LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION
Revision 1

May 28, 2009

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

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

IN RE: **HB1795** by Pierson (Relating to newborn screening and the creation of the Newborn Screening Advisory Committee.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1795, As Passed 2nd House: a negative impact of ($42,622,785) 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	($14,794,882)
2011	($27,827,903)
2012	($29,814,755)
2013	($29,163,352)
2014	($28,088,246)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/ (Cost) from *General Revenue Fund* 1	Probable Savings/ (Cost) from *Interagency Contracts* 777	Probable Savings/ (Cost) from *Pub Health Svc Fee Acct* 524	Probable Savings/ (Cost) from *Federal Funds* 555
2010	($5,080,230)	($350,000)	$0	($27,805,209)
2011	($3,555,047)	($1,070,066)	($1,576,276)	($70,723,137)
2012	($3,785,377)	($1,070,066)	($1,576,276)	($75,824,938)
2013	($3,710,675)	($1,070,066)	($1,576,276)	($74,161,748)
2014	($3,586,173)	($1,070,066)	($1,576,276)	($71,420,212)

Fiscal Year	Probable Savings/ (Cost) from *DSHS Pub Hlth Medicd Reimb* 709	Probable Revenue Gain/(Loss) from *Pub Health Svc Fee Acct* 524	Probable Revenue Gain/(Loss) from *DSHS Pub Hlth Medicd Reimb* 709	Probable Savings/ (Cost) from *GR Match For Title XXI* 8010
2010	$0	$0	$0	($9,714,652)
2011	($291,836)	$1,576,276	$291,836	($24,272,856)
2012	($291,836)	$1,576,276	$291,836	($26,029,378)
2013	($291,836)	$1,576,276	$291,836	($25,452,677)
2014	($291,836)	$1,576,276	$291,836	($24,502,073)

Fiscal Year	Probable Savings/ (Cost) from *Premium Co-payments* 3643	Probable Savings/ (Cost) from *Experience Rebates-CHIP* 8054	Probable Savings/ (Cost) from *Vendor Drug Rebates-CHIP* 8070	Probable Revenue Gain from *Premium Co-payments* 3643
2010	($10,180,970)	($683,448)	($734,476)	$10,180,970
2011	($29,013,610)	($1,844,449)	($1,974,601)	$29,013,610
2012	($31,398,240)	($1,983,113)	($2,122,312)	$31,398,240
2013	($30,619,090)	($1,937,825)	($2,073,845)	$30,619,090
2014	($29,335,840)	($1,863,171)	($1,993,950)	$29,335,840

Fiscal Year	Probable Revenue Gain from *Experience Rebates-CHIP* 8054	Probable Revenue Gain from *Vendor Drug Rebates-CHIP* 8070	Change in Number of State Employees from FY 2009
2010	$683,448	$734,476	21.0
2011	$1,844,449	$1,974,601	21.0
2012	$1,983,113	$2,122,312	21.0
2013	$1,937,825	$2,073,845	21.0
2014	$1,863,171	$1,993,950	21.0

Fiscal Analysis

The bill requires the Department of State Health Services (DSHS) to expand the newborn screening tests to screen for disorders listed in the secondary targets of the uniform newborn screening panel to the extent funding is available; it allows DSHS to screen for other disorders or conditions on the advice of the newborn screening advisory committee; and allows DSHS to exclude screenings for galactose epimerase and galactokinase. The bill also requires DSHS to establish a newborn screening advisory committee to advise the department on additional newborn screening tests for other disorders.

Senate Floor Amendment #1:

Section 2 requires the Health and Human Services Commission (HHSC) to increase income eligibility for the Children's Health Insurance Program (CHIP) from at or below 200 percent of the federal poverty level (FPL) to at or below 300 percent of FPL. It also increases the threshold at which an assets test may be established from 150 percent of FPL to 250 percent of FPL.

Section 3 increases from 185 percent of FPL to 285 percent of FPL the threshold at which a review of income during the sixth month of enrollment is required.

