

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

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

**April 2, 2017**

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

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

**IN RE:** SB313 by Schwertner (Relating to the continuation and functions of the State Board of Dental Examiners; imposing fees.), **Committee Report 1st House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for SB313, Committee Report 1st House, Substituted: an impact of \$0 through the biennium ending August 31, 2019. It is assumed that the provisions of the bill relating to deregulation and registration of certain dental assistants could result in an impact to revenue in the General Revenue Fund beginning in fiscal year 2018; however, because the number of dental assistants that would qualify for the registrations and the amount of the fee is unknown, an overall estimate on revenue cannot be determined.

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	(\$566,807)	\$566,807	4.0
2019	(\$417,915)	\$417,915	4.0
2020	(\$417,915)	\$417,915	4.0
2021	(\$417,915)	\$417,915	4.0
2022	(\$417,915)	\$417,915	4.0

## **Fiscal Analysis**

The bill would amend the Occupations Code relating to the continuation and functions of the State Board of Dental Examiners (TSBDE); imposing a fee. The bill would continue the TSBDE for twelve years until September 1, 2029.

The bill would reduce the number of board members from 15 to 11.

The bill would require TSBDE to periodically review a national practitioner database to determine whether another state has taken any disciplinary action against a license holder. The bill would require the TSBDE 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 TSBDE, in coordination with TSBP, to determine conduct that constitutes such patterns or practices. The bill permits TSBDE, 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 require the TSBDE to inspect a dentist who holds certain anesthesia permits and modify the current structure of anesthesia-related permits. This provision would require TSBDE to inspect all dentists who hold certain anesthesia permits as of 9/1/2017 within five years and conduct inspections within one year of a certain permits being issued effective March 1, 2018. The bill would require the board to adopt rules to establish minimum emergency preparedness standards and would require the board to develop and administer an online jurisprudence exam to administer to certain permit holders. The bill would permit TSBDE to require a statement of application indicating whether a dentist provides anesthesia service in more than one location.

The bill would require the TSBDE to schedule an informal settlement conference with at least two panelists. The bill would establish the Dental Review Committee to serve as panelists on the informal settlement conference panel and authorize certain members to attend informal settlement conferences by video. Under the provisions of the bill, the Dental Review Committee members would be entitled to receive a per diem for actual duty in the same manner provided for board members. The bill would establish the Advisory Committee on Dental Anesthesia.

The bill would eliminate four dental assistant certificates and replace two certifications with new registrations for X-ray and nitrous oxide and provides exceptions. The bill would require the agency to develop a system to track the number of dental assistant registrants and coordinate renewals of registrants so that the administrative burden to the board is reduced. The bill would permit the board to approve instruction courses and examinations and set a collect a fee reasonable to cover the costs of administering the registrations. The bill would deregulate coronal polishing and pit and fissure assistants on September 1, 2017 and require the new registrations effective September 1, 2018. The bill would require a dental assistant registration or license to be valid for two years.

The bill would permit TSBDE to set, by rule, dental license, anesthesia permits, and lab permits to be valid for one or two years.

Under the provisions of the bill, the following sections of the Occupations Code would be repealed: 265.004 and 265.003(b) (pit and fissure dental assistant certificate and requirements), 265.006 (coronal polishing certificate), 265.0531(h), (i), and (j) (hygiene program), 262.001(1) (definition of hygiene advisory committee), Subchapter B, Chapter 626 (provisions relating to dental hygienists), 262.102(c) (relating to board rule), 262.1025 (rule-making authority), 262.103

(meeting notice), 263.0075 (informal settlement requirements), 266.001(1) (definition of Dental Laboratory Certification Council), Subchapter B, Chapter 266 (Dental Laboratory Certification Council), 266.101 (powers of the council), and 266.102(a) and (d) (rulemaking authority).

Except as otherwise specified, the bill would take effect on September 1, 2017.

