OHIO LEGISLATIVE SERVICE COMMISSION

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Office of Research and Drafting

Legislative Budget Office

H.B. 462
136th General Assembly

Fiscal Note & Local Impact Statement

Click here for H.B. 462's Bill Analysis

Version: As Reported by Senate Education

Primary Sponsor: Rep. Richardson

Local Impact Statement Procedure Required: No

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Highlights

- The bill permits schools and camps to procure epinephrine delivery systems for use in emergency situations in the same capacity as they may currently procure epinephrine autoinjectors. School districts, other public schools, and government-operated camps that choose to procure newer epinephrine delivery systems may incur negligible administrative costs to comply with various requirements and costs to purchase the devices or products.
- The bill's civil immunity provisions may prevent an occasional civil action from being filed or allow such an action to be disposed of more quickly, resulting in some reduction in the caseloads and expenditures of local trial courts that is not readily quantifiable.
- Administrative costs for the State Board of Pharmacy and the departments of Children and Youth and Education and Workforce may increase by no more than minimal amounts.

Detailed Analysis

School and camp procurement of epinephrine delivery systems

The bill extends current law permission and requirements regarding a school's procurement of epinephrine autoinjectors to epinephrine delivery systems in general. The bill defines an epinephrine delivery system as any device or other product that contains a premeasured dose of epinephrine and enables the dose to be administered through any route of administration into the human body to prevent or treat a life-threatening allergic reaction. An epinephrine delivery system includes autoinjectors, intranasal sprays, and any device or other product designated by the State Board of Pharmacy (see below for additional details regarding the designations). Districts and schools that wish to procure newer epinephrine delivery systems must obtain them in the same manner as they would an epinephrine autoinjector under current

law: either through a licensed health professional authorized to prescribe drugs or by having the district's superintendent obtain a prescriber-issued protocol. They must also adopt a policy governing their maintenance and use in consultation with a licensed health professional, and must report to the Department of Education and Workforce (DEW) each occurrence of procurement and use from the school's supply. Therefore, school districts and other public schools that choose to procure newer epinephrine delivery systems may incur some negligible administrative costs to comply with the bill's requirements, and may incur additional costs to procure the devices or products. However, as with autoinjectors, districts and schools may accept donations of epinephrine delivery systems from wholesale distributors or manufacturers of dangerous drugs, as well as accept monetary donations to purchase them.

The bill makes similar changes for a residential camp, child day camp, or a child day camp operated by a government entity. It is possible that the Department of Children and Youth may need to modify rules and notify camp operators of this change. Additionally, any camps operated by a government entity may need to update their policies governing epinephrine. While these could result in some administrative costs, the costs are anticipated to be negligible and would be absorbed with existing resources.

Student possession and use of epinephrine delivery systems

The bill permits public or chartered nonpublic students to possess and use epinephrine delivery systems to treat anaphylaxis. Continuing law already permits students to possess and use epinephrine autoinjectors at school or any school-sponsored activity under certain conditions. These include (1) the student has the written approval of the prescriber of the medication and, if the student is a minor, the written approval of the parent or guardian, (2) the written approval is on file with the student's school principal or school nurse if one is assigned, and (3) the principal or nurse has received a backup dose of the medication. School employees must immediately request assistance from an emergency medical service provider whenever a student is administered epinephrine, whether self-administered or administered by a school employee, at school or any school-sponsored activity. These provisions are likely to have negligible, if any, fiscal effects.

Immunity from liability for damages

Current law protects school districts, school district board members, school district employees, and chartered nonpublic school officers, directors, and employees from liability in a civil action arising in cases in which a school employee prohibits or permits a student from using an epinephrine autoinjector because of the employee's good faith belief that the conditions described above have not or have been satisfied, respectively. Additionally, immunity is provided in the instance that an epinephrine device is used by a student for whom it was not prescribed. Districts and schools, camps, and their employees or contractors are also protected from liability in a civil action arising from an act or omission associated with procuring, maintaining, accessing, or using an epinephrine autoinjector, as is a licensed health professional authorized to prescribe drugs who personally furnishes or prescribes epinephrine autoinjectors, consults with a superintendent, or issues a protocol. The bill extends these protections from liability with respect

to student use of epinephrine delivery systems.[1] The bill may reduce the likelihood that a civil action is filed or expedite its resolution subsequent to a finding of the court that the person or entity is protected from being sued for harm. Although not readily quantifiable, any resulting expenditure savings for local trial courts are expected to be minimal annually. It is likely that the bill's provisions will affect relatively few civil cases.

State Board of Pharmacy

The bill requires the State Board of Pharmacy to adopt rules designating the devices or other products that are approved by the United States Food and Drug Administration for use in administering a premeasured dose of epinephrine through any route of administration into the human body resulting in a minimal increase in administrative or regulatory costs for the Board.

Department of Education and Workforce

The bill requires DEW to expand the list of organizations and companies that offer free and reduced cost epinephrine autoinjectors to qualifying school districts and schools that it compiles annually to include epinephrine delivery systems. Continuing law requires DEW to make this list readily available on its website and send a copy of it by mail or electronically to each school. The bill's expansion of this requirement to include epinephrine delivery systems in the list may cause a minimal increase in DEW's administrative workload.

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[1] School districts, community schools, and their employees already possess immunity from liability in the performance of governmental functions through Ohio's sovereign immunity law (R.C. Chapter 2744).