

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

March 27, 2009

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

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

IN RE: SB791 by Nelson (Relating to the certified nurse aide registry and the regulation of certified nurse aides by the Texas Board of Nursing.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for SB791, Committee Report 1st House, Substituted: an impact of \$0 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	\$0
2011	\$0
2012	\$0
2013	\$0
2014	\$0

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 Revenue Gain/(Loss) from <i>Federal Funds</i> 555	Probable Savings/ (Cost) from <i>Federal Funds</i> 555
2010	\$140,000	(\$140,000)	\$0	\$0
2011	\$629,667	(\$629,667)	\$440,648	(\$440,648)
2012	\$594,573	(\$594,573)	\$405,554	(\$405,554)
2013	\$595,293	(\$595,293)	\$406,274	(\$406,274)
2014	\$596,037	(\$596,037)	\$407,018	(\$407,018)

Fiscal Year	Change in Number of State Employees from FY 2009
2010	0.0
2011	12.0
2012	12.0
2013	12.0
2014	12.0

Fiscal Analysis

The bill would implement recommendations in the Legislative Budget Board *Government Effectiveness and Efficiency Report* to the Eighty-first Legislature entitled “Improve Regulation of Certified Nurse Aides.” The bill would transfer regulation of certified nurse aides from the Department of Aging and Disability Services (DADS) to the Board of Nursing (BON). The bill would allow the BON to regulate the practice of certified nurse aides including, but not limited to, defining the scope of practice, approving initial education curriculum and training courses, establishing examination requirements for issuing nurse aide certification, and investigating and disciplining nurse aides for certain prohibited practices. The following sections of the bill have potential fiscal impact:

SECTION 3 of the bill would authorize the Board of Nursing to prescribe a program of study for CNA applicants to qualify for initial certification, and approve training programs that meet the Board of Nursing's requirements for the study program.

SECTION 4 of the bill would establish the Certified Nurse Aide (CNA) Advisory committee to advise the BON on regulation of certified nurse aides and other topics. Advisory committee members are entitled to reimbursement of travel expenses.

SECTION 5 of the bill would require the BON to enter into an interagency contract with the Health and Human Services Commission (HHSC) and DADS to allow the Board of Nursing to receive federal funds for the administration of the Nurse Aide Training and Competency Evaluation Program and the Nurse Aide Registry (NAR).

SECTION 6 of the bill would set requirements for the application and a renewal processes to become a certified nurse aide. The bill would allow the Board of Nursing to charge a fee for a copy of the completed training certificate of a nurse aide. The certificate would be valid for 2 years. It would establish a minimum of 12 hours of continuing education each year to be completed by a nurse aide as a condition of renewal.

SECTIONS 10, 11, 12 and 13 would authorize the Board of Nursing to discipline a CNA who commits a violation of board rules or the Nurse Practice Act or is convicted of certain felonies.

SECTIONS 16 and 17 of the bill would require the BON to investigate complaints against nurse aides. The bill would require that the BON and DADS share information related to investigations of nurse aides.

SECTIONS 30 and 31 would allow the BON to administer and maintain the NAR under the oversight of DADS through an interagency contract with Health and Human Services Commission and DADS. The bill requires that DADS place findings regarding abuse or neglect on the NAR and Employee Misconduct Registry.

SECTION 32 of the bill would require the BON to appoint CNA advisory committee members by October 1, 2009 and would require the BON, HHSC, and DADS enter into an interagency contract by January 1, 2010. The bill would require the BON to develop the qualifications for issuing CNA certificates of registration and renewals of registration and to adopt rules necessary to implement these changes by May 1, 2010.

SECTION 33 of the bill would allow a current certified nurse aide as of the effective date of the bill to renew their certificate without fulfilling any new requirements established by BON if they have fulfilled other qualifications and a renewal application is submitted before August 31, 2010. The bill would also require DADS to include an expiration date on certificates issued or renewed on or after the effective date of this act.

The bill would take effect September 1, 2009.

Methodology

The cost assumes that the transfer of regulation of CNAs would be effective at the beginning of fiscal year 2011. During fiscal year 2010, the BON would modify office space, purchase servers, develop the CNA licensing software, and work with HHSC and DADS to develop the required interagency contract. The start-up costs for fiscal year 2010 are estimated to be \$140,000 of General Revenue Funds.

In fiscal year 2011, it is assumed that the interagency contract with DADS would allow the BON to receive federal funds from DADS to help pay for the cost of administering the NAR and the nurse aide training, competency, and evaluation program. It is estimated that a 50 percent match in federal funds could be used to administer the CNA program. No federal funds would be received by the BON in fiscal year 2010. The estimated amount of federal funds gained is assumed to be the difference in the amount received by the BON and the estimated amount of federal funds received by DADS in fiscal year 2008 as reported by the agency. This analysis assumes that \$189,000 of Federal Funds currently received by DADS for this program would be in addition to the Federal Funds amount shown in the table above and transferred to the BON as part of the interagency agreement required in the bill.

The bill would allow the BON to charge a fee for a copy of a nurse aide certificate. Because the bill does not specify the amount of the fee, the Comptroller of Public Accounts could not estimate the revenue gain. However, if a \$30 biennial fee were charged, the estimated annual revenue gain would be \$771,090 of General Revenue Funds in fiscal year 2011 when the BON assumes regulatory duties for certified nurse aides. The Texas Workforce Commission estimates in 2006 there were 46,560 nurse aides working nursing home facilities. Nursing homes that participate in Medicaid or Medicare are the only workplace that requires certification. It is also assumed that the number of CNAs would grow by approximately 2 percent each year based on a 10-year average from 1997 to 2007. It is also assumed that approximately 50 percent of CNAs would renew their certification in even-numbered years and would request a new certificate.

The BON estimates that it would add 12 Full-time Equivalents (FTE) beginning in fiscal year 2011 to regulate CNAs. These staff would oversee the training and competency evaluation program, process, investigate and prepare board orders for alleged violations of the law, assist nurse investigators with processing alleged violations, address customer service inquiries, process applications and renewals at a cost of \$575,095 each year for salaries and benefits. In addition, it is estimated that other operating expenses would cost \$684,240 in fiscal year 2011 and decrease to an average yearly cost of \$615,508 for the next three fiscal years. In addition to costs for telephone service, office supplies, training, Internet access, and professional services, operating costs include costs for a 1-800 number and postage expenses. These two items would cost \$162,000 per year and are anticipated because CNAs are a population of hourly wage earners who often work more than one job. It is assumed that the BON would need a 1-800 number and traditional mail service to communicate information regarding certification and regulation requirements with nurse aides.

The BON estimates it would hire 15 part-time registered nurses to inspect and monitor training programs for compliance, as well as to conduct federally required clinical skills exams across the state, at a cost of \$375,000 per year. In fiscal year 2011, the BON would incur one time costs associated with hiring 12 FTEs that would not be seen in the subsequent fiscal years. These expenses include purchasing computers, printers, and workstation furniture.

Since the agency is statutorily required to generate revenues sufficient to cover its costs of operation, this analysis assumes that the agency would adjust fees as necessary to cover any additional costs associated with the implementation of this bill.

Technology

The fiscal impact assumes that the Board of Nursing would purchase servers in fiscal year 2010. The Board of Nursing estimates it would need two servers for the certified nurse aide database and one for back-up purposes and would require programming assistance for the licensing software. Technology costs are assumed to be \$35,000 in fiscal year 2010 and \$7,400 each fiscal year thereafter.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 507 Texas Board of Nursing, 529 Health and Human Services Commission, 539 Aging and Disability Services, Department of

LBB Staff: JOB, CL, JI, AFe