

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 15, 2017

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

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **SB267** 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.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for SB267, As Engrossed: 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 Hospital Licensing Acct 129	Probable Savings/(Cost) from Healthy TX Sm Emp Prem Stabil. Fund 329	Probable Savings/(Cost) from New General Revenue Dedicated Hospital Perpetual Care Account	Change in Number of State Employees from FY 2017
2018	(\$762,507)	(\$5,000,000)	\$5,000,000	5.1
2019	(\$684,500)	\$0	\$0	5.1
2020	(\$684,500)	\$0	\$0	5.1
2021	(\$684,500)	\$0	\$0	5.1
2022	(\$684,500)	\$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 the Health and Human Services Commission (HHSC) to conduct a criminal history background check on each applicant for a license and to adopt rules related to the submission of information and the criteria for eligibility for a license. HHSC would be authorized to enter into an agreement with the Department of Public Safety to conduct the criminal history background check.

The bill would require certain changes to license applications. The bill would require the Health and Human Services Commission to inspect each non-deemed, licensed only hospital every three years and to inspect 10 percent of all remaining licensed hospitals annually. The bill would authorize HHSC to impose penalties and other action on behalf of the state under certain circumstances.

The bill would create the Hospital Perpetual Care Account as a dedicated account in the General Revenue Fund. Initial funding for the account would be transferred from the Healthy Texas Small Employer Premium Stabilization Fund 329. HHSC would be authorized to collect fees from licensed hospitals in order to maintain a balance in the account.

This legislation 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.

The bill would take effect immediately upon receiving a two-thirds majority vote in each house. Otherwise, the bill would take effect September 1, 2017.

Methodology

HHSC has the authority to increase licensing fees to offset costs associated with implementing the bill. However, this analysis assumes no change to current licensing fees. This analysis assumes that the requirement to conduct background checks for all license applicants would result in an insignificant number of additional background checks performed by the Department of Public Safety and any associated costs will be immaterial.

HHSC indicates that inspection of each non-deemed licensed-only hospital once every three years, and inspection of 10 percent of all remaining licensed hospitals each year would require an additional 5.1 FTEs. Costs to support this function would total \$762,507 in General Revenue Related Funds for fiscal year 2018, and \$684,500 for each subsequent fiscal year for salaries, benefits, and other operating costs. The analysis assumes 660 licensed general and special hospitals in Texas, and assumes 111 licensing surveys would be required each fiscal year to meet the requirements of the bill. This analysis assumes that a survey team would require two surveyors for each survey, and each team may conduct 45 surveys each year.

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. The bill would require \$5.0 million to be transferred into the account from General Revenue-Dedicated Healthy Texas Small Employer Premium Stabilization Fund 329 on January 1, 2018.

Based on the LBB's analysis of the State Office of Administrative Hearings and the Department of Public Safety, duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing agency resources.

Technology

FTE-related technology costs are estimated to be \$55,451 for the 2018-19 biennium and \$25,183 for each subsequent fiscal year.

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. Additionally, there may be costs for hospital staffing due to inspections, surveys, and investigations.

According to the Texas Organization of Rural and Community Hospitals (TORCH), there are costs associated with a hospital preparing for survey or inspection. These costs can come from contracting with outside persons to assist with preparing for survey or inspection and/or overtime for staff. However, the extent of the fiscal impact cannot be determined. In addition, TORCH anticipates indeterminate costs to hospitals when HHSC levies fees to keep the fund balance at \$5.0 million pursuant to the bill.

Source Agencies: 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 360 State Office of Administrative Hearings, 405 Department of Public Safety, 529 Health and Human Services Commission, 537 State Health Services, Department of

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