

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

March 17, 2009

TO: Honorable Robert Duncan, Chair, Senate Committee on State Affairs

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

IN RE: SB1111 by Duncan (Relating to the liability of and legal fees for a trustee of certain facilities.), **As Introduced**

No fiscal implication to the State is anticipated.

The bill would amend the Health and Safety Code as it relates to the liability of and legal fees for a trustee of certain facilities.

The bill would amend Chapter 242 and 252, Health and Safety Code, by adding Section 242.0947, Limitation on Civil Liability, and Section 252.0935, Limitation on Civil Liability, which would prohibit a person involuntarily appointed as trustee under these chapters from being liable for civil damages for an action made in good faith under the person's official trustee duties. Under the provisions of the bill, this would apply only to an act by a trustee that occurs on or after the effective date of this bill. An act that occurred before the effective date of this bill would be governed by the law in effect when the act occurred, and the former law is continued in effect for that purpose.

The bill would amend Chapter 242, Health and Safety Code, by adding Section 242.095(a-1), which entitles the trustee to payment for actual legal fees incurred by the trustee in fulfilling the trustee's duties.

The bill would amend Chapter 242 and 252, Health and Safety Code, by adding Sections 242.096(c-1), 242.0965(c-1), and 252.095e to permit a trustee under Chapter 242 and Chapter 252, Health and Safety Code, to use the emergency assistance funds to pay for actual legal fees incurred by the trustee in fulfilling the trustee's duties. The provisions of the bill also authorize the court to order the Department on Aging and Disability Services (DADS) to disburse emergency assistance funds to a trustee to pay for actual legal fees incurred by the trustee in fulfilling the trustee's duties.

Sections 242.095, 242.096, 242.0965, and 252.095, Health and Safety Code, would apply only to legal fees incurred by a trustee on or after the effective date of this bill. Legal fees incurred by a trustee before the effective date of this bill are governed by the law in effect when the fees were incurred, and the former law is continued in effect for that purpose.

The bill would take effect September 1, 2009.

According to DADS, trustees are currently permitted to use emergency assistance funds to pay for legal fees while performing their trustee responsibilities; therefore, no fiscal impact to the state is anticipated.

Local Government Impact

Authorizing a court to order DADS to disburse emergency assistance funds would not add to the court's workload and no other portions of the bill would affect local government entities; therefore, there would be no fiscal implications to units of local government.

Source Agencies: 539 Aging and Disability Services, Department of

LBB Staff: JOB, KJG, SJ, LR, DB