

LEGISLATIVE BUDGET BOARD  
Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

April 19, 2005

**TO:** Honorable Dianne White Delisi, Chair, House Committee on Public Health

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

**IN RE: HB3391** by Miller (Relating to prescription drugs under the Medicaid vendor drug program and other state health and human services programs.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB3391, As Introduced: a negative impact of (\$121,940,639) through the biennium ending August 31, 2007.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2006	(\$59,176,257)
2007	(\$62,764,382)
2008	(\$75,418,161)
2009	(\$90,577,211)
2010	(\$108,783,230)

All Funds, Five-Year Impact:

Fiscal Year	Probable (Cost) from GR MATCH FOR MEDICAID 758	Probable (Cost) from VENDOR DRUG REBATES-MEDICAID 706	Probable (Cost) from FEDERAL FUNDS 555	Probable Revenue (Loss) from VENDOR DRUG REBATES-MEDICAID 706
2006	(\$32,877,071)	(\$8,924,672)	(\$64,509,913)	(\$17,374,514)
2007	(\$34,870,557)	(\$9,465,816)	(\$67,822,424)	(\$18,428,009)
2008	(\$41,900,728)	(\$11,374,196)	(\$81,427,791)	(\$22,143,237)
2009	(\$50,322,774)	(\$13,660,410)	(\$97,794,777)	(\$26,594,027)
2010	(\$60,437,651)	(\$16,406,152)	(\$117,451,527)	(\$31,939,427)

Fiscal Analysis

The bill would amend provisions of the Government Code relating to the operation of the Medicaid prescription drug preferred drug list (PDL). Section 1 would require that analysis of the impact of the Medicare Prescription Drug program on Medicaid prescription drug expenditures be added to an annual report by the Health and Human Services Commission (HHSC). Section 2 would add a provision stating that HHSC or a health and human services agency may not provide the Pharmaceutical and Therapeutics Committee with access to confidential information. Section 3 would make decisions denying placement of a drug on a PDL a decision in a contested case subject to judicial review under the substantial evidence rule and prohibit HHSC from discouraging the use of any drug on the PDL. Section 4 would require HHSC to develop criteria for determining whether to

grant prior authorization and subject those criteria to review by the Department of State Health Services drug utilization review board. Section 4 would also prohibit HHSC from requiring prior authorization for a drug if a physician indicates "dispense as written" on a prescription.

### **Methodology**

According to the Health and Human Services Commission, Sections 2, 3, and 4 would result collectively in a shift of market share to more expensive drugs as compared to current practice, resulting in a 75 percent reduction to anticipated market shift savings. HHSC assumes that Sections 2, 3, and 4 would collectively reduce vendor drug rebate revenues related to the PDL in the amount of \$17.4 million in 2006, \$18.4 million in 2007, \$22.1 million in 2008, \$26.6 million in 2009 and \$31.9 million in 2010.

### **Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 529 Health and Human Services Commission, 537 Department of State Health Services  
**LBB Staff:** JOB, CL, KF