

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

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**May 8, 2009**

**TO:** Honorable Lois W. Kolkhorst, Chair, House Committee on Public Health

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

**IN RE: HB4596** by Kolkhorst (Relating to certain contracts between pharmacy benefit managers and the Employees Retirement System of Texas, the Teacher Retirement System of Texas, The Texas A&M University System, or The University of Texas System.), **Committee Report 1st House, Substituted**

<b>No significant fiscal implication to the State is anticipated.</b>
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The bill would amend Chapters 1551, 1575, 1579, and 1601 of the Insurance Code by adding a section relating to certain contracts with pharmacy benefit managers (PBMs) and the Employees Retirement System (ERS), the Teacher Retirement System (TRS), the Texas A&M University System, or The University of Texas System. The new contract requirements include:

- (1) PBM must be selected on established criteria, not based on lowest bid.
- (2) PBMs must contain documentation for each instance when therapeutic interchange is used.
- (3) PBMs must disclose in writing the financial and medical reasons for the addition, removal, or change in placement of a prescription drug from the drug formulary used by the PBM.
- (4) Identification of any specialty drugs on the formulary used by the PBM, along with the specialty drug's associated costs, discounts and other fees related to services performed by the PBM.
- (5) Disclosure of any policy, practice, or business relationship of the PBM that could conflict with the performance of their duties.
- (6) Disclosure of any cost savings initiatives used by the PBM.
- (7) PBM must state the maximum allowable cost (MAC) to be used by the PBM.
- (8) Identification and labeling of specific information contained in the contract that is considered proprietary information belonging to the PBM.
- (9) Disclosure of the conditions under which the PBM may sell the data, if the PBM has a revenue sharing agreement concerning the sale of data related to the services performed under the contract.
- (10) The right to audit the PBM.
- (11) Definition of what information the PBM must provide auditors.

The bill would take effect September 1, 2009. ERS, TRS, The University of Texas System, and The Texas A&M University System all report that the provisions of the bill would not have a significant fiscal impact.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 323 Teacher Retirement System, 327 Employees Retirement System, 710 Texas A&M University System Administrative and General Offices, 720 The University of Texas System Administration

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