

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. NO.: 4663-01
BILL NO.: SB 1081
SUBJECT: Modifies Employee Disqualification Provisions and Nursing Home Violations
TYPE: Original
DATE: March 13, 2000

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
General Revenue	(\$11,112,685)	(\$11,617,736)	(\$12,146,170)
Total Estimated Net Effect on <u>All</u> State Funds	(\$11,112,685)	(\$11,617,736)	(\$12,146,170)

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
Federal	\$0	\$0	\$0
Total Estimated Net Effect on <u>All</u> Federal Funds*	\$0	\$0	\$0

***Revenues and expenditures of approximately \$18.1 million annually net to \$0.**

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
Local Government	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 5 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Health, Office of Administration - Administrative Hearing Commission**, the **Office of State Courts Administrator**, and the **Department of Mental Health** assume this proposal would not fiscally impact their agencies.

Officials from the **Department of Social Services (DOS) - Division of Aging (DA)** stated the DA - Institutional Services is responsible for surveying skilled nursing facilities participating in the Medicare/Medicaid programs, conducting state licensure inspections in skilled nursing facilities participating in the Medicare/Medicaid programs and those that do not participate in the federally sponsored programs, and investigating allegations of abuse, neglect, exploitation, or violations of regulations in skilled nursing facilities. Institutional Services believes the establishment of staffing ratios for skilled nursing facilities would not significantly increase the amount of time spent field survey staff in conducting inspections, surveys, and/or complaint investigations. Dependent on each of the skilled nursing facilities ability to meet the new staff minimums, Institutional Services may see an increase in the number of deficiencies cited related to staffing levels and qualifications. However, any fiscal impact on Institutional Services is indeterminable as facility compliance with this new staffing requirement is outside the direct control of Institutional Services and would be dependent upon the actions of the entities operating the skilled nursing facilities.

Currently DA checks all new employees, about 200 annually, to see whether they are on the DA employee disqualification (EDL) or the child and neglect (CA/N) central registry. DA assumes that beginning in January, 2001, all new employee screenings would be completed by checking with DOH's Family Care Safety Registry (as implemented under the Family Care Safety Act) and the Department of Mental Health's employee disqualification listing. DA believes that current resources would be sufficient to allow us to meet the additional requirement of checking both listings and the registry prior to hiring employees. DA assumes that any costs related to section 660.083.2 would be borne by skilled nursing facilities found to be in violation of state licensure requirements and therefore DA would have no fiscal impact as a result of the proposal. DA believes current staff resources would be sufficient to promulgate the required rules related to the fines and penalties.

DOS - Division of Family Services (DFS) officials assume that new hires by DFS would range from 150 to 200 per month. DFS assumes an average of 175 hires for the purpose of estimating the cost of this proposal. DFS assumes that one hour would be required to check the employee disqualification lists and the child neglect system after determining that a person was being considered for employment and preparing all necessary paperwork associated with this proposal.

ASSUMPTION (continued)

DFS estimates one Personnel Office would be required and related expense and equipment.

Oversight assumes DFS would be able to perform the required checks of the disqualification lists and the child neglect registry with current resources.

Officials from the **Department of Social Services - Division of Medical Services (DMS)** stated that based on discussions with the DA and review of the industry's data submitted to DMS, the staffing levels set forth in the proposal is higher than what is currently being done at nursing facilities resulting in nursing facilities having to hire additional staff.

The DMH stated that currently, nursing facility reimbursements are based on 1992 cost reports trended forward. Thus, new costs incurred after 1992 would not typically be part of the reimbursement calculation until rebasing. DMS assumes that the costs of the staffing requirements would be treated in the same manner as federal minimum wage changes where costs are recognized prior to rebasing.

Using the industry's data, the DMH determined approximately 75% of the industry does not meet the RN/LPS staffing levels and 30% of the industry does not meet the direct care provider staffing levels. The DMH included the Director of Nursing and other Registered Nurses in the current staffing levels in determining the additional staffing requirements for RN/LPN coverage and direct care provider coverage.

The DMS prepared an extensive calculation using data from each nursing facilities staffing patterns to determine the additional FTE required by the nursing facilities. This calculation is too cumbersome for including in the fiscal note. However, the DMS determined that in order to bring the staffing levels up to the requirements in this proposal, the DMS will incur additional medical assistance payments of approximately \$30,000,000 annually. The costs were split between state and federal funds at a rate of 39% state and 61% federal funds.

<u>FISCAL IMPACT - State Government</u>	FY 2001 (10 Mo.)	FY 2002	FY 2003
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GENERAL REVENUE FUND

Costs - Department of Social Services -
 Division of Medical Services

Increased medical assistance payments	<u>(\$11,112,685)</u>	<u>(\$11,617,736)</u>	<u>(\$12,146,170)</u>
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ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(\$1,112,685)</u>	<u>(\$11,617,736)</u>	<u>(\$12,146,170)</u>
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FEDERAL FUNDS

Income - Department of Social Services -
 Division of Medical Services

Increased Medicaid reimbursements	\$17,403,315	\$18,194,264	\$19,021,830
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Costs - Department of Social Services -
 Division of Medical Services

Increased medical assistance payments	<u>(\$17,403,315)</u>	<u>(\$18,194,264)</u>	<u>(\$19,021,830)</u>
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ESTIMATED NET EFFECT ON FEDERAL FUNDS	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2001 (10 Mo.)	FY 2002	FY 2003
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	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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FISCAL IMPACT - Small Business

Small businesses operating as skilled nursing facilities may be fiscally impacted by this proposal if they do not meet these minimum staffing requirements. This impact, taken as a whole, could be more than \$30,000,000. However, the nursing facilities should be allowed greater reimbursements from the Department of Social Services. The net effect to the nursing facilities cannot be reasonably estimated.

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DESCRIPTION

This proposal modifies employee disqualification provisions and various nursing home violations and includes dollar penalties for violations of the provisions.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Social Services
Department of Health
Department of Mental Health
Office of State Courts Administrator
Office of Administration
Administration Hearing Commission



Jeanne Jarrett, CPA
Director
March 13, 2000