

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

May 28, 2005

TO: Honorable David Dewhurst , Lieutenant Governor, Senate
Honorable Tom Craddick, Speaker of the House, House of Representatives

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

IN RE: SB1830 by Zaffirini (Relating to the continuation of the quality assurance fee applicable to intermediate care facilities for persons with mental retardation.), **Conference Committee Report**

Estimated Two-year Net Impact to General Revenue Related Funds for SB1830, Conference Committee Report: an impact of \$0 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 | \$0 |
| 2007 | \$0 |
| 2008 | \$0 |
| 2009 | \$0 |
| 2010 | \$0 |

All Funds, Five-Year Impact:

| Fiscal Year | Probable Revenue Gain/(Loss) from <i>QUALITY ASSURANCE</i> 5080 | Probable Revenue Gain/(Loss) from <i>New General Revenue Dedicated</i> <i>HCS/CLASS QAF</i> |
|-------------|---|---|
| 2006 | \$54,368,000 | \$24,462,000 |
| 2007 | \$54,393,000 | \$24,462,000 |
| 2008 | \$54,393,000 | \$24,462,000 |
| 2009 | \$54,393,000 | \$24,462,000 |
| 2010 | \$54,393,000 | \$24,462,000 |

The bill would implement a recommendation in the Legislative Budget Board's *Staff Performance Report, State Government Efficiency and Operations Submitted to the 79th Legislature*. Recommendation number 1 in the Expand the Use of the Long-Term Care Quality Assurance Fee report proposes continuation of the quality assurance fee currently levied on intermediate care facilities for persons with mental retardation (ICF-MR).

The bill would repeal Section 252.209 of the Health and Safety Code, which requires the 79th Legislature to review the operation and effectiveness of the subchapter relating to the application of a quality assurance fee on ICF-MRs. Under current law, the quality assurance fee expires September 1, 2005, unless continued by the 79th Legislature. The repeal of this section would continue the

assessment of this quality assurance fee.

The bill would also require the executive commissioner of the Health and Human Services Commission (executive commissioner) to modify the quality assurance fee program to apply to persons providing services under a home and community services waiver or a community living assistance and support services waiver.

Fiscal Analysis

The bill would repeal the expiration of the assessment of the quality assurance fee to ICF-MRs. This repeal would result in the continuation of the collection of revenue in General Revenue-Dedicated Account 5080 - Quality Assurance.

The bill would also require the executive commissioner, by rule, to modify the quality assurance fee program to apply to certain waiver programs. The bill would require the executive commissioner to establish the fee at an amount that will produce annual revenues of not more than six percent of the gross receipts of a person from services the person provides under the waiver.

The bill would require fees collected under this section to be deposited in a waiver program quality assurance fee account, a dedicated account in the General Revenue Fund that is exempt from the application of Section 403.095, Government Code, relating to the use of dedicated revenue.

The bill would authorize money in the account, subject to legislative appropriation and state and federal law, to be appropriated only to the Department of Aging and Disability Services (DADS) to increase reimbursement rates paid under the home and community services waiver program or the community living assistance and support services waiver program, or to offset allowable expenses under the state Medicaid program.

The bill would require DADS, subject to legislative appropriation and state and federal law, to use money from the waiver program quality assurance fee account, together with any federal money available to match money from the account, to increase reimbursement rates paid under the home and community services waiver program or the community living assistance and support services waiver program.

The bill would provide that if the ICF-MR quality assurance fee expires, provisions relating to a waiver program quality assurance fee expire on the same date.

Methodology

The Comptroller of Public Accounts' (comptroller) estimate of revenues for General Revenue-Dedicated Account 5080 - Quality Assurance for the 2006-07 biennium were obtained from the Department of Aging and Disability Services' (DADS) legislative appropriations request. The comptroller's revenue estimates for fiscal years 2008 through 2010 were based on fiscal year 2007 figures.

The continuation of the quality assurance fee on ICF-MRs is assumed in the current General Appropriations Bill. Funds are appropriated from the account to DADS for ICF-MRs and state schools, contingent upon passage of legislation that would continue the assessment. Expenditure of these funds for appropriated purposes would draw matching federal funds in accordance with the Federal Medical Assistance Percentage rate.

The comptroller's estimates of revenue relating to the application of a quality assurance fee on the home and community-based services (HCS) and community living assistance and support services (CLASS) waiver programs are based on information from DADS. Revenue is estimated based on 6 percent of recommended appropriations in SB1, as introduced, for these programs. Expenditure of these funds for appropriated purposes would draw matching federal funds in accordance with the Federal Medical Assistance Percentage rate. According to DADS, there are some questions regarding the state receiving federal approval for a HCS/CLASS quality assurance fee.

Local Government Impact

No fiscal implications to units of local government is anticipated.

Source Agencies: 529 Health and Human Services Commission, 539 Department of Aging and Disability Services

LBB Staff: JOB, CL, PP, JJ