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## FISCAL IMPACT REPORT

SPONSOR HBEC ORIGINAL DATE 03/09/15  
LAST UPDATED \_\_\_\_\_ HB 52/HBECs  
SHORT TITLE Limit Some Health No Compete Provisions SB \_\_\_\_\_  
ANALYST Hanika-Ortiz

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY14	FY15	FY16	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>			NFI			

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Attorney General's Office  
Office of the Superintendent of Insurance  
Public Regulation Commission  
Human Services Department  
Regulation and Licensing Department

### SUMMARY

#### Synopsis of Bill

The House Business and Employment Committee Substitute for House Bill 52 makes non-compete provisions in certain health care practitioner agreements unenforceable.

Section 1 describes a health care practitioner as a dentist, an osteopathic physician, a physician, a podiatrist or a certified nurse practitioner.

Section 2 provides that a non-compete provision shall be unenforceable when an employment agreement or any renewals or extensions expire, or employment is terminated.

Section 3 provides that the limitations do not apply to agreements requiring practitioners working less than 3 years to repay loans, relocation expenses, signing bonuses, recruiting, education and training expenses. All other provisions, including nondisclosure of confidential information and nonsolicitation with respect to patients and employees, remain enforceable.

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Section 4 permits agreements that provide for reasonable liquidated damages under a breach of contract, but voids as a penalty unreasonably large liquidated damage provisions.

Section 5 limits applicability for practitioners not shareholders, owners, partners or directors.

The provisions apply to agreements executed on or after July 1, 2015.

### **FISCAL IMPLICATIONS**

The bill may enhance the availability of primary care providers, particularly in underserved areas.

Some self-insured plans noted that relaxing non-compete enforcement may foster competition and the effect may be improved provider rate setting which could positively impact claims costs.

### **SIGNIFICANT ISSUES**

The bill will allow certain practitioners who have terminated relationships with health care facilities or other providers to go work for a different facility or another provider and practice their profession without concerns over a non-compete provision with their previous employer.

### **RELATIONSHIP**

The substitute bill now duplicates SB 325, as amended by the Senate Judiciary Committee.

### **TECHNICAL ISSUES**

The language that allows liquidated damages if “reasonable” and does not allow “unreasonably large liquidated damages” may be open to some degree of interpretation.

### **OTHER SUBSTANTIVE ISSUES**

Many states prohibit non-compete agreements as a matter of law.

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

The opportunity to increase access to primary care in underserved areas might be diminished.

AHO/aml/je