Section 4 authorizes HHSC to provide dental benefits at full cost to the enrollee as an available plan option for a child whose net family income is greater than 200 percent but not greater than 300 percent of FPL.

Section 5 maintains current cost sharing requirements for enrollees whose net family incomes are at or below 200 percent of FPL. The bill requires HHSC to require enrollees whose net family incomes are greater than 200 percent but not greater than 300 percent of FPL to pay a share of the cost through copayments, fees, and a portion of the plan premium. The bill requires the total amount of the share required to be paid by enrollees with net family income greater than 200 percent but not greater than 300 percent of FPL to include a portion of the plan premium set at an amount that is not more than 2.5 percent of an enrollee's net family income, to exceed the amount required to be paid by those with net family incomes at or below 200 percent of FPL not to exceed five percent of an enrollee's net family income, and to increase incrementally as an enrollee's net family incomes increases, but the total amount required to be paid may not exceed five percent of an enrollee's net family income. The bill requires HHSC to ensure that the cost paid by enrollees with net family income greater than 200 percent but not greater than 300 percent of FPL progressively increases as the number of children in the enrollee's family provided coverage increases. The bill requires HHSC to develop an option for an enrollee to pay monthly premiums using direct debits to bank accounts or credit cards.

Section 6 provides that the waiting period for enrollment for a child whose net family income is

greater than 200 percent but not greater than 300 percent of FPL is 180 days and applies to a child covered by a health benefits plan at any time during the 180 days before the date of application for coverage. It maintains the current waiting period of 90 days for a child whose net family income is at or below 200 percent of FPL.

Section 7 requires the executive commissioner of HHSC to establish a process allowing for the termination of CHIP coverage for an en enrollee whose net family income is greater than 200 percent but not greater than 300 percent of FPL if the enrollee does not pay required premiums, including providing for a lock-out period during which a child may not be reenrolled after termination for nonpayment.

Section 8 requires state agencies to request any federal waiver or authorization necessary to implement any provisions of the bill and authorizes them to delay implementation until the waivers or authorizations are granted.

Section 9 specifies that the bill does not make an appropriation and would only take effect if a specific appropriation for implementation is made in the General Appropriations Act.

Senate Floor Amendment #2:
The amendment would require that a pregnant woman (who does not object) be tested for HIV in the third trimester of her pregnancy. If, at labor and delivery, the woman had not been tested in the third trimester, the physician (or other health care provider as specified by the bill) shall request an expedited HIV test for the woman (who does not object) that must be completed within 6 hours. If the woman gave birth to a child and the woman had not received HIV testing at either her third trimester or at labor and delivery, the physician shall order an expedited HIV test for the newborn child (whose parent, managing conservator, or guardian does not object) that must be completed within 6 hours of delivery.

The bill would repeal sections 81.090 (d), (e), (f) and (h) of the Health and Safety Code related to approved laboratories.

Senate Floor Amendment #5 specifies that the bill does not make an appropriation and that any provision of the bill that creates a new governmental program, creates a new entitlement, or imposes a new duty on a governmental entity is not mandatory during a fiscal period for which the legislature has not made a specific appropriation to implement the provision.

Methodology

Section 2 of the bill expands newborn screening to include the additional disorders listed in the secondary targets of the uniform newborn screening panel recommended in the American College of Medical Genetics; according to DSHS this includes 24 additional disorders including cystic fibrosis. This does not include galactose epimerase or galactokinase; the cost of which to implement would be approximately an additional $1.2 million for the biennium.

According to DSHS, in order to implement the additional 24 disorders, the agency will need to upgrade the laboratory information management system, to include, laboratory and case management software and functionality at a one-time cost of $368,600.

DSHS also indicates that 11 new laboratory staff would be needed to implement the new screenings; these include 10 new positions specifically for cystic fibrosis. There would be additional expenses associated with the new positions such as specialized training, laboratory supplies and personal protective gear.

There would be an approximate $1.4 million All Funds cost per year for reagents and consumables associated with cystic fibrosis screenings.

