

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 27, 2007

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

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

IN RE: HB1168 by Menendez (Relating to licensing and regulation by a state agency.), **Conference Committee Report**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1168, Conference Committee Report: a negative impact of (\$29,524,224) through the biennium ending August 31, 2009.

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
2008	(\$6,463,246)
2009	(\$23,060,978)
2010	(\$24,070,626)
2011	(\$24,835,329)
2012	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable (Cost) from <i>GENERAL REVENUE</i> <i>FUND</i> 1	Probable Revenue Gain from <i>GENERAL REVENUE</i> <i>FUND</i> 1	Change in Number of State Employees from FY 2007
2008	(\$6,463,246)	\$0	77.0
2009	(\$23,723,906)	\$662,928	370.0
2010	(\$24,755,216)	\$684,590	382.0
2011	(\$25,542,398)	\$707,069	395.0
2012	\$0	\$0	0.0

Fiscal Analysis

The bill would require the executive commissioner of the Health and Human Services Commission to develop and implement a pilot program to license boarding houses, subject to the appropriation of funds for the express purpose of implementing the pilot. The provision would expire September 1, 2011.

Boarding house is defined as an establishment that provides services, including community meals, light housework, meal preparation, transportation, grocery shopping, money management or laundry services to three or more elderly or disabled persons who are unrelated to the proprietor. The definition excludes entities that are currently licensed by the Department of Aging and Disability Services (DADS), entities that are exempted from licensure by DADS (Home and Community-based Services Program providers); child-care facilities; family violence centers; hotels; retirement communities; monasteries; convents; and sororities, fraternities and dormitories affiliated with an institution of higher learning.

The pilot program must be implemented in each county or municipality that has adopted an order or ordinance regulating the operation of boarding houses. Rules to implement the pilot must address licensing, inspections, and enforcement. If the pilot program is implemented, the executive commissioner must report, by January 1, 2009, the number of houses licensed, rule violations, and investigations related to alleged abuse, neglect or exploitation of a resident; a description of any penalties imposed on a boarding house; and recommendations on the advisability of expanding the pilot statewide.

If the pilot program has not been implemented, the executive commissioner must study and make recommendations regarding the most effective method for regulating boarding houses, including whether clarifying and expanding county and municipal authority to establish health and safety standards for boarding houses is recommended.

The bill also includes provisions relating to the enforcement of civil penalties against assisted living facilities and provisions that a licensing authority may deny, suspend or revoke a license if the licensing authority determines, after administrative notice and hearing, that (1) the person knowingly made a false statement in applying for or renewing the license, (2) the person made a material misrepresentation on the application or renewal, (3) the person refused to provide information required by the licensing authority, or (4) the person failed to provide all of the person's criminal history information in response to a request by the licensing authority.

Methodology

The bill provides for a pilot program in each county or municipality that has adopted an order or ordinance regulating the operation of boarding houses. DADS assumed a statewide impact. To develop a rough estimate of the number of boarding houses that would need to be licensed in a pilot project, DADS considered homes that are registered by local authorities in El Paso but are not regulated by the state. Costs would be less than those described here depending on the size and scope of the pilot.

The ratio of the number of group homes registered by the City of El Paso (100) compared to the number of assisted living facilities (ALF) in El Paso licensed by the state (46) is 2.17. Multiplying the statewide number of licensed ALFs (1,445) by that ratio yields 3,141. DADS then applied the historical annual growth rate in the number of assisted living facilities of 3.27 percent, resulting in a projected number of boarding houses of 850 for FY 2008, 3,410 for FY 2009, 3,520 for FY 2010, and 3,630 for FY 2011.

DADS assumed that the administrative costs incurred would most closely resemble the annual regulatory costs per boarding house that DADS is currently experiencing for the ICF/MR program, since that program has a high concentration of small facilities. Annual costs/FTEs per ICF/MR facility included by DADS: \$4,197.56 for salary, \$520.42 for travel, 0.095 FTEs per facility. In addition to these costs, DADS included first year "set-up" costs, as well as standard recurring direct and indirect overhead costs, and fringe.

DADS assumed that the pilot would be not be implemented until June 1, 2008 at the earliest. That would allow time for program development, including rules, policies and procedures, notification to providers of new licensing requirements, and the hiring and training of staff.

Technology

The DADS estimate indicated the CARE Application development cost would be \$50,020. Modifications to the WAFER APPLICATION - Web Accessible Facility EnRollment – would also be required. That cost was estimated by DADS to be \$319,800 The WAFER system provides web-accessible processing in support of department staff's efforts in the certification and survey activities.

Local Government Impact

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

Source Agencies: 302 Office of the Attorney General, 529 Health and Human Services Commission, 539 Aging and Disability Services, Department of

LBB Staff: JOB, CL, PP, ML, KJG