

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

March 24, 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 court-appointed trustee of certain facilities.), **Committee Report 1st House, Substituted**

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 court appointed-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 Payment of Reasonable Legal Fees Actually Incurred by Certain Trustees, and Section 252.0935, Limitation on Civil Liability and Payment of Legal Fees Actually Incurred by Certain Trustees, which would prohibit a person involuntarily appointed as trustee of a nursing home or assisted living facility 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, entitling 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, to permit a trustee under Chapter 242 and Chapter 252, Health and Safety Code, to use the emergency assistance funds under Section 242.096 and 252.095(d) to pay for reasonable 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 of Aging and Disability Services (DADS) to disburse emergency assistance funds to a trustee to pay for reasonable actual legal fees incurred by the trustee in fulfilling the trustee's duties.

Sections 242.0947(c)-(e) and 252.0935(c), 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

No fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: JOB, KJG, SJ, LR