

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION**

**April 21, 2005**

**TO:** Honorable Jane Nelson, Chair, Senate Committee on Health & Human Services

**FROM:** John S. O'Brien, Deputy Director, Legislative Budget Board

**IN RE: HB836** by Gattis (Relating to certain requirements concerning the filling of a prescription.),  
**As Engrossed**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Occupations Code by requiring a pharmacist to offer a patient the choice of paying the actual price of the prescription instead of the co-payment amount if the actual price of the prescription is lower than the co-payment amount. The bill also would require a pharmacist to personally, or through the pharmacist's agent or employee, advise a patient that a generic drug is available at a lower cost before substituting a generic drug for a name brand drug and obtain the consent of the patient before substituting the generic drug.

According to the Employees Retirement System of Texas (ERS), the bill would not have a significant fiscal impact. Currently, the Texas Employees Group Benefits Program (GBP) has a provision whereby patients pay the lower of the cost of the drug or the co-payment charge. ERS states that the GBP requires the use of generic drugs if available and if the patient chooses the name brand drug when a generic drug is available, the patient must pay the generic co-pay amount plus the difference in the price between the name brand and the generic drug.

The bill would take effect September 1, 2005.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 323 Teacher Retirement System, 327 Employees Retirement System, 515 Board of Pharmacy

**LBB Staff:** JOB, CL, MW, RR