

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION**

**May 9, 2011**

**TO:** Honorable Lois W. Kolkhorst, Chair, House Committee on Public Health

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

**IN RE: HB2092** by King, Susan (relating to self-directed and semi-independent status of certain health care regulatory agencies; making an appropriation.), **Committee Report 1st House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB2092, Committee Report 1st House, Substituted: a positive impact of \$1,019,048 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.

**Appropriations:**

Fiscal Year	Appropriation out of <i>General Revenue Fund</i> <b>1</b>
2012	\$6,228,153
2013	\$6,228,153

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2012	\$473,024
2013	\$546,024
2014	\$545,024
2015	\$545,024
2016	\$545,024

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Savings/ (Cost) from <i>General Revenue Fund</i> <b>1</b>	Probable Revenue (Loss) from <i>General Revenue Fund</i> <b>1</b>	Probable Revenue Gain from <i>General Revenue Fund</i> <b>1</b>	Probable Revenue (Loss) from <i>Appropriated Receipts</i> <b>666</b>
2012	\$8,610,871	(\$21,992,848)	\$13,855,001	(\$2,000,000)
2013	\$8,610,871	(\$21,567,406)	\$13,502,559	(\$2,000,000)
2014	\$14,839,024	(\$21,568,000)	\$7,274,000	(\$2,000,000)
2015	\$14,839,024	(\$21,568,000)	\$7,274,000	(\$2,000,000)
2016	\$14,839,024	(\$21,568,000)	\$7,274,000	(\$2,000,000)

<b>Fiscal Year</b>	<b>Change in Number of State Employees from FY 2011</b>
2012	(161.7)
2013	(161.7)
2014	(161.7)
2015	(161.7)
2016	(161.7)

## **Fiscal Analysis**

The bill would amend the Occupations Code relating to self-directed and semi-independent status of the Board of Nursing and Board of Pharmacy, making an appropriation allowing the Board of Nursing and Board of Pharmacy to become self-directed and semi-independent. The bill would require that all fees and funds collected by the Board of Nursing and Board of Pharmacy to be retained by the agency and deposited into interest-bearing deposit accounts held by the Texas Treasury Safekeeping Trust Company and require the Board of Nursing to remit \$5,750,000 annually and the Board of Pharmacy to remit \$1,150,000 in fiscal year 2012 and \$800,000 each subsequent year to the General Revenue Fund. Fees and funds in the new accounts could be used only for the administration of the business of the Board of Nursing and Board of Pharmacy, and to pay the expenses of the agency. No expense incurred by Board of Nursing and Board of Pharmacy would be allowed to be charged against the General Revenue Fund. The bill would allow the Board of Nursing and Board of Pharmacy to set the amounts of fees, penalties, charges, and revenues required or permitted by statute or rule as necessary for the purpose of carrying out the functions of each respective board and funding the adopted budget. The bill would require that the Board of Nursing and Board of Pharmacy be appropriated out of the General Revenue Fund in the 2012-13 biennium an amount equal to 50 percent of the amount appropriated to Board of Nursing and Board of Pharmacy from the General Revenue Fund for fiscal year 2011. The Board of Nursing and Board of Pharmacy would be required to repay these funds to the General Revenue Fund no later than the date the funds become available.

The bill would require Board of Nursing and the Board of Pharmacy to annually remit, as nonrefundable retainers for deposit to General Revenue Fund, a minimum of \$25,000 and \$10,000 to the State Auditor's Office, a minimum of \$25,000 and \$40,000 to the Office of the Attorney General, and a minimum of \$50,000 and \$55,000 to the State Office of Administrative Hearings, respectively. The bill would also require rent payments to be remitted each fiscal year by the Board of Nursing in an amount of no less than \$278,000 and by the Board of Pharmacy in an amount of no less than \$162,000.

