LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

March 11, 2015

TO: Honorable John Frullo, Chair, House Committee on Insurance

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB778** by Bell (Relating to access to pharmacists, pharmacies, and pharmaceutical care under certain health benefit plans.), **As Introduced**

The bill would result in an indeterminate fiscal impact to the state. The cumulative anticipated impact to the Teacher Retirement System TRS-Care plan is estimated to be $26.0 million for the state fiscal biennium ending August 31, 2017. However, because of the funding structure of TRS-Care, the impact to the state cannot be determined.

The bill would add provisions to the Insurance Code relating to access to pharmacists, pharmacies, and pharmaceutical care under certain health benefit plans. The bill would establish certain prohibitions applicable to contracts between affected health benefit plans, pharmacy benefit managers, and pharmacies and pharmacists. The bill would require the uniform application of administrative, financial, and professional conditions to all pharmacies.

The estimated cost to comply with the provisions of the bill concerning TRS-Care would be $13.0 million annually. The University of Texas (UT) System estimates costs of $452,000 in fiscal year 2017, and increasing to $570,000 in fiscal year 2020.

TRS indicates that both health benefit plans it administers, TRS-Care and TRSActiveCare, would be impacted by the bill.

TRS-Care is funded by multiple sources, including the state, active members, school districts and retirees. Because of the multitude of funding sources for these health plans, the estimated impact to the state cannot be determined.

TRS-ActiveCare is provided by local school districts, and the fiscal implications are discussed below in the Local Government Impact.

The current plan design of TRS-Care is generally in compliance with most provisions of the bill, with the exception of the provision prohibiting limitation of enrollee pharmacist selection. TRS indicates that this provision may disallow certain cost-containment features it currently utilizes, specifically Exclusive Specialty (ES). ES involves the pharmacy benefit manager's (PBM) specialty pharmacies being designated as the only pharmacy that may dispense most specialty drugs. TRS also indicates that that the current copay differential between drugs dispensed at retail and mail order would be prohibited by the bill. TRS indicates that the cumulative estimated cost to TRS-Care for these changes is $13 million annually. For reference, TRS-Care has approximately 245,000 participants.

UT System estimates there would be an increase in the annual cost to the system's health plan associated with implementing the provisions of the bill. Similar to TRS, UT System assumes the bill would prohibit the current copay differential between retail and mail pharmacies, removing current financial incentives for members to utilize the mail pharmacy. The estimate assumes the increase in copays for mail pharmacy will reduce utilization, resulting in increased plan costs for the system's health plan. Based on information provided by UT System, it is estimated the annual cost to the health plan would increase by $452,000 in fiscal year 2017, increasing to $570,000 in fiscal year 2020. Of these amounts, a portion would be paid from General Revenue and a portion would be paid from university funds. For reference, UT System has approximately 182,000 participants.

ERS indicates the bill would not impact the ERS HealthSelect RX (Caremark) or Medicare RX (SilverScript) drug plans, as ERS has an open arrangement for specialty medications and a custom network that allows pharmacies to dispense a mail benefit at a retail outlet. Neither plan requires mandatory participation in the network or requires a member to obtain a specific quantity or dosage of a drug. Additionally, as long as pharmacies or pharmaceutical providers accept current rates, they are not prohibited from participating in the network. ERS also indicates the bill also does not impact any pharmacy services provided under the HealthSelect medical plan, administered by United Healthcare, or the HMO plans, Scott & White Health Plan and Community First Health Plans. Both of the CMS regulated programs offered within the GBP, Kelsey Care HMO and Humana MA, follow federal guidelines already established for these items and are in compliance with this bill.

Based on information provided by the Texas Department of Insurance, it is assumed that all duties and responsibilities necessary to implement the provisions of the bill could be accomplished within existing resources. Texas A&M University System indicated the bill would have no fiscal impact.

The bill would take effect on September 1, 2015; however, the provisions of the bill would only apply to a health benefit plan that is derived, issued for delivery, or renewed on or after January 1, 2016.

Local Government Impact

TRS estimates that the bill would result in TRS-ActiveCare costs of $10.0 million in fiscal year 2016, increasing to $23.0 million in 2018. This analysis assumes school districts would bear these costs.

With the exception of the provision prohibiting limitation of enrollee pharmacist selection, TRS-ActiveCare is generally in compliance with the bill's provisions. TRS indicates that this provision may prohibit certain cost-containment features it currently utilizes in TRS-Active Care, specifically Medical Benefit Management (MBM) and Exclusive Specialty. MBM involves a group of costly drugs dispensed by PBMs to control costs, while ES involves the PBM's specialty pharmacies being designated as the only pharmacy that may dispense most specialty drugs.

Source Agencies: 323 Teacher Retirement System, 327 Employees Retirement System, 454 Department of Insurance, 710 Texas A&M University System Administrative and General Offices, 720 The University of Texas System Administration

LBB Staff: UP, AG, AM, PFe, SD, ED, ER