It is also assumed that DSHS would need to hire 9 new case management/follow-up program FTEs to implement testing of the new disorders, including four Nurse III positions; four Public Health Technicians; and one Manager I. DSHS also indicates that the new case management staff would need

specialized training and the fiscal estimate also assumes all other standard operating costs associated with the new FTEs.

In order to educate health care providers on the 24 additional disorders screened, DSHS estimates the need for 500,000 brochures at $0.10 a brochure for a total cost of $50,000, a one-time cost in fiscal year 2010. It is also assumed that the DSHS website needs to be updated to provide information on the additional disorders at a one-time cost of $2,000.

In addition to these costs DSHS also indicates an annual cost of $315,600 representing the total cost of diagnostic testing and treatment of uninsured children. This is a service currently provided by the newborn screening division that's statutorily required. The agency estimates that given the 24 new disorders, 75 of the approximately 430,000 babies screened each year would be uninsured and test positive for a disorder.

Section 3 of the bill requires DSHS to establish a newborn screening advisory committee to advise the department on additional newborn screening tests for other disorders. It is assumed that DSHS would need to hire an additional FTE, a Program Specialist IV at $55,762 a fiscal year to provide professional and administrative support to the committee. The bill also provides that the advisory committee members are entitled to be reimbursed for travel and other expenses incurred while conducting the business of the advisory committee. Assuming the advisory committee had 10 members meeting 3 times a year, with one member residing in Austin, the total estimated costs for reimbursement are $16,845 a fiscal year. The bill only provides the authority for the advisory council members to be reimbursed; language must be included in the 2010-11 General Appropriations Act to ensure the appropriation of the reimbursement funds associated with the new advisory council.

According to DSHS 54% of the newborn screenings are covered by Medicaid, 35% by private pay (third party payors) and 11% are covered by General Revenue since these represent uninsured babies. Given this method of finance breakdown this fiscal estimate assumes for FY 2011 through FY 2014, 54% of the costs associated with the screenings for the additional disorders and the costs associated with the advisory council ($2,431,969) will be covered with Medicaid funds, the Medicaid laboratory costs will be covered by Account 709, Public Health Medicaid Reimbursements and the case management costs will be covered by an Interagency Contract (IAC) with HHSC and an associated Federal Funds match; 35% of the costs ($1,576,276) representing laboratory, case management, and advisory council costs will be covered by private third party payors out of General Revenue-Dedicated Fund 524 – Public Health Service Fee Account; and the remaining 11% ($495,401) will be funded out of General Revenue Funds. All of these estimates assume that costs remain at the same level in each fiscal year.

According to DSHS, General Revenue Funds will be required to cover all laboratory and advisory council costs in FY 2010 due to a lag in the time it takes to start receiving Medicaid reimbursements and payment from private pay providers. Medicaid case management costs, approximately $700,000 are covered in FY 2010 through the IAC with HHSC and federal matching funds. A portion of the IAC costs and Account 709, Public Health Medicaid Reimbursements costs are funded through General Revenue expenditures at HHSC; it is assumed that HHSC can absorb these costs.

The fiscal estimate also assumes that DSHS will access the necessary fees charged to both Medicaid and the third party payors to cover all costs associated with the screenings for the additional disorders.

Senate Floor Amendment #1:

Sections 2-6: It is assumed that it will take three months for the agency to obtain the necessary waivers and authorizations and to perform the required start-up activities to implement the provisions found in these sections. It is assumed that beginning December 1, 2009 clients between 200 and 300 percent of FPL will begin enrolling in CHIP. It is assumed that monthly cost-sharing will be established in the amount of $30 per child for families between 200 and 250 percent of FPL and $40 per child for families between 250 and 300 percent FPL; these amounts are assumed to include the cost of dental benefits. Due to substantial variation in income and family size, actual monthly cost-sharing amounts could vary substantially resulting in an increase or decrease in the proportion of the program that is funded through Premium Copayments; the level of cost-sharing required could also affect program enrollment. It is assumed that beginning December 1, 2009, income reviews during the sixth month of

enrollment will be done only for families with income above 285 percent of FPL, that the assets test will apply only to families with income above 250 percent FPL, and that a waiting period of 180 days will apply to certain recipients above 200 percent of FPL. All other costs and program policies are maintained at the level assumed for children at or below 200 percent of FPL.

