LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 16, 2015

TO: Honorable Richard Peña Raymond, Chair, House Committee on Human Services

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **SB204** by Hinojosa (Relating to the continuation of the functions of the Department of Aging and Disability Services; increasing penalties.), **Committee Report 2nd House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for SB204, Committee Report 2nd House, Substituted: a negative impact of ($20,213,822) through the biennium ending August 31, 2017.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2016	($11,897,015)
2017	($8,316,807)
2018	$25,121,048
2019	$7,209,888
2020	$7,209,888

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from *General Revenue Fund* 1	Probable Revenue Gain from *General Revenue Fund* 1	Probable Savings/(Cost) from *Federal Funds* 555	Probable Savings/(Cost) from *Quality Assurance* 5080
2016	($11,897,015)	$0	($4,005,414)	($83,984)
2017	($8,316,807)	$0	$2,907,157	($835,839)
2018	$7,555,178	$17,565,870	$24,606,825	($1,919,631)
2019	$7,209,888	$0	$24,952,115	($1,919,631)
2020	$7,209,888	$0	$24,952,115	($1,919,631)

Fiscal Year	Change in Number of State Employees from FY 2015
2016	(162.3)
2017	(762.0)
2018	(1,089.1)
2019	(1,089.1)
2020	(1,089.1)

Fiscal Analysis

The bill would partially implement the Sunset Advisory Commission recommendations concerning the Department of Aging and Disability Services (DADS).

The bill would create progressive sanctions matrices for serious or repeated violations committed by certain providers, to be implemented by September 1, 2016. The bill would provide that non-minor violations are not subject to a right to correct. The bill would require DADS to revoke the license of certain facilities if the license holder commits certain violations, and would require quality monitoring visits for certain facilities identified as medium risk. The bill would remove the requirement that the Health and Human Services Commission (HHSC) administer the informal dispute resultion process for assisted living facilities, and would require HHSC to contract with a nonprofit organization to adjudicate disputes between an institution and DADS as part of the process.

The bill would require DADS to develop a crisis intervention team system for areas where local intellectual and developmental disability (IDD) authorities are not able or do not operate crisis intervention teams. The bill would create the State Supported Living Center (SSLC) Restructuring Commission, and would provide criteria the Commission shall consider in evaluating SSLCs for closure. The bill would require a closure plan for the Austin SSLC that requires closure by August 31, 2017. The bill would require the Department of Family and Protective Services (DFPS) to track and report to DADS data on abuse findings in day habilitation facilities serving DADS clients. The bill would require rating, regulatory performance, quality of care and loss of Medicaid certification to be posted on the agency's website.

The bill would abolish and transfer, in two phases, the functions of DADS to HHSC by September 1, 2017, in the event that other legislation continuing DADS functions does not pass. Most provisions of the bill are effective September 1, 2015.

Methodology

HHSC estimates that Information Technology (IT) changes will be necessary to the Home and Community Support Services Agency (HCSSA) regulatory portal to be able to track progressive sanctions for HCSSAs. The estimated cost is $81,500 in General Revenue and $163,000 All Funds for the Fiscal Year (FY) 2016-2017 biennium. Additionally, the General Land Office (GLO) operates eight long term care facilities for Texas Veterans. GLO indicates that if it has to close any of its long term care facilities for Texas Veterans, the federal government would have to be repaid 65 percent of total costs of the affected facility or facilities. Further, there would be costs to the state associated with the relocation of displaced veterans, potentially losing their federal VA Per Diem support which could increase reliance upon Medicaid funds, further increasing state costs. Lastly, if a home were to discontinue operations, changes in life safety code requirements could prevent the home from being sold as a nursing home, thereby reducing the value of the state real property. All of these additional costs are indeterminable at this time.

HHSC estimates that 5 Full-Time Equivalents (FTEs) (3 Program Specialist IIIs and 2 Nurse IIIs) would be needed to address the increased workload as a result of additional enforcement actions related to the right to correct. The cost estimate for the five additional FTEs includes salary and other employee related costs. The estimated cost for the biennium is $724,066 in General Revenue and $890,825 in All Funds for the FY 2016-2017 biennium.

