

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

April 30, 2023

TO: Honorable Stephanie Klick, Chair, House Committee on Public Health

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB4146 by Clardy (Relating to the regulation of health care employment agencies; authorizing a fee; providing an administrative penalty.), As Introduced

The component of the bill related to administrative penalty revenue cannot be determined because it is unknown how many violations would result from the legislation.

Estimated Two-year Net Impact to General Revenue Related Funds for HB4146, As Introduced : a negative impact of (\$13,651,890) through the biennium ending August 31, 2025.

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:

| <i>Fiscal Year</i> | <i>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</i> |
|--------------------|---|
| 2024 | (\$6,924,301) |
| 2025 | (\$6,727,589) |
| 2026 | (\$3,016,676) |
| 2027 | (\$3,020,528) |
| 2028 | (\$3,024,422) |

All Funds, Five-Year Impact:

| <i>Fiscal Year</i> | <i>Probable Savings/(Cost) from General Revenue Fund 1</i> | <i>Probable Savings/(Cost) from GR Match For Medicaid 758</i> | <i>Probable Savings/(Cost) from Federal Funds 555</i> | <i>Probable Revenue Gain/(Loss) from General Revenue Fund 1</i> |
|--------------------|--|---|---|---|
| 2024 | (\$8,332,631) | (\$341,670) | (\$341,670) | \$1,750,000 |
| 2025 | (\$8,136,099) | (\$341,490) | (\$341,490) | \$1,750,000 |
| 2026 | (\$4,766,676) | \$0 | \$0 | \$1,750,000 |
| 2027 | (\$4,770,528) | \$0 | \$0 | \$1,750,000 |
| 2028 | (\$4,774,422) | \$0 | \$0 | \$1,750,000 |

| <i>Fiscal Year</i> | <i>Change in Number of State Employees from FY 2023</i> |
|--------------------|---|
| 2024 | 42.8 |
| 2025 | 42.8 |
| 2026 | 42.8 |
| 2027 | 42.8 |
| 2028 | 42.8 |

Fiscal Analysis

The bill would require a health care employment agency to annually register each place of business owned or operated by the agency with the Health and Human Services Commission (HHSC). The bill would set a registration fee of \$500.

The bill would require a health care employment agency to ensure employees meet certain qualification standards and other requirements. The bill would allow HHSC to deny or revoke the registration of an agency that does not comply with the requirements of the bill. The bill would allow HHSC to assess an administrative penalty of \$500 for the first violation and \$5,000 for subsequent violations.

The bill would require HHSC to establish a system for the public to file complaints against a health care employment agency or the agency's employees. The bill would require HHSC to investigate complaints from the public, and report on findings to the person who filed the complaint and the agency that is the subject of the complaint.

The bill would take effect immediately upon receiving a two-thirds majority vote in each house. Otherwise, the bill would take effect September 1, 2023.

Methodology

Based on information provided by HHSC, it is assumed that at least 3,500 entities in the state would be subject to the registration requirements of the bill. This analysis assumes a positive revenue gain to the state of \$1,750,000 in General Revenue per fiscal year due to the annual registration fees required by the bill.

There would be effects on the Economic Stabilization Fund (ESF) balance limit and consequent effects for General Revenue reserves and transfers to ESF. Because pertinent fee revenue is initially deposited to the General Revenue Fund, the increase in fee revenue in the 2024-25 biennium would increase the 2026-27 ESF balance limit by ten percent of the increase in fees, increasing 2025 severance tax reserves for transfer to the ESF by the amount of the balance limit increase, and decreasing available GR in 2025 by the amount of increase of the reserves, however that amount is not expected to be significant.

This analysis does not assume additional revenue impact associated with the administrative penalties permitted by the bill. The revenue impact of the bill pertaining to administrative penalties would be dependent on the number of agencies in violation of the requirements of the bill and subsequent violations. According to HHSC, at least 3,500 entities in the state would be subject to the requirements of the bill. Penalties administered by HHSC could be used to help offset the cost of implementing the bill.

Based on information provided by HHSC, this analysis assumes HHSC would need additional License and Permit Specialists, Program Specialist, Inspectors, Records Analysts, Protective Services Intake Specialists, and associated Management staff to: create the registration process; process annual fees; develop a complaint intake process; inspect agencies subject to the requirements of the bill; and conduct enforcement actions for agency non-compliance. This analysis also assumes HHSC would require additional Program Specialists for indirect agency functions. Analysis assumes a total of 42.8 full-time-equivalents (FTEs) are needed in fiscal years 2024 through 2028 to implement the provisions of the bill. Personnel related costs, including salaries, travel, and overhead, are estimated to total \$4,957,614 in All Funds in fiscal year 2024 and \$4,762,866 in All Funds in fiscal year 2025

Technology

The total technology cost is estimated to be \$4,195,904 in All Funds in fiscal year 2024 and \$4,078,628 in All Funds in fiscal year 2025. Costs are primarily related to one-time modifications to the Texas Unified Licensure Information Portal to accommodate the changes to registration required by the bill, creation of a system to track public complaints, and other personnel-related costs.

Local Government Impact

No significant fiscal implication to units of local government is anticipated. There will be a fiscal impact to health care employment agencies to comply with the registration fees set in the bill. There may be a fiscal impact to health care employment agencies to pay administrative penalties set by HHSC.

Source Agencies: 304 Comptroller of Public Accounts, 529 Health and Human Services Commission

LBB Staff: JMc, NPe, ER, SB, NV