Federal law currently caps income eligibility for CHIP at 50 percentage points above the highest limit for children enrolled in Medicaid; in Texas this cap would be 235 percent of FPL. HHSC indicates that the state may be allowed to "disregard" income above 235 percent of FPL. It is assumed that federal matching funds will be available for children above 235 percent FPL, but if the state does not get approval to enroll children above 235 percent FPL additional General Revenue Funds would be required to fund them.

It is estimated that the cumulative impact of the policy changes included in these sections would result in an additional 29,277 average monthly recipient months in fiscal year 2010; 79,011 in fiscal year 2011; 84,951 in fiscal year 2012; 83,010 in fiscal year 2013; and 79,814 in fiscal year 2014. The average cost per recipient month is estimated to be $129.69 in each fiscal year. The additional cost to the program from higher caseloads would be $45.6 million All Funds, including $21.2 million in General Revenue Funds, in fiscal year 2010; $123.0 million All Funds, including $58.2 million in General Revenue Funds, in fiscal year 2011; $132.2 million All Funds, including $62.7 million in General Revenue Funds, in fiscal year 2012; $129.2 million All Funds, including $61.2 million in General Revenue Funds, in fiscal year 2013; and $124.2 million All Funds, including $58.8 million in General Revenue Funds in fiscal year 2014. These General Revenue Funds amounts include expenditure of additional collections of Vendor Drug Rebates for CHIP, Experience Rebates, and Premium Copayments totaling $11.6 million in fiscal year 2010, $32.8 million in fiscal year 2011, $35.5 million in fiscal year 2012, $34.6 million in fiscal year 2013, and $33.2 million in fiscal year 2014.

There would also be additional administrative expenditures associated with the expanded program estimated to be $4.3 million All Funds, including $1.3 million in General Revenue Funds, in fiscal year 2010; $6.9 million All Funds, including $2.0 million in General Revenue Funds, in fiscal year 2011; $7.4 million All Funds, including $2.1 million in General Revenue Funds, in fiscal year 2012; $7.2 million All Funds, including $2.1 million in General Revenue Funds, in fiscal year 2013; and $6.9 million All Funds, including $2.0 million in General Revenue Funds, in fiscal year 2014. These amounts include one-time costs for system changes and policy implementation and ongoing costs for eligibility and enrollment broker services and postage.

The total cost of these sections is estimated to be $49.9 million All Funds, including $22.4 million in General Revenue Funds, in fiscal year 2010 rising to $131.1 million All Funds, including $60.8 million in General Revenue Funds, by fiscal year 2014. It is assumed that CHIP federal matching funds will be available; however, if the state exhausts its capped federal allotment, General Revenue Funds would be required in lieu of assumed Federal Funds.

Section 7: This section would likely reduce the cost of the bill if caseload is reduced due to enrollees failing to pay premiums and being disenrolled from the program and prohibited from reenrolling for a period of time; however, it cannot be determined when or how many enrollees may fail to pay premiums resulting in a lowering of caseload.

Senate Floor Amendment #2:
DSHS assumes any cost with implementing this provision can be absorbed within existing resources.

Technology

PCs will be required for all new staff. Standard cost is associated with each FTE. Additional capital authority will be required. Upgrade of the laboratory information management system, to include, laboratory and case management software and functionality ($368,600, one-time cost for FY 10) is required.

Senate Floor Amendment #1:
Technology costs included above total $1.0 million All Funds, including $0.3 million in General

Revenue Funds, in fiscal year 2010 for one-time costs associated with system changes.

Local Government Impact

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

Source Agencies: 537 State Health Services, Department of
LBB Staff: JOB, SD, CL, LR, PP, JF