

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

April 30, 2013

TO: Honorable Lois W. Kolkhorst, Chair, House Committee on Public Health

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2880 by Thompson, Senfronia (Relating to the rights and duties of hospital patients and certain health care providers; providing civil penalties.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2880, As Introduced: a negative impact of (\$1,190,068) through the biennium ending August 31, 2015.

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
2014	(\$12,000)
2015	(\$1,178,068)
2016	(\$1,437,802)
2017	(\$1,437,802)
2018	(\$1,437,802)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund 1	Probable Revenue (Loss) from General Revenue Fund 1	Probable (Cost) from New General Revenue Dedicated	Probable Revenue Gain from New General Revenue Dedicated
2014	(\$12,000)	\$0	\$0	\$0
2015	(\$1,010,568)	(\$167,500)	(\$167,500)	\$167,500
2016	(\$1,187,802)	(\$250,000)	(\$250,000)	\$250,000
2017	(\$1,187,802)	(\$250,000)	(\$250,000)	\$250,000
2018	(\$1,187,802)	(\$250,000)	(\$250,000)	\$250,000

Fiscal Year	Change in Number of State Employees from FY 2013
2014	0.0
2015	7.3
2016	10.0
2017	10.0
2018	10.0

Fiscal Analysis

The bill amends Chapters 241 and 161 of the Health and Safety Code, related to the rights and duties of hospital patients and certain health care providers, providing civil penalties. The bill directs hospitals to comply with extensive requirements related to nursing competency, staffing ratios, and other policies and procedures.

The Department of State Health Services (DSHS) would be required to appoint a committee to develop standard models of acuity tools for patient classification, reporting its proposals to DSHS by September 1, 2014. The Health and Human Services Commission (HHSC) would adopt by rule one of the developed acuity tools by January 1, 2015 and Texas hospitals would be required to implement it. The bill directs DSHS to review the tool annually, with HHSC developing rules implementing any needed adjustments within 30 days. Hospitals would also be required to submit a nurse staffing policy to DSHS by January 31 annually.

The bill would authorize DSHS to inspect a hospital at any time and would establish civil penalties for violations of certain provisions of the bill or certain sections of the Occupations Code, related to nurses. Penalties would be set at up to \$25,000 for each day of violation and an additional \$10,000 per nursing shift until the violation is corrected. The bill would repeal Section 241.055(d) of the Health and Safety Code which requires civil penalties under that section to be credited to the General Revenue (GR) Fund. Instead, all amounts recovered by the penalties described in the bill would be deposited into a new special account that may only be appropriated to DSHS to compensate nurses, patients, or other people who have been adversely affected by provisions of the bill. The Comptroller of Public Accounts (CPA) indicates that, to implement the new special fund, the legislature could create a dedicated account in a new General Revenue Dedicated (GR-D) Fund, a trust fund, or a dedicated revenue source, any of which would be subject to funds consolidation review by the current Legislature.

Methodology

DSHS indicates that it would need 10 FTEs to administer the additional licensing and regulatory responsibilities directed by the bill. Beginning September 1, 2014, one program specialist and one attorney would be hired and beginning January 1, 2015, 8 nurses would be hired, for a total cost of \$732,126 GR for fiscal year 2015 and \$908,236 annually thereafter. Staff travel related to investigations, reviews, and enforcement activities would cost \$117,580 GR in fiscal year 2015 and \$175,000 annually 2016-2018. Computer related costs, including data center services are estimated to cost \$12,000 in fiscal year 2014, and \$23,350 thereafter. Other costs, including HHSC oversight and office equipment, are estimated to total \$137,513 in fiscal year 2015 and \$81,216 annually 2016-2018.

DSHS indicates that accurately estimating the amount of revenue that would be generated from

penalties described in the bill may not be possible due to the multiple variables involved in determining the violations. According to agency data, a total of ten disciplinary actions were taken against all licensed Texas hospitals (632 at the time) from March 2012 to March 2013. It is assumed that the bill would generate approximately ten new violations annually. The penalties are assumed to be a revenue loss to the General Revenue Fund. Assuming the penalty per violation averages \$25,000, revenue for the new special fund would total \$167,500 in fiscal year 2015 (assuming inspections begin January 1) and \$250,000 annually thereafter. Other possible redirections of penalty revenue are not included in this estimate. As directed by the bill, it is assumed that the total revenue would be appropriated to DSHS to compensate patients, hospital staff, and other people impacted by the bill.

Technology

DSHS indicates that technology resources related to storage needed to track and maintain additional reports from the hospitals will cost approximately \$12,000 annually.

Local Government Impact

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

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts, 529 Health and Human Services Commission, 537 State Health Services, Department of

LBB Staff: UP, CL, MB, JTe, NB, KKR