

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

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

**February 14, 2011**

**TO:** Honorable Jane Nelson, Chair, Senate Committee on Health & Human Services

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

**IN RE: SB55** by Zaffirini (Relating to the administration of psychoactive medications to persons receiving services in certain facilities.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for SB55, As Introduced: a negative impact of (\$282,511) 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	(\$227,206)
2013	(\$55,305)
2014	(\$55,307)
2015	(\$55,307)
2016	(\$55,307)

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

Fiscal Year	Probable Savings/ (Cost) from <i>General Revenue Fund</i> 1	Probable Savings/ (Cost) from <i>GR Certified As Match For Medicaid</i> 8032	Probable Savings/ (Cost) from <i>Federal Funds</i> 555	Change in Number of State Employees from FY 2011
2012	(\$25,757)	(\$201,449)	(\$283,038)	2.5
2013	(\$6,277)	(\$49,028)	(\$68,886)	0.6
2014	(\$6,279)	(\$49,028)	(\$68,884)	0.6
2015	(\$6,279)	(\$49,028)	(\$68,884)	0.6
2016	(\$6,279)	(\$49,028)	(\$68,884)	0.6

**Fiscal Analysis**

The bill would amend Chapter 592 of the Health and Safety Code, the Persons with Mental Retardation Act. The bill would add the right to refuse psychoactive medication and would require consent for the administration of psychoactive medications to persons receiving services in certain residential care facilities operated by the Department of Aging and Disability Services, the Department of State Health Services, and community centers.

The bill would add Subchapter E, Administration of Psychoactive Medications, to Chapter 592. The bill would prohibit administration of psychoactive medication to a client receiving voluntary or involuntary residential care services who refuses the administration unless certain requirements are

satisfied. The bill would establish requirements for the provision of consent and require documentation of a client's refusal of consent in the client's clinical record.

The bill would require the physician issuing an order to administer the medication without the client's consent to provide documentation in the client's clinical record and require treatment that is least restrictive of the client's personal liberty. The bill would prohibit administration of a psychoactive medication to a client who refuses to take it voluntarily except in certain circumstances.

The bill would enable a physician to file an application in a probate court or a court with probate jurisdiction on behalf of the state for an order to authorize the administration of a psychoactive medication regardless of the client's refusal under certain circumstances.

The bill would provide a client with rights pertaining to the hearing including the right to be represented by a court-appointed attorney, the right to be present at the hearing, and the right to an appeal.

The bill would permit the court to issue an order authorizing the administration of one or more psychoactive medications to a client who has been committed to a residential care facility or is in custody awaiting trial in a criminal proceeding and was committed to a residential care facility in the six months preceding a hearing, pending certain criteria.

The bill would amend the Code of Criminal Procedure so that Articles 46B0.86(a) and (b) apply to certain defendants.

## **Methodology**

The Department of Aging and Disability Services (DADS) indicates the cost to the General Revenue Fund of obtaining consent through the court system for persons taking psychotropic medications who do not have legally authorized representatives (LARs) and cannot provide consent themselves would be \$227,206 in fiscal year 2012 and \$55,305 in fiscal year 2013, assuming nearly all of these costs are matched at the Federal Medical Assistance Percentage (FMAP).

According to DADS, there are 980 individuals taking psychotropic medications who do not have LARs. Of this number, 833 are unable to give consent and would require probate hearings in fiscal year 2012. DADS assumes 2.5 physician full-time equivalent positions would be required, based on an estimate that each hearing would require approximately 6 hours of physician time for preparation, travel, and participation. In fiscal year 2013 and subsequent years, DADS estimates 0.6 physician full-time equivalent positions would be required based on the assumption that hearings would be required for 25 percent of individuals. DADS' analysis includes costs associated with residents served in the ICF/MR Component of the Rio Grande State Center operated by the Department of State Health Services.

The Office of Court Administration indicates the additional hearings that could occur as a result of the bill would not have an appreciable effect on the workload of the state court system.

## **Local Government Impact**

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

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 537 State Health Services, Department of, 539 Aging and Disability Services, Department of

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