

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

April 14, 2003

TO: Honorable Carlos Uresti, Chair, House Committee on Human Services

FROM: John Keel, Director, Legislative Budget Board

IN RE: HB1187 by Luna (Relating to investigations and decisions regarding allegations of abuse, neglect, or exploitation by employees at certain facilities.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1187, As Introduced: a negative impact of (\$875,445) through the biennium ending August 31, 2005.

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
2004	(\$430,596)
2005	(\$444,849)
2006	(\$461,702)
2007	(\$471,906)
2008	(\$481,353)

All Funds, Five-Year Impact:

Fiscal Year	Probable (Cost) from GENERAL REVENUE FUND 1	Probable (Cost) from GR MATCH FOR MEDICAID 758	Probable (Cost) from FEDERAL FUNDS 555	Change in Number of State Employees from FY 2003
2004	(\$391,332)	(\$39,264)	(\$62,656)	6.0
2005	(\$416,919)	(\$27,930)	(\$41,695)	6.0
2006	(\$432,743)	(\$28,959)	(\$43,219)	6.0
2007	(\$442,310)	(\$29,596)	(\$44,161)	6.0
2008	(\$451,168)	(\$30,185)	(\$45,044)	6.0

Fiscal Analysis

The bill would require the Department of Protective and Regulatory Services (PRS) and the Texas Department of Mental Health and Mental Retardation (TDMHMR) to jointly adopt rules regarding the rights of TDMHMR employees who are accused of abusing, neglecting or exploiting an individual with a disability served in a TDMHMR facility. It would also require PRS, TDMHMR and the Department of Human Services (DHS) to remove any information relating to an allegation that is determined to be unfounded or inconclusive from employee personnel files and other records. The bill would take effect on September 1, 2003.

PRS reports that 91 percent of TDMHMR facility investigations are determined to be unfounded or inconclusive. PRS assumes that records relating to these investigations would be purged by temporary employees and destroyed on an 18-month cycle.

PRS estimates that a due process hearing would be required for 40 percent of TDMHMR facility investigations that are confirmed with a known perpetrator. PRS assumes there would be 217 hearings in fiscal year 2004 increasing steadily to 239 hearings in fiscal year 2008. PRS assumes that new full-time-equivalent (FTE) positions would be required to carry the workload associated with these hearings.

PRS estimates that a third-party review by the State Office of Administrative Hearings (SOAH) would be required for 10 percent of the cases that go through a due process hearing. There would be about 22 SOAH reviews in fiscal year 2004 increasing to 24 reviews in fiscal year 2008.

DHS estimates that the bill would have no significant fiscal impact if SOAH conducted desk reviews as the neutral third party and notes that its cost would exceed \$70,000 per year (@ \$3,205 per review) if SOAH conducted de novo hearings that involve live testimony.

Methodology

The Department of Protective and Regulatory Services (PRS) estimates that it would cost about \$10,000 to purge and destroy records every 18 months. The agency also estimates that six FTEs would be required to handle the workload associated with the due process hearings and State Office of Administrative Hearings (SOAH) reviews -- including two facility investigators, two hearing examiners and two attorneys. The estimate assumes that each due process hearing would require 8 hours time from the investigator and 14 hours time from the hearings officer, and that each attorney would handle 4.16 cases per month as well as the SOAH review process.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 324 Department of Human Services, 530 Department of Protective and Regulatory Services, 655 Department of Mental Health and Mental Retardation

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