LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

April 23, 2013

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

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **SB1375** by Hinojosa (Relating to self-directed and semi-independent status of certain health care regulatory agencies; making an appropriation; authorizing fees.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB1375, As Introduced: a positive impact of $36,914,076 through the biennium ending August 31, 2015.

Appropriations:

Fiscal Year	Appropriation out of *General Revenue Fund* 1
2014	$13,908,946
2015	$13,908,946

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2014	$18,456,038
2015	$18,458,038
2016	$18,801,038
2017	$18,801,038
2018	$28,411,038

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from *General Revenue Fund* 1	Probable Revenue Gain from *General Revenue Fund* 1	Probable Revenue (Loss) from *General Revenue Fund* 1	Probable Revenue Gain/(Loss) from *Public Assurance* 5105
2014	$13,908,946	$29,560,946	($25,013,854)	($3,020,000)
2015	$13,908,946	$29,562,946	($25,013,854)	($3,020,000)
2016	$27,817,892	$15,652,000	($24,668,854)	($3,020,000)
2017	$27,817,892	$15,652,000	($24,668,854)	($3,020,000)
2018	$27,817,892	$15,652,000	($15,058,854)	($3,020,000)

Fiscal Year	Probable Revenue Gain/(Loss) from *Appropriated Receipts* 666	Change in Number of State Employees from FY 2013
2014	($1,235,146)	(350.7)
2015	($1,235,146)	(347.9)
2016	($1,235,146)	(350.7)
2017	($1,235,146)	(350.7)
2018	($1,235,146)	(347.9)

Fiscal Analysis

The bill would amend the Occupations Code relating to the self-directed and semi-independent status of the Medical Board, the Board of Nursing, and the Board of Pharmacy, making an appropriation and allowing the Medical Board, Board of Nursing, and the Pharmacy Board to become self-directed and semi-independent. The bill would require that all fees and funds collected by each agency to be deposited with the Comptroller of Public Accounts (CPA) and that each agency remit a $10,000 nonrefundable retainer each year to the CPA in addition to any excess costs incurred by the CPA in providing financial services to each board. The CPA would be required to separately account for each of the board's funds.

The bill would require the Medical Board to remit $9,500,000 annually, the Board of Nursing to remit $3,750,000 annually, and the Board of Pharmacy to remit $800,000 annually to the General Revenue Fund. Each agency would also be required to remit all administrative penalties to the General Revenue Fund, with the amount of administrative penalties counting toward each agency's annual General Revenue remittance requirements. Fees and funds in the new accounts could be used only for the administration of the business and expenses incurred by each respective agency. No expense incurred by the agencies would be allowed to be charged against the General Revenue Fund. The bill would allow each agency to set the amounts of fees, penalties, charges, and revenues required or permitted by statute or rule as necessary for the purpose of carrying out the functions of each respective board and funding each agency's adopted budget. The bill would require the Medical Board, Board of Nursing, and Board of Pharmacy be appropriated out of the General Revenue Fund in the 2014-15 biennium an amount equal to 50 percent of the amount appropriated to each agency from the General Revenue Fund in fiscal year 2013. Each agency would be required to repay these funds to the General Revenue Fund no later than the date the funds become available.

The bill would require the Medical Board to annually remit, as nonrefundable retainers for deposit to the General Revenue Fund, not less than $25,000 to the State Auditor's Office (SAO), $200,000 to the State Office of Administrative Hearings (SOAH), and $50,000 to the Office of the Attorney General (OAG). Similarly, the bill would require the Board of Nursing and the Board of Pharmacy to annually remit, as nonrefundable retainers for deposit to the General Revenue Fund, not less than $10,000 each to the SAO, $25,000 and $17,000 to SOAH, and $10,000 each to the OAG, respectively. The bill would require the Medical Board, Board of Nursing, and the Board of Pharmacy to reimburse each respective agency for any costs incurred in excess of the nonrefundable retainer amounts.