## **Methodology**

The provisions of the bill would result in a net cost of \$566,807 in General Revenue in fiscal year 2018 and a net cost of \$417,915 in General Revenue in fiscal year 2019 and following fiscal years. Based on the Legislative Budget Board analysis of the TSBDE, an additional four Full-Time Equivalents (FTEs) would be needed to implement the inspections of licensees, resulting in a cost of \$290,247 in salaries, benefits, and travel costs in General Revenue in fiscal year 2018 and each year thereafter. The additional FTEs include three Inspectors and one Administrative Assistant. Additionally, it is assumed there would be a one-time start up cost of \$17,892 in General Revenue for additional FTEs and for the new Dental Review Committee members including desktop computer, software and other operating costs.

According to TSBDE, travel costs for the Advisory Committee on Dental Anesthesia would total \$12,000 in General Revenue in fiscal year 2018 and \$6,000 in General Revenue in future fiscal years, assuming \$500 per member per day. This analysis assumes that the committee would meet for two two-day meetings in fiscal year 2018 and two one-day meetings each year thereafter.

Based on the information provided by the Sunset Advisory Commission (SAC) and TSBDE, it is assumed that 65,000 applicants would require a national databank query annually. This analysis assumes a review of a national practitioner databank would be completed upon license application or renewal. SAC reports that the national practitioner databank charges \$2.00 per query. This would result in an annual cost of \$130,000 to General Revenue.

TSBDE estimates information technology costs to be \$50,000 in General Revenue in fiscal year 2018 to enhance a database to track inspections of dentists administering anesthesia and \$75,000 in General Revenue in fiscal year 2018 for additions to a tracking database to implement a biennial registration and license renewals.

According to information provided by SAC, the reduction of the board from 15 to 11 members would result in \$8,332 in General Revenue savings in travel costs in each fiscal year beginning in 2018.

This analysis assumes that costs for informal settlement conferences will remain the same as current costs, as the bill increases members who attend a conference but also provides that one member may attend conference by video.

This analysis assumes that any increased cost or savings to TSBDE, which is statutorily required to generate sufficient revenue to cover its costs of operation, would be offset by an increase or decrease in fee-generated revenue of an equal value.

The Comptroller of Public Accounts estimates that the adoption of a biennial license renewal schedule would affect the timing of revenue collection, but would not affect the amount of revenue collected for the biennium for the state.

According to SAC, the elimination of the anesthesia portability permit would result in an

estimated revenue loss of \$2,880 in General Revenue per fiscal year beginning in fiscal year 2018. According to TSBDE, the elimination of the pit and fissure and coronal polishing certificates would result in a revenue loss of \$60,295 in General Revenue per fiscal year. Due to the unavailability of data, an estimate on revenue gain associated with the creation of the new registrations under the provisions of the bill cannot be determined because the number of dental assistants that would qualify and the amount of the registration fee that would be set by TSBDE is unknown under the bill provisions.

This analysis omits any estimate of revenue changes in the table above due to various provisions of the bill providing for revenue decreases that may be offset by unknown revenue gains; therefore, estimates on changes to revenue to the General Revenue Fund are excluded as the overall fiscal impact cannot be determined.

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 must be conducted by the administrator of the program at TSBP. Based on LBB analysis of TSBP, duties and responsibilities associated with implementing the provisions of this bill could be accomplished by utilizing existing resources.

The State Office of Administrative Hearings and Office of the Attorney General anticipate any additional work resulting from the passage of the bill could be reasonably absorbed within current resources.

### **Technology**

According to TBDE, IT costs total \$140,819 in General Revenue in fiscal year 2018, including \$17,892 in start up IT costs for additional FTEs and Dental Review Committee members, \$50,000 in database upgrades for inspecting licensees administering anesthesia, and \$75,000 in database modifications for the new dental assistant requirements under the provisions of the bill.

### **Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 504 Texas State Board of Dental Examiners, 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, 515 Board of Pharmacy

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