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## FISCAL IMPACT REPORT

ORIGINAL DATE 03/12/11  
 LAST UPDATED 03/25/11    HB \_\_\_\_\_

SPONSOR    SJC

SHORT TITLE    Disclosures for Residences & Facilities    SB CS/CS/334/aSFI#1

ANALYST    Esquibel

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY11	FY12		
N/A	N/A	N/A	N/A

(Parenthesis ( ) Indicate Expenditure Decreases)

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

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
<b>Total</b>		Moderate- Significant	Moderate- Significant	Moderate- Significant	Recurring	General Fund/ALTSD & HSD study and operating costs

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Aging and Long-Term Services Department (ALTSD)

Human Services Department (HSD)

Department of Health (DOH)

### SUMMARY

#### Synopsis of Senate Floor Amendment

The Senate Floor Amendment to Senate Bill 334 specifies if the facility is owned or operated by a partnership, corporation or association, the names and addresses of its facility manager or administrator and all of its officers, directors, trustees, partners, and *managing members* must be provided to the Department of Health. The amendments define a managing member as a managing member of a limited liability corporation.

Synopsis of Original Bill

The Senate Judiciary Committee substitute for the Senate Public Affairs Committee substitute for Senate Bill 334 (SB334/SJCS) proposes to add disclosure and other requirements for Residential Care Facilities (RCFs) and Long Term Care Facilities (LTCFs) licensed in the state, to be enforced by the Department of Health (DOH). SB334/SJCS would require DOH, Division of Health Improvement (DHI) to license or renew the license of a RCF, as defined, if certain “annual disclosure statements” to include, in part, the following are submitted:

- 1) Disclosure of any felony conviction of the owner or operator;
- 2) Whether the owner or operator “after a finding based upon substantial evidence” for the reasons of a felony conviction, noncompliance with administrative governing rules, not allowing inspections, employment of staff under the influence of alcohol or narcotics or is a felon, falsifying forms, violations of rules, failure to provide care or comply with corrective action plans, failing to report incidents, failure to pay penalties, exceeding licensed capacity or abuse, neglect or exploitation of patients, clients or residents.

SB334/SJCS would also require the Secretaries of the Aging and Long Term Services Department (ALTSD) and the DOH conduct a study of the health and safety needs and challenges of residents of the State’s supportive residences, as defined. The study would include recommendations for legislation regarding the operation of the supportive residences in a manner that provides quality living environments and greater protection from abuse, fraud and exploitation for residents. The findings and recommendations would be presented by the Secretaries to the Legislative Health and Human Services Committee by October 1, 2011. The recommendations would include:

- 1) Whether the residences should be licensed or certified and the proper state agency for licensure or certification and related rulemaking;
- 2) Types of disclosures and background checks that should be required;
- 3) Type and frequency of any investigations of the residences and the best agency suited to perform them; and
- 4) Identification of funding sources for the licensure, certification, investigation or other recommended actions.

**FISCAL IMPLICATIONS**

The Human Services Department indicates the bill would have an additional operating budget impact in that there would be the added administrative responsibility for the study of a large number of supportive residences. There would be an estimated need for additional ALTSD and DOH staff and operational costs to work on the completion of the supportive residences study.

**SIGNIFICANT ISSUES**

The Department of Health indicates SB334/SJCS would apply additional requirements for licensure including submission of disclosure statements, criminal background information, and previous licensure suspension or revocation. Current DOH background checks are for caregivers.

DOH does not currently require licensure of any residential care providers serving people under

the Developmental Disabilities Medicaid Waiver. DOH only requires licensure of a residential care provider serving people under CoLTS if they are an Assisted Living provider or Adult Day Care provider.

SB334/SJCS would also require a study of the health and safety needs and challenges of residents of supportive residences to ensure facilities provide quality living environments and greater protection from abuse, fraud and exploitations.

SB334/SJCS would require the ALTSD and DOH Secretaries to conduct a study and make recommendations on the operation of the supportive residences to provide “greater protection from abuse, fraud and exploitation for residents”. Currently, DOH and ALTSD have responsibility for protecting residents from abuse, neglect and exploitation. It is recommended that the bill be revised to replace “fraud” with “neglect”. Fraud of a resident may already be addressed in exploitation/misappropriation of property.

SB334/SJCS may be requesting that the executive branch reach, by further study, into an area of living options that is more within private leasing arrangements. Also, where public subsidization is part of the financial picture, then public housing avenues are available to review the health, safety and quality aspects of supportive residences for individuals with disability residing in the community.

#### **ADMINISTRATIVE IMPLICATIONS**

SB334/SJCS would require additional staffing and other resources from ALTSD and DOH.

#### **TECHNICAL ISSUES**

Section C of SB334/SJCS on page 4, lines 13-15, is unclear.

#### **OTHER SUBSTANTIVE ISSUES**

DOH indicates a federal appropriations statute from 1972 (P.L. 92-544) established the FBI’s NCIC background system, and provided that the information in that system could be shared with officials of state and local governments for licensing and employment purposes, but only “if authorized by State statute and approved by the [U.S.] Attorney General”. Accordingly, state agencies cannot use the FBI system unless a state statute authorizes such use.

#### **ALTERNATIVES**

Public housing caseworkers and other community based service coordinators are able to work with individuals to ensure that their housing and other needs are being adequately addressed.

RAE/svb:bym:mew