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FISCAL IMPACT REPORT

SPONSOR Jennings DATE TYPED 2/22/05 HB _____

SHORT TITLE Public School Employee Licensure Decisions SB 474

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APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
	NFI				

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Education Department (PED)

SUMMARY

Synopsis of Bill

Senate Bill 474 proposes to amend the School Personnel Act's definition of "just cause" to prohibit the PED from denying, suspending or revoking a person's license for a conviction of a crime that does not affect the employee's dealings with students.

Significant Issues

The Criminal Offender Employment Act, authorizes adverse licensure or employment action "where the applicant, employee or licensee has been convicted of a felony or a misdemeanor involving moral turpitude and the criminal conviction does not directly relate to the particular employment, trade, business or profession, if the board or other agency determines after investigation that the person so convicted has not been sufficiently rehabilitated to warrant the public trust. . ." The section also provides, "Completion of probation or parole supervision or expiration of a period of three years after final discharge or release from any term of imprisonment without any subsequent conviction shall create a presumption of sufficient rehabilitation." The Public School Code requires the PED to make licensure decisions based upon the Criminal Offender Employment Act.

PERFORMANCE IMPLICATIONS

The standard for determining if a person with a criminal conviction should have a teaching license is already contained in the Criminal Offender Employment Act, which provides that if an offense is unrelated to that person's employment, then the PED must show that the person is not sufficiently rehabilitated to warrant the public trust.

The Public School Code states "The primary responsibilities of the teaching and school administration professions are to educate the children of this state and to improve the professional practices and ethical conduct of their members." The PED relate that allowing more individuals with criminal convictions into the educational profession may not comport with advancing ethical conduct.

FISCAL IMPLICATIONS

No fiscal impact unless there is evidence that an agencies actions constituted unlawful discrimination.

ADMINISTRATIVE IMPLICATIONS

SB 474 may result in more licensure hearings if individuals assert their convictions do not affect their dealings with students.

TECHNICAL ISSUES

The PED believes language in the bill stating "a crime that does not affect the employee's dealings with students" is ambiguous and may be too subjective.

OTHER SUBSTANTIVE ISSUES

The Americans with Disabilities Act may require employers to ignore some past violent or criminal behavior when it is the result of mental illness or behavioral disabilities such as alcoholism. More sweepingly, the federal Equal Employment Opportunity Commission holds that for employers to take workers' criminal records into account subjects racial minorities to "disparate impact" and must therefore be justified by "business necessity".

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

The "just cause" definition within the School Personnel Act will continue to mean "a reason that is rationally related to an employee's competence or turpitude or the proper performance of his duties and that is not in violation of the employee's civil or constitutional rights."

AHO/yr