LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 11, 2009

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

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

IN RE: **HB216** by Menendez (Relating to the regulation of boarding home facilities for persons with disabilities or elderly persons and assisted living facilities.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for HB216, As Engrossed: a negative impact of ($1,000,000) through the biennium ending August 31, 2011.

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
2010	($500,000)
2011	($500,000)
2012	($500,000)
2013	($500,000)
2014	($500,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from *General Revenue Fund* 1
2010	($500,000)
2011	($500,000)
2012	($500,000)
2013	($500,000)
2014	($500,000)

Fiscal Analysis

The bill would amend the Health and Safety Code as it relates to the regulation of boarding home facilities for persons with disabilities or elderly persons and assisted living facilities. Included in the provisions of the bill is the requirement for the executive commissioner of the Health and Human Services Commission (HHSC), not later than September 1, 2010, to develop and publish in the *Texas Register* model standards for the operation of a boarding home facility relating to certain requirements specified in the bill.

The bill would authorize a county or a municipality to require a person to obtain a permit from the county or the municipality to operate a boarding home facility within the entity's jurisdiction. A county or municipality would be authorized to adopt the standards developed by the executive commissioner of HHSC and require a facility that is issued a permit to comply with those standards. A county or municipality would be authorized to establish procedures for submission of a permit application and for issuing, denying, renewing, suspending, or revoking the permit. A county or municipality would be authorized to set reasonable fees for issuing and renewing a permit and for conducting inspections, which would also be authorized under provisions of the bill. The entities would also be allowed to impose fines for noncompliance with regulations. Money collected from fees and fines must be used to administer the county or municipal permitting program, as a source of local matching funds for state grants, or for other purposes directly related to providing boarding home facility or other assisted living services to the elderly and persons with disabilities.

Reports of abuse, neglect, or exploitation of residents of a boarding home facility that holds a permit issued by a county or a municipality would be required to be reported to the Department of Family and Protective Services (DFPS) for investigation by that agency. An owner, operator, or employee of a boarding home facility that holds a permit issued by a county or municipality may not retaliate against an employee of the facility who makes a complaint to the office of the inspector general (OIG), cooperates with the OIG in an investigation, or reports abuse, neglect, or exploitation of a resident to DFPS.

HHSC would be required to establish a competitive grant program that promotes innovation and effectiveness in the local regulation of boarding home facilities. Provisions of the bill specify how the grants must be used and to which entities grants may be awarded. HHSC would be required to request proposals for the award of a grant under the program and to evaluate each proposal and award a grant based on the proposal's quantifiable effectiveness and potentially positive impact on the regulation of boarding home facilities.

HHSC would be authorized to require a county or municipality to spend local matching funds as a condition for the award of a grant. HHSC would be prohibited from collecting additional money from the county or municipality that is derived from fees collected or fines imposed for the administration of the permitting program authorized by the bill. The agency would be required to establish procedures to administer the grant program.

HHSC would be required to enter into a contract that includes performance requirements with each grant recipient. The agency would be required to monitor and enforce the terms of the contract. The contract must authorize the agency to recoup grant money from a grant recipient for failure of the recipient to comply with terms of the contract. The agency would be required to post on its Internet website a summary of each grant awarded. If an entity meets the requirements established by a county or municipality under this chapter, the entity may not be excluded from a residential area by zoning ordinances or similar regulations.

Except for the model standards required by Section 254.003, Health and Safety Code, the bill would take effect September 1, 2009. Section 254.003, Health and Safety Code, and SECTION 4 of the bill would take effect September 1, 2010.

Methodology

According to HHSC, Section 254.010 (Competitive Grant Program) would be delegated to the Department of Aging and Disability Services (DADS) and DADS assumes it would award five grants per fiscal year at an average of $100,000 per grant for a total cost of $500,000 per fiscal year in General Revenue Funds. HHSC also indicated that the OIG does not have the authority to investigate the entities identified in Section 254.009 (Reporting of Abuse, Neglect, or Exploitation). It is assumed that any costs associated with the other provisions of the bill could be absorbed within existing resources.

Local Government Impact

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

It is assumed that a county or a municipality that chooses to establish a permit program would establish a sufficient level of fees and fines and would seek state matching grants to offset costs associated with operating the program.

Source Agencies: 529 Health and Human Services Commission, 530 Family and Protective Services, Department of, 539 Aging and Disability Services, Department of, 302 Office of the Attorney General, 304 Comptroller of Public Accounts

LBB Staff: JOB, CL, SJ, LR, ML, TP, DB