

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 14, 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 certain boarding houses and assisted living facilities; providing penalties.), **Committee Report 2nd House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB216, Committee Report 2nd House, Substituted: a negative impact of (\$1,747,661) 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	(\$318,984)
2011	(\$1,428,677)
2012	(\$3,797)
2013	\$23,609
2014	\$26,909

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain from <i>General Revenue Fund</i> 1	Probable (Cost) from <i>General Revenue Fund</i> 1	Change in Number of State Employees from FY 2009
2010	\$0	(\$318,984)	5.0
2011	\$1,976,250	(\$3,404,927)	59.0
2012	\$1,414,995	(\$1,418,792)	23.0
2013	\$1,418,602	(\$1,394,993)	23.0
2014	\$1,422,343	(\$1,395,434)	23.0

Fiscal Analysis

The bill would amend the Health and Safety Code as it relates to the regulation of certain boarding houses and assisted living facilities and providing penalties.

Section 1 of the bill would add a new chapter to the Health and Safety Code requiring that certain boarding houses hold certificates of registration to be developed and issued by the Department of State Health Services (DSHS). DSHS would be required to inspect and investigate each boarding house before issuing a certificate of registration or renewal. DSHS would be required to maintain a registry of the boarding houses. The bill would require DSHS to inspect a registered boarding house at least once during each registration period. The bill would authorize a reasonable fee for a certificate of registration that would cover the costs of administering the chapter. DSHS and the Health and Human

Services Commission (HHSC) would be required to provide education and outreach to owners and operators of boarding houses.

A person who violated the chapter or a rule adopted under the chapter would be subject to a civil penalty of not less than \$200 for each violation. Section 1 authorizes the Office of the Attorney General to institute an action in a district court to collect a civil penalty. Section 1 would also provide for an administrative penalty against a boarding house of not less than \$200 for each violation of the chapter or a rule adopted under the chapter.

Section 4 of the bill would amend Chapter 247, Health and Safety Code, to require that the Department of Aging and Disability Services (DADS) develop a communications plan for municipalities relating to assisted living facilities, which would include the creation of outreach and training materials.

Adoption of rules to implement the provisions of Section 1 of the bill would be required no later than January 1, 2011. DSHS would be required to develop the registry of boarding houses and education and outreach as required by Section 1 no later than June 1, 2011. Owners and operators of boarding houses would be required to hold a certificate of registration by September 1, 2011. Otherwise, the bill would take effect September 1, 2009.

Methodology

Based on a report to the Legislature required by HB 1168, Eightieth Legislature, DSHS estimates that 850 boarding houses would need to be issued a certificate of registration in fiscal year 2011 and that the number of registrations would increase by 3.7% per fiscal year. Calculations assume the issuance of one-year and two-year certificates in the first year to allow for staggered renewals in the following years. Fees would be \$1,550 and \$3,100, respectively.

The Health and Human Services Commission indicates that implementing the provisions of the bill could be absorbed within existing resources.

Additional funding and FTEs would need to be appropriated to DSHS and the Office of the Attorney General (OAG) to implement the provisions of the bill. Costs listed below for both agencies in fiscal years 2012-2014 are assumed to be offset by fees (deposited to the General Revenue Fund) authorized by the new chapter to cover administration and enforcement of the chapter. However, due to the initial licensing of all 850 facilities in fiscal year 2011, operating costs are estimated to exceed fee revenue in that year by \$1.4 million.

Based on reported 2009 costs for similar operations related to assisted living facilities, it is estimated that costs would be \$318,984 in All Funds for fiscal year 2010, \$3,404,927 for fiscal year 2011, \$1,151,446 for fiscal year 2012, \$1,149,240 for fiscal year 2013, and \$1,149,681 for fiscal year 2014. Full-time-equivalent (FTE) needs are estimated at 5.0 in fiscal year 2010, 59.0 in fiscal year 2011, and 20.0 in each fiscal year thereafter.

OAG indicates a need for three additional FTEs starting in fiscal year 2012 due to the increased number of referrals for enforcement action related to boarding houses. Total cost would be \$267,346 in All Funds for fiscal year 2012 and \$245,753 in fiscal years 2013 and 2014.

Technology

Technology costs at DSHS total \$30,000 in fiscal year 2010 for reconfiguration of software, data storage, and equipment. These amounts are included in the total costs for DSHS shown above. OAG indicates there would be a technology impact of \$7,311 in fiscal year 2012 for equipment.

Local Government Impact

If DSHS delegates to local government officials power to make inspections or to make additional rules related to boarding houses, those entities would incur associated costs. Costs to local governments would depend on the number of boarding houses in the local government's jurisdiction and the number

and frequency of inspections performed.

Local mental health authorities may incur costs related to implementing rules imposed by the Health and Human Services Commission, depending on what those rules may be; however, it is anticipated that those costs could be absorbed within existing resources.

Local governments would experience a revenue gain if violations under the provisions of the bill were to occur. The revenue would depend on the number of offenses and the amount of the fine imposed; however, the fiscal impact is not expected to be significant. Conversely, counties would incur costs associated with a jail sentence imposed as part of the punishment for the Class B misdemeanor offenses under the provisions of the bill; however, those costs are not expected to be significant unless there are an unusually high number of offenses.

Source Agencies: 304 Comptroller of Public Accounts, 530 Family and Protective Services, Department of, 539 Aging and Disability Services, Department of, 302 Office of the Attorney General, 529 Health and Human Services Commission, 537 State Health Services, Department of

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