LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

April 6, 2011

TO: Honorable Jim Pitts, Chair, House Committee on Appropriations

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

IN RE: **HB3419** by Darby (Relating to state fiscal matters related to certain regulatory agencies.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3419, As Introduced: a positive impact of $14,584,000 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	$7,151,000
2013	$7,433,000
2014	$9,152,000
2015	$7,819,000
2016	$7,819,000

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain from *General Revenue Fund* 1	Probable Revenue Gain from *Foundation School Fund* 193
2012	$5,363,000	$1,788,000
2013	$5,575,000	$1,858,000
2014	$6,864,000	$2,288,000
2015	$5,864,000	$1,955,000
2016	$5,864,000	$1,955,000

Fiscal Analysis

The bill would amend the Insurance and Occupations Codes relating to state fiscal matters related to certain regulatory agencies.

SECTION 1.01 and 1.02 of the bill would authorize state agencies to reduce or recover expenditures by taking action to consolidate reports, extend license, permit or registration periods, enter into contracts to carry out an agency's duties, adopt additional eligibility requirements for benefits, provide for electronic communication, and adopt and collect fees or charges to recover costs incurred by an agency.

SECTION 2.01 and 2.02 of the bill would repeal insurance premium tax credits for examination fees, implement a recommendation from the report, "End the Use of General Revenue Funds to Pay for

Insurance Company Examinations," in the Legislative Budget Board's (LBB) Government Effectiveness and Efficiency Report submitted to the Eighty-Second Texas Legislature, 2011. This section would take effect immediately upon receiving a two-thirds majority vote in each house. If the bill does not receive a two-thirds vote in each house, the bill would take effect September 1, 2011.

SECTIONS 3.01 - 3.03: The bill would establish a Health Care Payment and Delivery System Reform Committee and attach it to the Texas Department of Insurance (TDI). The Committee would consist of six appointees from state agencies that purchase health care and four non-voting members representing the legislature. The Committee would be required to develop a plan to identify priority outcomes for cost containment and quality improvement, coordinate initiatives for reform across state health payors, review pilot program proposals and funding requests submitted to the committee, and make recommendations to the commissioner of TDI. The commissioner would be required to adopt rules relating to funding of pilot programs and may approve a pilot program and/or award funding based on the recommendation of the committee. The bill would amend the Occupations Code to permit a person, including a partnership, trust, association, or corporation operating an approved pilot program to employ a physician without violating Sections 164.052(a)(13) or (17) or 165.156 of the Occupations Code. These recommendations are contained in the Legislative Budget Board's 2011 Government Effectiveness and Efficiency Report entitled “Reform Healthcare Payment and Delivery Systems to Reduce State Expenditures." This section would take effect September 1, 2011.

SECTIONS 4.01-4.03: The bill would establish a Health Insurance Connector (Connector) in Texas as the vehicle for a health insurance exchange as required by the federal Patient Protection and Affordable Care Act of 2010 (ACA). The Connector would be operated under the direction of a seven-member board of directors, which would be authorized to adopt rules when time does not permit legislative action. The board would have the authority to hire employees and determine their compensation.

The bill would require the Connector to perform all duties required of a health insurance exchange under the ACA. The bill would allow the Connector to enter into contracts necessary to implement or administer its functions, including contracts with the Texas Department of Insurance (TDI) or HHSC to provide services in exchange for payment. It would require the Connector to enter into a memorandum of understanding with TDI and HHSC regarding the exchange of information and the division of regulatory functions among the three entities. The bill would allow the Connector to take legal action to recover or collect amounts due the Connector and to be sued.

The bill would allow the Connector to charge an assessment on the issuers of qualified health plans and health benefit plans applying for certification. It would also allow the Connector to accept and use federal funds and grants from public or private organizations. The Connector would not be subject to any state tax, regulatory fee, or surcharge, including a premium or maintenance tax or fee. The bill would establish a special trust fund outside of the state treasury into which the Connector could deposit revenues. The trust fund would be in the custody of the Texas Comptroller of Public Accounts and be separate and apart from all public money or funds of the state.

If enacted, the bill would take effect on September 1, 2011. If it receives a vote of two-thirds of all members elected to each house, it would take effect immediately.

