

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 16, 2009

TO: Honorable Patrick M. Rose, Chair, House Committee on Human Services

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

IN RE: **HB510** by Riddle (Relating to the registration of certain assisted living facilities; providing penalties.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB510, As Introduced: a negative impact of (\$1,195,152) 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	(\$341,456)
2011	(\$853,696)
2012	(\$495,754)
2013	(\$756,614)
2014	(\$473,896)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from <i>General Revenue Fund</i> 1	Probable Savings/ (Cost) from <i>General Revenue Fund</i> 1	Probable Savings/ (Cost) from <i>GR Match For Medicaid</i> 758	Probable Savings/ (Cost) from <i>Federal Funds</i> 555
2010	\$250,000	(\$457,224)	(\$134,232)	(\$134,232)
2011	\$10,600	(\$738,418)	(\$125,878)	(\$125,878)
2012	\$271,600	(\$738,418)	(\$28,936)	(\$28,936)
2013	\$11,400	(\$738,418)	(\$29,596)	(\$29,596)
2014	\$294,800	(\$738,418)	(\$30,278)	(\$30,278)

Fiscal Year	Change in Number of State Employees from FY 2009
2010	7.0
2011	11.0
2012	11.0
2013	11.0
2014	11.0

Fiscal Analysis

The bill would amend the Health and Safety Code as it relates to the registration of certain assisted

living facilities and provides penalties.

The bill would require the executive commissioner of the Health and Human Services Commission (HHSC), not later than January 1, 2010, to adopt rules requiring the registration of a facility that: 1) furnishes food and shelter to three or few persons who are unrelated to the proprietor of the facility; and 2) provides personal care services. Persons would be able to apply for a registration by submitting an application for registration and a fee of \$200, after March 1, 2010. The registration would be valid for two years. Operation of a facility without a current registration or violation of Section 247.033, Health and Safety, or rules adopted would be subject to the remedies and penalties provided in Subchapter C of Chapter 247.

The facility would be required to permit the Department of Aging and Disability Services (DADS) reasonable access for inquiries and visits and to permit reporting of instances of abuse, neglect, or exploitation observed or reported during the visit.

The bill would take effect September 1, 2009.

Methodology

DADS based the cost estimate on a pilot project from fiscal year 2000 to fiscal year 2003 that sought to identify unlicensed facilities. An unduplicated count of 197 establishments were providing personal care services to three or fewer persons in three areas of the state that were added to the pilot in 2003. The total population in the counties was approximately 17 percent of the statewide population. DADS extrapolated the ratio statewide to yield an estimated 1,161 facilities for 2003. Based on population growth from 2003 to 2009, DADS estimated the current number of establishments serving three or fewer persons to be between 1,250 and 1,300. Based on the number of establishments, DADS assumed 2 FTEs would be needed for the Licensing & Credentialing Division for licensing facilities.

DADS assumed that the Survey and Operations visits would only occur upon receipt of a complaint regarding a facility not registering as required or a registered facility providing services to more than the 3 individuals which would then necessitate licensure as an Assisted Living Facility. Based on the current number of unlicensed facilities and applying a multiplication factor to that number, DADS estimate for surveying would be 4 FTEs in FY10 and 8 FTEs for FY11-FY14.

DADS anticipates that, as with the Assisted Living facilities (which have 4 or more residents and provide personal care services), the bulk of enforcement action would be in enforcing the statute against facilities that operate without the proper licensing/registration. Pursuit of injunctive relief against unregistered facilities would require one additional legal coordinator to process referrals to OAG or local prosecutors and to testify at hearings.

In total, DADS estimates that 7 FTEs would be needed for FY10 and 11 FTEs for FY2011-14 at an estimated cost of \$530,528 for FY10, \$795,013 for FY11, \$796,289 for FY12, \$797,609 for FY13, and \$798,973 for FY14. DADS also assumed automation costs for both FY10 and FY11 at a total cost of \$390,320. The overall cost would be \$725,688 in FY10, \$990,173 in FY11, \$796,289 in FY12, \$797,609 for FY13, and \$798,973 for FY14 and assumes 50 percent federal participation for automation and other operating expenses. DADS assumed these costs would be partially offset by the anticipated revenue of: \$250,000 for FY 2010, \$10,600 in FY 2011, \$271,600 in FY 2012, \$11,400 in FY 2013, and \$294,800 in FY 2014.

Technology

DADS indicated that implementation of the provisions of the bill would require the creation of a new facility type in the Compliance Assessment, Regulatory and Enforcement Systems (CARES) system/ Web Assessable Facility Enrollment (WAFER) system along with a new registration form, the creation of at least 1-2 new reports, updates to existing reports within the CARES Reporting application, and modification of the Central Data Repository at an assumed cost of \$82 per hour, DADS estimated the technology cost to be \$390,320 (\$82 X 4,760 hours) and assumed 50 percent federal participation.

Local Government Impact

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

Operation of an unregistered facility or violation of a rule adopted under this section could result in enforcement actions. The actions are provided in Subchapter C of Chapter 247 and could involve injunction or civil penalty actions by the Attorney General or local prosecuting attorney, emergency suspension or closing orders, and administrative penalties.

Source Agencies: 530 Family and Protective Services, Department of, 539 Aging and Disability Services,
Department of
LBB Staff: JOB, CL, PP, SJ, ML