

**18A:40-12.6 et al.**  
**LEGISLATIVE HISTORY CHECKLIST**  
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**LAWS OF:** 2015                      **CHAPTER:** 13

**NJSA:** 18A:40-12.6 et al. (Requires schools to maintain supply of epinephrine and permit administration of epinephrine to any student having anaphylactic reaction)

**BILL NO:** A304 (Substituted for S801)

**SPONSOR(S)** Russo and others

**DATE INTRODUCED:** January 16, 2014

**COMMITTEE:**                      **ASSEMBLY:** Education

**SENATE:** Education  
Budget and Appropriation

**AMENDED DURING PASSAGE:** Yes

**DATE OF PASSAGE:**                      **ASSEMBLY:** December 18, 2014

**SENATE:** December 18, 2014

**DATE OF APPROVAL:** February 5, 2015

**FOLLOWING ARE ATTACHED IF AVAILABLE:**

**FINAL TEXT OF BILL** (Third reprint enacted)

**A304**

<b>SPONSOR'S STATEMENT:</b> (Begins on page 5 of introduced bill)	Yes	
<b>COMMITTEE STATEMENT:</b>	<b>ASSEMBLY:</b>	Yes
	<b>SENATE:</b>	Yes     Education Budget and Appropri.

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at [www.njleg.state.nj.us](http://www.njleg.state.nj.us))

<b>FLOOR AMENDMENT STATEMENT:</b>	No	
<b>LEGISLATIVE FISCAL ESTIMATE:</b>	Yes	5-22-14 12-18-14

**S801**

<b>SPONSOR'S STATEMENT:</b> (Begins on page 5 of introduced bill)	Yes	
<b>COMMITTEE STATEMENT:</b>	<b>ASSEMBLY:</b>	No
	<b>SENATE:</b>	Yes     Education Budget and Appropri.
<b>FLOOR AMENDMENT STATEMENT:</b>	No	
<b>LEGISLATIVE FISCAL ESTIMATE:</b>	Yes	

(continued)

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** No

**FOLLOWING WERE PRINTED:**

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**REPORTS:** No

**HEARINGS:** No

**NEWSPAPER ARTICLES:** Yes

"Christie signs bill requiring allergy medicine in schools," Associated Press State Wire: New Jersey, 2-5-15

"Law lets schools use epipens without parental permission," The Star-Ledger, 2-6-15

LAW/RWH

P.L.2015, CHAPTER 13, *approved February 5, 2015*  
Assembly, No. 304 (*Third Reprint*)

1 AN ACT concerning the emergency administration of epinephrine to  
2 students for anaphylaxis <sup>2</sup>**[and]**,<sup>2</sup> amending <sup>2</sup>and supplementing<sup>2</sup>  
3 P.L.1997, c.368 <sup>2</sup>,<sup>2</sup> and <sup>2</sup>amending<sup>2</sup> P.L.2007, c.57.  
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:  
7

8 1. Section 1 of P.L.1997, c.368 (C.18A:40-12.5) is amended to  
9 read as follows:

10 1. Each board of education or chief school administrator of a  
11 nonpublic school shall develop a policy in accordance with the  
12 guidelines established by the Department of Education pursuant to  
13 section 4 of P.L.2007, c.57 (C.18A:40-12.6a) for the emergency  
14 administration of epinephrine via a pre-filled auto-injector  
15 mechanism to a pupil for anaphylaxis provided that:

16 a. the parents or guardians of the pupil provide to the board of  
17 education or chief school administrator of a nonpublic school  
18 written authorization for the administration of the epinephrine;

19 b. the parents or guardians of the pupil provide to the board of  
20 education or chief school administrator of a nonpublic school  
21 written orders from the physician or advanced practice nurse that  
22 the pupil requires the administration of epinephrine for anaphylaxis;

23 c. the board or chief school administrator of a nonpublic school  
24 informs the parents or guardians of the pupil in writing that the  
25 district and its employees or agents or the nonpublic school and its  
26 employees or agents shall have no liability as a result of any injury  
27 arising from the administration of the epinephrine via a pre-filled  
28 auto-injector mechanism;

29 d. the parents or guardians of the pupil sign a statement  
30 acknowledging their understanding that the district or the nonpublic  
31 school shall have no liability as a result of any injury arising from  
32 the administration of the epinephrine via a pre-filled auto-injector  
33 mechanism to the pupil and that the parents or guardians shall  
34 indemnify and hold harmless the district and its employees or  
35 agents or the nonpublic school and its employees or agents against  
36 any claims arising out of the administration of the epinephrine via a  
37 pre-filled auto-injector mechanism; and

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly AED committee amendments adopted February 24, 2014.

<sup>2</sup>Senate SED committee amendments adopted December 1, 2014.

<sup>3</sup>Senate SBA committee amendments adopted December 8, 2014.

