

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

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

**May 18, 2017**

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

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

**IN RE:** **HB3078** by Thompson, Senfronia (Relating to sunset review of the Texas Commission of Licensing and Regulation and the Texas Department of Licensing and Regulation and the transfer of the regulation of podiatry to the Texas Department of Licensing and Regulation; authorizing a reduction in fees.), **Committee Report 2nd House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB3078, Committee Report 2nd House, Substituted: a positive impact of \$60,036 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	\$27,606
2019	\$32,430
2020	\$61,030
2021	\$61,030
2022	\$61,030

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

Fiscal Year	Probable Savings from <i>General Revenue Fund</i> 1	Probable (Cost) from <i>General Revenue Fund</i> 1	Probable Revenue Gain from <i>General Revenue Fund</i> 1	Probable Revenue (Loss) from <i>General Revenue Fund</i> 1
2018	\$353,958	(\$326,352)	\$600,000	(\$600,000)
2019	\$353,958	(\$321,528)	\$600,000	(\$600,000)
2020	\$353,958	(\$292,928)	\$600,000	(\$600,000)
2021	\$353,958	(\$292,928)	\$600,000	(\$600,000)
2022	\$353,958	(\$292,928)	\$600,000	(\$600,000)

<b>Fiscal Year</b>	<b>Probable Revenue Gain from <i>Appropriated Receipts</i> 666</b>	<b>Probable Revenue (Loss) from <i>Appropriated Receipts</i> 666</b>
2018	\$9,018	(\$9,018)
2019	\$8,991	(\$8,991)
2020	\$0	\$0
2021	\$0	\$0
2022	\$0	\$0

## **Fiscal Analysis**

The bill would amend the Occupations Code to transfer the regulation of podiatry from the Texas State Board of Podiatric Medical Examiners (TSBPE) to the Texas Department of Licensing and Regulation (TDLR). TSBPE would be abolished under the Sunset Act on September 1, 2017 and TDLR would be required to adopt rules to administer and enforce Subchapter D, Chapter 202, Occupations Code.

The bill would establish the Podiatric Medical Examiners Advisory Board to provide advice and recommendations to TDLR on technical matters relevant to the regulation of podiatrists. The advisory board would include six podiatrists and three public members appointed by the governor. The advisory board would be responsible for developing all rules relating to scope of practice and standards of care for podiatry, subject to final approval by the TDLR commission.

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

The bill would require TDLR to adopt a schedule of administrative penalties and other sanctions levied against licensees that committed offenses.

The bill would require that an applicant for licensure submit fingerprints to TDLR or the Department of Public Safety (DPS) for the purpose of a criminal history record check from the Department of Public Safety and Federal Bureau of Investigation. The bill would allow TDLR 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, 2019.

The bill would require TDLR 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 TDLR, in coordination with TSBP, to determine conduct that constitutes such patterns or practices. The bill permits TDLR, 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 202.153, which prohibited the regulating agency from setting fees below a specified amount.

The bill would change the Sunset date for the Texas Commission of Licensing and Regulation (TCL) and the Texas Department of Licensing and Regulation (TDLR), from September 1, 2019 to September 1, 2021.

The bill would take effect September 1, 2017.

## Methodology

TSBPE's funding of approximately \$353,958 in General Revenue per fiscal year (\$278,940 per year, based on the 2018-19 House Bill 1, As Introduced, and associated employee benefits of \$75,018) would be eliminated, resulting in a savings to the state. The savings would be offset by a cost to TDLR to transition and operate the program, estimated to be General Revenue of \$326,352 in fiscal year 2018, \$321,528 in fiscal year 2019, and \$292,928 per fiscal year thereafter. These amounts include one-time costs for computer equipment for the new FTEs at TDLR (\$7,400 in fiscal year 2018), and transferring and maintaining the podiatry board's database servers (\$26,000 in fiscal year 2018 and \$28,600 in fiscal year 2019), as TDLR converts the podiatry board's data into its own database system. Under provisions of the bill, the 4 FTEs at TSBPE would be reduced and TDLR's FTEs would increase by 4. According to TDLR, licensing fees would remain unchanged, but fee revenue is reflected as a General Revenue loss at TSBPE and a General Revenue gain of an equal amount at TDLR.

TSBPE is a member of the Health Professions Council (HPC), and pays a prorated amount (\$10,131 per fiscal year) of the budget that funds HPC. As TDLR is not a member of HPC, these amounts would be redistributed across the remaining 12 HPC member agencies. It is assumed those agencies could absorb the increase within existing resources, contributing to lower cost at TDLR to operate the program.

Based on information provided by the Comptroller of Public Accounts (CPA), it is estimated 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 for the biennium for the state.

Based on the Sunset Commission's analysis of TSBPE and TDLR, it is assumed that the repeal of the requirement that the agency may not set fees below the amount of \$250 would not have a significant impact on revenues to the state.

TSBPE estimates 667 licensees would require a fingerprint based background check by September 1, 2019. It is assumed the implementation of this requirement would be done over the next 2 years and would require 334 licensees in fiscal year 2018 and 333 licensees in 2019 to receive fingerprint based background checks. The Department of Public Safety (DPS) charges applicants \$27 to perform a fingerprint based 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 a revenue increase to Appropriated Receipts at DPS of \$9,018 in fiscal year 2018 and \$8,991 in fiscal year 2019 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 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 Texas Department of Insurance, the Office of the Attorney General, the Department of Information Resources, and the CPA, duties and responsibilities associated with implementing the provisions of the bill could

be accomplished by utilizing existing resources.

Based on information provided by the Sunset Advisory Commission, this analysis assumes there would be no fiscal impact to the state for changing the previously established sunset dates for TDLR. This analysis also assumes there would be no fiscal impact from the removal of the sunset date for TDLR.

**Technology**

Included in amounts above are costs for computer equipment for the new staff at TDLR of approximately \$7,400 in fiscal year 2018. Transferring and maintaining the podiatry board's database servers would result in an annual cost approximately \$26,000 in fiscal year 2018 and \$28,600 in fiscal year 2019, as TDLR converts the podiatry board's data into its own database system.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 116 Sunset Advisory Commission, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 313 Department of Information Resources, 360 State Office of Administrative Hearings, 364 Health Professions Council, 405 Department of Public Safety, 452 Department of Licensing and Regulation, 454 Department of Insurance, 512 Board of Podiatric Medical Examiners, 515 Board of Pharmacy

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