

## **BILL ANALYSIS**

Senate Research Center

H.B. 915  
By: Gray (Moncrief)  
Health & Human Services  
5/5/2001  
Engrossed

### **DIGEST AND PURPOSE**

Currently, several different Texas state agencies purchase prescription drugs for the individuals they serve. The Medicaid Vendor Drug Program at the Texas Department of Health pays for prescription drugs for those enrolled in the state Medicaid program. The Texas Department of Mental Health and Mental Retardation and the Texas Department of Criminal Justice purchase prescription drugs for the populations they serve. Both the Employees Retirement System of Texas and the Teacher Retirement System of Texas administer prescription drug benefit programs for the individuals they insure. Finally, many state higher education institutions operate hospitals or clinics which purchase drugs for their patients. All of these agencies use different methods to purchase these drugs. By coordinating the purchasing efforts of the agencies Texas can negotiate lower prices on drugs by purchasing in bulk. H.B. 915 creates the Interagency Council on Pharmaceuticals Bulk Purchasing (council) to provide pharmaceutical purchasing procedures and options for Texas state agencies and requires manufactures and wholesale distributors of pharmaceuticals in Texas to report purchase prices of drugs to the council.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Department of Health in SECTION 3 (Section 431.208, Health and Safety Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Title 2E, Health and Safety Code, by adding Chapter 110, as follows:

#### **CHAPTER 110. INTERAGENCY COUNCIL ON PHARMACEUTICALS BULK PURCHASING**

Sec. 110.001. DEFINITION. Provides that in this chapter, "council" means the Interagency Council on Pharmaceuticals Bulk Purchasing.

Sec. 110.002. BULK PURCHASING COUNCIL. Provides that the Interagency Council on Pharmaceuticals Bulk Purchasing (council) is composed of an officer or employee from certain agencies, appointed by the administrative head of that agency.

Sec. 110.003. PRESIDING OFFICER. Provides that the position of presiding officer rotates among the members of the council according to the procedures adopted by the council. Provides that a term as presiding officer is two years and expires on February 1 of each odd-numbered year.

Sec. 110.004. COMPENSATION. Provides that service on the council is an additional duty of a member's office or employment. Provides that a member of the council is not entitled to compensation, but is entitled to reimbursement of travel expenses incurred by the member while conducting the business of the council, as provided in the General Appropriations Act.

Sec. 110.005. SUPPORT STAFF. Requires the council's member agencies to provide the

staff for the council.

Sec. 110.006. COUNCIL POWERS AND DUTIES. (a) Requires the council to develop procedures that member agencies must follow in purchasing pharmaceuticals. Authorizes a member agency to elect not to follow the council's procedures if the agency can purchase the pharmaceuticals for a lower price than through the council. Requires an agency that does not follow the council's procedures to report to the council certain information.

(b) Requires the council to designate one member agency to be the central purchasing agency for purchasing pharmaceuticals.

(c) Requires the council to use existing distribution networks, including wholesale and retail distributors, to distribute the pharmaceuticals.

(d) Requires the council to carry out certain duties.

(e) Authorizes the council to enter into agreements with a local governmental entity to purchase pharmaceuticals for the local governmental entity.

(f) Requires the council to develop procedures under which the council is authorized to disclose information relating to the prices that manufacturers or wholesalers charge for pharmaceuticals by category of pharmaceutical. Prohibits the council from disclosing information that identifies a specific manufacturer or wholesaler or the prices charged by a specific manufacturer or wholesaler for a specific pharmaceutical.

SECTION 2. Amends Chapter 431E, Health and Safety Code, by adding Section 431.116, as follows:

Sec. 431.116. AVERAGE MANUFACTURER PRICE. (a) Provides that in this section, "average manufacturer price" has the meaning assigned by 42 U.S.C. Section 1396r-8(k), as amended.

(b) Requires a person who manufactures a drug, including a person who manufactures a generic drug, that is sold in this state to file with the Texas Department of Health (department) certain information.

(c) Requires the information required under Subsection (b) to be filed annually or more frequently as determined by the department.

(d) Authorizes the department and the attorney general to investigate the manufacturer to determine the accuracy of the information provided under Subsection (b). Authorizes the attorney general to take action to enforce this section.

(e) Requires the department to report the information collected under Subsection (b) to the council.

SECTION 3. Amends Chapter 431I, Health and Safety Code, by adding Section 431.208, as follows:

Sec. 431.208. REPORTING OF PURCHASE PRICE. (a) Requires a person who engages in the wholesale distribution of drugs in this state to file with the department information showing the actual price at which the wholesale distributor sells each drug to a retail pharmacy.

(b) Requires the department to adopt rules to implement this section, including rules relating to how often a wholesale distributor is required to provide the information.

(c) Authorizes the department and the attorney general to investigate the distributor to determine the accuracy of the information provided under Subsection (a). Authorizes the attorney general to take action to enforce this section.

(d) Requires the department to report the information collected under Subsection (a) to the council.

SECTION 4. Effective date: September 1, 2001.