The bill would also require the agencies to annually remit a nonrefundable retainer for deposit to the General Fund to the Health Professions Council (HPC) of not less than $28,000 for the Medical Board; $28,000 for the Board of Nursing; and $29,000 for the Pharmacy Board. In addition, the Board of Pharmacy would be required to annually remit an additional nonrefundable assessment of not less than $262,000, except for fiscal year 2015 which would require an assessment of $264,000, to the HPC for the agency's continued use of the HPC's shared regulatory database system. In addition, the Medical Board, Board of Nursing and the Pharmacy Board would also be required to pay aggregate rental payments of not less than $430,000, $278,000 and $162,000, respectively, each fiscal year for any period during which the boards occupy state-owned office space.

The bill would require the Medical Board, Board of Nursing, and Board of Pharmacy to submit annual reports and a report before each regular session to the Governor, the committee of each house of the legislature that has jurisdiction over appropriations, and the Legislative Budget Board describing all of each respective agency's activities, including an audit report from the SAO, as outlined in the provisions of the bill.

The bill would repeal Sections 153.051(b) and (d), 153.052, 153.0535(b), and 554.007(a) of the Occupations Code.

The bill would take effect September 1, 2013.

Methodology

This analysis assumes an annual savings in General Revenue of approximately $27.8 million ($11.8 million for the Medical Board; $9.6 million for the Board of Nursing; and $6.4 million for the Board of Pharmacy) based on the General Revenue appropriations to each agency in the General Appropriations Act in fiscal year 2013. The bill would also appropriate an amount equal to 50 percent of the amount from the General Revenue Fund appropriated to each agency in fiscal year 2013 in fiscal years 2014 and 2015 ($5.9 million for the Medical Board; $4.8 million for the Board of Nursing; and $3.2 million for the Board of Pharmacy), partially offsetting the General Revenue savings in fiscal years 2014 and 2015. This analysis also reflects a reduction in full-time equivalents (FTEs) each fiscal year equal to the amount authorized in fiscal year 2013 for each agency (165.0 for the Medical Board; 107.7 for the Board of Nursing; and 78.0 for the Board of Pharmacy).

This analysis assumes each agency would annually remit the following amounts, as outlined in the provisions of the bill: $10.2 million for the Medical Board; $4.1 million for the Board of Nursing; and $1.3 million for the Board of Pharmacy. Any additional costs to the state incurred by these agencies would be repaid through interagency contract to the appropriate state agency. This analysis also assumes that revenue equivalent to the amount appropriated to each agency would be repaid entirely by the end of each fiscal year in which the appropriation was made in accordance with the provisions of the bill in each year of the 2014-15 biennium.

Based on information provided by the SAO, the agency would require 2.8 FTEs in fiscal years 2015 and 2018 to complete audits of all three agencies as required by the provisions of the bill. This analysis assumes the costs to the SAO will be covered through an interagency contract with the Medical Board, Board of Nursing, and Board of Pharmacy.

Based on information provided by the Comptroller of Public Accounts (CPA), it is assumed that an estimated loss to the General Revenue Fund in the amount of $25.0 million in fiscal years 2014 and 2015, $24.7 million in fiscal years 2016 and 2017, and $15.1 million in fiscal year 2018 due to the implementation of the provisions of the bill as well as an annual reduction of $1.2 million in Appropriated Receipts each fiscal year. Because the provisions of the bill would repeal the surcharge for physician registration, it is assumed there would be a revenue loss of approximately $3.0 million each fiscal year from the General Revenue-Dedicated Public Assurance Account No. 5105; the bill does not address the balance of the General Revenue-Dedicated account, therefore this analysis assumes the balance would remain in the account.

The bill would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. Legislative policy, implemented as Government Code 403.094, consolidated special funds (except those affected by constitutional, federal, or other restrictions) into the General Revenue Fund as of August 31, 1993 and eliminated all applicable statutory revenue dedications as of August 31, 1995. Each subsequent Legislature has reviewed bills that affect fund consolidation. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 302 Office of the Attorney General, 303 Facilities Commission, 304 Comptroller of Public Accounts, 308 State Auditor's Office, 327 Employees Retirement System, 360 State Office of Administrative Hearings, 364 Health Professions Council, 503 Texas Medical Board, 507 Texas Board of Nursing, 515 Board of Pharmacy

LBB Staff: UP, CL, MW, ED, SD