

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

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**May 9, 2019**

**TO:** Honorable Lois W. Kolkhorst, Chair, Senate Committee on Health & Human Services

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
 Legislative Budget Board

**IN RE:** **HB1501** by Nevárez (Relating to the creation of the Texas Behavioral Health Executive Council and to the continuation and transfer of the regulation of psychologists, marriage and family therapists, professional counselors, and social workers to the Texas Behavioral Health Executive Council; providing civil and administrative penalties; authorizing a fee. ), **Committee Report 2nd House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB1501, Committee Report 2nd House, Substituted: a negative impact of (\$887,258) through the biennium ending August 31, 2021.

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
2020	(\$887,258)
2021	\$0
2022	\$0
2023	\$0
2024	\$0

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

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i>	Probable Revenue Gain/(Loss) from <i>General Revenue Fund</i>	Probable Savings/(Cost) from <i>Appropriated Receipts</i>	Probable Revenue Gain/(Loss) from <i>Appropriated Receipts</i>
	<b>1</b>	<b>1</b>	<b>666</b>	<b>666</b>
2020	(\$887,258)	\$0	(\$1,288,000)	\$1,288,000
2021	(\$1,897,162)	\$1,897,162	(\$1,303,988)	\$1,303,988
2022	(\$1,813,736)	\$1,813,736	(\$239,988)	\$239,988
2023	(\$1,858,881)	\$1,858,881	(\$239,988)	\$239,988
2024	(\$1,666,512)	\$1,666,512	(\$239,988)	\$239,988

<b>Fiscal Year</b>	<b>Change in Number of State Employees from FY 2019</b>
2020	0.5
2021	4.0
2022	3.0
2023	3.0
2024	0.0

## **Fiscal Analysis**

The bill would add Chapter 507 to and amend various chapters of the Occupations Code to create the Texas Behavioral Health Executive Council (the council) and authorizes the council to regulate psychologists, marriage and family therapists, professional counselors, and social workers.

The listed licensee populations are currently regulated by the Texas State Board of Examiners of Psychologists (BEP) and the Texas Board of Examiners of Marriage and Family Therapists, the Texas State Board of Examiners of Professional Counselors, and the Texas State Board of Social Worker Examiners. With the exclusion of BEP, the other three boards are administratively attached to the Health and Human Services Commission (HHSC).

The bill creates the council on September 1, 2019 and requires that the boards and regulation of the related professions be transferred to the council no later than September 1, 2020.

The bill requires the appointment of members to the council by December 1, 2019, the hiring of an executive director by April 1, 2020, and the creation of procedural rules necessary to implement the provisions of the bill by July 31, 2020.

The bill would establish the Texas Behavioral Health Incubation Task Force to facilitate the transfer of the four boards to the council and requires that the council and transferring entities adopt a transition plan for the transfer of each board before August 31, 2020. Rules or fees for transferred programs would remain in effect until changed by the council.

The bill would require the council to adopt the Psychology Interjurisdictional Compact.

For the boards attached to HHSC, the bill would require a fingerprint background check for new and renewing licensees and require checking a national practitioner database prior to issuing or renewing a license.

The bill would exempt the council in fiscal year 2020 from a provision in the bill requiring the agency to generate sufficient revenue to cover the costs of its operations.

Except as otherwise specified, the bill would take effect on September 1, 2019.

## **Methodology**

Under the provisions of the bill, it is assumed that BEP and the other three behavioral health boards at HHSC would continue with current appropriations for fiscal year 2020, and the four boards along with their appropriations and FTEs would transition to the council in fiscal year 2021. The appropriations for BEP and the three boards are limited to revenue collected. Under the provisions of the bill, the council's costs for fiscal year 2020 would not be subject to this limit, but

beginning in fiscal year 2021 appropriations to the council would be limited to revenue collected.

BEP's regulatory and enforcement data is stored on a database maintained by the Health Professions Council (HPC). This analysis assumes a one-time cost to General Revenue in fiscal year 2020 of \$535,800 for transferring data for the three boards at HHSC to HPC's database, \$20,000 for startup costs for network equipment and transitioning to Voice over Internet Protocol, \$220,500 for start up costs for transferring HHSC employees and temporary employees, \$30,000 for council member travel, and \$80,958 to hire an executive director for 6 months.

