

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

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

**April 5, 2011**

**TO:** Honorable Lois W. Kolthorst, 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.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB2092, As Introduced: a negative impact of (\$12,127,952) 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> 1
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	(\$6,277,976)
2013	(\$5,849,976)
2014	(\$5,849,976)
2015	(\$5,849,976)
2016	(\$5,849,976)

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

Fiscal Year	Probable Savings/ (Cost) from <i>General Revenue Fund</i> 1	Probable Revenue Gain/(Loss) from <i>General Revenue Fund</i> 1	Probable Revenue Gain from <i>General Revenue Fund</i> 1	Change in Number of State Employees from FY 2011
2012	\$8,610,871	(\$23,717,000)	\$8,828,153	(161.7)
2013	\$8,610,871	(\$23,289,000)	\$8,828,153	(161.7)
2014	\$14,839,024	(\$23,289,000)	\$2,600,000	(161.7)
2015	\$14,839,024	(\$23,289,000)	\$2,600,000	(161.7)
2016	\$14,839,024	(\$23,289,000)	\$2,600,000	(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 \$2,000,000 annually and the Board of Pharmacy to remit \$600,000 annually 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 the State Auditor to enter into contract and schedule with the Board of Nursing and Board of Pharmacy to conduct audits and reimburse the state auditor for all costs incurred in performing audits. The bill would require the Attorney General to represent the Board of Nursing and Board of Pharmacy in any litigation and may assess and collect from the Board of Nursing and Board of Pharmacy reasonable fees for providing legal services.

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 the analysis of the Comptroller of Public Accounts, it is assumed that all revenues currently collected by the Board of Nursing and the Board of Pharmacy would be moved to the Texas Treasury Safekeeping Trust Company. This would result in an estimated loss to the General Revenue Fund in the amount of \$23,717,000 in fiscal year 2012 and \$23,289,000 in each subsequent year. This analysis also 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 \$2,000,000 and that the Board of Pharmacy would remit \$600,000 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:** 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, 507 Texas Board of Nursing, 515 Board of Pharmacy

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