

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

April 1, 2013

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

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB11 by Nelson (Relating to the drug testing of certain persons seeking financial assistance benefits.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for SB11, Committee Report 1st House, Substituted: a negative impact of (\$1,237,789) 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	(\$411,287)
2015	(\$826,502)
2016	(\$798,803)
2017	(\$797,518)
2018	(\$795,878)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund 1	Probable (Cost) from GR Match For Medicaid 758	Probable (Cost) from GR Match For Title IV-E FMAP 8008	Probable Savings/(Cost) from Federal Funds 555
2014	(\$409,215)	(\$2,072)	\$0	(\$16,632)
2015	(\$800,455)	(\$6,038)	(\$20,009)	(\$123,991)
2016	(\$756,593)	(\$5,253)	(\$36,957)	(\$143,199)
2017	(\$755,308)	(\$5,253)	(\$36,957)	(\$143,199)
2018	(\$753,668)	(\$5,253)	(\$36,957)	(\$143,199)

Fiscal Year	Change in Number of State Employees from FY 2013
2014	0.0
2015	11.0
2016	11.0
2017	11.0
2018	11.0

Fiscal Analysis

The bill would amend Chapter 31 of the Human Resources Code to require each adult and minor parent who is head of household who applies initially for or for the continuation of financial assistance benefits in the Temporary Assistance for Needy Families (TANF) program to submit to a marihuana and controlled substance use screening assessment. The bill would require that the person submit to a drug test, if the screening indicates good cause to suspect use of a controlled substance.

The bill would require any applicant who has been convicted of a felony drug offense or who had previously been denied eligibility for TANF because of the results of the drug test to be tested without first submitting to the screening. The bill would establish timelines and rules for reapplication for benefits based on drug test failure, but would preclude the denial of eligibility for reason of a drug test from affecting the eligibility of the person’s family.

The bill would require the Health and Human Services Commission (HHSC) to notify the applicant if they had been determined ineligible by reason of drug test and to confirm the results with a second test.

The bill would require HHSC in conjunction with the Department of State Health Services to develop the screening assessment, to pay for the screening assessment and drug test with TANF block grant federal funds, and to report to the Department of Family and Protective Services (DFPS) for use in an investigation conducted under Chapter 261, Family Code, a person whose drug test indicated the presence of a controlled substance not prescribed to the person.

The bill would require HHSC to designate a protective payee to receive financial assistance benefits on behalf of a child whose parent or caretaker relative is ineligible for benefits as a result of testing positive for controlled substance use on the second and third application for benefits. The bill would require HHSC to submit the protective payee to the controlled substance screening assessment and possible drug test process also.

The bill would require the executive commissioner of HHSC to adopt rules to implement the drug assessment and screening, including rules that exempt a person from having to submit to a drug test in certain circumstances.

Methodology

For purposes of this analysis, it is assumed that there is no additional federal TANF block grant funding available for expenditure; the analysis utilized all freed-up TANF Federal Funds at HHSC that results from implementing the bill to pay for the drug tests, as required by the bill. All other costs at HHSC are covered with General Revenue Funds. To the extent TANF Federal Funds

become available, they could be utilized in lieu of General Revenue.

Based on agency analysis, it is assumed implementation of the drug screening provisions will take effect in September 1, 2014.

HHSC indicates they would implement a no-cost drug screening assessment. HHSC anticipates the following numbers of TANF applicants will be subject to screening each fiscal year, based on the average number of applicants per month: 72,683 in fiscal year 2015, 73,684 in fiscal year 2016, 74,739 in fiscal year 2017 and 75,837 in fiscal year 2018. Of the total screened, HHSC anticipates 2.5% will be subject to drug testing. Accounting for the population that will be required to be drug tested and not subject to an initial screening, the likelihood that 5% of those will refuse to be tested, and the requirement for a second test to confirm results in those cases where illegal substances were found, HHSC anticipates providing the following numbers of drug tests per month: 338 in fiscal year 2015, 342 in fiscal year 2016, 347 in fiscal year 2017 and 352 in fiscal year 2018. In addition, HHSC anticipates providing an additional drug test after 6 months for persons denied benefits for failing the drug test, adding an additional 94 to 99 tests per month each year.

With an estimated cost per test of \$35, the total cost for the drug test would be \$181,374 in fiscal year 2015, \$183,869 in fiscal year 2016, \$186,581 in fiscal year 2017, and \$189,466 in fiscal year 2018. The estimated savings in client services for those cases that will be excluded from benefits as a result of positive drug testing is \$129,601 in fiscal year 2015, \$132,944 in fiscal year 2016, \$136,942 in fiscal year 2017 and \$141,467 in fiscal year 2018. There could be additional costs related to HHSC designating a protective payee, but those cannot be estimated at this time.

The bill would require HHSC to refer every positive test to DFPS. Based on the HHSC estimated number of cases who would test positively per year, DFPS would be referred an additional 1,920 cases each year beginning in fiscal year 2015. DFPS estimates that half of the cases would be closed at intake, leaving an additional 960 cases to be investigated per year. Based on DFPS analysis and the HHSC estimated cases referred per year, DFPS would require an additional 11.0 FTEs, including 8.0 investigators and 3.0 support staff beginning in fiscal year 2015. Cost for additional staffing, benefits and \$10,252 for hardware and software for each FTE, would be \$898,720 in fiscal year 2015 and \$891,078 each subsequent fiscal year.

Technology

HHSC anticipates a one-time technology impact for modifications to the Texas Integrated Eligibility Redesign System (TIERS) of \$276,250 in fiscal year 2014.

DFPS estimates a new functionality for the new drug testing reports from HHSC will need to be implemented in the IMPACT system for a total cost of \$151,669 in fiscal year 2014. In addition, DFPS anticipates a cost of \$10,252 each year beginning in fiscal year 2015 for computer hardware and software for the new FTEs.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 302 Office of the Attorney General, 529 Health and Human Services Commission, 530 Family and Protective Services, Department of, 537 State Health Services, Department of

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