

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

March 17, 2019

TO: Honorable James B. Frank, Chair, House Committee on Human Services

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

IN RE: **HB2205** by Clardy (Relating to the informal dispute resolution process for certain disputes between the Health and Human Services Commission and long-term care facilities.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2205, As Introduced: a negative impact of (\$2,832,560) 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	(\$1,463,204)
2021	(\$1,369,356)
2022	(\$1,369,356)
2023	(\$1,369,356)
2024	(\$1,369,356)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund 1	Change in Number of State Employees from FY 2019
2020	(\$1,463,204)	11.2
2021	(\$1,369,356)	11.2
2022	(\$1,369,356)	11.2
2023	(\$1,369,356)	11.2
2024	(\$1,369,356)	11.2

Fiscal Analysis

The bill would require that, for informal dispute resolutions of violations in assisted living and nursing facilities, the surveyor who conducted the survey for which the violation was written must be available to testify or be examined during the hearing. The bill would also require that a registered nurse with long-term care experience review the facility's informal dispute resolution request.

If the Health and Human Services Commission (HHSC) identified a violation that constituted immediate jeopardy in a convalescent or nursing facility, the bill would require HHSC to immediately notify facility management and remain in the facility until HHSC has accepted the facility's plan of correction.

The bill would take effect immediately if it receives a vote of two-third of all members elected to each house. If the bill did not receive these votes, it would take effect September 1, 2019.

Methodology

According to HHSC, federal matching funds would not be available to support the amended informal dispute resolution process required by the bill due to conflicts with federal requirements and that the existing process would need to be maintained to meet the requirements of federal law. HHSC indicates that the agency would consequently need to hire additional administrative and program staff to maintain two informal dispute resolution processes. HHSC estimates that hiring 2.0 FTEs, one administrative assistant and one program specialist, would cost \$197,258 in fiscal year 2020, and \$182,335 in future fiscal years, assuming an effective date of September 1, 2019.

The bill would amend the informal dispute resolution process to require a surveyor to present testimony and allow for examination of the surveyor. Because of these changes, HHSC indicates that the agency would need to hire 1.0 additional FTEs, an attorney to prepare the surveyor and act as a resource during the informal dispute resolution process, at a cost of \$133,971 in fiscal year 2020, and \$126,509 in future fiscal years. HHSC also estimates that requiring the surveyor to testify would cost \$145,600 in travel expenses for each fiscal year.

The bill would require survey teams to remain on-site after certain violations occur until HHSC has accepted a plan of correction. According to HHSC, these provisions would require 7.0 additional FTES to offset the workload of survey staff being removed from survey schedules pending acceptance of a plan of correction, and the workload of survey staff being removed from the field to testify. HHSC indicates that the agency would also require 1.0 additional FTEs to review independent dispute resolutions and would incur training costs for mandatory surveyor training. HHSC assumes that the bill would require 0.2 additional FTEs in each fiscal year to act as program specialists and support these regulatory changes. HHSC estimates that the costs of these changes to long-term care services would be \$986,374 in fiscal year 2020, and \$914,913 in future fiscal years.

Technology

HHSC estimates that the bill would have technology costs of \$78,130 in fiscal year 2020, and \$57,391 in future fiscal years for FTE-related costs including seat management services and basic data storage.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 529 Health and Human Services Commission

LBB Staff: WP, AKi, JQ, MNa