LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

March 31, 2009

TO: Honorable Vicki Truitt, Chair, House Committee on Pensions, Investments & Financial Services

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

IN RE: **HB2293** by Gattis (Relating to the delivery of prescription drugs for certain state health plans by mail order; providing an administrative penalty.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill amends Subtitle H, Title I, of the Insurance Code by adding Chapter 1560 to require multiple month supplies of prescription drugs to be available to enrollees via retail pharmacies. It also requires pharmacy benefit managers to provide the health benefit plan with an annual electronic report containing actual acquisition costs of all drugs and identification of all rebates and gives the Texas Department of Insurance the right to investigate complaints concerning this regulation. The bill allows the health benefit plan to charge differential co-pays when a member utilizes retail pharmacies instead of mail order, but does not allow differential co-pays when a retail pharmacy accepts the mail order terms for a multi-month supply. The bill would take effect September 1, 2009 and applies to the health benefit plans administered by the Teacher Retirement System (TRS) and the Employees Retirement System (ERS). The change in the law would apply only to a health benefit plan that is delivered, issued for delivery, or renewed on or after January 1, 2010.

TRS assumes that any savings from the pass through of 100 percent of the rebates would be offset by increased administrative and program costs charged to the plans and/or less favorable discount rates from the pharmacy benefit managers (PBMs). TRS states that if there were a significant change in the mail order volume for the PBM due to provisions of the bill, then in the future TRS could receive less favorable terms in contract negotiations, resulting in significant additional program costs. ERS reports that the bill would not have a significant fiscal impact on the Group Benefits Program.

The Texas Department of Insurance reports that the bill would not have a significant fiscal impact. TDI anticipates a small revenue gain due to an increase in approval filings. Since General Revenue Dedicated Account Fund 036 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.

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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