

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 4, 2009

TO: Honorable Steve Ogden, Chair, Senate Committee on Finance

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

IN RE: SB2407 by Zaffirini (Relating to the provision of services to individuals with mental retardation.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for SB2407, Committee Report 1st House, Substituted: a negative impact of (\$16,664,102) 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	(\$12,968,718)
2011	(\$3,695,384)
2012	(\$3,494,774)
2013	(\$3,495,074)
2014	(\$3,495,384)

All Funds, Five-Year Impact:

Fiscal Year	Probable (Cost) from <i>General Revenue Fund</i> 1	Probable (Cost) from <i>Federal Funds</i> 555	Change in Number of State Employees from FY 2009
2010	(\$12,968,718)	(\$2,783,099)	3.8
2011	(\$3,695,384)	(\$3,120,763)	5.0
2012	(\$3,494,774)	(\$2,920,153)	5.0
2013	(\$3,495,074)	(\$2,920,453)	5.0
2014	(\$3,495,384)	(\$2,920,763)	5.0

Fiscal Analysis

SECTION 2 would require the Department of Aging and Disability Services (DADS) or local mental retardation authorities (MRAs) to provide information regarding the community living options information process (CLOIP) if a person with mental retardation residing in an institution and the person's legally authorized representative (LAR) want to participate in the process.

The bill would require DADS to contract with MRAs to implement CLOIP for residents of institutions who are at least 22 years of age. For institutions other than state-operated residential care facilities for persons with mental retardation, the contract would delegate the CLOIP to the MRA, include performance measures, and ensure the MRA provides service coordination and relocation services for qualified residents transitioning to the community living program.

DADS would be required to review and update CLOIP materials and provide CLOIP training to staff members involved with the process at each institution and MRA, annually.

SECTION 3 would require DADS, in coordination with MRAs, to submit an annual report on the outcomes of the CLOIP to HHSC and an interagency task force.

SECTION 4 would require the executive commissioner of the Health and Human Services Commission (HHSC), by rule, to develop protocols to divert adults and children with mental retardation from commitment to a state school and toward the least restrictive living environment. The bill would allow the executive commissioner to contract with an organization for the provision of temporary, emergency living arrangements for children at immediate risk of commitment to a state school.

SECTION 6 would require the executive commissioner to adopt rules, with advice of a workgroup, to designate local MRAs as responsible for provision of case management services for individuals receiving services under the Home and Community-Based Services (HCS) and Texas Home Living waiver programs. The rules would be required to delineate the roles and responsibilities of DADS, MRAs, and service providers. SECTION 13 would require the executive commissioner to appoint a workgroup by September 1, 2009 and for the transfer of the case management function to occur by July 1, 2010.

SECTION 9 would require DADS to include strategies for downsizing state schools and transitioning more state school residents to community-based care, describe initiatives for achieving cost efficiencies relating to these strategies, and estimate the fiscal impact of each strategy and initiative in its long-range plan as required under Chapter 533 of the Health and Safety Code. DADS would be authorized to reduce the number of state school residents through census management to not more than 3,000 total residents, with not more than 350 residents in each state school.

SECTION 10 would require DADS to review and analyze information to improve processes and documentation requirements and access to care for the home and community-based services waiver program; and to oversee development and implementation of a new service delivery design to improve access to care. HHSC would be required to evaluate reimbursement rates for local MRAs and service providers for the cost of conducting case management. The executive commissioner would be required to evaluate the consumer benefit and cost-effectiveness of providing case management through MRAs, and provide a report by December 1, 2010 to legislative leadership.

SECTION 11 would require HHSC and DADS to jointly design a plan to implement a pilot program to provide capitated or non-capitated long-term services and supports to persons with intellectual or developmental disabilities. The bill would allow DADS to contract with a person to conduct a study and make recommendations regarding the pilot's design and implementation. DADS and HHSC would be required to issue a report by December 1, 2010 to select legislative bodies with related recommendations and analysis.

SECTION 12 would require HHSC and DADS to jointly study and report on the effectiveness of the requirements for admission and commitment to a residential care facility and related recommendations by November 1, 2010 to the legislature and Sunset Advisory Commission (SAO). SAO would be required to consider the report as part of its review of DADS for the Eighty-Second Legislature.

SECTION 14 would require the executive commissioner of HHSC to apply for a waiver authorizing the provision of HCS waiver services at five and six bed group homes in which individuals with mental retardation reside and receive services.

