

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

April 23, 2013

TO: Honorable Richard Peña Raymond, Chair, House Committee on Human Services

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB486** by Dukes (Relating to outsourcing a service performed by a health and human services agency to a private commercial contractor.), **As Introduced**

Because the number of contracts that could be subject to the bill's provisions on cost analysis, audit, and termination is unknown, the fiscal implications to the state cannot be determined.

The bill would amend Chapter 2162 of the Government Code by adding Subchapter D requiring each health and human services agency, with the exception of the Health and Human Services Commission (HHSC), to perform a cost analysis comparing the agency's costs of performing a service to the costs of outsourcing the service before awarding, amending, or extending a contract that would reduce state employees by 100 full-time equivalents or would cost \$10.0 million or more. The bill would require certain elements to be included in the analysis, including any services provided by the comptroller, attorney general, or other support agencies, indirect expenses, assumptions and documentation of the cost determination, and recommendations for improving the health and human services agency's performance. The bill would require the agency to provide the analysis to the governor, chairs of the appropriate legislative committees, the Legislative Budget Board, and the state auditor. The bill would subject the cost analysis to audit by the state auditor based on a risk assessment performed by the state auditor. The bill would require the private contractor to pay the costs of an audit. If the auditor identifies amounts overpaid, amounts paid for unperformed services, or unallowable costs, the bill would require the Office of the Attorney General and the health and human services agency to cooperate in taking action to recover amounts owed to the state. In addition, if it is determined that a contractor did not perform satisfactorily under the contract, the bill would require the governing body of the agency to terminate the contract as soon as practicable, and the agency would be required to rebid the contract or to conduct a performance evaluation to design a program to improve and implement delivery of the service.

The Office of the Attorney General and the State Auditor's Office both indicate any additional work resulting from the enactment of the bill could be reasonably absorbed within current resources.

HHSC, on behalf of all health and human services agencies, indicates there could be a significant fiscal impact for increased workload for contracts with a value of \$10.0 million or more. HHSC cannot estimate the fiscal impact at this time because the costs would depend upon the number and complexity of the contracts, the number of contracts that could be audited, or the number of contracts recommended for termination by an audit. HHSC indicates there could be a technology impact related to the number of information technology services that are contracted.

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, 529 Health and Human Services Commission

LBB Staff: UP, CL, MB, ES, SD, VJC