

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

May 28, 2005

TO: Honorable David Dewhurst , Lieutenant Governor, Senate
Honorable Tom Craddick, Speaker of the House, House of Representatives

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.),
Conference Committee Report

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 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 require pharmacies to display a sign in both English and Spanish that requires a pharmacist to inform customers of the availability of an equivalent generic drug and ask customers to choose between the generic and the name brand drug. Based on the Board of Pharmacy's analysis, it is assumed there would be no significant fiscal impact.

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, SD, CL, MW, RR