

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

March 4, 2013

TO: Honorable Bill Callegari, Chair, House Committee On Pensions

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB784 by Guillen (Relating to creating a deferred compensation plan for dentists who provide services under the Medicaid program; providing a fee.), **As Introduced**

<p>No significant fiscal implication to the State is anticipated.</p>

The bill would amend the Government Code to make dentists who provide services under Medicaid eligible for the Employees Retirement System (ERS) 457 deferred compensation plan. The bill would allow the ERS board of trustees to contract with employees participating in the deferred compensation plan for the deferment of any part of the compensation for the provisions of services under the Medicaid program. The bill would require the board to adopt rules, plans, and procedures to develop and implement the expansion of the plan. The bill would also direct the ERS board of trustees to administer the plan, and allow the board to assess fees to cover the costs of administering the plan. ERS estimates that there would be an administrative cost to the agency to make the program changes related to adding eligible employees to the deferred compensation 457 plan. It is assumed that costs would not be significant and would be covered by monthly fees paid by participants of the plan.

According to ERS, the Internal Revenue Service (IRS) may not agree with certain provisions of the bill, including defining dentists who accept Medicaid as independent contractors who are eligible for participation in the plan. Because Medicaid is a reimbursement benefit to patients, the IRS could view the dentists as contractors with the patients, not the state. Additionally, dentists who are primarily private practice and see few Medicaid patients could be regarded as non-governmental participants. This could put ERS at risk of losing the governmental status of the plan, which would result in increased oversight, reporting, and administrative costs for all plan participants. ERS also indicates that the bill may conflict with provisions of the Texas Constitution, Article 16, Section 67, which limits the role of ERS to “provide benefits for officers and employees of the state.”

The bill would take effect September 1, 2013.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 327 Employees Retirement System

LBB Staff: UP, RB, EP, EMO, PFe, JJO