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FISCAL IMPACT REPORT

SPONSOR: Martinez DATE TYPED: 2/21/01 HB 395/aHJC
 SHORT TITLE: Private Enforcement of Long-Term Care Act SB _____
 ANALYST: Wilson

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
	NFI				

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

Health Policy Commission (HPC)
 Attorney General's Office (AG)

SUMMARY

Synopsis of HJC Amendment

HB395/aHJC makes technical amendments to the bill.

Synopsis of Original Bill

HB 395 establishes the right of individuals to enforce laws pertaining to long-term care facilities by way of civil action and injunctive relief.

Significant Issues

Any resident of a long-term care facility, as a class or otherwise, would be able to bring an action to recover actual and punitive damages for injury resulting from a violation of a federal or state statute or regulation, including those that establish minimum standards of care for the facility to obtain or retain the license to operate or to receive Medicaid or Medicare payments.

If the resident prevails in the action, the court must award no less than \$1,000 in compensatory damages, attorney fees and costs. If a resident is unable to bring an action due to death, incapacity or otherwise, a court-appointed guardian or legal representative could do so on their behalf.

The rights established in the Private Enforcement of Long-Term Care Protections Act are in addition to any other rights or remedies that may be available by statute, rule or common law, including relief pursuant to the provisions of the Unfair Practices Act.

OTHER SUBSTANTIVE ISSUES

- \$ According to the AARP there were 46.3 persons per thousands (age 16-64) and 184.2 persons per thousands (age 65+) who reported having difficulty in mobility or self-care.
- \$ Currently, the State Agency on Aging provides volunteer long-term care ombudsmen who visit assigned nursing homes and other long-term care facilities on a regular basis to assure that residents are receiving the care they deserve.
- \$ The most severely disabled population--those who need substantial help (i.e., unable to carry out 3 or more self-care tasks) comprise approximately 5.1 million Americans.
- \$ The fastest-growing population in America is over 85. The 65- to 74-year-old population is expected to nearly double, from 18 million Americans in 2000 to 35 million in 2050. Association
- \$ About 11.5 million Americans of all ages need long term care services today. Given the population trends, that need will only skyrocket.
- \$ Most, but not all, persons in need of long-term care are elderly. Approximately 57% are persons aged 65 and older (7.5 million); 40% are working-age adults aged 18 to 64 (5 million); and 3% are children under age 18 (400,000).
- \$ Despite reform of nursing home regulation more than a decade ago, recent reports to Congress indicate that about a quarter of the more than 17,000 nursing homes nationally have had serious deficiencies. About 40 percent of those have had repeated deficiencies. Such poor performance is attributed to insufficient attention to and support for federal and state enforcement activities.

DW/njw