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Legislative Budget Office

H.B. 92
(l_135_0476-3)
135th General Assembly

Fiscal Note & Local Impact Statement

Click here for H.B. 92's Bill Analysis

Version: In House Public Health Policy

Primary Sponsors: Reps. Young and Santucci

Local Impact Statement Procedure Required: No

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Highlights

- The bill appropriates $16.0 million in FY 2025 in Dedicated Purpose Fund (DPF) Fund 5CV3 line item 440612, Emergency Stockpile, under the Ohio Department of Health (ODH), to be used for the creation of an emergency stockpile and medical countermeasures program.
- The bill appropriates $2.0 million in FY 2025 to new GRF appropriation item 887403, Prescription Drug Importation Program, to be used by the State Board of Pharmacy for implementation of the Prescription Drug Importation Program.
- Conditional upon federal approval of the program, state agencies and local governments may realize savings through lower prescription drug costs if the program is implemented.

Detailed Analysis

Emergency stockpile and medical countermeasures program

Not later than 90 days after the bill's effective date, the bill requires the Ohio Department of Health (ODH) to (1) create a program for the establishment of an emergency stockpile and the procurement of medical countermeasures, (2) issue invitations to negotiate or requests for proposals to conduct the program, including through the use of a turnkey solution, and (3) contract with a third-party entity to conduct the program. In its response to an invitation to negotiate or request for proposal, a third-party entity must include an assessment or description of (1) the planned stockpile and countermeasures inventory and certain methods for maintaining the stockpile, (2) the retrofit of a warehouse to provide for the storage and management of an emergency stockpile and medical countermeasures as well as food and water and other supplies, (3) a staffing plan, (4) an inventory and quality management system, and (5) the one-time and ongoing costs associated with retrofitting or renovations, utilities, inventory assessment and relocation, software, product maintenance or rotation, and staffing, as appropriate. The bill also outlines other eligibility criteria that a third-party entity must meet.

ODH is required to review each submitted response to determine if requirements have been satisfied and must only contract with an entity that satisfies those requirements. In addition to the contract, ODH and the third-party entity must enter into an agreement whereby the entity leases space in the central warehouse that is owned by ODH. The entity must use the leased space to conduct the program, which may necessitate retrofitting the space. After entering into a contract with a third-party entity, ODH must notify in writing the Governor, Senate President, and the Speaker of the House of Representatives. The bill also outlines the required activities the third-party entity must engage in under the contract.

The bill appropriates $16.0 million in FY 2025 in Dedicated Purpose Fund (DPF) Fund 5CV3 line item 440612, Emergency Stockpile, to support the program.

Prescription Drug Importation Program

The bill requires the State Board of Pharmacy to: (1) adopt rules as necessary to implement the Prescription Drug Importation Program, (2) contract with a third-party entity to establish and administer the program, (3) submit a report regarding the program's administration to certain members of the General Assembly not later than 18 months after the bill's effective date and annually thereafter, (4) make certain program information available on its website, including periodic updates, and (5) engage in a public awareness program. The Board will incur costs to oversee this new program including the need for additional staff. The Board estimates that an additional staff person with the requisite expertise may cost approximately $100,000 per year in salary and benefits. The majority of the administrative costs of the program will be borne by the third-party entity as described below.

Third-party entity contract

The bill requires the Board to contract with a third-party entity to develop, establish, and administer the program. The bill establishes the responsibilities of the third party and requires that it must have prior experience with prescription drug importation. The third-party entity is required to apply to the U.S. Department of Health and Human Services for approval and certification of the program not later than four months after the effective date of the bill. If the program is approved and certified, the third-party entity is to establish and administer the program not later than six months after receipt of approval and certification. Additionally, the bill requires the third-party entity and ODH to enter into an agreement whereby the entity leases space in ODH's central warehouse to store and aid in the distribution of imported prescription drugs under the program. The entity is allowed to retrofit the space to ensure that the drugs are stored and distributed properly. Any impacts to ODH will depend on the terms of the agreement.

Fees for administering the program will be negotiated between the entity and the Board. The fee must be either a markup of the drugs purchased or a percentage of the savings achieved under the program, as calculated by the Board in consultation with the Department of Administrative Services (DAS). Costs to the Board and DAS to negotiate payment to the third-party entity are likely to be minimal at most for both agencies.

Appropriation

The bill appropriates to the Board $2.0 million to new GRF appropriation item 887403, Prescription Drug Importation Program. However, funding for the program is only authorized for FY 2025. Presumably, future contracting costs would be derived via the negotiated fee process outlined above.

State agency drug price negotiations and purchases

The bill permits the third-party entity selected by the Board to negotiate prices for and purchase prescription drugs on behalf of state agencies on request of the Board, acting in consultation with DAS. The drugs must be obtained from manufacturers whose drugs have been approved for use in the United States by the Federal Drug Administration. The third-party entity is to be compensated for such negotiations and purchases in the same amount as it is compensated for administering the program.

Potential savings

State agencies and programs, and local governments, as noted below, may realize savings through lower prescription drug costs if the importation program is implemented.

- **State employee group health insurance.** If the importation program allows state employees to purchase less expensive pharmaceuticals, costs for state employee group health insurance may decrease.
- **State public health care programs.** Programs with prescription drug coverage for eligible recipients, including Medicaid and the Children's Health Insurance Program, may have savings from lower pharmaceutical costs if the importation program is implemented. The state Medicaid Program currently receives rebates on pharmaceuticals that reduce costs by nearly 50% compared to the retail prices. It is unknown if wholesale importation from Canada will result in greater savings than from currently available rebates for domestically obtained pharmaceutical products. Medicaid expenditures are also jointly funded by the state and federal governments, and the federal government typically pays for about 63% of Medicaid expenditures. Thus, only a portion of any savings would be direct savings of state funds.
- **Other state agencies that directly or indirectly purchase prescription drugs.** The Department of Mental Health and Addictions Services, the Department of Rehabilitation and Correction, the Department of Youth Services, the Ohio Veterans Homes, the Department of Developmental Disabilities, and any other state agency that purchases pharmaceuticals, may see a decrease in prescription drug costs.
- **Local governments.** Political subdivisions that offer health insurance as an employee benefit or purchase prescription drugs may realize savings under the bill if the importation program is implemented.

Synopsis of Fiscal Effect Changes

Substitute bill l_135_0476-3 adds a provision requiring the Ohio Department of Health (ODH) to establish an emergency stockpile and medical countermeasures program. It outlines responsibilities of ODH and the contracted entity. The substitute bill also appropriates $16.0 million in FY 2025 in Dedicated Purpose Fund (DPF) Fund 5CV3 line item 440612, Emergency Stockpile, to support the program. This provision was not in the As Introduced version of the bill.

The substitute bill also updates the appropriation to new GRF appropriation item 887403, Prescription Drug Importation Program from FY 2024 (as was in the As Introduced version) to FY 2025.

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