The bill would require that Board of Nursing and Board of Pharmacy submit reports before the beginning of each regular session on State Auditor audits, financial reports, statistical, reports, board activities, examinations, license holders, enforcement activities, adopted and repealed rules to the legislature and governor. No later than November 1st of each year, the Board of Nursing and Board of Pharmacy would be required under the provisions of the bill to submit to the Governor, the committee of each house that has jurisdiction over appropriations and the Legislative Budget Board a report that contains: salary, per diem, and travel expenses paid for all board employees, the board's operating plan, annual budget and a detailed report of all revenue received and all expenses incurred by the board in the previous 12 months.

The bill would repeal Sections 301.165, 554.007(a), and 554.013 of the Occupations Code.

This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. Legislative policy, implemented as Government Code 403.094, consolidated special funds (except those affected by constitutional, federal, or other restrictions) into the General Revenue Fund as of August 31, 1993 and eliminated all applicable statutory revenue dedications as of August 31, 1995. Each subsequent Legislature has reviewed bills that affect funds consolidation. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

## Methodology

For the purposes of this analysis, the Comptroller's 2012-13 Biennial Revenue Estimate was used to estimate the revenue impacts of the bill.

The bill would appropriate 50 percent of the amount from the General Revenue Fund appropriated to the Board of Nursing and Board of Pharmacy for fiscal 2011 in fiscal years 2012 and 2013, which was \$3,767,948 and \$2,460,206 for each agency respectively. For the purposes of this analysis, amounts appropriated in fiscal year 2011 in the General Appropriations Act were used with adjustments for required reductions in that fiscal year to determine savings that would be realized and the amounts that would be appropriated to each agency.

This analysis assumes the same savings each fiscal year from 2012-16 in the amount of \$14,839,024 (\$8,776,272 for the Board of Nursing and \$6,062,752 for the Board of Pharmacy) with adjustments for amounts appropriated (noted above) in 2012-13. Similarly, this analysis reflects a reduction in Full-Time Equivalent positions (FTEs) each fiscal year equivalent to the amount authorized for both agencies in fiscal year 2011 (161.7 FTEs). This includes 89.7 FTEs for the Board of Nursing and 72.0 FTEs for the Board of Pharmacy.

Under current law, the Board of Nursing and Board of Pharmacy deposit collected revenue to the General Revenue fund. Based on information provided by the Comptroller of Public Accounts, it is assumed that an estimated loss to the General Revenue Fund in the amount of \$21,992,848 in fiscal year 2012, \$21,567,406 in fiscal year 2013 and \$21,568,000 in each subsequent year would be realized due to the implementation of the provisions of the bill in addition to reductions of \$2,000,000 in Appropriated Receipts each fiscal year beginning in 2012. Also based on the analysis of the Comptroller of Public Accounts, it is assumed that revenue gains in the amount of \$6,900,000 in fiscal year 2012 and \$6,550,000 in each subsequent fiscal year would be deposited each year to the credit of the General Revenue Fund in addition to \$286,848 in fiscal year 2012, \$284,406 in fiscal year 2013 and \$284,000 each subsequent year that would also be remitted to the General Revenue Fund as nonrefundable retainers under the provisions of the bill. This would include \$35,000 for the State Auditor's Office, \$65,000 for the Office of the Attorney General, \$105,000 for the State Office of Administrative Hearings. In addition to these amounts, the bill would require rent payments from the Board of Nursing in the amount of \$278,000 each fiscal year and from the Board of Pharmacy in the amount of \$162,000 each fiscal year. Also, under the provisions of the bill the Board of Pharmacy would remit \$81,848 in fiscal year 2012, \$79,406 for fiscal year 2013 and \$79,000 each subsequent fiscal year for the Health Professions Council.

This analysis assumes that revenue equivalent to the amount appropriated to each agency would be repaid entirely by the end of each fiscal year in which the appropriation was made in accordance with the provisions of the bill in each year of the 2012-13 biennium. In addition, it is also assumed that the Board of Nursing would remit \$5,750,000 annually and that the Board of Pharmacy would remit \$1,150,000 in fiscal year 2012 and \$800,000 each subsequent year to the General Revenue Fund every year starting in fiscal year 2012.

## Local Government Impact

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 507 Texas Board of Nursing, 515 Board of Pharmacy, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 308 State Auditor's Office, 327 Employees Retirement System, 360 State Office of Administrative Hearings

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