HHSC estimates there would be a net cost of $69,847 in General Revenue and $279,389 in All Funds per fiscal year to implement the changes to the informal dispute resolution (IDR) process. HHSC assumes a savings of $725,677 All Funds per fiscal year, and 10 FTEs, for contracting the IDR process. HHSC estimates it will require three FTEs to monitor the vendor contract, enter reporting data into federal databases, and to perform non-nursing home duties, at an All Funds cost of $1,005,066 per fiscal year.

There would be a reduction in full-time equivalents (FTEs) as a result of HHSC contracting with a nonprofit organization to adjudicate disputes between an institution and DADS concerning certain violations. The resulting savings would partially offset any costs to implement the provisions, and based on the LBB's analysis of DADS and HHSC, costs associated with implementation would be minimal and could be absorbed within available resources. This analysis assumes there will not be a significant increase in the number of facilities entering into informal dispute resolution as a result of the implementation.

HHSC estimates costs associated with the crisis intervention teams would be $17,145,218 in General Revenue and All Funds for the 2016-2017 biennium. Local IDD Authority (LIDDA) team costs are estimated based on modeled team costs. HHSC estimates needing 1 Program Specialist VI, 2 Program Specialists IVs and a .25 Program Specialist VI. Contracts with LIDDAs to provide the crisis team services are estimated at $5,500,000 million in FY 2016 in general revenue, and $11,000,000 million in general revenue in subsequent fiscal years.

HHSC estimates the cost for the Quality Review System modifications and improvements, which include an additional FTE and IT changes, to be $227,828 in General Revenue and $471,302 in All funds over the 2016-2017 biennium.

HHSC estimates the cost for the IT upgrades and FTEs to implement the tracking and reporting related to day habilitation providers would be $494,378 in General Revenue and $921,176 in All Funds for FY 2016 and $358,603 in General Revenue and $650,161 in All Funds in FY 2017. Additional costs at DFPS to implement this provision are anticipated to not be significant.

Estimates of the closure of the Austin SSLC and DADS' role in the Restructuring Commission were developed by LBB staff. It is estimated that closing the Austin SSLC would result in a net cost of $5,122,032 in All Funds, including $1,915,460 in General Revenue, in FY 2016, a net savings of $6,765,410 in All Funds, including $3,947,745 in General Revenue, in FY 2017, for a total net positive impact of $1,643,378 in All Funds for the 2016-17 biennium.

The analysis uses total cost associated with the Austin SSLC, which was gathered from the FY 2014 Rider 36 report for the Austin SSLC, as a baseline. This total is inclusive of all Medicaid allowable costs including direct and indirect care costs, comprehensive medical costs, administrative costs, the Quality Assurance Fee, and Other costs (i.e., transportation, facility, and operation costs). The analysis assumes all categories of costs are variable and decrease with a decrease in the residential population, with the exception of central office administration costs. These costs shift to other state programs and include Statewide Cost Allocation Plan, HHSC enterprise costs, and DADS allocated costs, among other items. A starting census of 190 is assumed, given reductions expected through FY 2015.

Savings are based on SSLC residents transferring to other service settings. Based on the recent census reduction at Austin SSLC, it is estimated that 50 percent of residents would choose an HCS residential program and 50 percent would choose to transfer to another SSLC. Estimates are based on the average monthly cost of the Austin SSLC of $16,782.90 from the FY 2014 Rider 36 report and the FY 2014 average monthly cost of HCS residential of $5,161.59. The estimate assumes the transfer of residents takes place over four six-month windows. DADS estimates that 15 percent of residents would leave the Austin SSLC in the first window, 25 percent in the second, 30 percent in the third, and 30 percent in the final window.

