Fiscal Note

BILL # SB 1293

TITLE: long-term care; inspections; investigations

SPONSOR: Kaiser

STATUS: As Amended in Senate HHS

PREPARED BY: Maggie Rocker

Description

The bill would require the Department of Health Services (DHS) to contract with a third-party entity to inspect long-term care facilities twice annually, beginning July 1, 2024. Under current law, DHS is to conduct the inspections annually with certain exceptions. The bill also establishes the Long-Term Care Facility Inspection Fund and includes annual reporting requirements.

Estimated Impact

Based on the semi-annual inspection requirement and resources requested by DHS to address audit findings, we anticipate that the bill would increase DHS's costs by at least $2.0 million beginning in FY 2025. Actual costs could be greater depending on the cost of contracting out all inspections compared to the in-house process. DHS has not yet provided an estimate of the impact of the bill, and we are unable to project the higher potential cost without more information.

The bill would also redirect DHS long-term care facility fees to a new Long-Term Care Facility Inspection Fund to pay the third-party entity. This would reduce General Fund revenues by approximately $(129,200) by removing the current statutory requirement that 10% of fee collections be deposited to the General Fund.

Analysis

DHS conducts state licensing surveys of long-term care facilities annually. In addition to routine annual inspections, statute requires DHS to conduct investigations when there is reasonable cause to believe a facility is not adhering to licensing requirements. DHS may defer an inspection for 24 months if the prior survey found no deficiencies. The Department can also accept proof of accreditation from an independent, non-profit accrediting entity in lieu of a compliance inspection.

By way of background, a 2019 Auditor General report concluded that the Department was not providing timely investigation and resolution of long-term care facility complaints. A follow-up report published in 2022 found that DHS, in an effort to provide timelier investigation of high priority complaints, lessened the priority status of 98% of complaints. Of these complaints, 79% were then closed without an investigation. In its response to the audit, DHS reported that implementing all audit recommendations would require $3.3 million and 44 FTE Positions from the General Fund. The FY 2022 budget included $1.6 million and 16 FTE Positions from the General Fund.

The bill would require DHS to contract with a third-party entity to carry out state long-term care facility inspections twice annually, in addition to any investigations performed because of complaints. The bill would also prevent the third-party entity from accepting accreditation reports in lieu of inspections. In addition to General Fund monies appropriated in the FY 2022 budget, current long-term care program funding totals $4.0 million, which includes $1.2 million in revenue from

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long-term care facility fees and $2.8 million from the Centers for Medicare and Medicaid Services (CMS). Under the bill, fee revenues would be deposited into a new Long-Term Care Facility Inspection Fund to pay the third-party entity chosen to conduct inspections, and the remaining $2.8 million would continue to be used by DHS to fulfill contract requirements with CMS for federal surveys.

Based on the resources initially requested by DHS to implement audit recommendations and bill language requiring semi-annual inspections, we anticipate that additional resources would be needed for the third-party to fulfill contract requirements. DHS has not yet provided a fiscal impact estimate for this bill. The state may not be able to determine the fiscal impact of the vendor contracts until a Request for Proposals is issued.

Fee revenues collected for state regulatory purposes are currently deposited in the Health Services Licensing Fund (90%) and the General Fund (10%). The bill would notwithstand current statute to require 100% of fee revenues be deposited into the new Long-Term Care Facility Inspection Fund, resulting in a General Fund revenue loss.

3/13/23