

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

March 28, 2011

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

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

IN RE: SB223 by Nelson (Relating to the licensing and regulation of home and community support services agencies and of the administrators of those agencies; providing penalties.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB223, As Introduced: a negative impact of (\$1,016,862) 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	(\$76,446)
2013	(\$940,416)
2014	\$654,884
2015	(\$934,816)
2016	\$660,484

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund 1	Probable Revenue Gain from General Revenue Fund 1	Change in Number of State Employees from FY 2011
2012	(\$1,696,446)	\$1,620,000	22.0
2013	(\$1,166,016)	\$225,600	22.0
2014	(\$1,166,016)	\$1,820,900	22.0
2015	(\$1,166,016)	\$231,200	22.0
2016	(\$1,166,016)	\$1,826,500	22.0

Fiscal Analysis

The bill would amend Chapter 142 of the Health and Safety Code, regarding home and community service licenses. A person applying for, transferring, or expanding an initial home and community support services agency license, an initial branch office license, or an initial alternative delivery site license would be required to have a certificate of need issued by the Department of Aging and Disabilities Services (DADS). To obtain a certificate of need (Section 142.0021), the applicant would pay a nonrefundable fee of \$2,500 (Section 142.0024(a)), which would be deposited to the General Revenue Fund and appropriated only to DADS to administer the bill's provisions (Section 142.0024 (b)).

The bill would require an administrator of a home and community support service agency to hold a home and community support service agency license, and pay application and license fees in amounts set by the Health and Human Services Commission (HHSC) (Section 142.060(a)). HHSC could issue a provisional license and set the license fee. Fees would be deposited to the General Revenue Fund and appropriated to DADS (Section 142.060(b)). DADS could disburse federal monies for the furtherance of the agency's functions.

The bill would allow DADS to impose an administrative penalty not to exceed \$1,000, impose a civil penalty of \$1,000 for each violation (Section 142.067), and establish a criminal penalty for failure to hold the required license and this offense would be a Class B misdemeanor. A penalty collected under this section would be remitted to the Comptroller for deposit in the General Revenue Fund (Section 142.067(m)).

The bill would take effect September 1, 2011, except Sections 142.065 through 142.073, Health and Safety Code related to sanctions, which would take effect January 1, 2012.

Methodology

The Department of Aging and Disabilities Services (DADS) estimated 200 individual investigations of administrators would be done each fiscal year and included one (1) Program Specialist, ten (10) Investigator IVs, five (5) Attorney III's to be located in the regions, and one (1) Legal Assistant. DADS assumed \$73,500 for travel for the enforcement staff for investigations. The department included five (5) additional staff for the processing of 4,000 administrator license applications (a two year licensing period). The department included a total of 22 staff at an annual fiscal year cost of \$713,364 for licensing and credentialing, enforcement, and legal. Employee benefits, other operating and cost pool expenses total approximately \$400,000 per fiscal year.

Section 142.0024 provides for a Certificate of Need application fee to be collected at \$2,500. DADS estimated that eight new applications per year will come in for a total of \$20,000 revenue for the first year. Section 142.060 also allows DADS to collect a licensing fee for new administrators. DADS indicated the current fee for administrators at nursing homes is \$350. DADS assumed the \$350 fee level for the new administrator's license and estimated that 4,000 administrators would apply for an initial license, for a total of \$1,400,000 (4,000 x \$350) in fiscal year (FY) 2012, \$5,600 (16 x \$350) in FY 2013, \$1,600,900 (4,574 x \$350) in FY 2014, \$11,200 (32 x \$350) in FY 2015 and \$1,606,500 (4,590 x \$350) in FY 2016. Applications are based on a two year licensing period. Even numbered years include renewals and new applications, odd numbered years include new applications. The department estimated that 200 sanctions per year would occur at a minimum penalty of \$1,000 per sanction for a total of \$200,000 per FY. Total estimated revenue by the department is \$1,620,000 for FY 2012, \$225,600 FY 2013, \$1,820,900 FY 2014, \$231,200 FY 2015, and \$1,826,500 for FY 2016.

Technology

DADS indicated the existing automation systems for licensing Nursing Facility Administrators (NFA), and for tracking NFA complaints/remedies imposed would need to be modified to accommodate some unique system requirements for Home and Community Support Services Agency administrators. In addition, DADS stated that a new automation system would need to be created to support the new licensing, investigating and enforcing business functions required by provisions of the bill. DADS included \$426,400 for automation costs for fiscal year 2012.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 529 Health and Human Services Commission, 539 Aging and Disability Services, Department of

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