

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**May 7, 2007**

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

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

**IN RE: SB1582** by Van de Putte (Relating to payment of claims to pharmacies and pharmacists.), **As Engrossed**

**Estimated Two-year Net Impact to General Revenue Related Funds** for SB1582, As Engrossed: a negative impact of (\$435,970) 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	(\$221,635)
2009	(\$214,335)
2010	(\$214,335)
2011	(\$214,335)
2012	(\$214,335)

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Savings/ (Cost) from <i>DEPT INS</i> <i>OPERATING ACCT</i> <b>36</b>	Probable Revenue Gain/(Loss) from <i>DEPT INS</i> <i>OPERATING ACCT</i> <b>36</b>	Probable Savings/ (Cost) from <i>GENERAL REVENUE</i> <i>FUND</i> <b>1</b>	Change in Number of State Employees from FY 2007
2008	(\$901,987)	\$901,987	(\$221,635)	19.5
2009	(\$819,043)	\$819,043	(\$214,335)	19.5
2010	(\$819,043)	\$819,043	(\$214,335)	19.5
2011	(\$819,043)	\$819,043	(\$214,335)	19.5
2012	(\$819,043)	\$819,043	(\$214,335)	19.5

**Fiscal Analysis**

The bill would amend the Insurance Code relating to the payment of claims to pharmacies and pharmacists by health maintenance organizations and pharmacy benefit managers. The bill would require the Department of Insurance (TDI) to investigate complaints made by pharmacies and pharmacists providing that a health maintenance organization or pharmacy benefit manager was not in compliance with the provisions of the bill. The bill would entitle a health maintenance organization or pharmacy benefit manager and a complainant to a hearing conducted by the State Office of Administrative Hearings (SOAH) regarding the results of TDI's investigation.

The bill would take effect September 1, 2007.

## **Methodology**

Currently, TDI penalizes insurers for prompt pay violations only if the insurer fails to maintain a 98% on-time, clean claim payment percentage. The bill would allow penalties for each pharmacy claim that was not timely paid. Based on carrier reports from 2006 TDI estimates the bill would result in 10,000 complaints being filed with each fiscal year. It is assumed that 98 percent of these cases would take an average of 5 hours each while 2 percent would be more complex, taking an average of 30 hours each to resolve. It is assumed TDI would incur costs to handle investigations and administrative actions. These costs would include salaries for 17.5 FTEs, five and one-half Attorney III, ten Investigator II, and two Legal Secretary II, in the amount of \$610,679 with associated benefit costs of \$172,761 each fiscal year. Other operating costs, including travel, training, and telephone costs would be \$35,603 each fiscal year and there would be a one-time equipment cost in fiscal year 2008 of \$82,944.

Based on the analysis of the TDI, it is assumed that there would be a one-time revenue gain of \$1,850 in the General Revenue-Dedicated Account Fund 36 in fiscal year 2008 because the bill would result in 37 filings, each accompanied by a \$50 filing fee. Since TDI is required to generate revenues equivalent to its costs of operation under current law, this analysis assumes that all costs incurred in excess of revenues generated would be paid for from General Revenue - Dedicated Fund 36 from either existing fund balances or insurance maintenance tax revenue.

Based on the analysis of SOAH, it is assumed that SOAH would receive 500 referrals per year as a result of this bill which would require two additional Administrative Law Judges. SOAH estimates costs for staff of \$167,712 for 2.0 FTEs in each fiscal year from 2008 through fiscal year 2012. Other operating expenses and equipment are estimated at \$12,892 in fiscal year 2008 and \$5,592 in each fiscal year from 2009 through 2012. Estimated costs also include \$46,031 in each fiscal year from 2008 through fiscal year 2012 for associated benefits.

## **Technology**

There would be a technology impact of \$25,992 in fiscal year 2008 for computer hardware and software.

## **Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 360 State Office of Administrative Hearings, 454 Department of Insurance, 515 Board of Pharmacy

**LBB Staff:** JOB, CL, KJG, MW, AH