

HOUSE BILL REPORT

HB 2438

As Reported by House Committee On: Appropriations

Title: An act relating to establishment of the prescription opioid impact account.

Brief Description: Concerning establishment of the prescription opioid impact account.

Sponsors: Representatives Kilduff, Davis, Orwall, Robinson, Kloba, Thai, Peterson, Macri, Ormsby, Pollet, Wylie and Doglio.

Brief History:

Committee Activity:

Appropriations: 1/22/20, 2/11/20 [DPS].

Brief Summary of Substitute Bill

- Creates the Prescription Opioid Impact Account (Account) for programs and activities to address opioid misuse and abuse.
- Imposes an impact fee of 1 cent per morphine milligram equivalent upon opioid manufacturers to be collected by the Department of Health and deposited into the Account.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 18 members: Representatives Ormsby, Chair; Robinson, 1st Vice Chair; Bergquist, 2nd Vice Chair; Chopp, Cody, Dolan, Fitzgibbon, Hansen, Hudgins, Kilduff, Macri, Pettigrew, Pollet, Ryu, Senn, Sullivan, Tarleton and Tharinger.

Minority Report: Do not pass. Signed by 12 members: Representatives Stokesbary, Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier, Chandler, Corry, Dye, Hoff, Kraft, Schmick, Steele, Sutherland and Ybarra.

Minority Report: Without recommendation. Signed by 2 members: Representatives Mosbrucker and Springer.

Staff: Linda Merelle (786-7092).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Background:

Prescription Monitoring Program.

The Prescription Monitoring Program (PMP) is a secure online database. Through it, health practitioners have access to information regarding their patients before prescribing or dispensing any Schedule II, III, IV, and V controlled substances. The PMP allows the practitioner to look for duplicate prescriptions, possible misuse, drug interactions, and other potential issues.

Morphine Milligram Equivalent.

A morphine milligram equivalent (MME) is a single dosage form of an opioid multiplied by its strength per unit relative to the strength of morphine. In 2018, 3.7 billion opioid MMEs were dispensed in Washington.

Summary of Substitute Bill:

Prescription Opioid Impact Fee.

The Prescription Opioid Impact Fee (Impact Fee) applies to manufacturers when more than 100,000 MMEs of their product are dispensed within one calendar quarter in Washington. If this threshold is met, the manufacturer must pay 1 cent per MME for a prescription opioid dispensed and reported in the PMP. The Department of Health (DOH) must calculate the fee, based upon data from the PMP, and issue a statement to manufacturers quarterly. The Impact Fee is due within 45 days of the quarterly statement. If a statement is not paid within 45 days, the DOH must assess a penalty of \$100 per day or 10 percent of the invoice fee, whichever is greater.

The DOH has rulemaking authority, and the Office of the Attorney General is authorized to bring actions on behalf of the state to enforce the provisions of this act. The Department of Revenue (DOR) is required to provide technical assistance to the DOH, as requested, to implement the Impact Fee.

Prescription Opioid Impact Account.

The Prescription Opioid Impact Account (Account) is created, and its revenue is provided by the Impact Fee. The Account is appropriated, and the expenditures are to primarily fund programs and activities to prevent opioid misuse and abuse, to prevent opioid overdose and overdose-related deaths, and to identify and treat opioid use disorder. These expenditures may be used by the DOH for activities within the agency or through grants to other state agencies, counties, or cities. The Account may also be used to reimburse amounts appropriated to the DOH for costs necessary to modify the PMP to implement the fee imposed under this act.

Substitute Bill Compared to Original Bill:

Under the substitute bill, the DOH, rather than the DOR, collects the opioid impact fee. The DOR must provide technical assistance to the DOH, as requested.

Morphine and methadone, in addition to buprenorphine, are excluded from the definition of "prescription opioid." The limit for administrative costs for implementation of the Impact Fee is changed from 15 percent to 12 percent.

Counties are eligible for grant funding from the Account, regardless of whether the county has enacted the behavioral health tax authorized pursuant to RCW 82.14.460. The effective date of the bill is changed to January 1, 2021.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

Effective Date of Substitute Bill: The bill takes effect on January 1, 2021.

Staff Summary of Public Testimony:

(In support) Opioids have had a devastating impact across the state. In 2018, more than 700 Washington residents were lost due to the opioid epidemic. Hospitals and jails have inadequate funds, and this bill imposes a modest fee that will provide funding to cities, counties, and agencies to combat this epidemic. Additional resources are needed to allow for an expansion of treatment and to educate the most vulnerable citizens. The account created in this bill will provide those resources.

(Opposed) The bill applies to manufacturers, packagers, and labelers, and it will result in significant costs to consumers and patients. The same fee applies regardless of the level of contribution to the crisis, and it targets a life-saving drug for addiction, pain management, and reversal treatment. The imposition of the fee requires extensive state oversight. The information in the PMP is proprietary, and manufacturers would have no way of knowing whether the amounts invoiced to them are accurate. In the end, the pharmacies will bear the cost of this. The state already regulates the dispensing of opioids.

(Other) The counties recognize that there is an opioid crisis, and this bill would drive funds out to counties. The health crisis crosses all boundaries, and the funds should be distributed by need, rather than by whether a county has adopted the mental health and substance abuse sales tax. This bill is desperately needed.

Persons Testifying: (In support) Representative Kilduff, prime sponsor; and Brad Fingood, King County.

(Opposed) Cliff Webster, Pharmaceutical Research and Manufacturers of America; and Holly Chisa, Northwest Grocery Association.

(Other) Mike Hoover, Washington State Association of Counties; and Derek Young, Pierce County.

Persons Signed In To Testify But Not Testifying: None.