

range of up to between \$1.8 million and \$2.1 million, and (2) biennially thereafter, the amount of revenue to be generated will be in the range of up to between \$3.5 million and \$4.1 million.

- **Court cost revenues.** If an individual pleads guilty to, or is convicted of, violating the prohibition, the sentencing court would impose various sanctions, including state court costs totaling \$24, that, if collected, are forwarded to the state treasury to the credit of the General Revenue Fund (\$15) and the Victims of Crime/Reparations Fund (\$9). Assuming that such violations will be relatively infrequent, then it seems unlikely that the state's potential gain in annual court cost revenues would exceed negligible. For the purposes of this fiscal analysis, a "negligible" amount of revenue means an estimated gain of less than \$1,000 for either state fund per year.
- **Civil immunity.** The bill's civil immunity provision does not appear to have any direct and readily discernible effect on state revenues and expenditures.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2008	FY 2009	FUTURE YEARS
Counties and Municipalities			
Revenues	Minimal effect on court costs, fines, and filing fees	Minimal effect on court costs, fines, and filing fees	Minimal effect on court costs, fines, and filing fees
Expenditures	Minimal effect on criminal and civil justice system operating costs	Minimal effect on criminal and civil justice system operating costs	Minimal effect on criminal and civil justice system operating costs

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- **Local criminal justice revenues and expenditures.** LSC fiscal staff assumes, for the purposes of this fiscal analysis, that new criminal cases and related convictions generated by a violation of the bill's prohibitions will be relatively infrequent. Assuming that were true, to the degree that any county or municipality is noticeably affected by violations of the bill's provisions, such a jurisdiction seems unlikely to incur additional operating costs, or generate additional court cost and fine revenues, in excess of minimal. For the purposes of this fiscal analysis, "minimal" means a potential expenditure increase and related revenue gain estimated at no more than \$5,000 for any county or municipality per year.
- **Local civil justice system revenues and expenditures.** From LSC fiscal staff's perspective, a possible consequence of the bill's immunity provision might be to reduce the filing of civil actions alleging harm by those employed as pharmacy technicians, or, if filed, such civil actions might be more promptly adjudicated than might otherwise have been the case under current law and practice. Either outcome, theoretically, generates some form of operational savings realized in various involved courts resulting from a decrease in judicial dockets and in the related workload of other court personnel. If the number of tort actions filed were reduced or curtailed, then the courts may experience a loss in filing and court service fees. However, the savings realized by those courts in terms of their personnel and related administrative costs associated with the processing of cases would likely be greater than any possible loss of court filing and service fee revenues.

Detailed Fiscal Analysis

Overview

For the purposes of this fiscal analysis, the bill most notably:

- Requires the State Board of Pharmacy to certify and regulate individuals who work as pharmacy technicians.
- Prohibits generally an individual from performing pharmacy technician activities without a certificate, a violation of which is a misdemeanor of the third degree on the first offense and a misdemeanor of the second degree for each subsequent offense.
- Adds pharmacy technicians to the circumstances in which certain health care professionals and workers are not liable in damages to any person or government entity in tort or other civil action.

State fiscal effects

State Board of Pharmacy

The State Board of Pharmacy is responsible for administering and enforcing the Pharmacy Practice Act and Dangerous Drug Distribution Act (Chapter 4729. of the Revised Code), the Controlled Substances Act (Chapter 3719. of the Revised Code), the Pure Food and Drug Act (Chapter 3715. of the Revised Code), and the Criminal Drug Law (Chapter 2925. of the Revised Code). The Board's activities in that regard can be divided into two primary duties: (1) licensure, and (2) drug law enforcement.

Under current law, the licensure activities of the Board include the testing and certification of pharmacists and pharmacy interns entering the profession in Ohio, as well as renewing the licenses of practicing pharmacists annually.

Rulemaking expenses. The bill requires the Board to adopt new rules in accordance with the Administrative Procedure Act to carry out the purposes of and to enforce the laws that will govern pharmacy technicians. In order to fulfill the requirement Board members and staff will need to expend additional effort to develop and then adopt the appropriate rules. Although that process, largely one-time in nature and subject to annual review, would not appear to be costly, it will take additional time and effort on the part of Board members and staff to accomplish. LSC fiscal staff is unable to quantify the costs associated with that rule-making activity.

Certificate issuance and renewal expenses. The bill: (1) requires the Board to issue a certificate to work as a pharmacy technician, along with an identification card, if the applicant meets certain requirements, including paying a fee determined by the Board (in an amount not to exceed \$50),

and (2) requires an individual to renew their card every two years, file an application form with the Board, and pay a renewal fee of \$97.50 or other amount determined by the Board.

Pharmacy Board policy staff estimates that: (1) there are currently between 12,000 and 14,000 registered pharmacists in the state, and (2) the ratio of pharmacy technicians to pharmacists in Ohio is 3:1. Using these estimates, one can calculate the potential size of the population to be certified and regulated as pharmacy technicians at between 36,000 and 42,000 individuals.

In order to implement and perform this new certification and regulatory duty, the Board will incur additional operating expenses and need to expand its current staff of approximately 50 full-time staff to do so. These additional expenses are discussed in more detail immediately below.

(1) Data management. Most of the state's licensing boards have implemented the CAVU licensing system; CAVU is a provider of licensing, permitting, and enforcement software solutions for eGovernment. The Department of Administrative Services (DAS) administers the CAVU agreements and the costs of the contracts are administratively removed from the Occupational Licensing and Regulatory Fund (Fund 4K9). Board policy staff estimates that storing and maintaining the additional electronic records for pharmacy technicians will cost approximately \$30,000 annually.

