LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 21, 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.), **Committee Report 2nd House, As Amended**

No significant fiscal implication to the State is anticipated.

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 complaints received regarding conduct regulated by the bill and allows for an administrative penalty of up to $1,000 per prescription filled in violation of the bill. The bill would also amend the Insurance Code relating to payment by pharmacy benefit managers of certain claims. The bill would require ERS and TRS to conduct a study.

Based on the analysis the Texas Department of Insurance (TDI), it is assumed that there would be a one-time revenue gain of $900 in the General Revenue Dedicated Account Fund 36 in fiscal year 2008 because the bill would result in 9 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.

Based on the analysis of ERS and TRS, any costs to health plans administered by those agencies as a result of the bill would be offset by savings to the health plans as a result of the bill. TRS estimates the cost of conducting a study under the provisions of the bill would cost $50,000 for each plan. ERS estimates the cost of the study could be absorbed within existing resource.

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, 2010.

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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