Methodology

SECTIONS 1.01 – 1.02: The extent to which an agency would use the authority granted in this section is unknown. Therefore, the impact of these changes is not included in the estimates shown above.

SECTIONS 2.01 -2.02: Based on the analysis provided by the comptroller, implementation of the bill will result in a gain to General Revenue of $5,363,000 in fiscal year 2012 and $5,575,000 in fiscal year 2013, and a gain to the Foundation School Fund of $1,788,000 in fiscal year 2012 and $1,858,000 in fiscal year 2012. To estimate the provisions of the article 2 of the bill, data from TDI and the Comptroller were used to calculate the amount of examination fee and overhead assessment credits that would be available, the proportion of available examination fee credits that would be applied towards premium tax liability under current law, and the extent to which the repeal of these credits would increase the use of other types of premium tax credits. It is assumed examination fees and overhead assessment credits earned prior to the effective date of this bill would be applicable to premium tax liabilities due in fiscal 2012.

SECTIONS 3.01 - 3.03: TDI indicates the bill will not have a significant fiscal impact on the agency and that any additional workload can be handled within existing resources. This analysis assumes grants would only be provided as appropriations allow. According to HHSC, ERS, TRS, Texas A&M University System, and UT System, any costs incurred due to participation on the Committee could be absorbed within existing resources.

SECTIONS 4.01-4.03:
Article 4 of this bill would have no significant fiscal impact. The provisions of Article 4 set up a health insurance exchange in Texas. The federal government will establish a health insurance exchange in Texas if the state does not. Most costs related to establishing and operating a health insurance exchange will be funded by the federal government until December 31, 2014.

Whether or not this bill is enacted, HHSC indicates it will incur costs to allow its eligibility systems to interface with an exchange and for data center expansion. HHSC estimates an All Funds cost of $12,000,000 in fiscal year 2012 and $12,000,000 in fiscal year 2013 to allow its eligibility systems to interface with an exchange or the Connector. Over the biennium, it includes $14,000,000 for data center expansion and $10,000,000 for the Texas Integrated Eligibility Redesign System (TIERS) to interface with an exchange or the Connector. HHSC anticipates receiving a 90 percent federal match for costs associated with technology related changes required to interface with the exchange. Based on this analysis, HHSC systems changes would cost an estimated $2,400,000 in General Revenue for the biennium. HHSC would also need to request increased capital authority for implementing these changes. This analysis assumes that the cost of services HHSC provides to the Connector through contracts would come from the operating budget of the Connector, and that other functions required under the bill can be absorbed within existing resources.

TDI indicates the bill will not have a significant fiscal impact for it and that costs for any additional rulemaking, forms modifications, and legal services such as developing memoranda of understanding with the Connector could be handled within existing resources.

TDI also provided an estimate of the cost to set up and operate an exchange such as the Connector in this bill. Their estimate is based on previous agency procurement and start-up experience from Texas Health Insurance Pool, information from the Massachusetts Connector, and eligibility and cost experience of Texas CHIP. TDI's estimate includes the cost of administration and operations, information technology, eligibility screening infrastructure and support, and for a call center. It does not include the cost to fund "Navigator" grants to provide education and outreach, as required by the ACA :

Fiscal Year	Total Cost (in millions)
2012	$56
2013	$75.6
2014	$174.5
2015 (4 months)	$28.1

The above costs would be paid through federal grants available to set up health insurance exchanges. Costs after December 31, 2014 would come from assessments on insurers, payments by individuals and employers for premiums, and other revenues deposited in the special trust fund outside of the state treasury as defined in the bill.

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.

Technology

No fiscal impact on technology. However, HHSC estimates technology costs associated with ACA requirements to total $14,000,000 for data center expansion and $10,000,000 for TIERS to interface with an exchange or the Connector over the biennium. HHSC indicates that it would also require $8,400,000 in additional capital authority over the biennium.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 323 Teacher Retirement System, 327 Employees Retirement System, 329 Real Estate Commission, 451 Department of Banking, 452 Department of Licensing and Regulation, 454 Department of Insurance, 473 Public Utility Commission of Texas, 503 Texas Medical Board, 513 Funeral Service Commission, 515 Board of Pharmacy, 529 Health and Human Services Commission, 710 Texas A&M University System Administrative and General Offices, 720 The University of Texas System Administration

LBB Staff: JOB, KK, MW, CH, LL, RS