(2) Staffing-related costs. The Board will experience what appears likely to be a significant increase in its licensing and enforcement duties, which will, according to Board policy staff require six to seven additional staff at a total annual cost in terms of salary and fringe benefits estimated at between \$383,000 and \$433,000, as detailed in Table 1 immediately below. Additional staffing-related expenses include \$21,000 annually to lease additional office space and \$25,000 in one-time equipment purchases.

Table 1 Staffing-Related Costs		
Staff Classification	Number of Staff	Salary and Fringe Benefits
Licensing personnel	1 to 2	\$50,000 to \$100,000
Assistant Attorney General	1	\$108,000
Administrative Assistant (legal)	2	\$100,000
Field Compliance Agents	2	\$125,000
Total Estimated Costs		\$383,000 to \$433,000

(3) Hearing costs. The bill specifies that, except as otherwise provided in the disciplinary law governing pharmacists, pharmacy technicians, and pharmacy interns, the Board must similarly suspend a pharmacy technician's certificate if the technician is or becomes addicted to the use of controlled substances until the person offers satisfactory proof to the Board that the person no longer is addicted to the use of controlled substances. The Board is also authorized to adopt rules in accordance with the Administrative Procedure Act (Chapter 119. of the Revised Code), not inconsistent with the law, as the Board considers necessary to carry out the purposes of and to enforce the laws governing pharmacists, pharmacy technicians, and pharmacy interns.

Policy staff of the Board of Pharmacy anticipates that approximately 60 to 80 additional revocation/suspension hearings will likely be held once the Board is required to certify pharmacy technicians. Such hearings are estimated to cost roughly \$1,000 each. Annual hearing expenses therefore could range from \$60,000 to \$80,000.

Certification revenues. The State Board of Pharmacy is one of 20-plus independent professional and occupational licensing boards that draw their primary source of funding from the Occupational Licensing and Regulatory Fund (Fund 4K9). The fund is a repository for license fees and other assessments collected by those boards.

The fees that the Board will collect from pharmacy technicians, including the fee for the initial issuance of a certificate (in an amount not to exceed \$50) and the fee for its biennial renewal (\$97.50 or other amount determined by the Board), will be deposited in the state treasury to the credit of Fund 4K9. For the purposes of this fiscal analysis, LSC fiscal staff assumes that the Board will initially charge the \$50 and \$97.50 fees noted above, and then adjust those amounts as appropriate to align as closely as possible to its actual annual operating costs.

Table 2 Estimated Fund 4K9 Revenues		
Number of Pharmacy Technicians	Fee Amount	Estimated Revenues
<u>First full year of operation</u> 36,000 to 42,000	Not to exceed \$50 certification fee (maximum allowed)	Up to between \$1.8 million and \$2.1 million
<u>Biennially thereafter</u> 36,000 to 42,000	\$97.50 (if application is received on time)	Up to between \$3.5 million and \$4.1 million

Court cost revenues

The bill generally prohibits an individual from performing pharmacy technician activities without a certificate, a violation of which is a misdemeanor of the third degree on the first offense and a misdemeanor of the second degree on each subsequent offense.

If an individual pleads guilty to, or is convicted of, violating the prohibition, the sentencing court would impose various sanctions, including state court costs totaling \$24, that, if collected, are forwarded to the state treasury to the credit of the General Revenue Fund (\$15) and the Victims of Crime/Reparations Fund (\$9). Assuming that such violations will be relatively infrequent, then it seems unlikely that the state's potential gain in annual court cost revenues would exceed negligible. For the purposes of this fiscal analysis, a "negligible" amount of revenue means an estimated gain of less than \$1,000 for either state fund per year.

Local fiscal effects

Prosecutors

The bill requires a prosecutor to report promptly to the Board the conviction of a pharmacy technician for violation of a drug offense or Ohio's Controlled Substances Law unless the prosecutor has already made a report of this information. This reporting requirement is likely to be one that a prosecutor can perform with little to no readily discernible ongoing cost.

County and municipal criminal court systems

LSC fiscal staff assumes for the purposes of this fiscal analysis that new criminal cases and related convictions generated by a violation of the bill's prohibitions will be relatively infrequent. Assuming that were true, to the degree that any county or municipality is noticeably affected by violations of the bill's provision, such a jurisdiction seems unlikely to incur additional operating costs, or generate additional court cost and fine revenues, in excess of minimal. For the purposes of this fiscal analysis, "minimal" means a potential expenditure increase and related revenue gain estimated at no more than \$5,000 for any county or municipality per year.

County and municipal civil court systems

From LSC fiscal staff's perspective, a possible consequence of the bill's immunity provision might be to reduce the filing of civil actions alleging harm by those employed as pharmacy technicians, or, if filed, such civil actions might be more promptly adjudicated than might otherwise have been the case under current law and practice. Either outcome theoretically generates some form of operational savings realized in various involved courts resulting from a decrease in judicial dockets and in the related workload of other court personnel. However, the precise magnitude of the resulting potential savings in annual operating costs for any given court of common pleas, municipal court, or county court is rather problematic to calculate. If, as others have noted, the impact on courts is not significant, then arguably the potential magnitude of the ongoing savings effect may be no more than what LSC fiscal staff refers to as "minimal." For the purposes of this fiscal analysis, minimal means an estimated savings of no more than \$5,000 for any affected court per year.

If the number of tort actions filed were reduced or curtailed, then the courts may experience a loss in filing and court service fees. However, the savings realized by those courts in terms of their personnel and related administrative costs associated with the processing of cases would likely be greater than any possible loss of court filing and service fee revenues.

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