LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

ASSEMBLY, No. 2418

STATE OF NEW JERSEY
219th LEGISLATURE

DATED: DECEMBER 17, 2021

SUMMARY

Synopsis: Establishes Prescription Drug Affordability Board; appropriates $1,000,000.

Type of Impact: Annual increase in State expenditures.

Agencies Affected: Department of Law and Public Safety; Department of Human Services; Department of Children and Families; Department of Corrections; Department of the Treasury; University Hospital; local governments.

Office of Legislative Services Estimate

Fiscal Impact	FY 2022	FY 2023	FY 2024
State Cost Increase	Up to $1 million	Indeterminate	Indeterminate

- The Office of Legislative Services (OLS) finds that the bill will increase State expenditures by up to $1 million in FY 2022 for salaries, benefits, and one-time start-up costs related to the newly created Prescription Drug Affordability Board. Thereafter, the State will incur indeterminate annual operating costs for the ongoing administrative expenses of the board and any contracts for essential services entered into by the board with third parties. The bill appropriates $1 million to support the activities of the board in FY 2022.

- The State and local governments could potentially realize indeterminate annual expenditure savings to the extent that future legislation implementing the board's plan of action reduces prescription drug costs.

BILL DESCRIPTION

This bill establishes the Prescription Drug Affordability board in, but not of, the Department of Law and Public Safety, which is charged with studying the need for legislative action and State policies to reduce the costs paid by the State and local governments, health benefits plans, health

care providers, pharmacies, and other stakeholders in the State health care system for prescription drug products.

The bill also establishes the Prescription Drug Affordability Stakeholder Council, which is to provide stakeholder input to assist the board in making decisions.

The bill requires the board to conduct a study of the pharmaceutical distribution and payment system in the State, as well as policy options implemented by other states and countries to lower the list price of pharmaceutical drug products, including: establishing upper payment limits; using a reverse auction marketplace; using a closed formulary; allowing importation of pharmaceutical drug products from other countries; and implementing a bulk purchasing process.

If the board determines that it is in the best interest of the State to develop a process to establish upper payment limits or allow importation from other countries of certain prescription drug products, the board, in conjunction with the council, is required to draft a plan of action for implementing such a process. The board may recommend both establishing upper payment limits and allowing importation of pharmaceutical drug products from other countries. Any recommended upper payment limit will apply to prescription drug products purchased by, or on behalf of, State and local government entities, programs, and organizations.

The board is to submit its action plan to the Legislature for approval no later than 24 months after the effective date of the bill. The plan will be deemed rejected unless legislation implementing the plan is adopted within 90 days after the date the plan is submitted. The board will have no authority to establish upper payment limits or permit importations from other countries of prescription drug products unless the action plan is approved through the adoption of implementing legislation.

The board is also authorized to conduct hearings concerning potential violations of the requirements established under the bill, refer non-compliance matters to the Attorney General, and enter into contracts with qualified, independent third parties for any service necessary to carry out its powers and duties.

The bill furthermore authorizes the chair of the board to hire an executive director, general counsel, and staff, and to develop a five-year budget and staffing plan that will be subject to approval by the board as a whole. The executive director, general counsel, and board staff are to receive a salary. Board members are entitled to compensation as may be approved under the State budget, and are entitled to reimbursement for expenses reasonably incurred in the performance of their official duties.

The bill appropriates $1 million from the General Fund to the Prescription Drug Affordability Board.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS finds that the bill will increase State expenditures by up to $1 million in FY 2022 for salaries, fringe benefits, and start-up costs related to the newly created Prescription Drug Affordability Board. Thereafter, the State will incur indeterminate annual operating costs for the ongoing administrative expenses of the board and any contracts for essential services entered into by the board with third parties. The bill specifies that the chair of the board is to hire an executive

director, general counsel, and other staff to support the board's operations, as outlined in the five-year budget and staffing plan developed by the chair. The OLS cannot project the composition of the board's staff and any compensation paid to them or to certain board members, but the bill appropriates $1 million to support the activities of the board in FY 2022. Beyond that, the bill does not identify a funding source for the board or require the board to identify one.

The OLS further finds that the State and local governments could potentially realize indeterminate annual expenditure savings to the extent that future legislation implementing the board's plan of action reduces prescription drug costs provided through the State Medicaid program, commonly known as and NJ FamilyCare, the State Health Benefits Program, the School Employees' Health Benefits Program, the Pharmaceutical Assistance to the Aged and Disabled program, the Senior Gold Prescription Discount Program, and the Department of Corrections. Prescription drug prices may also potentially be reduced for University Hospital, an independent non-profit legal entity that is an instrumentality of the State, as well as for local government entities that purchase or pay for prescription drug products or operate nursing homes. The magnitude and timing of these cost savings for the State and local government entities cannot be reliably estimated at this time, however, as it is unknown when the board will submit its action plan to the Legislature, what its recommendations will include, and when any enabling legislation will be implemented.

Section:	*Human Services*
Analyst:	*Anne Cappabianca* *Associate Fiscal Analyst*
Approved:	*Thomas Koenig* *Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).