

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

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

**May 23, 2017**

**TO:** Honorable Dan Patrick, Lieutenant Governor, Senate

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

**IN RE:** SB317 by Nichols (Relating to the continuation and functions of the Executive Council of Physical Therapy and Occupational Therapy Examiners, the Texas Board of Physical Therapy Examiners, and the Texas Board of Occupational Therapy Examiners; authorizing a fee. ), **As Passed 2nd House**

**Estimated Two-year Net Impact to General Revenue Related Funds for SB317, As Passed 2nd House:** 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	(\$1,063,000)
2021	(\$1,063,000)
2022	(\$1,063,000)

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

Fiscal Year	Probable Revenue Gain/(Loss) from <i>General Revenue Fund</i> 1	Probable Savings/(Cost) from <i>Appropriated Receipts</i> 666	Probable Revenue Gain/(Loss) from <i>Appropriated Receipts</i> 666
2018	\$0	(\$631,800)	\$631,800
2019	\$0	(\$664,200)	\$664,200
2020	(\$1,063,000)	(\$129,600)	\$129,600
2021	(\$1,063,000)	(\$135,000)	\$135,000
2022	(\$1,063,000)	(\$140,400)	\$140,400

## **Fiscal Analysis**

The bill would amend Chapters 452, 453, and 454 of the Occupations Code, relating to the continuation and functions of the Executive Council of Physical Therapy and Occupational Therapy Examiners (ECPTOTE), the Texas Board of Physical Therapy Examiners (BPTE), and the Texas Board of Occupational Therapy Examiners (BOTE), and authorizing a fee. The bill would continue ECPTOTE, BPTE, and BOTE until September 1, 2029.

The bill would entitle a council member to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program required by the bill, regardless of whether their attendance occurs before or after they qualify for office.

The bill would require that an applicant for licensure submit fingerprints to the BPTE and BOTE 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 the BPTE and BOTE 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 BPTE and BOTE to adopt a schedule of administrative penalties and other sanctions levied against licensees that committed offenses.

The bill would adopt the Physical Therapy Licensure Compact, allowing physical therapists and physical therapy assistants in states that belong to the Compact to provide physical therapy services in other Compact states without obtaining a separate license. Compact states could charge a fee for granting compact privilege to a licensee in another Compact state. The Compact would establish a Physical Therapy Compact Commission to implement and administer the compact provisions and levy an annual assessment from each party state to fund its operations.

The bill would repeal BPTE's and BOTE's registration of physical and occupational therapy facilities, effective September 1, 2019.

The bill would repeal various sections of the Occupations Code that relate to the BPTE's and BOTE's administration of the examination required of physical therapists, physical therapy assistants, occupational therapists, and occupational therapy assistants, and would require BPTE and BOTE to recognize a national testing entity to administer the examinations.

The bill would repeal sections of the Occupations Code that set a minimum amount of supervised work experience required of occupational therapists and occupational therapy assistants trained domestically and abroad, and would add and repeal various educational requirements for occupational therapists and occupational therapy assistants.

The bill would permit BPTE to extend the renewal date of physical therapy and physical therapy assistant licenses beyond the second anniversary of the license's issuance to a date it determines by rule.

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

## **Methodology**

The Comptroller of Public Accounts (CPA) estimates that discontinuing registration of physical and occupational therapy facilities would result in a revenue loss to General Revenue of

\$1,063,000 beginning in fiscal year 2020, using actual revenue generated in fiscal year 2016 from the registration of approximately 4,400 facilities.

Based on information provided by ECPTOTE and the CPA, it is assumed that 19,000 and 20,000 licensees would be required to submit a background check from DPS upon renewal of their licenses in fiscal years 2018 and 2019, respectively. It is assumed that 4,400 new applicants would be required to submit a background check in fiscal year 2018, and that this number would increase by 200 applicants each year thereafter. 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 the following revenue increase to Appropriated Receipts at DPS offset by an equal cost of Appropriated Receipts at the agency to perform the background checks: \$631,800 in fiscal year 2018, \$664,200 in fiscal year 2019, \$129,600 in fiscal year 2020, \$135,000 in fiscal year 2021, and \$140,400 in fiscal year 2022.

Based on analysis provided by the CPA and ECPTOTE, it is assumed that BPTE's and BOTE's adoption of administrative penalties and other sanctions could result in a change in revenue to General Revenue. Because the amount of penalties and sanctions that may be assessed is unknown, the fiscal impact cannot be calculated.

The Sunset Advisory Commission (SAC) reports that the Federation of State Boards of Physical Therapy requires ten states to adopt the Compact in order for the Compact to become operational, and that there are currently ten states that have done so. Based on analysis provided by the CPA, the change in the number of both Texas licenses and compact privileges resulting from adoption of the Compact are unknown and a fiscal impact cannot be determined. ECPTOTE estimates that it would incur an annual Compact membership fee of \$3,000 to \$5,000, which it anticipates would be absorbed by utilizing existing resources.

Based on analysis provided by ECPTOTE and SAC, the repeal of sections relating to the agency's administration of examinations, and the requirement to recognize a national testing entity to perform this task both align with the agency's current practice and would have no fiscal impact. ECPTOTE estimates there would be a minimal cost associated with implementing the other provisions of the bill.

The CPA reports that the change in timing of physical therapy and physical therapy assistant license renewals could affect the timing of fee collections; however, since the renewal schedule would be determined by board rule the effect on revenue over the biennium cannot be determined.

Based on analysis provided by the the Office of the Attorney General, the State Office of Administrative Hearings, 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, 533 Executive Council of Physical Therapy & Occupational Therapy Examiners, 116 Sunset Advisory Commission, 300 Trusteed Programs Within the Office of the Governor, 302 Office of the Attorney General, 360 State Office of Administrative Hearings, 405 Department of Public Safety

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