

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION**

**April 8, 2015**

**TO:** Honorable John Frullo, Chair, House Committee on Insurance

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB616** by Bonnen, Greg (Relating to payment of and disclosures related to certain out-of-network provider charges; authorizing a fee; providing a penalty.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB616, As Introduced: a negative impact of (\$78,121,223) through the biennium ending August 31, 2017.

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
2016	\$0
2017	(\$78,121,223)
2018	(\$83,980,434)
2019	(\$89,859,182)
2020	(\$95,700,038)

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Probable Savings/(Cost) from <i>GR Dedicated Accounts</i> 994	Probable Savings/(Cost) from <i>Federal Funds</i> 555	Probable Savings/(Cost) from <i>State Highway Fund</i> 6
2016	\$0	\$0	\$0	\$0
2017	(\$78,121,223)	(\$2,703,693)	(\$13,735,057)	(\$11,703,553)
2018	(\$83,980,434)	(\$2,906,474)	(\$14,765,207)	(\$12,581,337)
2019	(\$89,859,182)	(\$3,109,931)	(\$15,798,792)	(\$13,462,049)
2020	(\$95,700,038)	(\$3,312,077)	(\$16,825,716)	(\$14,337,083)

<b>Fiscal Year</b>	<b>Probable Savings/(Cost) from Other Special State Funds 998</b>	<b>Probable Savings/(Cost) from Retired School Employees Group Insurance 989</b>
2016	\$0	\$0
2017	(\$291,282)	(\$230,000,000)
2018	(\$313,128)	(\$230,000,000)
2019	(\$335,048)	(\$230,000,000)
2020	(\$356,826)	(\$230,000,000)

**Fiscal Analysis**

The bill would amend the Insurance Code to add Subchapter C-2 to Chapter 1301, to require an insurer to use a charge-based methodology for reimbursement for covered services performed by an out-of-network provider. The reimbursement would be based on the out-of-network provider's billed charge and the usual and customary (UC) charge for the service, as determined by a database provider certified with the Department of Insurance.

If the database provider is unable to provide the UC charge for a service, reimbursement would be based on the lesser of 80% of billed charges or an amount equal to the 90th percentile of the charges for the service reported for physicians or health care providers in the same area.

The bill would take effect September 1, 2015 and would apply only to charges for services provided to an insured under a health insurance policy that is delivered, issued for delivery, or renewed on or after January 1, 2016.

**Methodology**

The Teacher Retirement System (TRS) indicates the bill would impact the two healthcare programs it manages, TRS-Care and TRS-ActiveCare. According to TRS, the bill could remove incentives for providers to remain as in-network providers if higher payments would be received as out-of-network providers. As a result, TRS estimates an annual cost increase of \$230 million to TRS-Care, which covers retired public school employees. These amounts are reflected in the table above as a cost to Retired School Employees Group Insurance.

State law establishes contributions to TRS-Care based on active employee payroll as follows: 1.0 percent state contribution; 0.65 percent active employee contribution; and 0.55 percent school district contribution. TRS-Care costs may be funded by increases in the contribution rates, additional appropriations, or may be absorbed by the plan through member premium increases or plan design changes determined by the TRS Board of Trustees. Costs to the TRS-ActiveCare program are discussed below under Local Government Impact.

The Employees Retirement System (ERS) indicates that the bill would increase out-of-network reimbursement costs, which is reflected in the tables above. In FY 2014, out-of-network providers billed \$506 million for eligible claims, and were reimbursed at approximately 46 percent of the eligible billed amount. The ERS insurance actuaries estimate that under the bill, out-of-network claims would be reimbursed for at least 80 percent of the billed amount. This would result in an increase in provider reimbursements of approximately \$172 million in FY 2014, of which the HealthSelect plan pays 60 percent, or \$103.3 million. The estimated increases are further increased by the benefit cost trend assumption of 8.5% per year for FY 2015 through FY 2017, 7.5% percent in FY 2018, 7.0 percent in FY 2019, and 6.5% in FY 2020.

The ERS costs are based on the allocation of GBP appropriations to ERS in the 2014-15 General Appropriations Act. Other funding decisions at state agencies could impact how this cost would be allocated, since funding for the GBP is proportional to how salaries are paid at state agencies.

The University of Texas (UT) System Administration estimates there would be an increase in the annual cost to the system's health plan associated with implementing the provisions of the bill. According to UT System, the charge-based methodology included in the provisions of the bill would increase the reimbursement rate for services performed by out-of-network providers, which would result in a significant increase in plan costs. Based on information provided by UT System, it is estimated the annual cost to the health plan would increase by \$51.7 million in fiscal year 2017, increasing to \$65.1 million in fiscal year 2020. Of these amounts, a portion would be paid from General Revenue and a portion would be paid from university funds. UT System costs are not reflected in the tables above.

The Texas Department of Insurance (TDI) indicates that the agency currently does not perform the database certification process required by the bill. According to TDI, the function would be better suited for an outside party to perform. This analysis assumes that TDI would contract with a third party to develop and perform the new certification process. TDI estimates a cost of approximately \$40,000 per entity certified and anticipates that six entities would apply for certification each year resulting in a cost of approximately \$240,000 per year. While the bill allows TDI to charge a fee for the certification process, any revenues collected would be deposited to the credit of General Revenue. This analysis further assumes that TDI costs associated with implementing the provisions of the bill could be accomplished utilizing existing staff and resources.

The Texas A&M University (TAMU) System Administration indicates there would be an increase in the annual cost to the system's health plan associated with implementing the provisions of the bill. However, TAMU System estimates the annual cost would not be significant.

### **Local Government Impact**

According to the Teacher Retirement System, the provisions of the bill could result in a cost of \$170 million annually for the TRS-ActiveCare program, a health benefit plan available to employees of public school districts and charter schools. Increased program costs would be passed along through plan design changes or increased premiums paid by school districts or participating employees. The level of increase may vary by the employee's plan choice within TRS-ActiveCare.

**Source Agencies:** 323 Teacher Retirement System, 327 Employees Retirement System, 454 Department of Insurance, 710 Texas A&M University System Administrative and General Offices, 720 The University of Texas System Administration

**LBB Staff:** UP, AG, EP, EMO, PFE, ED, ER, AM