Beginning in fiscal year 2021 and for each fiscal year thereafter, it is assumed the removal of the programs from HHSC would result in a savings of \$1,770,785 in General Revenue and 44.0 FTEs, and the abolishment of BEP as a stand-alone agency would save \$789,570 in General Revenue and 13.5 FTEs based on fiscal year 2019 appropriations and benefits from the 2018-19 General Appropriations Act. Additionally, any Federal Funds and Appropriated Receipt collections at HHSC and BEP are excluded from the tables as they would be reduced at the boards and increased in equal amounts at the council.

This analysis assumes savings at HHSC and BEP would be offset by General Revenue costs to operate the council. BEP estimates the council will require a temporary FTE for a customer service representative for the call center in fiscal year 2021 and three temporary investigators from fiscal years 2021 to 2023 to address a backlog of complaints. Costs for operations of the council total \$4,457,517 and 61.5 FTEs in fiscal year 2021 which includes four temporary FTEs, \$4,419,236 and 60.5 FTEs in fiscal years 2022 and 2023 which includes three temporary FTEs, and an ongoing cost of \$4,272,012 and 57.5 FTEs in fiscal year 2024 and each subsequent fiscal year.

Net costs to General Revenue total \$885,008 in fiscal year 2020, \$1,897,162 in fiscal year 2021, \$1,813,736 in fiscal year 2022, \$1,858,881 in fiscal year 2023, and \$1,666,512 in fiscal year 2024. This analysis assumes that in 2021 and subsequent fiscal years any increased costs to the council, which would be statutorily obligated under the provisions of the bill to generate sufficient revenue to cover its costs of operations, would be offset by an increase in fee generated revenue. Costs for fiscal year 2020 would not be subject to this limit under the provisions of the bill.

The bill would require new and renewing applicants to submit information for a fingerprint and background check with the Department of Public Safety (DPS). This is already current practice for BEP. To implement the requirement for 55,650 licensees transferring from HHSC and 5,852 new licensees annually, the Comptroller of Public Accounts (CPA) estimates an increase to Appropriated Receipts at DPS of \$1,288,000 in FY 2020 and 2021 and \$224,000 in each subsequent fiscal year.

For fiscal year 2021 and each subsequent fiscal year, this analysis assumes an annual cost and corresponding revenue increase in Appropriated Receipts of \$15,988 to query the National Practitioner Database for each new applicant at \$2 per applicant.

This analysis assumes HHSC could implement the provisions of the bill by utilizing existing resources.

The Office of Court Administration, Office of the Governor, Office of the Attorney General, State Office of Administrative Hearings, Texas Ethics Commission, the CPA, and Department of Licensing and Regulation indicate that they could implement the provisions of the bill using existing resources. The council would become a contributing member to the Health Professions Council, and the only possible fiscal impact to HPC would be an increase in interagency contract

amounts with the council due to the council increasing the use of HPC's services.

**Technology**

This analysis assumes one-time costs at the council in fiscal year 2020 of \$535,800 to transfer data for the three boards at HHSC to HPC's database. Costs for fiscal year 2020 would also include \$5,000 for Voice over Internet Protocol implementation and \$15,000 for network equipment, according to BEP.

Technology costs to implement the provisions of this bill are estimated to be \$555,800 in fiscal year 2020.

**Local Government Impact**

According to the Texas Association of Counties, no significant fiscal implication to counties is anticipated.

**Source Agencies:** 520 Board of Examiners of Psychologists, 116 Sunset Advisory Commission, 212 Office of Court Administration, Texas Judicial Council, 300 Truusted Programs Within the Office of the Governor, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 356 Texas Ethics Commission, 360 State Office of Administrative Hearings, 364 Health Professions Council, 405 Department of Public Safety, 452 Department of Licensing and Regulation, 529 Health and Human Services Commission

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