

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

**FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION**  
**Revision 1**

**April 29, 2013**

**TO:** Honorable Linda Harper-Brown, Chair, House Committee on Government Efficiency & Reform

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE:** **HB595** by Kolthorst (Relating to certain health programs and councils.), **Committee Report 1st House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB595, Committee Report 1st House, Substituted: a positive impact of \$24,502,000 through the biennium ending August 31, 2015.

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
2014	\$24,502,000
2015	\$0
2016	\$0
2017	\$0
2018	\$0

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

Fiscal Year	Probable Savings/(Cost) from General Revenue Dedicated Account 5102 - Tertiary Care Account	Probable Revenue Gain from General Revenue Fund 1	Probable Revenue Gain from Vendor Drug Rebates-Sup Rebates 8081	Probable (Cost) from Vendor Drug Rebates-Sup Rebates 8081
2014	(\$24,502,000)	\$24,502,000	\$69,483,249	(\$69,483,249)
2015	\$0	\$0	\$73,866,820	(\$73,866,820)
2016	\$0	\$0	\$73,866,820	(\$73,866,820)
2017	\$0	\$0	\$73,866,820	(\$73,866,820)
2018	\$0	\$0	\$73,866,820	(\$73,866,820)

## **Fiscal Analysis**

The bill would amend the Health and Safety Code and the Government Code relating to certain health programs and councils. The bill would repeal Chapters 38, 46, 83, 86, 90, 91, and 112 of the Health and Safety Code. Under the provisions of the bill, any funds remaining in General Revenue-Dedicated Account 5102-Tertiary Care would be transferred to General Revenue Fund 1 and the GR Account 5102 would be abolished on September 1, 2013. The bill would repeal Section 533.005 (a-1) of the Government Code, which sets an expiration date for the requirement that managed care organizations (MCOs) and pharmacy benefit managers exclusively employ the state's vendor drug program formulary, preferred drug list, and prior authorization requirements and procedures for the prescription drug benefit in the Medicaid Program. The bill would take effect on September 1, 2013.

## **Methodology**

Repealing Section 533.005 (a-1) of the Government Code would continue the requirement that MCOs and pharmacy benefit managers utilize the state's vendor drug program formulary, preferred drug list, and prior authorization requirements and procedures. The formulary and the preferred drug list are the basis for the collection of supplemental drug rebates in the Medicaid program. Under current law, this requirement would expire and the Health and Human Services Commission (HHSC) would no longer collect supplemental rebate revenue if the Medicaid MCOs were allowed to implement their own formularies and other requirements related to outpatient pharmacy benefits; the extent to which the loss of supplemental rebates would be offset by other savings achieved by the MCOs and incorporated into the capitation rates is not known and the full fiscal impact cannot be determined. Repealing the expiration date would continue the practice of HHSC collecting supplemental drug rebates, which would continue to be used to support the Medicaid program. As such, implementing the provisions of the bill would result in increased collection and expenditure of Vendor Drug Rebates - Supplemental Rebates estimated to be \$69,483,249 in fiscal year 2014, \$73,866,820 in fiscal year 2015 and every subsequent year and there would be no expected change to capitation rates for outpatient pharmacy benefits in Medicaid managed care.

Based on the analysis provided by the Comptroller of Public Accounts, the balance remaining in General Revenue-Dedicated Account 5102-Tertiary Care is estimated to be \$24,502,000 on September 1, 2013, and that balance would be transferred to General Revenue Fund 1.

Based on the analysis provided by the Department of State Health Services (DSHS), the advisory committees and programs that are abolished in the bill are no longer active. Based on the analysis provided by DSHS and the Office of the Attorney General, it is assumed that the provisions of the bill can be implemented within existing resources. Based on the analysis provided by the University of Texas System, it is assumed that the provisions of the bill will have no fiscal impact on the system.

## **Local Government Impact**

There could be a significant fiscal impact to units of local government to the extent that they are reimbursed for outpatient prescription drugs through Medicaid managed care and would experience a change in that reimbursement under the provisions of the bill.

**Source Agencies:** 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 529 Health and Human Services Commission, 537 State Health Services,

Department of, 720 The University of Texas System Administration

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