

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

March 29, 2011

TO: Honorable Richard Pena Raymond, Chair, House Committee on Human Services

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

IN RE: HB2041 by Menendez (Relating to alternative methods of dispute resolution in certain disputes between the Department of Aging and Disability Services and an assisted living facility licensed by the department.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2041, As Introduced: a negative impact of (\$1,318,344) through the biennium ending August 31, 2013.

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
2012	(\$845,352)
2013	(\$472,992)
2014	(\$473,174)
2015	(\$473,174)
2016	(\$473,174)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/ (Cost) from <i>General Revenue Fund</i> 1	Probable Savings/ (Cost) from <i>GR Match For Medicaid</i> 758	Probable Savings/ (Cost) from <i>GR Certified As Match For Medicaid</i> 8032	Probable Savings/ (Cost) from <i>Federal Funds</i> 555
2012	(\$624,728)	(\$129,805)	(\$90,819)	(\$511,244)
2013	(\$302,988)	(\$76,604)	(\$93,400)	(\$349,062)
2014	(\$302,988)	(\$76,604)	(\$93,582)	(\$348,880)
2015	(\$302,988)	(\$76,604)	(\$93,582)	(\$348,880)
2016	(\$302,988)	(\$76,604)	(\$93,582)	(\$348,880)

Fiscal Year	Change in Number of State Employees from FY 2011
2012	8.1
2013	8.1
2014	8.1
2015	8.1
2016	8.1

Fiscal Analysis

The bill would amend Section 247.051, Health and Safety Code and add Subchapter E, Arbitration, to Chapter 247, to permit parties to enter in to informal dispute resolution in response to the results of a survey conducted by the Department of Aging and Disability (DADS). The dispute resolution process must be completed no later than the 90th day after the date of the request for informal dispute resolution from the assisted living facility. The bill would require DADS to prove a violation of a standard, and an architect or engineer experienced in life safety code issues affecting assisted living facilities may decide related disputes.

The new subchapter would establish that any dispute relating to licensing renewal, suspension or revocation issues, assessment of civil or administrative penalties and informal dispute resolution shall be subject to the arbitration process. On request of the department, the Attorney General may represent the department.

Sections 247.051 and 247.081 would apply only to disputes occurring after the effective date of the Act. Disputes occurring before the effective date of the act would be governed by the law in effect immediately before the effective date of the Act, and that law would be continued in effect for that purpose.

The Act would take effect September 1, 2011.

Methodology

DADS assumed an additional 160 surveys with Informal Dispute Resolution Procedures (IDR's) (10 percent x 1,600 facilities), requiring an assumed 8 hours of preparation, travel and witness time for surveyors per IDR and eight hours of record preparation. DADS assumed there would be an increased need for legal representation and included three new Attorney IVs, one Legal Assistant II, and one support staff.

DADS estimated the cost to implement the provisions of the bill to be \$1,026,035 in All Funds (\$648,586 in General Revenue (GR)) for fiscal year (FY) 2012, \$517,475 in All Funds (\$290,944 in GR) for FY 2013, and \$517,475 in All Funds (\$291,126 in GR) for fiscal years 2014-16. The DADS estimated cost included five (5) FTEs thru FY 2016, travel, \$51,520 per fiscal year, and \$503,872 in FY 2012 for Information Technology (IT) automation for upgrades to several systems and data center services costs.

The Office of the Attorney General (OAG) estimated a minimum of 20 arbitration cases per year would be referred to the OAG. The bill requires the OAG to complete the dispute resolution process within 90 days. The OAG indicated that a litigation lawyer would need to spend 100 percent of their time on a case, and could probably only handle at most 5 cases during any 90 day period (20 cases per lawyer per year). The OAG estimated it would require an additional full-time Assistant Attorney General IV, 1/4 Legal Assistant III and 1/4 Legal Secretary II to handle the increased workload.

The Health and Human Services Commission (HHSC) included one engineer or architect for life safety code violations, and 1/2 an attorney due to formal legal proceedings for cases. In addition, the HHSC estimated there would be an increase in mailing costs and supplies as more documentation would be required on cases of arbitration. The HHSC estimate for staff and other costs was \$178,393 in FY 2012 and \$163,375 for fiscal years 2013-16.

Technology

The HHSC estimate for IT costs included seat management services (PC and telecommunications) and basic data storage under the contract for data center services. The all funds costs were estimated to be \$7,635 in FY 2012, \$4,173 in fiscal years 2013-16.

DADS included \$503,872 in FY 2012 for IT costs associated with updating and modifying data systems.

The OAG indicated any technology fiscal implication resulting from the passage of this bill could be absorbed with current agency resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 302 Office of the Attorney General, 360 State Office of Administrative Hearings, 529 Health and Human Services Commission, 539 Aging and Disability Services, Department of

LBB Staff: JOB, CL, ML, MB, NB