The following FMAP rates are assumed where average monthly costs are estimated: for Sept 2015, 58.05 percent; from Oct 2015 to Sept 2016, 57.13 percent; and from Oct 2016 to Aug 2020, 56.99 percent. In all other cases, the following state fiscal year FMAP averages were used: 57.21 percent in FY 2016; 57 percent in FY 2017; and 56.99 percent in FY 2018 and thereafter. The analysis also assumes that for the first calendar year (12 months) that an SSLC resident is moved into a community setting there is a 50 percent reduction to the state share under FMAP, as per the Money Follows the Person Demonstration.

Closure of the Austin SSLC results in a loss of GR-D and Federal Funds related to the Quality Assurance Fee (QAF) applied to SSLCs. Revenue loss is based on the number of persons transferring to HCS residential; revenue is expected to continue being generated for persons transferring to another SSLC.

For the purposes of this fiscal note, it is assumed that the property would be sold in FY 2018. Based on a General Land Office appraisal of the property in 2012, current value is estimated to be $30,184,870. Bonded indebtedness of the property in 2014 was $12,619,000, resulting in a net revenue gain of $17,565,870. Subsequent changes in valuation and remaining indebtedness would result in a different estimate of revenue gain.

According to DADS, the agency would implement a staff retention plan that would provide either a guarantee of a position at another SSLC, with up to $2,500 in moving expenses paid, or if they stay at the SSLC until they are no longer needed, they will be given two months of severance pay and an additional week for each year of state service. DADS assumes all staff who are essential to the operations of the facility and delivery of services would be eligible, not including contract staff. DADS assumes that employees with longer state service will be more likely to take the retention bonus, and that the cost of the retention plan would be $1,446,767 in All Funds in FY 2016 and $1,597,215 in All Funds in FY 2017. In addition, DADS assumes an overtime liability of $500,000 in All Funds for the 2016-17 biennium. DADS anticipates that the percentage of medical/clinical positions at the Austin SSLC that are contracted will increase to 75 percent, as current employees leave employment during the two-year closure period, resulting in a cost of $527,070 in All Funds in FY 2016 and $1,820,485 in All Funds in FY 2017. FTEs at the Austin SSLC are therefore estimated to decline proportional to census decline, with a six-month lag. As a result, FTEs decline by 15 percent in fiscal year 2016, another 55 percent in fiscal year 2017, and the final 30 percent in fiscal year 2018. All costs described in this paragraph are also included in the net estimate of Austin SSLC closure above.

To fulfill the closure evaluation process as required by the bill, DADS assumes it would expand the current Austin SSLC census management contract for the tracking and reporting of quality of care indicators for residents leaving the Austin SSLC to include all remaining residents. DADS estimates this would cost $1.5 million in All Funds for the FY 2016-17 biennium. DADS would create an SSLC restructuring unit, requiring four new FTEs - one restructuring manager, two restructuring coordinators, and one administrative assistant - to assist with the Austin SSLC closure and subsequent SSLC restructuring activities, at an annual cost of $267,139 in All Funds. Further, it is anticipated that costs associated with evaluating the criteria to be considered by the Restructuring Commission would total $3,075,000 in fiscal year 2016, according to estimates provided by the Texas Facilities Commission.

Based on the analysis provided by HHSC, the cost or savings of consolidation of DADS functions into HHSC in fiscal years cannot be determined; there are both costs and savings that would be incurred, and therefore some elements will net out. HHSC anticipates costs and savings throughout the implementation and operational (maintenance) years.

Technology

Technology costs are estimated by HHSC to total $460,703 in general revenue and $460,703 in federal funds in fiscal 2016 and $326,000 in general revenue and $326,000 in federal funds in fiscal 2017, for upgrades due to the progressive sanctions, quality of care and day habilitation provisions of the bill.

Local Government Impact

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

Source Agencies: 116 Sunset Advisory Commission, 529 Health and Human Services Commission, 539 Aging and Disability Services, Department of, 303 Facilities Commission, 305 General Land Office and Veterans' Land Board, 530 Family and Protective Services, Department of

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