

- SUBJECT:** Prescription drug benefits for state employees and teachers
- COMMITTEE:** State Health Care Expenditures — favorable, without amendment
- VOTE:** 7 ayes — Delisi, Gutierrez, Berman, Capelo, Crownover, Harper-Brown, Uresti
- 0 nays
- 4 absent — Deshotel, Miller, Truitt, Wohlgemuth
- SENATE VOTE:** On final passage, May 13 — 31-0, on Local and Uncontested Calendar
- WITNESSES:** *(On companion bill, HB 1744:)*
For — Lisa McGiffert, Consumers Union
- Against — None
- BACKGROUND:** The state offers health benefit plans to two primary populations: current and retired state employees and current and retired teachers. The plans for state employees are administered by the Employees Retirement System of Texas (ERS), while the plans for teachers are administered by the Teachers Retirement System (TRS). Both ERS and TRS offer a range of managed care benefit plans, and all plans include a prescription drug benefit, though the co-payments or restrictions may vary by plan.
- A formulary is a list that designates which drugs are preferred under a drug benefit plan. While all drugs may be reimbursed by the drug plan, prescription drugs that are not on the formulary usually have a higher co-payment or coinsurance rate than those on the formulary.
- DIGEST:** SB 1173 would require prior authorization for certain categories of drugs if the prescribed drug was not on the formulary. These categories would be gastrointestinal, cholesterol-lowering, anti-inflammatory, antihistamine, and antidepressant drugs.
- Twice a year ERS and TRS would be required to report to the comptroller and

the Legislative Budget Board (LBB) any cost savings achieved through prior authorization during each six-month period. The initial reports would be due September 1, 2005.

The bill would take effect September 1, 2003, and apply to ERS health benefit plans that are effective as of June 1, 2003, and TRS plans effective as of the 2004-2005 plan year.

**SUPPORTERS
SAY:**

The state's capacity to pay for prescriptions is not endless, and it must take action to ensure that there are resources to pay for prescriptions for people who need them the most. Prescription drugs are one of the primary drivers for health care costs. According to the LBB, ERS prescription drug costs grew 17 percent between 2001 and 2002 and are on track to grow another 20 percent in 2003. TRS is experiencing similar growth trends.

While some newer, more expensive drugs have had a significant positive impact on the lives of recipients, other new drugs are used simply because they are heavily marketed. This bill would address the five categories of drugs that are most heavily marketed and among those most often prescribed. Requiring prior authorization for these categories of drugs would check the influence of pharmaceutical companies' marketing efforts.

Prior authorization would not prevent anyone from obtaining needed drugs because authorization could be obtained if the patient's physician felt it was medically necessary. This would encourage physicians to consider the cost and the clinical efficacy of a particular drug over another before prescribing.

These categories of drugs are not life saving and specific in the way a chemotherapeutic agent or anti-viral medication is, and so are appropriate for prior authorization. These categories of drugs can be taken intermittently or can be substituted with a generic, whereas other categories cannot.

**OPPONENTS
SAY:**

The state should ensure that patients could get the drugs they needed while waiting for prior authorization. Antidepressants are life saving in some cases, and a mechanism should be in place for patients to obtain a 72-hour supply while waiting for authorization.

These decisions best would be left to the pharmacy benefit management companies the state uses to administer drug benefits. These companies are in the business of managing costs while ensuring patient access to pharmaceuticals and are in the best position to decide which cost-avoidance strategies would work the best.

OTHER
OPPONENTS
SAY:

Prior authorization would do nothing to teach physicians and patients about the actual cost of drugs. Instead of requiring them to obtain special permission to have the drug reimbursed, the state should initiate a thorough education program so that physicians knew the cost of the drugs they prescribed and patients had up front insight into how much their prescription really cost.

NOTES:

SB 1173 includes recommendations included in the Comptroller's *Limited Government, Unlimited Opportunity*, e-Texas report.

The fiscal note attached to SB 1173 estimates it would save the state \$23 million in fiscal 2004-05 and \$15.5 million each year thereafter. The House-passed version of HB 1 by Heflin included a \$23 million reduction in funding for ERS and TRS contingent upon enactment of a bill containing this proposal.

The companion bill, HB 1744 by Delisi, passed the House on April 30 and has been referred to the Senate State Affairs Committee.