

FISCAL IMPACT OF PROPOSED LEGISLATION

Measure: SB 844 - A

81st Oregon Legislative Assembly – 2021 Regular Session
Legislative Fiscal Office

*Only Impacts on Original or Engrossed
Versions are Considered Official*

Prepared by: Haylee Morse-Miller
Reviewed by: John Borden, Tom MacDonald, Paul Siebert, Ben Ruef
Date: April 9, 2021

Measure Description:

Establishes Prescription Drug Affordability Board in Department of Consumer and Business Services to review prices for prescription drug products meeting specified cost criteria.

Government Unit(s) Affected:

Department of Consumer and Business Services (DCBS), Oregon Health Authority (OHA), Oregon Judicial Department (OJD), Department of Administrative Services (DAS), Department of Justice (DOJ)

Summary of Fiscal Impact:

Costs related to the measure may require budgetary action - See analysis.

Analysis:

SB 844 - A establishes the Prescription Drug Affordability Board in the Department of Consumer and Business Services (DCBS). The Board is to protect to protect Oregonians, government entities, commercial health plans, health care providers, pharmacies, and other stakeholders within the health care system from the high cost of prescription drugs. The Board is to meet at least once every six weeks and members are entitled to compensation and expenses. DCBS is to appoint an executive director for the board, may employ consultants, investigators or other staff, and is to provide staff support necessary to the Board to carry out its duties.

The Board is directed to identify and conduct affordability reviews for prescription drug products using certain criteria. The Board may establish upper payment limits for a drug if has led or will lead to an affordability challenge for health systems or patients, or to health inequities for communities of color. Upper payment limits apply to all sales and reimbursements in Oregon, though certain entities may opt out or are exempt from this requirement. The Board is to report to the interim committees of the Legislative Assembly related to health no later than December 31 of each year on price trends, products reviewed, and recommendations to make prescription drugs more affordable. The Board is also to conduct an annual study on the operation of the U.S. market for generic drugs and report their findings to the Legislative Assembly no later than June 1 of each year.

This measure also establishes the Prescription Drug Affordability Stakeholder Council to provide input to the Prescription Drug Affordability Board. The Council includes 26 members who may receive reimbursement for travel and other expenses.

The Prescription Drug Affordability Board is to annually assess fees to be paid by manufacturers of prescription drugs. Fee levels are to be set at an amount that allows the Board to administer this measure. Fees are based on a manufacturer’s share of gross revenue from the sale of prescription drugs in Oregon. Fee moneys are to be deposited in the Prescription Drug Affordability Account, a newly established subaccount in the Consumer and Business Services Fund, with moneys in the account continuously appropriated to the Board to carry out this measure. This measure contains an unspecified General Fund appropriation; the Board is to reimburse this money without interest when sufficient fee revenue is available, but no later than June 30, 2023.

Department of Consumer and Business Services

The Department of Consumer and Business Services anticipates costs of \$1,786,192 total funds in 2021-23 and \$2,502,827 Other Funds in 2023-25. Any program start-up costs are to be paid for with General Fund, which DCBS must reimburse once sufficient fee revenue is collected from prescription drug manufacturers. However, it is not clear when DCBS will have the Other Funds revenue necessary to complete this repayment and to continue funding of program costs, so the fund split in 2021-23 is currently unknown.

A majority of the costs under this measure are related to six new permanent, full-time operations positions and two permanent, part-time IT positions (5.26 FTE in 2021-23 and 7.00 FTE in 2023-25). Total Personal Services costs are estimated at \$998,225 in 2021-23 and \$1,328,332 in 2023-25. New positions include:

- One Principal Executive Manager - E for program oversight, and management of Affordability Reviews and appeals;
- One Project Manager 3 to implement project plans and legislative reporting;
- Two Operations and Policy Analyst 3s to identify and review prescription drugs, perform the generic drug market study and annual study, and develop policy recommendations;
- One Research Analyst 4 to perform economic analyses, collect data, and establish fees;
- One Administrative Specialist 2 to support the program and Board; and,
- An Information Systems Specialist 7 and an Information Systems Specialist 8, to provide data collection, tracking, and analysis.

Additional costs include:

- Department of Justice hourly legal service billings estimated at \$173,520 in 2021-23 and \$231,360 in 2023-25;
- An indeterminate amount for consultant services, such as pharmacists or other subject matter experts, though based on previous consulting contracts this work is estimated to cost \$475,200 in 2021-23 and \$633,600 in 2023-25;
- Position-related Services and Supplies and costs for support services such as human resources and payroll that are provided by DCBS; and,
- Board and Stakeholder Council meeting costs.

Other state agencies

There is no or minimal impact for the Oregon Judicial Department, Department of Justice, Oregon Health Authority, and Department of Administrative Services.