

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

**FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION**

**May 8, 2017**

**TO:** Honorable Four Price, Chair, House Committee on Public Health

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

**IN RE: HB3012** by Flynn (Relating to the continuation and functions of the Texas Optometry Board; authorizing a reduction in fees.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB3012, As Introduced: 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 General Revenue Fund<br>1 | Probable Revenue Gain/(Loss) from General Revenue Fund<br>1 | Probable Savings/(Cost) from Appropriated Receipts<br>666 | Probable Revenue Gain/(Loss) from Appropriated Receipts<br>666 |
|-------------|--|---|---|--|
| 2018        | (\$9,092)  | \$9,092   | (\$16,200)  | \$16,200   |
| 2019        | (\$9,092)  | \$9,092   | (\$16,200)  | \$16,200   |
| 2020        | (\$9,092)  | \$9,092   | (\$16,200)  | \$16,200   |
| 2021        | (\$9,092)  | \$9,092   | (\$16,200)  | \$16,200   |
| 2022        | (\$9,092)  | \$9,092   | (\$16,200)  | \$16,200   |

**Fiscal Analysis**

The bill would amend Chapter 351 of the Occupations Code, relating to the continuation and functions of the Texas Optometry Board (TOB), and authorizing a reduction in fees. The bill would continue TOB for 12 years, until September 1, 2029.

The bill would require that an applicant for licensure submit fingerprints to TOB or the Department of Public Safety (DPS) for the purpose of a criminal history record check from the DPS and Federal Bureau of Investigation. The bill would allow TOB to enter into an agreement with DPS to administer the criminal history check and authorize DPS to collect from applicants an amount to cover the costs incurred by the agency in conducting the criminal history check. The bill would require all current licensees who have not undergone a criminal history check to do so by September 1, 2022.

The bill would require TOB to establish a process to review a national practitioner database to determine whether another state has taken any disciplinary or other legal action against an applicant or license holder before issuing a license or license renewal.

The bill would permit TOB to extend the validity of a license issued by the agency from one year to two years through board rule.

The bill would require TOB to request an applicant or license holder, on probable cause and under certain circumstances for incapacity, to submit to a mental or physical examination by a physician or other health care professional designated by TOB. The bill requires TOB, if the individual refuses to submit to such an examination, to schedule a hearing at which the individual would be required to show cause for the refusal.

The bill would require TOB to periodically check prescribing information submitted by licensees to the Texas State Board of Pharmacy (TSBP) in the Prescription Monitoring Program to determine whether a licensee is engaging in potentially harmful prescribing patterns or practices. The bill requires TOB, in coordination with TSBP, to determine conduct that constitutes such patterns or practices. The bill permits TOB, if it suspects that a licensee is engaging in such patterns or practices, to notify the licensee and to initiate a complaint against the licensee.

The bill would repeal Occupations Code, Sec. 351.152(c), which prohibits TOB from setting fees below a specified amount.

The bill would take effect September 1, 2017.

## **Methodology**

The Comptroller of Public Accounts (CPA) estimates that if the agency chooses to adopt a biennial license renewal schedule, this would affect the timing of revenue collection, but would not affect the amount of revenue collected.

Based on Legislative Budget Board (LBB) analysis of TOB, it is also assumed that the repeal of the requirement that the agency may not set fees below the amount of \$125 per annual renewal would not have a significant impact on revenues to the state.

Based on analysis provided by TOB, new licensees have been required to obtain fingerprint based background checks since 2008. It is assumed that 3,000 current licensees who have not undergone a background check would be required to obtain a background check from DPS, and that the implementation of this requirement would be done over the next five years to meet the requirements of the bill. This would require 600 renewing licensees to submit background checks in each year from fiscal year 2018 through fiscal year 2022. DPS charges applicants \$27 to perform a background check to cover the cost to DPS to obtain state and national criminal history record information. Based on the number of applicants and assumed implementation of the

requirement, it is estimated that there will be an annual revenue increase to Appropriated Receipts at DPS of \$16,200 from fiscal year 2018 through fiscal year 2022 offset by an equal cost of Appropriated Receipts at the agency in each fiscal year to perform the background check.

Based on information provided by TOB, it is assumed that 238 new applicants and 4,308 licensees would require a national databank query annually. TOB reports that the National Practitioner Databank charges \$2.00 per query. This would result in an annual cost of \$9,092 to General Revenue. This analysis assumes that any increased cost to TOB, which is statutorily required to generate sufficient revenue to cover its costs of operation, would be offset by an increase in fee-generated revenue of an equal value.

TOB estimates minimal cost to implement certain provisions of the bill related to postage for the notification of criminal history background checks and the national databank query. Based on the LBB's analysis of TOB, it is assumed that duties and responsibilities associated with implementing these provisions of the bill could be accomplished by utilizing existing resources.

Based on information provided by the TSBP, it is assumed the periodic check of prescribing information to determine whether a licensee is engaging in potentially harmful prescribing patterns or practices would require a query of information by the administrator of the program at TSBP. Based on the LBB's analysis of TSBP, duties and responsibilities associated with implementing the provisions of this bill at TSBP could be accomplished by utilizing existing resources.

Based on analysis provided by the State Office of Administrative Hearings, the Office of the Attorney General, the Department of Information Resources, the University of Houston System Administration, and the CPA, duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 304 Comptroller of Public Accounts, 514 Optometry Board, 515 Board of Pharmacy, 116 Sunset Advisory Commission, 302 Office of the Attorney General, 313 Department of Information Resources, 360 State Office of Administrative Hearings, 405 Department of Public Safety, 783 University of Houston System Administration

**LBB Staff:** UP, AO, KCA, EH, LCO