LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 17, 2007

TO: Honorable Robert Duncan, Chair, Senate Committee on State Affairs

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

IN RE: **HB1613** by Gattis (Relating to the delivery of prescription drugs for certain state health plans by mail order and to the payment of certain pharmacy or pharmacist claims; providing an administrative penalty.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1613, As Engrossed: a positive impact of $10,190,154 through the biennium ending August 31, 2009.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2008	$0
2009	$10,190,154
2010	$11,197,320
2011	$12,322,977
2012	$13,507,878

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings from *GENERAL REVENUE FUND* 1	Probable Savings from *GR DEDICATED ACCOUNTS* 994	Probable Savings from *OTHER SPECIAL STATE FUNDS* 998	Probable Savings from *STATE HIGHWAY FUND* 6
2008	$0	$0	$0	$0
2009	$10,190,154	$531,423	$53,366	$2,368,469
2010	$11,197,320	$583,947	$58,640	$2,602,562
2011	$12,322,977	$642,651	$64,535	$2,864,195
2012	$13,507,878	$704,444	$70,741	$3,139,599

Fiscal Year	Probable Savings from *FEDERAL FUNDS* 555
2008	$0
2009	$2,252,308
2010	$2,474,920
2011	$2,723,722
2012	$2,985,618

Fiscal Analysis

The bill would amend the Insurance Code to prohibit a health benefit plan administered by the Employees Retirement System (ERS) or Teacher Retirement System (TRS) from discriminating between mail order and retail pharmacies. The bill would require Pharmacy Benefit Managers (PBMs) with which state entities contract to pass 100 percent of drug rebates through to the contracting entity and to report to the contracting entity the actual cost of all drugs purchased and additional information related to rebates. The bill would require the Texas Department of Insurance (TDI) to investigate any compaints received regarding conduct regulated by the bill.

The bill would also amend the Insurance Code relating to payment by pharmacy benefit managers of certain claims.

The bill would take effect September 1, 2007, and would only apply to a health benefit plan that is delivered, issued for delivery, or renewed on or after January 1, 2008.

Methodology

This analysis assumes that the bill would result in the terms and conditions applied to retail pharmacies being restructured to align with the terms and conditions in place for mail order pharmacies.

Under these assumptions, it is assumed the health plan administered by ERS would realize savings in the amounts reflected in the tables above. However, ERS indicates that this may result in a significant reduction in the retail pharmacy network because of the lowered reimbursement rate and may diminish ERS' purchasing power with all mail vendors. ERS assumes that any additional savings received could result in higher state contributions and member contributions.

Under these assumptions, it is assumed that TRS would realize savings of $14 million in fiscal year 2008 and $17 million in fiscal year 2009 in the TRS-Care plan, and savings of $14 million in fiscal year 2008 and $15 million in fiscal year 2009 in the TRS-ActiveCare plan. However, TRS indicates that mail order volume has a direct relationship with current favorable contract terms for the plans and if mail order volume were to drop significantly, the plans may incur additional administrative costs and less favorable discount rates and rebates. TRS assumes that any additional savings received as a result of increased rebates paid by PBMs would be offset by increases in administrative costs and less favorable discount rates.

Based on the analysis the Texas Department of Insurance (TDI), it is assumed that there would be a one-time revenue gain of $4,600 in the General Revenue Dedicated Account Fund 36 in fiscal year 2008 because the bill would result in 46 filings, each accompanied by a $100 filing fee. Since General Revenue Dedicated Account Fund 36 is a self-leveling account, this analysis assumes all revenue generated would go toward fund balances or the maintenance tax would be set to recover a lower level of revenue the following year. It is also assumed that any costs realized by TDI from implementing the provisions of the bill could be absorbed within existing resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 323 Teacher Retirement System, 327 Employees Retirement System, 454 Department of Insurance

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