



Ohio Legislative Service Commission

Wendy Risner

Fiscal Note & Local Impact Statement

Bill: H.B. 94 of the 128th G.A.

Date: June 16, 2009

Status: As Introduced

Sponsor: Rep. Skindell

Local Impact Statement Procedure Required: No — Minimal cost

Contents: To amend section 3715.99 and to enact section 3715.93 of the Revised Code regarding prescription drug marketing disclosures

State Fiscal Highlights

STATE FUND

FY 2010 – FUTURE YEARS

General Revenue Fund

Revenues	Potential minimal gain for recovered costs in cases where injunctive relief is granted
Expenditures	Increase of \$12,200 to \$40,850 per year for the Department of Health; Potential increase for the Attorney General's Office for injunctions against violators

Other State Funds

Revenues	Potential minimal gain for recovered costs in cases where injunctive relief is granted
Expenditures	Potential increase for the Attorney General's Office for injunctions against violators

Note: The state fiscal year is July 1 through June 30. For example, FY 2010 is July 1, 2009 – June 30, 2010.

- **Department of Health.** The Department estimates that there will be an increase of \$12,200 to \$40,850 per fiscal year associated with the requirement that drug manufacturers and labelers disclose, on an annual basis, gifts to health care professionals or hospitals or other health care facilities. These costs will be for rule promulgation, administration, and hearings to address violations. It is possible that some attorney costs and/or other costs may be recovered in cases where injunctive relief is granted.
- **Attorney General's Office.** The Attorney General is authorized to bring actions in cases where injunctive relief is sought against violators. Any increase in costs associated with this is expected to be minimal since the number of violations is expected to be few in number. The Attorney General uses a mix of GRF and other state funds for expenses of this type. There is the potential that some of these costs could be recovered if the court requires a violator to pay costs.

Local Fiscal Highlights

LOCAL GOVERNMENT

FY 2010 – FUTURE YEARS

Franklin County Court of Common Pleas

Revenues

Potential minimal gain

Expenditures

Potential minimal increase

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

- The Franklin County Court of Common Pleas could experience an increase in court and administrative costs in cases in which injunctive relief is sought. Any increase in costs is expected to be minimal since the number of violations is expected to be few in number. Some of these costs could be recovered if the court requires a violator to pay costs. It is also possible that the court could receive up to \$10,000 in fine revenue per violation. However, the number of violations is assumed to be minimal.

Detailed Fiscal Analysis

The bill requires manufacturers and labelers of dangerous drugs to file an annual report with the Director of Health. The bill specifies that the report is to disclose any gift made to a licensed health care professional authorized to prescribe drugs, hospital, nursing home, residential care facility, adult care facility, pharmacist, or health plan administrator. This is applied to any gift, fee, payment, subsidy, or other economic benefit provided in connection with detailing, promotion, or other marketing activities by the manufacturer or labeler, directly or through a marketer. The report must describe the value, nature, and purpose of each gift made in the prior calendar year. It must be filed by February 1st in the manner prescribed by the Director. Additionally, manufacturers and labelers must provide the name and address of the individual responsible for compliance to the Director by January 1st of each year. The Director must submit a report summarizing the disclosures to the Governor and General Assembly on June 1st of each year.

The bill requires the Director to adopt rules prescribing the form and manner of the report. The bill specifies that any manufacturer or labeler that fails to disclose gifts may be fined up to \$10,000 per violation. Each failure to disclose constitutes a separate violation.

Lastly, the bill authorizes the Attorney General to bring an action in the Franklin County Court of Common Pleas seeking injunctive relief. The court may require a violator to pay costs and attorney's fees.

Department of Health

The Department of Health will experience an increase in expenditures for a staff attorney and clerical support to develop rules, conduct hearings, and to address other legal matters arising from violations. The Department anticipates that attorney expenses will be between \$3,500 and \$11,250 for 80 to 260 hours of work associated with rule development and hearings. The expenses associated with the office assistant are estimated to be between \$2,400 and \$7,700 for 80 to 260 hours. A health planning administrator will be responsible for overseeing and completing the reporting requirements. The health planning administrator expenses are estimated to be between \$4,300 and \$13,900 for 80 to 260 hours of work. Lastly, travel, supplies, printing, and copying, etc. are estimated to be between \$2,000 and \$8,000. The total cost associated with this program is \$12,200 to \$40,850 per year. Some of these costs may be recovered in cases in which injunctive relief is granted.

Attorney General

The Attorney General's Office would experience an increase in costs if injunctive relief is sought against a manufacturer or labeler violating the provisions of the bill. Injunctive relief would be sought after all other avenues requesting compliance had

been exhausted. Any increase in costs is expected to be minimal since the number of violations is expected to be few in number. The Attorney General uses a mix of GRF and other state funds for expenses of this type. Some of these costs could be recovered if the court requires a violator to pay costs.

Court of Common Pleas

If injunctive relief is sought by the Attorney General's Office, the Franklin County Court of Common Pleas could experience an increase in court and administrative costs. Any increase in costs is expected to be minimal since the number of violations is expected to be few in number. Some of these costs could be recovered if the court requires a violator to pay costs. It is also possible that the court could receive up to \$10,000 in fine revenue per violation.

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