



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bill 3 (Substitute S-1 as reported)
Senate Bills 4 and 5 (as reported without amendment)
Sponsor: Senator Darrin Camilleri (S.B. 3)
Senator Veronica Klinefelt (S.B. 4)
Senator Sue Shink (S.B. 5)
Committee: Finance, Insurance, and Consumer Protection

CONTENT

Senate Bill 3 (S-1) would enact the "Prescription Drug Cost and Affordability Review Act" to do the following:

- Establish the Prescription Drug Affordability Board (Board) and the Prescription Drug Affordability Council (Council) and prescribe their membership and duties.
- Require the Board, in consultation with the Council, to select prescription drug products based on specified criteria and costs and determine whether to conduct cost and affordability reviews for them based on average patient cost share.
- Specify the information that the Board could, and would have to, consider when conducting a cost and affordability review for a prescription drug product.
- Allow the Board to establish upper payment limits on prescription drug products if it determined that spending on a prescription drug product had or would lead to affordability challenges to health care systems or high out-of-pocket costs for patients in the State.
- Allow the Attorney General to commence a civil action for a violation of an upper payment limit.
- Establish the Prescription Drug Affordability Fund for support of the Board.
- Require the Board to conduct a one-time study concerning prescription drugs and their costs and report its findings to the Legislature.
- Require the Board to provide an annual report to the Legislature detailing specified information related to prescription drug costs.
- Allow the Board to promulgate rules and to enter contracts with third-parties to assist the Board in carrying out its required functions.
- Subject the bill's implementation to appropriation.

Senate Bill 4 would amend the Insurance Code to require an insurer that offered health insurance policies in the State to comply with upper payment limits established under Senate Bill 3 (S-1).

Senate Bill 5 would amend the Social Welfare Act to require the medical assistance program (Medicaid) to comply with upper payment limits established under Senate Bill 3 (S-1).

Senate Bill 4 and Senate Bill 5 are tie-barred to Senate Bill 3.

Proposed MCL 500.3406z (S.B. 4)
Proposed MCL 400.109o (S.B. 5)

BRIEF RATIONALE

According to testimony before the Senate Committee on Finance, Insurance, and Consumer Protection, some people believe that the cost of prescription drugs is too high and often

requires individuals to choose between necessary medication and essential goods and services. To address this concern, it has been suggested that the Board be formed to conduct cost affordability reviews and set upper payment limits for certain drugs.

PREVIOUS LEGISLATION

(This section does not provide a comprehensive account of previous legislative efforts on this subject matter.)

Senate Bills 3 through 5 are respectively similar to Senate Bills 483 through 485 of the 2023-2024 Legislative Session. The bills passed the Senate and were referred to the House Committee on Insurance and Financial Services but received no further action.

Legislative Analyst: Nathan Leaman

FISCAL IMPACT

Senate Bill 3 (S-1)

The bill would have a significant negative fiscal impact on State government and no fiscal impact on local units of government.

Under the bill, the salaries and expenses of the five Board members would be paid by an annual appropriation to the Department of Insurance and Financial Services (DIFS). If the Board members were to receive a salary similar to that of the members of the Public Service Commission, these expenditures could total approximately \$750,000; however, this figure is an approximation as the expense needs of the Board are unknown at this time.

Members of the Council would not receive a salary but would be reimbursed for actual and incurred expenses. Typical costs for an advisory board can range from \$10,000 to \$200,000 per year, depending on member expenses and activities.

Additionally, the work of the Board would require an ongoing appropriation to carry out its responsibilities under the bill. The Department estimates that full costs for the Board, including approximately 3.0 full-time equivalents and administrative expenses, would range from \$4.0 million to \$5.0 million per year; however, it should be noted that this estimate could vary significantly from actual costs due to the uncertainty of contracting with third-party entities for certain required activities. Necessary expenditures under the bill would include data analysis and legal resources.

These funds would be appropriated to the Prescription Drug Affordability Fund. The bill would allow for deposits into the Fund from any source. The Department of Treasury would experience minor administrative costs to create and administer the Fund. The costs would be minimal and within current appropriations.

Based on the cost of similar studies and reports, it is likely that approximately \$200,000 to \$500,000 would be required to complete the one-time study outlined in the bill.

The bill would have a minor fiscal impact on the Department of the Attorney General. The Department could devote staff resources to investigating violations or commencing civil action against individuals who violate the bill. This would be unlikely to require additional staffing for the Department and would instead come from existing staff within the Civil Division of the Department.

Senate Bill 4

The bill would have a minor fiscal impact on the Department of the Attorney General and DIFS.

The Department of Attorney General could devote staff resources to commence civil action against individuals who violate the bill. This is unlikely to require additional staffing for the Department and would instead come from existing staff within the Civil Division of the Department.

The Department of Insurance and Financial Services also could incur some costs related to identifying or investigating insurers who violated the bill, separate from actions taken by the Attorney General. Depending on the number of complaints or violations, additional appropriations could be required to ensure compliance with the bill and any price limits set by the Board; however, these costs likely would be covered by existing departmental resources.

Senate Bill 5

The bill would have an uncertain fiscal impact on the Department of Health and Human Services. If the Board established upper payment limits on drugs purchased, billed, or reimbursed for directly by Medicaid, there could be a reduction in prescription drug-related expenditures. Since it is not known what drugs could be subject to this requirement as well as how those drugs would interact with the single Medicaid formulary and negotiated prescription drug rebates, the fiscal impact is uncertain. The fiscal impact would depend on which drugs were selected by the Board, the price of the drug net of any rebates, and the interaction of the upper payment limit with Federal law governing the Medicaid program's coverage of prescription drugs.

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