

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

March 29, 2007

TO: Honorable Jane Nelson, Chair, Senate Committee on Health & Human Services

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

IN RE: SB409 by Janek (Relating to restrictions on the interchange of antiepileptic drugs and drugs used to treat or prevent seizures.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for SB409, Committee Report 1st House, Substituted: 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 <i>GENERAL REVENUE FUND 1</i>	Probable (Cost) from <i>FEDERAL FUNDS 555</i>	Probable (Cost) from <i>VENDOR DRUG REBATES-MEDICAID 8068</i>	Probable Revenue Gain from <i>VENDOR DRUG REBATES-MEDICAID 8068</i>
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 bars pharmacists from interchanging anti-epileptic drug or formulation of an anti-epileptic drug, brand or generic, for the treatment of a patient with seizures or epilepsy without prior notification of and signed informed consent to interchange 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, 323 Teacher Retirement System, 327 Employees Retirement System, 515 Board of Pharmacy, 529 Health and Human Services Commission, 537 State Health Services, Department of, 539 Aging and Disability Services, Department of

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