

**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: Feb 23, 2005

BILL AMENDED: Feb 21, 2005

SUBJECT: Personal Services Agencies.

FIRST AUTHOR: Rep. Budak

FIRST SPONSOR:

BILL STATUS: CR Adopted - 1st House

FUNDS AFFECTED: X GENERAL
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) 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". It provides that a home health agency that operates a personal services agency is not required to obtain a license to operate the personal services agency.

The bill requires a placement agency to provide the consumer and worker with certain information when a home care services worker is placed in the consumer's home. It allows the State Department of Labor to impose a civil penalty against a placement agency for failing to provide the notice.

Effective Date: July 1, 2005.

Explanation of State Expenditures: (Revised) *Department of Health: Summary:* The total cost of the bill is estimated to be \$278,171 in FY 2006, assuming full operations for three-quarters of the year, and \$290,286 for FY 2007. Fee revenue is estimated to be \$25,000 every three years, assuming 250 agencies apply for licensure. The Department of Health has revised the estimated resources required to implement the provisions

of this bill based on an assumption that the costs for providing a licensure and regulation program for personal services agencies should be less than those for home health agencies, since personal services agencies' scope of care does not include licensed professionals and the amended bill specifies that home health agencies will not be required to obtain a separate license to provide personal services as a portion of their business.

The number of personal services agencies that would require licensure has been estimated to be about 250 entities. The Department of Health estimates that they may need up to 4 additional surveyors and one secretary. It is assumed that these surveyors would be supervised by the existing supervisory staff of the Home Health Care Licensure unit. If a surveyor is hired at the PAT III level, each position would cost approximately \$54,933 in FY 2006, or a total of about \$219,732 in FY 2006 for 4 surveyors for a full year. If a secretary is hired at the COMOT III level, the support staff costs would be approximately \$34,647 in FY 2006 for a full year. These estimates include salary, fringe benefits, and health benefits. Total expenditures for all staff (surveyors, support staff and \$11,316 for a part-time attorney) are estimated at \$265,695 for FY 2006 assuming full staffing for the year. Discussions with the regulatory services staff indicate that the rule promulgation process would be lengthy and hiring probably would not take place until the second quarter of the fiscal year, allowing time to train the staff. Under this assumption, the personal services cost in the first year would be \$199,271.

Other related expenditures would be data base revisions, computers, mileage, and reimbursements for other expenses incurred while traveling. Other operating expenses in the first year would include startup costs for software/data base revisions of \$42,000. The cost for 5 computers at \$2,500 per computer is \$12,500. 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; the Department reports that the average cost for current survey staff is \$6,100 annually. 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.

Department of Labor: The bill requires the Department of Labor to develop a notice for consumers informing them that they may be considered to be an employer of a home care services worker and may be responsible for the payment of local, state, or federal employment taxes, or payment of Social Security and Medicare contributions as well as worker's compensation insurance and other requirements. The bill would allow the Department to investigate alleged violations of the failure to provide notice by a placement agency that places home care services workers in employment. The Department of Labor may incur additional expense if they choose to investigate complaints or audit compliance with this provision. The bill also would allow for the imposition of a civil penalty not to exceed \$1,000 for failure of a placement agency to notify a worker or a consumer at the times specified under the bill.

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 partially offset 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.

(Revised) *Penalty 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.

Explanation of Local Expenditures:

Explanation of Local Revenues:

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

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.