

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 16, 2017

TO: Honorable Charles Schwertner, Chair, Senate Committee on Health & Human Services

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB2561** by Thompson, Senfronia (Relating to the continuation and functions of the Texas State Board of Pharmacy; authorizing a reduction in fees.), **Committee Report 2nd House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2561, Committee Report 2nd House, Substituted: an impact of \$0 through the biennium ending August 31, 2019.

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	\$0
2019	\$0
2020	\$0
2021	\$0
2022	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Probable Revenue Gain/(Loss) from <i>General Revenue Fund</i> 1	Change in Number of State Employees from FY 2017
2018	(\$224,793)	\$224,793	1.0
2019	(\$170,698)	\$170,698	1.0
2020	(\$170,698)	\$170,698	1.0
2021	(\$170,698)	\$170,698	1.0
2022	(\$170,698)	\$170,698	1.0

Fiscal Analysis

The bill would amend the Health and Safety Code relating to the continuation and functions of the Texas State Board of Pharmacy (TSBP); authorizing a reduction in fees. The bill would continue TSBP for twelve years until September 1, 2029.

The bill would require the TSBP, in consultation with the Optometry Board, Texas Medical Board, Texas State Board of Podiatric Medical Examiners, State Board of Dental Examiners, State Board of Veterinary Medical Examiners, and the Texas Board of Nursing, to determine conduct that constitutes abusive prescribing patterns or practices by applicable licensees. Under the provisions of the bill, TSBP would be permitted to send electronic notification to a dispenser or a prescriber if the information submitted to the Prescription Monitoring Program (PMP) indicates harmful prescribing patterns. The bill would require a wholesale distributor to report the same information that is reported to the Automation of Reports and Consolidated Orders System of the Federal Drug Enforcement Administration to TSBP.

The bill would require TSBP to develop a policy to encourage the use of certain negotiated rulemaking and appropriate alternative dispute resolution procedures. Under the provisions of the bill, TSBP would be required to coordinate the implementation of the policy, provide training for implementation of the policy, and collect data on the effectiveness of the procedures.

The bill would permit an applicant or a licensee to assert as an affirmative defense in an administrative hearing or as a claim of defense in a judicial proceeding that a rule, regulation, policy or a penalty imposed by TSBP limits an applicant's exercise of religion or membership in a religious organization. The bill would provide exemptions to certain rules, regulations, policies, or penalties imposed by TSBP. Under the provisions of the bill, a licensee or applicant could bring an action for injunctive relief against a violation.

The bill would modify the renewal fee of a pharmacy technician based on the amount of time from the expiration of the licensee's former license. The bill would require TSBP to adopt rules relating to the continuing education requirements for pharmacy technicians.

The bill would take effect on September 1, 2017.

Methodology

This analysis assumes that TSBP would input and track wholesale pharmaceutical distributor reporting in a database. The provisions of the bill would result in a cost of \$224,793 in General Revenue in fiscal year 2018 and a cost of \$170,698 in General Revenue in fiscal year 2019 and following fiscal years. Based on the analysis of the TSBP, it is assumed the TSBP would require one additional full-time-equivalent (FTE) to implement provisions of the bill relating to reporting requirements of wholesale pharmaceutical distribution information. This would have an estimated cost to General Revenue of \$74,797 in fiscal year 2018 and \$70,702 each year thereafter. TSBP estimates one-time start up costs of \$4,095 for the additional FTE and annual costs of \$50,111 in salaries and wages for a Program Specialist III, \$18,351 in employee benefits and other payroll contribution costs, and \$2,240 for other operating expenses.

TSBP also estimates a one-time cost of \$50,000 in General Revenue in fiscal year 2018 for a database to track the additional required information from wholesale pharmaceutical distributors. In addition to the one-time costs in fiscal year 2018, TSBP estimates an ongoing operating cost of \$99,996 for the database in each fiscal year due to ongoing hosting and data support for the

wholesale pharmaceutical distribution information.

This analysis assumes that any increased cost to the TSBP, which is statutorily required to generate sufficient revenue to cover its costs of operation, would be offset by a corresponding increase in fee generated revenue by the agency.

The Comptroller of Public Accounts estimates the modification to the renewal fee of a pharmacy technician based on time elapsed since the expiration of the licensee's former license would result in a decrease of approximately \$36,000 in revenue to the General Revenue Fund per fiscal year.

The Department of Public Safety, Office of the Attorney General, State Office of Administrative Hearings, Office of Court Administration, Texas State Board of Dental Examiners, Optometry Board, Board of Veterinary Medical Examiners, Texas Medical Board, Texas Board of Nursing, and Texas Board of Podiatric Medical Examiners anticipate any additional work resulting from the passage of the bill could be reasonably absorbed within current resources.

Technology

The costs identified above include estimated one-time information technology costs of \$50,000 in fiscal year 2018 and ongoing costs of \$99,996 for database development to accompany the wholesale distributor reporting requirements and \$1,154 for one-time equipment for the additional FTE at TSBP.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 116 Sunset Advisory Commission, 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts, 360 State Office of Administrative Hearings, 515 Board of Pharmacy, 302 Office of the Attorney General, 405 Department of Public Safety, 503 Texas Medical Board, 504 Texas State Board of Dental Examiners, 507 Texas Board of Nursing, 512 Board of Podiatric Medical Examiners, 514 Optometry Board, 578 Board of Veterinary Medical Examiners

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