

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 7556

BILL NUMBER: HB 1750

NOTE PREPARED: Jan 26, 2005

BILL AMENDED:

SUBJECT: Personal Services Agencies.

FIRST AUTHOR: Rep. Budak

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill establishes a program for the licensing and regulation of personal services agencies. It provides that home health agencies and personal services agencies are approved to provide home health services under certain federal waivers. It provides that home health services includes services that are required to be ordered by or may only be performed by certain health care professionals.

The bill also requires a personal services agency to comply with employee criminal history check requirements. It requires a personal services agency to be licensed by the State Department of Health after January 1, 2006. It makes operating or advertising an unlicensed personal services agency a Class A misdemeanor. The bill makes conforming changes. It also relocates the definition of "attendant care services".

Effective Date: July 1, 2005.

Explanation of State Expenditures: *Department of Health:* The licensing requirements provided in this bill for personal services agencies are similar to the licensing requirements for home health agencies. If the costs for providing a licensure and regulation program for personal services agencies are similar to those of home health agencies, the fiscal impact may be comparable to the Department of Health's expenditures on home health agency licensing.

For the home health agency licensing program, the Department of Health employs 13 surveyors and 3 support staff to cover 249 licensed home health agencies, 78 hospice facilities, and 95 end-stage renal disease facilities. The number of personal services agencies requiring licensure is not known. *If* there is a similar number of personal services agencies as licensed home health agencies, the Department of Health may need up to 8

additional surveyors, one program coordinator, and one secretary. If a surveyor is hired at the PAT III level, each position would cost approximately \$46,362 in FY 2006, or a total of about \$370,896 in FY 2006 for 8 surveyors. If the program coordinator is hired at the PAT III level and a secretary is hired at the COMOT III level, the support staff costs would be approximately \$81,947 in FY 2006. These estimates include salary, fringe benefits, and indirect costs. Total expenditures for all staff (surveyors plus support staff) are estimated at about \$453,000 for FY 2006.

Other related expenditures would be computers, mileage, and reimbursements for other expenses incurred while traveling. The cost for 10 computers at \$2,500 per computer is \$25,000. As of January 2005, the mileage reimbursement rate was \$0.34 per mile. The actual cost of mileage and related travel expenditures will depend on the amount of traveling required. Expenditures for the personal services agency licensing program will come from state funds. There is no comparable federal certification which would allow for federal funds to be claimed.

This bill does not contain an appropriation to fund this new program.

Budget information on the home health agency survey program was not immediately available, however, it will be included once the information is provided.

Attorney General: The State Department of Health may report to the Attorney General an unlicensed personal services agency. The Attorney General may then seek an injunction or prosecute violations. This provision of the bill could add to the Attorney General's administrative burden, which would depend on individual circumstances.

Explanation of State Revenues: *License Fee:* The bill allows the State Department of Health to charge a nonrefundable fee for a license every three years to operate a personal services agency. License fee revenue will off set the costs of the licensing program depending on the amount of the fee. The current home health agency licensing fee is \$100 annually. This bill requires personal services agencies to renew their operating license every three years.

Court Fee Revenue: This bill allows the Attorney General to seek an injunction in a local circuit or superior court or prosecute violations for operating or advertising the operation of an unlicensed personal services agency.

The bill also allows the Department of Health to impose a civil penalty of up to \$1,000 for violating provisions of the personal services agency licensing law.

If additional civil actions occur, revenue to the state General Fund may increase if court fees are collected. A civil filing fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court. In addition, the penalty for operating or advertising the operation of an unlicensed personal services agency is a Class A misdemeanor. If additional court cases occur and fines are collected, revenue to both the Common School Fund (from fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class A misdemeanor is \$5,000. However, any additional revenue would likely be minimal.

Explanation of Local Expenditures: *Penalty Provision:* A Class A misdemeanor is punishable by up to one year in jail.

Explanation of Local Revenues: *Court Fee Revenue:* If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 filing fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. However, any change in revenue would likely be small.

State Agencies Affected: State Department of Health, Attorney General, FSSA/DDARS & OMPP potentially.

Local Agencies Affected: Trial courts, city and town courts, and local law enforcement agencies.

Information Sources: Terry Whitson, State Department of Health.

Fiscal Analyst: Valerie Ruda, 317-232-9867; Kathy Norris, 317-234-1360.