

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

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

**May 13, 2015**

**TO:** Honorable Myra Crownover, Chair, House Committee on Public Health

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

**IN RE:** **SB424** by Schwertner (Relating to the licensing and regulation of hospitals in this state; increasing the amount of administrative penalties assessed or imposed against certain hospitals; authorizing the imposition of a fee.), **Committee Report 2nd House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for SB424, Committee Report 2nd House, Substituted: an impact of \$0 through the biennium ending August 31, 2017.

Costs associated with the bill would be charged to the balances of the General Revenue-Dedicated Hospital Licensing Account 129, negatively impacting General Revenue Related Funds. A General Revenue Related certification gain would occur with the transfer of funds into the new General Revenue Dedicated Hospital Perpetual Care Account. Future costs could be charged to the new General Revenue Dedicated account, which could negatively impact General Revenue Related Funds.

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:**

| <b>Fiscal Year</b> | <b>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</b> |
|--------------------|---|
| 2016               | \$0   |
| 2017               | \$0   |
| 2018               | \$0   |
| 2019               | \$0   |
| 2020               | \$0   |

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

| <b>Fiscal Year</b> | <b>Probable Savings/(Cost) from Hospital Licensing Acct 129</b> | <b>Probable Savings/(Cost) from Healthy TX Sm Emp Prem Stabil. Fund 329</b> | <b>Probable Savings/(Cost) from New GR-Dedicated Hospital Perpetual Care Account</b> | <b>Change in Number of State Employees from FY 2015</b> |
|--------------------|---|---|--|---|
| 2016               | (\$622,379)   | (\$5,000,000)   | \$5,000,000  | 5.1   |
| 2017               | (\$698,896)   | \$0   | \$0  | 5.1   |
| 2018               | (\$698,896)   | \$0   | \$0  | 5.1   |
| 2019               | (\$698,896)   | \$0   | \$0  | 5.1   |
| 2020               | (\$698,896)   | \$0   | \$0  | 5.1   |

**Fiscal Analysis**

The bill would amend Chapter 241 of the Health and Safety Code as it relates to hospital licensing and regulation. The bill would require certain changes to license applications. It would require the Department of State Health Services (DSHS) to inspect each licensed non-deemed and licensed only hospital once every three years and 10 percent of all remaining licensed hospitals annually. The bill would authorize DSHS to bring action on behalf of the state if certain conditions exist. The bill would create a dedicated account in the General Revenue Fund, the Hospital Perpetual Care Account. Initially funds would be transferred to the account from Healthy Texas Small Employer Premium Stabilization Fund 329. DSHS would be authorized to collect fees from hospitals in order to maintain a balance in the account.

**Methodology**

DSHS has the authority to increase licensing fees to offset costs associated with implementing this bill. However, this analysis assumes no change to current licensing fees.

DSHS indicates that for the 660 licensed general and special hospitals in the state, implementing provisions of bill requiring inspections of each licensed non-deemed and licensed-only hospital once every three years and inspections of 10 percent per year of all remaining licensed hospitals would total \$622,379 in General-revenue Related Funds and All Funds for fiscal year 2016 and \$698,896 in General-revenue Related Funds and All Funds for every year thereafter. Implementation of the bill would require 5.1 full-time-equivalent positions (FTEs). The salary costs associated with FTEs would be phased in for the first year. Salary costs would be \$268,897 for fiscal year 2016 and \$358,466 for every year thereafter. Benefit costs would be \$91,102 for fiscal year 2016 and \$121,449 for every year thereafter. Other operating expenses would be \$262,380 for fiscal year 2016 and \$218,981 for every year thereafter. The agency indicates that provisions related to license applications could be implemented with existing resources.

The bill would create a dedicated account in the General Revenue Fund, the Hospital Perpetual Care Account, to be used in the event DSHS takes certain actions against a hospital. On January 1, 2016, \$5 million would be transferred into the account from GR-Dedicated Healthy Texas Small Employer Premium Stabilization Fund 329. DSHS would be authorized to collect fees from hospitals in order to maintain a \$5 million balance in the account. The amount that the account would be utilized and the amount of revenue that would be deposited into the account cannot be estimated.

The bill would require additional duties and responsibility from the State Office of Administrative Hearings (SOAH). Additional costs resulting from implementing the bill would be reflected at the Health and Human Services Commission (HHSC) because of an inter-agency contract between

SOAH and HHSC. It is assumed the costs could be reasonably absorbed by HHSC using existing resources. The Office of the Attorney General (OAG) estimates there would be costs associated with implementing provisions of the bill authorizing DSHS to request OAG to bring action on behalf of the state. It is assumed that the additional costs to the OAG could be absorbed within existing resources.

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. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

### **Technology**

OAG indicates there would be technology costs associated with implementing provisions of the bill. It is assumed the cost to OAG could be absorbed.

### **Local Government Impact**

There may be costs of an indeterminate amount to public hospitals for an emergency suspension of license, an increased penalty or increased fees. There may be costs for hospital staffing due to inspections, surveys, and investigations. According to Texas Organization of Rural and Community Hospitals, 136 hospitals would be subject to the lower tier fine. According to the Texas Hospital Association, 20 percent of the 660 hospitals in Texas are publicly owned.

The Texas Association of Counties anticipates that there would be some fiscal impact to counties that could not be determined at this time.

**Source Agencies:** 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 360 State Office of Administrative Hearings, 454 Department of Insurance, 529 Health and Human Services Commission, 537 State Health Services, Department of

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