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| SUBJECT: | Compensating landowners for property damage caused by border crimes |
| COMMITTEE: | State Affairs — favorable, without amendment |
| VOTE: | 11 ayes — Hunter, Dean, Geren, Guillen, Metcalf, Raymond, Slawson, Smithee, Spiller, S. Thompson, Turner 0 nays 2 absent — Hernandez, Anchía |
| SENATE VOTE: | On final passage (April 13) — 30 - 0 |
| WITNESSES: | None (<i>Considered in formal meeting on May 5</i>) |
| BACKGROUND: | Concerns have been raised that increased migrant and law enforcement activity within border and rural counties has left many landowners with financial losses and property damage. |
| DIGEST: | <p>SB 1133 would require the attorney general to establish and administer a program, from money appropriated for that purpose, to compensate landowners who suffered real property damage on agricultural land caused by a trespasser as a result of arson, criminal mischief, or other property damage or destruction that was committed in the course of or in furtherance of a border crime or a law enforcement response to a trespasser who was engaged in a border crime.</p> <p>The bill would define a border crime as conduct constituting an offense related to controlled substances, smuggling of persons, evading arrest or detention, and trafficking of persons, or conduct involving transnational criminal activity.</p> <p>Responsibilities of the attorney general. The attorney general would be required to establish procedures and guidelines related to applying for, evaluating applications for, receiving, and monitoring compensation awarded under the program. The amount awarded per incident causing</p> |

damage could not exceed \$75,000.

The attorney general could not award compensation under the program for real property damage unless the damage was documented in a written report by a law enforcement agency as having occurred in connection with a border crime. In awarding compensation under the program, the attorney general could not consider the outcome of any criminal prosecution arising out of the offense of arson, criminal mischief, and other property damage or destruction as a result of which the applicant suffered property damage or the applicable offense listed in the bill.

Hearings and prehearing conferences. The bill would require the attorney general to determine whether a hearing on an application for compensation under the bill was necessary. If a hearing was not necessary, the attorney general could approve the application. If a hearing was necessary or requested by the applicant, the attorney general would be required to consider the application at a hearing at a time and place of the attorney general's choosing and notify all interested persons at least 10 days before the date of the hearing.

At the hearing, the attorney general would have to review the application and receive any evidence necessary or desirable to properly review and evaluate the application. The attorney general could appoint hearing officers to conduct hearings or prehearing conferences, which would be open to the public unless the hearing officer or attorney general determined, in a particular case, that all or part of the hearing or conference needed to be held in private in the interest of the applicant. The bill also would establish that certain provisions of the Administrative Procedure Act relating to contested cases and court enforcement would not apply to the attorney general or the attorney general's orders or decisions.

Annual report. No later than 100 days after the end of each state fiscal year, the attorney general would be required to submit to the governor and the Legislature a report on the attorney general's activities under the bill during the preceding fiscal year that included the number of applications

made, applications that received compensation, and the amount of compensation awarded.

The program would be a payer of last resort for real property damage defined within the bill. The attorney general could not award compensation to an applicant of the program if the applicant was eligible for reimbursement from another source, including under an insurance contract or a state, local, or federal program, or if the applicant failed to seek reimbursement from such a source.

The bill would expire two years after all money appropriated for the program had been expended. The attorney general would be required to adopt rules to administer the program and could delegate to a person in the attorney general's office a power or duty given to the attorney general under the bill.

The bill would take effect September 1, 2023.

NOTES:

According to the Legislative Budget Board, the fiscal implications of the bill cannot be determined due to costs being dependent upon the amount appropriated to the program, the number of applicants, and the number of awards.