Methodology

HHSC assumes it can absorb the costs of rulemaking within existing resources.

SECTION 2: DADS indicates it would contract with MRAs to provide the CLOIP to approximately 6,260 individuals served in private Intermediate Care Facilities for Persons with Mental Retardation. Based on the new number of service coordinators required at the MRAs and costs provided by DADS,

the total costs for salaries, benefits, travel, and operating expenses would be \$4,110,864 in fiscal year 2010 (\$1,694,087 in General Revenue Funds, assuming costs are to be matched at the Federal Medical Assistance Percentage) and approximately \$4,594,997(\$1,893,598 in General Revenue Funds) in fiscal year 2011 and each subsequent year. In addition, DADS indicates it would require \$20,000 in All Funds annually for staff training and materials.

SECTION 4: While the substitute is permissive and would allow HHSC to contract with an organization for the provision of temporary living arrangements for children, this analysis assumes HHSC will contract and the potential costs are reflected in the tables above. HHSC indicates the annual cost to contract with a non-profit entity to provide temporary emergency living arrangements for children would be \$1,396,206 in General Revenue Funds. This is based on the number of children placed in state schools in fiscal year 2008, the average fiscal year 2008 monthly cost to serve clients in the HCS program, and a service period of three months.

SECTION 6: DADS indicates a cost of \$9,512,102 in General Revenue Funds would be incurred in fiscal year 2010 to enable the local MRAs to hire approximately 707 staff in preparation of assuming the case management function for individuals receiving services under the HCS waiver program. In fiscal year 2011 and additional years, DADS assumes ongoing costs of case management would be shifted from HCS providers to the MRAs at no net cost to the state. DADS also indicates it would need to hire 5 additional staff members for oversight of MRAs. The total cost would be \$310,844 in fiscal year 2010 and approximately \$403,145 in fiscal year 2011 and each subsequent year. This analysis assumes the FTEs are phased-in for fiscal year 2010.

SECTION 9: The bill would not appropriate funds to increase the availability of slots in community-based waiver programs but would permit DADS to reduce the state school population to 3,000 residents, with not more than 350 per state school. Medicaid waivers are currently not considered a federal entitlement and therefore the state has discretion as to how many individuals are served. If services were provided to these individuals in the Home and Community-Based Services waiver program at an average monthly cost of \$4,750 per resident, this analysis assumes an All Funds cost of \$18,525,000 in fiscal year 2010 and \$52,725,000 in fiscal year 2011.

This analysis assumes savings from downsizing, primarily due to staffing reductions, would be redirected to services for individuals in the HCS waiver program. To the extent that serving former state school residents in the HCS program is more cost efficient than serving them in state schools, there could be net savings, but these savings cannot be estimated.

Because the bill does not require the closure of any state school, this analysis assumes fixed costs related to the operation of the schools and ongoing maintenance costs would continue to exist, causing the cost per client remaining in the state schools to increase. In addition, this analysis assumes that agency overhead costs would not be eliminated and would shift to other state agencies or divisions within DADS, and would not represent a savings.

SECTIONS 3, 10 – 12: DADS and HHSC assume they can absorb their respective costs within existing resources.

SECTION 14: DADS assumes operation of the waiver would be cost neutral.

Technology

DADS indicates it will incur All Funds cost of \$401,800 in fiscal year 2010 and \$401,800 in fiscal year 2011 for systems modifications to implement the CLOIP process changes, CARE system changes to allow for increased MRA reporting, and enhancement to the HCS System to include 5 and 6 bed group homes and enable MRAs to enter additional information.

Local Government Impact

The bill would require DADS to contract with a local mental retardation authority (MRA) to implement the CLOIP for residents of institutions who are at least 22 years of age and to provide and implement the process for private ICF-MRs. DADS assumes approximately 78 new service coordinators would be needed at MRAs to serve the additional clients, at an annual cost of \$4,876,697 in fiscal year 2010 and approximately \$4,594,997 in fiscal year 2011 and each subsequent year. MRAs would be directed to provide tours and visits to community living options using existing resources.

DADS also assumes local MRAs will incur transition costs of approximately \$9,512,102 in fiscal year 2010 to assume the case management function for the HCS waiver program, and ongoing costs associated with provision of case management services. This analysis assumes the MRAs would receive reimbursement for provision of these services.

Source Agencies: 529 Health and Human Services Commission, 539 Aging and Disability Services, Department of

LBB Staff: JOB, MN, JI, LL, LI