

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 4, 2017

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

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB589 by Lucio (Relating to the licensing and regulation of behavior analysts and assistant behavior analysts; requiring an occupational license; imposing fees; providing a civil penalty; creating a criminal offense.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for SB589, As Engrossed: a positive impact of \$98,202 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	\$97,450
2019	\$752
2020	\$752
2021	\$752
2022	\$752

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain from <i>General Revenue Fund</i> 1	Probable (Cost) from <i>General Revenue Fund</i> 1	Change in Number of State Employees from FY 2017
2018	\$370,530	(\$273,080)	3.5
2019	\$246,900	(\$246,148)	3.5
2020	\$246,900	(\$246,148)	3.5
2021	\$246,900	(\$246,148)	3.5
2022	\$246,900	(\$246,148)	3.5

Fiscal Analysis

The bill would amend the Occupations Code relating to the licensing and regulation of behavior analysts and assistant behavior analysts; requiring an occupational license; imposing fees;

providing a civil penalty; creating a criminal offense.

The bill would add Chapter 506 of the Occupations Code, which would regulate Behavioral Analysts at the Texas Department of Licensing and Regulation (TDLR). The bill would establish a nine member advisory board and outlines its powers and duties. The bill would establish the license requirement for a licensed behavior analyst and a licensed assistant behavior analyst.

The bill adds behavior analysts to the list of programs for which the commission can only adopt a rule regarding scope of practice or a health-related standard of care proposed by that program's advisory board or return the rule proposal to the board for revision.

The bill requires applicant for a license to submit an application and the required fees to the department. The application must include sufficient evidence, as defined by commission rules, that the applicant has successfully completed a state-approved criminal background check. The bill establishes that a license issued under the statute expires on the second anniversary of the date of issuance.

The bill requires the department to issue a license to a person who is currently licensed as a behavior analyst or as an assistant behavior analyst from another state or jurisdiction that imposes licensure requirements similar to those specified in the statute. The bill establishes criteria an applicant for a reciprocal license must meet.

The bill requires the commission to adopt rules that establish standard of ethical practice. The bill requires the department to provide reasonable assistance to a person who wishes to file a complaint regarding a person or activity regulated under the statute.

The bill lists the grounds for license denial and disciplinary action. The bill establishes the amount of an administrative penalty imposed against a licensed person who violates the statute or a rule or order adopted under the statute may not exceed \$200, and that each day a violation continues or occurs is a separate violation for the purpose of imposing a penalty. The bill establishes civil penalties and criminal offenses under the statute.

The bill requires the commission to adopt the rules, procedures, and fees necessary to administer the statute not later than January 1, 2018.

The requirement to hold a license and the penalties and enforcement procedures would not take effect until June 1, 2018.

The bill would take effect September 1, 2017.

Methodology

According to analysis by TDLR, there are 1,109 behavior analysts, 81 behavior analysts-doctoral, and 90 assistant behavior analysts in Texas currently certified by the certifying entity.

The license fee would be \$390 for behavior analysts and behavior analysts-doctoral for a two-year license, and \$330 for assistant behavior analysts for a two-year license. The licenses in this program have a two-year license term. In order to get 50% of the license population renewing in alternate years, half the license population would need to pay fees for a two-year license in the first year and half would need to pay fees for a one-year license. For fiscal year 2018, this would yield a General Revenue gain of \$370,350, which would decrease to \$246,900 in fiscal year 2019 and beyond as the staggered renewal schedule took effect.

TDLR estimates name-based background check fee costs would be would be \$1,280 in fiscal year 2018 and \$640 per year in 2019 and beyond.

TDLR estimates it would require 3.5 FTEs to regulate this new licensee population. The salary cost each fiscal year would be \$167,478, and associated employee benefits would be \$61,330 per fiscal year. Costs for travel, rent, and operating expenses for each year would be \$16,700. According to LBB analysis, start-up costs for furniture and equipment would be \$26,292 in the first year.

This analysis assumes that any increased cost to TDLR, which is statutorily required to raise revenue to cover its costs of operation, would be offset by an increase in fee generated revenue.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 452 Department of Licensing and Regulation

LBB Staff: UP, KCA, CL, EH, JQ