

LEGISLATIVE BUDGET BOARD  
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION  
Revision 1

March 29, 2007

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

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

**IN RE: HB1806** by Gattis (Relating to restrictions on the substitution of generically equivalent versions of antiepileptic and antiseizure drugs.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB1806, As Introduced: a negative impact of (\$4,872,669) through the biennium ending August 31, 2009.

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
2008	(\$1,379,672)
2009	(\$3,492,997)
2010	(\$3,991,844)
2011	(\$4,391,028)
2012	(\$4,830,131)

All Funds, Five-Year Impact:

Fiscal Year	Probable (Cost) from GENERAL REVENUE FUND 1	Probable (Cost) from FEDERAL FUNDS 555	Probable (Cost) from VENDOR DRUG REBATES-MEDICAID 8068	Probable Revenue Gain from VENDOR DRUG REBATES-MEDICAID 8068
2008	(\$1,379,672)	(\$2,786,831)	(\$474,358)	\$474,358
2009	(\$3,492,997)	(\$7,400,316)	(\$1,328,513)	\$1,328,513
2010	(\$3,991,844)	(\$8,549,917)	(\$1,578,663)	\$1,578,663
2011	(\$4,391,028)	(\$9,404,908)	(\$1,736,530)	\$1,736,530
2012	(\$4,830,131)	(\$10,345,399)	(\$1,910,183)	\$1,910,183

Fiscal Analysis

The bill requires pharmacists to dispense the specific formulation, manufactured by the specific manufacturer, prescribed by a patient's physicians when the drugs are to be used for the treatment of epilepsy or the prevention of seizures; pharmacists may substitute a generically-equivalent drug product if the pharmacist obtains a signed authorization from the prescribing physician.

Methodology

Based on information provided by the Department of Aging and Disability Services, the Department

of State Health Services, the Board of Pharmacy, and the Office of the Attorney General it is assumed that any additional costs related to the duties and responsibilities of those agencies associated with implementing the provisions of the bill could be covered within available resources.

The Employees and Teacher Retirement Systems (ERS and TRS) both indicate no fiscal impact; however, members of the ERS and TRS group insurance plans are responsible for the additional cost when a brand-name prescription is dispensed and a generic equivalent is available. Members could experience a substantial increase in out-of-pocket prescription drug costs.

The Health and Human Services Commission (HHSC) indicates an impact to Medicaid and the Children's Health Insurance Program (CHIP) from increased brand-name prescriptions. HHSC estimates a cost of \$4.2 million All Funds, including \$1.9 million in General Revenue Funds offset by a gain in Vendor Drug Rebates of \$0.5 million, in fiscal year 2008 increasing each year to \$15.2 million All Funds, including \$6.7 million in General Revenue Funds offset by a gain in Vendor Drug Rebates of \$1.9 million, by fiscal year 2012. The agency has assumed that some prescriptions will continue to be filled with generic equivalents. In fiscal year 2006 there were 253,320 prescriptions for anticonvulsive drugs filled generically through the Medicaid Vendor Drug program. The difference in average prescription cost between generic and brand-name drugs was \$166.45 in fiscal year 2006 in Medicaid. If all 253,320 generic prescriptions had been filled with brand-name drugs, the cost would have been an additional \$42.2 million All Funds, including \$16.6 million in General Revenue Funds offset by approximately \$5.7 million in additional Vendor Drug Rebate collections. Although HHSC estimates a fiscal impact per fiscal year ranging from \$1.9 to \$6.7 million in General Revenue Funds, the impact could be substantially higher or lower if a greater or lesser percentage of prescriptions are filled as brand name instead of generic.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated. To the extent that local governments provide their employees with health insurance, there could be an increased cost to either the employer or the employee depending on who is responsible for paying the difference in cost between brand-name and generic drugs.

**Source Agencies:** 302 Office of the Attorney General, 515 Board of Pharmacy, 537 State Health Services, Department of, 539 Aging and Disability Services, Department of, 323 Teacher Retirement System, 327 Employees Retirement System, 529 Health and Human Services Commission

**LBB Staff:** JOB, CL, PP, LR