

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

April 7, 2005

TO: Honorable Joe Nixon, Chair, House Committee on Civil Practices

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

IN RE: HB2306 by Nixon (Relating to procedures and remedies in certain civil actions.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2306, As Introduced: a positive impact of \$2,539,969 through the biennium ending August 31, 2007.

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
2006	\$1,733,017
2007	\$806,952
2008	\$384,467
2009	\$866,482
2010	\$498,937

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain from GENERAL REVENUE FUND 1	Probable (Cost) from GENERAL REVENUE FUND 1	Probable Revenue Gain from Physician Enforcement Account 8074	Probable Revenue Gain/(Loss) from FOUNDATION SCHOOL FUND 193
2006	\$1,729,455	(\$155,688)	\$127,400	\$159,250
2007	\$823,840	(\$155,688)	\$111,040	\$138,800
2008	\$464,605	(\$155,688)	\$60,440	\$75,550
2009	\$874,870	(\$155,688)	\$117,840	\$147,300
2010	\$562,375	(\$155,688)	\$73,800	\$92,250

Fiscal Year	Change in Number of State Employees from FY 2005
2006	3.0
2007	3.0
2008	3.0
2009	3.0
2010	3.0

Fiscal Analysis

This bill would modify various chapters of the Civil Practices and Remedies Code, relating to medical

liabilities, proportionate responsibility, products liability, and liability of public servants. In addition, the bill would amend Chapters 153, 155, and 156 of the Occupations Code to license physician expert witnesses, and it would amend Section 62.105 of the Government Code, related to jury selection.

The bill would also expand the definition of "expert" to include a physician expert witness in Chapter 74 of the Civil Practices and Remedies Code; and it would create a new type of physician's license, physician expert witness license.

In addition, the bill would prohibit the provision of physician expert medical testimony or opinion in any action in this state by a person who was not licensed in Texas as a physician or physician expert witness. The Texas State Board of Medical Examiners would establish a fee for a license and initial registration permit not to exceed \$900, and a fee for renewal of a permit not to exceed \$400 for a physician expert witness, with a two-year renewal period.

Lastly, the bill would establish the qualifications for holding the license, authorize the board to deny licenses and take disciplinary action under certain conditions, and prohibit certain acts by license holders. The board would have to adopt rules to implement the new license no later than January 1, 2006.

This bill would take effect immediately upon enactment, assuming that it received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect September 1, 2005.

Methodology

Information reported by the Board of Medical Examiners (BME) for fiscal years 2003 through 2007 as reflected in the Legislative Budget Estimates for 2006-07 was used for the purposes of this analysis in addition to information provided by the BME.

The BME assumes that 1,911 new applicants would apply for and receive a physician expert witness license and that the fees for these licenses would be assessed biennially. For the purposes of this analysis the fee amounts estimated by the BME are reflected in the table above. The BME estimates total fees would be \$805 for an initial license and \$750 for a license renewal, and that these amounts would include other fees required by law for the TexasOnline Authority, the Office of Patient Protection, a \$200 Professional Fee, and the surcharge physician registration permit. The bill would authorize the BME to establish fees necessary to cover the costs of implementing the bill.

For the purposes of this analysis, a 4 percent growth rate was assumed for the number of new applicants each year based on the growth rate for new physicians reported by the BME from fiscal year 2003 to 2004. It is also assumed that beginning in 2006, the new license fees would be staggered with one-third of the initial licensees paying for the biennial renewal fee for workload and cashflow purposes.

Enforcement costs associated with the new licensing population were calculated based on the number of jurisdictional complaints estimated by the BME for 2006 and 2007 compared to the total number of physicians licensed by the BME. For the purposes of this analysis a 3% growth rate in complaints was assumed based on the anticipated growth in the number of new licensees each year.

It is assumed that the BME would need 3 additional FTEs for Investigator positions to investigate additional complaints. It is also assumed that additional costs related to licensing the new licensees could be covered by existing resources.

Technology

The Board of Medical Examiners estimates that programming services cost \$100/hour. It is estimated that it would take 480 hours to write an in-house licensing application and 80 hours to write a Texas Online application at a total cost of \$56,000. (460 hours X \$100/hour). It is assumed that these costs could be absorbed using existing resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts, 503 Board of Medical Examiners

LBB Staff: JOB, CL, MW, NV, LB