

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 910 (Senators Lam and Carter)

Education, Health, and Environmental Affairs
and Budget and Taxation

**Public Health - Solemn Covenant of the States to Award Prizes for Curing
Diseases - Compact**

This bill enters Maryland into the Solemn Covenant of the States to Award Prizes for Curing Diseases Compact. The bill establishes the composition, powers, and responsibilities of the Solemn Covenant of the States to Award Prizes for Curing Diseases Compact Commission and requirements related to the finances, legality, and severability of the compact. The commission must adopt rules and regulations regarding prizes for curing diseases and the criteria that must be met in order for a cure to be considered for a prize. Should a prize be awarded, each compacting state must annually pay the state's actual one-year savings in public health expenses for the particular disease for which a cure has been accepted. The compact becomes effective and binding when enacted by two compacting states, but the commission is only established after six states become compacting states.

Fiscal Summary

State Effect: In the event the compact is enacted by six states and the commission is established, general fund expenditures increase to pay any annual membership dues assessed by the commission. To the extent a cure for a disease is discovered and a prize is awarded, State expenditures, likely general funds, increase significantly, as discussed below. Revenues may increase from refunds, as discussed below.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary:

Purpose of the Compact

Generally, the goal of the compact is to pool the potential savings of as many states (and countries) as possible to generate a sufficient financial incentive to develop a cure for many of the world's most devastating diseases. Upon acceptance of a cure, the prize winner must transfer the patent and all related intellectual property for the manufacture and distribution of the treatment or therapeutic protocol to the commission in exchange for the prize.

If a prize is awarded, payment responsibility by compacting states begins one year after the date the cure becomes widely available, and compacting states must make an annual payment until the state has fulfilled its prize responsibility.

Upon acceptance of a cure, the commission must obtain a loan from a financial institution in an amount equal to the most recently calculated total estimated five-year public health expenses for the disease in all compacting states.

Solemn Covenant of the States to Award Prizes for Curing Diseases Compact Commission

The commission can only be established after enactment of the compact by six states. Each compacting state must be represented by one member selected by the compacting state; states must determine member qualifications and their period of service. The commission must, among other actions:

- adopt rules and bylaws;
- review treatments and therapeutic protocols for the cure of diseases and award prizes that meet certain standards;
- make widely available a treatment or therapeutic protocol upon discovering a cure;
- establish a selling price for the cure; and
- perform other functions as may be necessary or appropriate to achieve the purposes of the compact.

The commission must meet at least once during each calendar year and take actions that are consistent with the compact, bylaws, and rules.

The commission must adopt rules to (1) efficiently and effectively achieve the purposes of the compact and (2) govern the methods, processes, research, creation, and testing of a treatment or therapeutic protocol for each disease for which a prize may be awarded.

The commission must establish the criteria for defining and classifying the diseases for which prizes must be awarded. There must be at least 10 major diseases eligible for prizes, which should be determined based on (1) the severity of the disease to an individual's overall health and well-being; (2) the survival rate or severity of impact of the disease; and (3) the public health expenses and treatment expenses for the disease.

In order to be considered a cure, a treatment or therapeutic protocol must (1) be approved by the U.S. Food and Drug Administration or have otherwise obtained legal status for the compact to immediately contract to manufacture and distribute it in the United States; (2) yield a significant increase in survival, under specified conditions; and (3) require less than one year of the treatment or protocol to completely cure the disease.

Withdrawal, Default, and Expulsion

Compacting states may withdraw from the compact by (1) repealing the compact law in the state and (2) notifying the commission of the intent to withdraw on a date that is at least *three years* after the notice is sent and the compact law is repealed. The commission's actions and responsibilities will be effective in the withdrawing state until the official date of withdrawal. States may reinstate the compact after withdrawal.

If the commission determines that any compacting state has defaulted in the performance of its obligations or responsibilities under the compact, all rights, privileges, and benefits conferred by the compact will be suspended. If the defaulting state fails to cure the default, the defaulting state is expelled from the compact, and an expelled state must reenact the compact to become a compacting state.

Current Law/Background: According to the Brookings Institute, the private sector spends approximately \$160 billion in investments related to health care research and development annually. Typically, health care research and development focuses on treatments like drugs, vaccines, and therapeutics, rather than finding cures. Advances in these treatments have improved life expectancies and reduced disease incidence, but for many serious diseases, there is no cure or indication of future eradication.

Legislation to approve the compact has been introduced in Hawaii, Iowa, Kentucky, New York, Ohio, Rhode Island, Virginia, and West Virginia.

State Expenditures: After the compact has been enacted by six states and the commission has been formed, the commission may establish annual membership dues for compacting states to cover the daily expenses of the commission. Thus, general fund expenditures increase to pay any such dues.

The commission must also establish rules for evaluating treatments and therapeutic protocols. In the event that a cure for a specified disease is found and a prize is awarded, State expenditures, likely general funds, increase to pay the State's actual one-year savings in public health expenses for the particular disease for which a cure has been accepted. These expenditures continue for five years.

The Department of Legislative Services advises that the amount the State would be required to pay cannot be reliably estimated at this time. Over the long term, it is assumed that the State achieves savings in public health expenses for the particular disease relative to what would have been incurred in the absence of a cure.

State Revenues: The commission may sell the cure and may add royalty fees to the sales price. After payment or reimbursement of specified expenses, the commission may annually disburse refunds to compacting states based on the percent of the state's prize obligation. Thus, State revenues may increase by an indeterminate amount.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 1051 (Delegate Johnson) - Health and Government Operations.

Information Source(s): Brookings Institute; Maryland Department of Health; Department of Legislative Services

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