, including fingerprints and photographs. DPS estimates that the bill would generate a minimal amount of revenue for the agency associated with fees for criminal background checks.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 405 Department of Public Safety, 701 Texas Education Agency

LBB Staff: UP, THo, AM, TSI, SL

Certification of Compliance with
Rule 13, Section 6(b), House Rules of Procedure

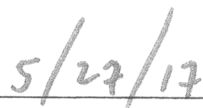
Rule 13, Section 6(b), House Rules of Procedure, requires a copy of a conference committee report signed by a majority of each committee of the conference to be furnished to each member of the committee in person or, if unable to deliver in person, by placing a copy in the member's newspaper mailbox at least one hour before the report is furnished to each member of the house under Rule 13, Section 10(a). The paper copies of the report submitted to the chief clerk under Rule 13, Section 10(b), must contain a certificate that the requirement of Rule 13, Section 6(b), has been satisfied, and that certificate must be attached to the copy of the report furnished to each member under Rule 13, Section 10(d). Failure to comply with this requirement is not a sustainable point of order under Rule 13.

I certify that a copy of the conference committee report on HB3270 was furnished to each member of the conference committee in compliance with Rule 13, Section 6(b), House Rules of Procedure, before submission of the paper copies of the report to the chief clerk under Rule 13, Section 10(b), House Rules of Procedure.



(name)

17R337(3)



(date)