LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 1, 2017

TO: Honorable John Zerwas, Chair, House Committee on Appropriations

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB18** by Capriglione (relating to oversight of and requirements applicable to state contracts and other state financial and accounting issues, including the delivery of certain Medicaid medical transportation program services; providing a civil penalty.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB18, Committee Report 1st House, Substituted: a negative impact of ($1,000,000) through the biennium ending August 31, 2019. Provisions in the bill relating to contract oversight, including in the medical transportation program, could result in a positive fiscal impact, depending on action by affected agencies.

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
2018	($1,000,000)
2019	$0
2020	$0
2021	$0
2022	$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from *General Revenue Fund* 1
2018	($1,000,000)
2019	$0
2020	$0
2021	$0
2022	$0

Fiscal Analysis

The bill would amend the Government Code to specify that the State Auditor's Office (SAO) shall consider the performance of certain health and human service program audits when devising the state audit plan.

The bill would require the Legislative Budget Board, (LBB) to annually report how much of each agency's budget is spent in contracts for a fiscal year.

The bill would specify contract planning, solicitation, evaluation, monitoring, modification, and closeout documentation that should be included in existing records retention requirements.

The bill would require the Health and Human Services Commission (HHSC) Inspector General to appoint contract oversight personnel to review high-risk contracts. Those personnel would be authorized to work with other state oversight entities, and would be required to post a quarterly report on HHSC's website.

The bill would require periodic audit reports filed by state agencies to include actions to address every problem identified in audits covering that time period.

The bill would require that vendors return overpayments made by the state within 90 calendar days or be subject to a civil penalty of three times the amount of the overage. The bill would authorize the Attorney General to institute an action in district court to recover this civil penalty.

The bill would require public approval by the Comptroller of Public Accounts (CPA) for a state agency to consider factors other than price when establishing best value standards for contracts with a value that exceed $100 million.

The bill would require, rather than authorize, the CPA to bar a vendor from participating in state contracts if more than two contracts between the vendor and the state have been terminated for cause based on unsatisfactory vendor performance during the preceding three years.

The bill would require state agencies to evaluate the feasibility of an in-house solutions prior to soliciting bids for service contracts valued between $1 million and $5 million.

The bill would prohibit payment on invoices that do not directly correlate to a corresponding contract, that all payments obtain the approval and signature of two state employees, and would authorize the state to revoke a payment that was made without the two required signatures at any time.

The bill would require an attorney representing the agency to assist in the drafting of agency contracts, and that contracts include a specific list of provisions.

The bill would prohibit a state agency from issuing payment to a vendor without documentation that clearly demonstrates the agency's obligation to make a payment.

The bill would prohibit retaliation against a public employee who in good faith reports contracting violations to the CPA, and would authorize the CPA to verify savings and distribute 30 percent of such savings to the state employee or member of the public who makes such reports.

The bill would require the CPA to consult with vendors and other interested parties, in addition to state agencies, in developing rules, guides, and manuals, relating to state contracting standards and oversight.

The bill would require that at a minimum each contract that has a value of at least $1 million to have a contract manager assigned to manage the oversight of the contract.

The bill would require state agencies to contract with an outside team to consult on improving information resource practices for contracts valued at $100 million or more. State agencies would be required to comply with a recommendation made by the team, or submit a written explanation regarding why the recommendation is not applicable to the contract under review.

The bill would require HHSC, as part of quality review of the Medicaid medical transportation program, to hire a single independent survey vendor directly contracted with HHSC to determine customer satisfaction and rates of unmet transportation need among Medicaid members. Surveys are currently conducted by multiple transportation brokers who subcontract for survey administration.

The bill would amend the Texas Government Code to require HHSC to use the most cost-effective model of delivering medical transportation services to Medicaid members. Under current statute, HHSC must use a broker model. HHSC would be required to determine which model is potentially the most cost-effective based on price and the quality of services. Additionally, HHSC would only be allowed to award contracts to third party vendors for the administration of the program if it was able to receive qualified bids from vendors at or below a cost threshold established based on the historical cost-effectiveness of fee-for-service.

The bill would only apply to contracts, and payments for such contracts, that were advertised or solicited on or after the effective date of September 1, 2017.

Methodology

The CPA estimates that the bill would require outside resources to revise the contract management guide, resulting in a one-time General Revenue cost of $1.0 million in fiscal year 2018.

This estimate assumes that the cost for HHSC to hire a single independent vendor for surveys relating to medical transportation would not be significant and could be absorbed by reducing capitation rates to brokers associated with the discontinuation of the multiple surveys currently conducted by brokers and/or eliminating these costs in an alternative model.

The bill would amend statute to require HHSC to use the most cost-effective model of delivering transportation services to Medicaid members. It is assumed that establishing flexibility to use the most cost-effective model of delivering services based on the results of an evaluation using historical data would result in a positive fiscal impact, but because it is unknown to what extent program structure, costs, and rates would change, and in which region of the state, the amount is unknown. Current contracts are set to expire at the end of fiscal year 2018. Any cost avoidance that would result from more cost effective program delivery would start in fiscal year 2019.

State agencies and institutions of higher education other than the CPA and HHSC estimated costs associated with hiring FTEs to implement the records retention, contract drafting, contract approval, and payment processing requirements of the bill. This estimate assumes that the costs associated with the bill's contracting requirements could be absorbed within existing resources for these agencies.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: UP, KK, JPU, JMO