LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 1, 2007

TO: Honorable Jane Nelson, Chair, Senate Committee on Health & Human Services

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

IN RE: **SB690** by Shapleigh (Relating to licensing and regulation of certain facilities providing personal care to elderly or disabled persons; providing penalties.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB690, As Introduced: a negative impact of ($42,059,444) 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	($20,566,149)
2009	($21,493,295)
2010	($20,541,552)
2011	($22,996,274)
2012	($22,227,631)

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	Probable Revenue Gain from *GENERAL REVENUE FUND* 1
2008	($1,480,207)	($21,597,086)	($1,480,207)	$2,511,144
2009	($1,528,258)	($20,874,063)	($1,528,258)	$909,026
2010	($1,711,312)	($21,515,178)	($1,711,312)	$2,684,938
2011	($1,919,081)	($22,172,790)	($1,919,081)	$1,095,597
2012	($2,157,380)	($22,956,331)	($2,157,380)	$2,886,080

Fiscal Year	Change in Number of State Employees from FY 2007
2008	354.3
2009	369.8
2010	386.1
2011	403.5
2012	422.1

Fiscal Analysis

The bill would amend Title 4, Health and Safety Code, by adding Chapter 254, Group Home Facilities, to the Department of Aging and Disability Services' (DADS) responsibilities in licensing and regulation. The bill sets forth various statutory requirements for the facilities. Some of the requirements include licensure and license denial; suspension and revocation; surveys; inspections and investigations by DADS; and enforcement. The Group Home Facilities would not be required to be licensed before 01/01/08.

The bill provides the OAG the ability to collect civil penalties for violations and to seek temporary restraining orders on the Department's (DADS) behalf (Subchapter C).

Section 254.007 would establish GR Account— Elderly and Disabled Persons, which would be funded from legislative appropriations, fees, and penalties established by the bill and interest earned from the account. Money would be appropriated by the Legislature from the account only for the enforcement of the regulations established by the bill and programs and services for elderly and disabled persons.

Methodology

DADS estimated the number of group homes that would have to be licensed based on 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), a ratio of 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, which resulted in a projected number of group home facilities of 3,244 for fiscal year (FY) 2008, 3,350 for FY 2009, 3,460 for FY 2,010, 3,573 for FY 2,011, and 3,690 for FY 2,012.

DADS indicated that Home and Community-Based Services (HCS) homes are currently certified but not licensed. For the number of HCS facilities impacted, DADS determined that as of February 2, 2007, 166 of the 4,243 foster care homes serve three or more individuals and therefore would have to be licensed. In addition, 964 of the 1,412 HCS group homes open as of the same date serve three or four individuals and would have to be licensed, for a combined total of 1,130 facilities that would need to be licensed as group homes. DADS then applied the historical annual growth rate of 12.26 percent, which resulted in a projected number of HCS-related licensed group home facilities of 1,269 for FY 2008, 1,425 for FY 2009, 1,600 for FY 2010, 1,796 for FY 2011, and 2,016 for FY 2012.

For Assisted Living Facilities, DADS assumed that the administrative costs incurred would most closely resemble the annual regulatory costs per facility that DADS is currently experiencing for the Intermediate Care Facilities - Mental Retardation (ICF/MR) program, since that program has a high concentration of small facilities. DADS indicated that annual costs/FTEs per ICF/MR facility are: $4,197.56 for Salary, $520.42 for Travel, 0.095 FTES per facility. For the HCS group homes, DADS assumed the incremental costs of licensing the facilities would approximate the per facility costs experienced for Assisted Living Facilities of $1457.77 for salary, $118.30 for travel, and .034 FTES. In addition to those costs, DADS included first year "set-up" costs, as well as standard recurring direct and indirect overhead costs, and fringe.

The Office of the Attorney General indicated that the bill would result in additional cases filed by the OAG's Consumer Protection and Public Health Division. OAG review assessed that the bill does not give any entity other than the OAG ability to collect civil penalties for violations, or to seek a temporary restraining order on the Department's (DADS) behalf (Subchapter C). The OAG last year received 16 referrals for enforcement action related to licensed and/or unlicensed assisted living facilities (ALFs). The County Attorney's Office in Harris County had received at least thirty five referrals last year, many of them requiring temporary restraining orders to remove residents who were in immediate danger.

Based on the referrals to OAG and the County Attorney's Office in Harris County actions in fiscal year 2006 for ALFs the OAG has assumed a comparable number of referrals with the addition of Section 254, with referrals being made exclusively to the OAG. The OAG estimated the fiscal impact in fiscal year 2008 to be $290,782 (plus three FTEs) and $268,667 (and FTEs) each fiscal year thereafter from the General Revenue Fund.

Technology

DADS indicated that the bill would require creation of a new Group Home Facility type in the Compliance Assessment, Regulatory & Enforcement Systems (CARES) system, modification of the Central Data Repository (CDR), and a new application in the Web Accessible Facility Enrollment (WAFER). The automation for the Group Home Facility type would be applied in records and reports related to licensing, enforcement, and revenue functions.

In addition, modifications to the Compliance Assessment Review and Enforcement System would require creation of the Group Home Facility type and documents (610 hours). Modifications to the Web Accessible Facility Enrollment will require the creation of web accessible facility types and documents (3,900 hours), for a total of 3,410 hours. At an assumed cost of $82 per hour, the estimated technology cost would be $369,820.

Local Government Impact

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

Section 254.004(b) of the bill allows DADS to cooperate with local public health officials of a municipality or county in carrying out the chapter and to delegate to those officials the power to make inspections and recommendations to the department. A memorandum of understanding or agreement would need to be developed if DADS chooses to utilize the resources.

Source Agencies: 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 539 Aging and Disability Services, Department of

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