

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 22, 2009

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

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

IN RE: HB2905 by Dukes (Relating to the office of inspector general for the Health and Human Services Commission.), **As Introduced**

No significant fiscal implication to the State is anticipated.

Section 1 of the bill creates an independent Office of Inspector General (OIG), administratively attached to the Health and Human Services Commission (HHSC), responsible for the investigation of fraud, waste, and abuse in the provision or funding of health or human services by this state. Section 28 of the bill repeals the existing statute on the HHSC OIG and subpeonas. The net effect would be no significant fiscal impact. The following information provides details and concerns raised by HHSC.

Despite new Government Code section 531.706 (b), HHSC assumes that OIG employees would still be considered to be employees of HHSC and that OIG does not have a new distinct agency number. A new OIG agency would require development of a cost allocation rate methodology, which could change its ability to match federal funds and to bill other agencies for its services.

A service level agreement would be established outlining the performance standards and deliverables concerning the administrative support from HHSC to be provided in fiscal years 2010-11 at the same level of support provided during the 2008-09 biennium until January 1, 2012. HHSC assumes the administrative support would be no more than the administrative support currently provided to OIG as a division of HHSC. The service level agreement will also need to specify the provision of medical and/or professional assistance from the executive commissioner, HHSC, or a HHS agency. Additionally, the service level agreement would need to address certification requirements in accordance with OMB Circular A-87 and Subpart E of 45 CFR Part 95.

The bill would require HHSC to submit OIG's appropriations request and operating budget to the legislature without review, alteration or modification by the executive commissioner or HHSC. It is assumed that HHSC would include OIG's appropriations request and operating budget as the OIG strategy in the HHSC documents.

Section 531.108 deletes the requirement for a toll-free hotline for reporting suspected fraud in programs administrated by the commission or an HHS agency. The elimination of the current toll-free hotline would result is an annual cost savings of \$18,000, which is assumed to be an insignificant savings.

The bill would amend Article 2.12 to include peace officers commissioned by the OIG established under the bill. HHSC assumes the amendment allows OIG to utilize Schedule C as the salary schedule for the peace officers. Since Section 531.739 allows OIG up to 15% of their full-time equivalent positions to be commissioned peace officers, HHSC estimates OIG could have up to 98.9 commissioned peace officer FTEs based upon the recommended 2010/2011 FTE cap of 659.5. Adding Schedule C state classification edits to the Human Resources system would require a contract amendment, estimated at \$90,000, which would be charged to OIG and is assumed to be an insignificant cost.

HHSC assumes that support personnel transferring to the OIG would be the direct support personnel currently budgeted within the HHSC division of the OIG, as all HHSC administrative support personnel are currently providing support functions across the commission (including OIG) and the Health and Human Services enterprise. It is assumed that OIG would continue to be part of HHSC's Public Assistance Cost Allocation Plan (PACAP) even though it would be administratively attached. HHSC would continue to use the existing method by which the HHS OIG determines its federal matching funds and how it charges other HHS agencies.

Under Title 42 – Public Health, of the Code of Federal Regulations, Part 431 – State Organization and General Administration, Section 431.10(e) – Single State Agency, Medicaid policies must be adopted by a single state agency. HHSC assumes a waiver request would be required for the administrative structure change. It is not known if the waiver would be approved as waivers generally address issues of differing coverage or services, not administrative structure.

Prior to implementation, HHSC would need to 1) promulgate and adopt rules governing HHS responses to reports and referrals from the inspector general; 2) initiate contract amendments to incorporate Schedule C for peace officers; and 3) prepare a waiver and obtain federal approval. Some of these activities may be concurrent while some must be scheduled sequentially. These activities normally take 8-12 months. Actual timeframes may vary based on external factors, such as receiving federal approval.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 302 Office of the Attorney General, 308 State Auditor's Office, 529 Health and Human Services Commission

LBB Staff: JOB, CL, PP, MB