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FISCAL IMPACT REPORT

ORIGINAL DATE 1/23/08
 SPONSOR Varela LAST UPDATED 2/4/08 HB 181
 SHORT TITLE Behavioral Health Purchasing Rulemaking SB _____
 ANALYST Weber; Sallee

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY08	FY09	FY10	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total	*See Narrative	*See Narrative	*See Narrative	*See Narrative		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Corrections Department
 Public Education Department (PED)
 Human Services Department

SUMMARY

Synopsis of Bill

House Bill 181 is Welfare Reform Oversight Committee endorsed legislation that requires the Interagency Behavioral Health Purchasing Collaborative to do the following.

- Adopt rules, pursuant to the State Rules Act, for standards of delivery for behavioral health services provided through contracted behavioral health entities and rules governing the approval of contracts and contract amendments by the collaborative, including public notice of the proposed final contract.
- Submit a separately identifiable consolidated behavioral health budget request. The request should account for funding for the behavioral health services program at the human services department and any other requested funding for behavioral health services from collaborative agencies to be used for contracts with behavioral health entities. The bill specifies that any contract proposed, negotiated or entered into by the collaborative is subject to the provisions of the Procurement Code.
- Appoint, with the consent of the governor, a "director of the collaborative." The director is responsible for the coordination of day-to-day activities of the collaborative, including the coordination of staff from the collaborative member agencies.

- Provide a quarterly report to the legislative finance committee on performance outcome measures.
- Submit an annual report to the legislative finance committee and the interim legislative health and human services committee that provides information on progress toward achieving collaborative strategic plans and goals; performance information; and other expenditure and program operation information, include on the number of people receiving services.

The bill makes technical changes to update the statutory names of certain collaborative member agencies.

FISCAL IMPLICATIONS

HB 181 requires the collaborative to adopt rules governing standards for the delivery of behavioral health services provided through its contractors, currently ValueOptions New Mexico. Current law requires the collaborative to create a single statewide behavioral health system and for participating agencies to comply with its comprehensive plan. To streamline rules governing the system, each agency has to go through a separate rulemaking process, presumably at the direction of the Collaborative. Based on comments from the Human Services Department and other collaborative agencies, the drafting, public input and publication of rules could have minimal costs, but would be carried out within existing staffing resources.

There is no additional cost to hire the “director of the collaborative” because the executive has already designated an existing position to serve as both the collaborative and the behavioral health services division director. The bill would simply put this practice into statute.

SIGNIFICANT ISSUES

The Legislature created the collaborative in 2004 to develop and coordinate a single statewide behavioral health system. In 2006, Legislative Finance Committee (Committee) staff issued a program evaluation report on the Collaborative and progress made to improve behavioral health services to New Mexicans. The Collaborative had generally been successful during its first two years, but additional statutory and management changes were recommended to improve the collaborative’s authority, administration and accountability to the Legislature. The Collaborative also needed to improve financial practices and modify the oversight of its contractor, ValueOptions, to ensure New Mexicans receive sufficient access to high quality services.

In response, the Legislature passed HB 727 (2007 Session) which contained many of the report’s recommendations, in addition to other provisions. The bill was vetoed and thus not enacted. House Executive Message No. 39 indicated that the bill “violated Article III, Section 1 of the New Mexico Constitution, which prohibits legislative intrusion upon the executive branch of government” presumably due to provisions adding non-voting legislators as collaborative members. HB 181 contains all the provisions from the HB 727 (2007 Session), except those provisions the Executive objected to in the veto message.

LFC issued a follow-up report on the collaborative in the fall of 2007 and found that statutory changes to improve the collaborative were still need. HB 181 contains all the provisions from the HB 727 (2007 Session), except those provisions the Executive objected to in the veto message.

Rulemaking. The collaborative is statutorily charged with creating a single statewide behavioral health system, which should, therefore, require an alignment of service requirements across multiple agencies and programs. Aligning agency’ rules through multiple and separate processes are inefficient, and complicate effective public participation in critical decisions regarding quality of behavioral health services. In addition, using the contract process to make or align policy as is current practice, is not contemplated by state law and puts the public at a disadvantage to effectively participate in the process.

Budget. Behavioral health appropriations and performance measures remain fragmented across multiple agencies and budget programs. Separate appropriations requests for one contract (ValueOptions) through separate budget processes are cumbersome and hamper effective budget and performance discussions between the executive and legislative branches for behavioral health services.

PERFORMANCE IMPLICATIONS

LFC notes that the bill provisions are consistent, would complement, and, in fact, enhance, the Governor’s performance and accountability outcomes. Currently these measures cross agencies, programs and funding streams. Requiring a consolidated behavioral health budget will allow the Legislature and Governor to assess both funding levels and resulting performance in a streamlined format. Currently, the General Appropriations Act contains funding and performance measures for behavioral health services across multiple agencies. These measures are, according to the collaborative, obsolete since these funds are blended and braided through the single entity contract.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The work of the collaborative in its current structure will continue, but without the oversight provisions contained in the bill that are necessary to allow the Legislature to effectively assist in the long-term reforms of the behavioral health system. The collaborative will not be able to streamline behavioral health rules and will continue using a process for setting rules that puts the public at a disadvantage for impacting important standards for delivery of services. The Legislature’s oversight, budgeting and accountability monitoring ability would continue in current format, which, according to recent LFC program evaluations, limits executive agencies accountability to the Legislature for behavioral health expenditures and outcomes.

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