1 e. the permission is effective for the school year for which it is  
2 granted and is renewed for each subsequent school year upon  
3 fulfillment of the requirements in subsections a. through d. of this  
4 section.

5 The policy developed by a board of education or chief school  
6 administrator of a nonpublic school shall require:

7 (1) the placement of a pupil's prescribed epinephrine in a secure  
8 but unlocked location easily accessible by the school nurse and  
9 designees to ensure prompt availability in the event of an allergic  
10 emergency at school or at a school-sponsored function. The  
11 location of the epinephrine shall be indicated on the pupil's  
12 emergency care plan. Back-up epinephrine <sup>1</sup>via a pre-filled auto-  
13 injector mechanism<sup>1</sup> shall also be available at the school if needed;

14 (2) the school nurse or designee to be promptly available on site  
15 at the school and school-sponsored functions in the event of an  
16 allergic reaction; and

17 (3) the transportation of the pupil to a hospital emergency room  
18 by emergency services personnel after the administration of  
19 epinephrine, even if the pupil's symptoms appear to have resolved.

20 f. The policy developed by a board of education or chief  
21 school administrator of a nonpublic school shall also:

22 (1) permit the school nurse or trained designee to administer  
23 epinephrine via a pre-filled auto-injector mechanism to any pupil  
24 <sup>3</sup>without a known history of anaphylaxis or any pupil<sup>3</sup> whose parent  
25 or guardian has not met the requirements of subsections a., b., and  
26 d. of this section and has not received the notice required pursuant  
27 to subsection c. of this section when the nurse or designee in good  
28 faith believes that the pupil is having an anaphylactic reaction; and

29 (2) require each public and nonpublic school to maintain in a  
30 secure but unlocked and easily accessible location a supply of  
31 epinephrine auto-injectors that is prescribed under a standing  
32 protocol from a licensed physician <sup>2</sup>or an advanced practice nurse<sup>2</sup> ,  
33 and is accessible to the school nurse and trained designees for  
34 administration to a pupil having an anaphylactic reaction.

35 (cf: P.L.2007, c.57, s.2)

36

37 2. Section 2 of P.L.1997, c.368 (C.18A:40-12.6) is amended to  
38 read as follows:

39 2. The policy for the administration of medication to a pupil  
40 shall provide that the school nurse shall have the primary  
41 responsibility for the administration of the epinephrine. The school  
42 nurse shall designate, in consultation with the board of education, or  
43 chief school administrator of a nonpublic school additional  
44 employees of the school district or nonpublic school who volunteer  
45 to administer epinephrine via a pre-filled auto-injector mechanism  
46 to a pupil for anaphylaxis when the nurse is not physically present  
47 at the scene. <sup>1</sup>In the event that a licensed athletic trainer volunteers

1 to administer epinephrine, it shall not constitute a violation of the  
2 “Athletic Training Licensure Act,” P.L.1984, c.203 (C.45:9-37.35 et  
3 seq.).<sup>1</sup>

4 **【The】** Except as otherwise provided pursuant to subsection f. of  
5 section 1 of P.L.1997, c.368 (C.18A:40-12.5), the school nurse shall  
6 determine that:

7 a. the designees have been properly trained in the  
8 administration of the epinephrine via a pre-filled auto-injector  
9 mechanism using standardized training protocols established by the  
10 Department of Education in consultation with the Department of  
11 Health <sup>1</sup>**【and Senior Services】<sup>1</sup>** ;

12 b. the parents or guardians of the pupil consent in writing to the  
13 administration of the epinephrine via a pre-filled auto-injector  
14 mechanism by the designees;

15 c. the board or chief school administrator of a nonpublic school  
16 informs the parents or guardians of the pupil in writing that the  
17 district and its employees or agents or the nonpublic school and its  
18 employees and agents shall have no liability as a result of any injury  
19 arising from the administration of the epinephrine to the pupil;

20 d. the parents or guardians of the pupil sign a statement  
21 acknowledging their understanding that the district or nonpublic  
22 school shall have no liability as a result of any injury arising from  
23 the administration of the epinephrine via a pre-filled auto-injector  
24 mechanism to the pupil and that the parents or guardians shall  
25 indemnify and hold harmless the district and its employees or  
26 agents against any claims arising out of the administration of the  
27 epinephrine via a pre-filled auto-injector mechanism to the pupil;  
28 and

29 e. the permission is effective for the school year for which it is  
30 granted and is renewed for each subsequent school year upon  
31 fulfillment of the requirements in subsections a. through d. of this  
32 section.

33 The Department of Education, in consultation with the  
34 Department of Health <sup>1</sup>**【and Senior Services】<sup>1</sup>** , shall require  
35 trained designees for students enrolled in a school who may require  
36 the emergency administration of epinephrine for anaphylaxis when  
37 the school nurse is not available.

38 Nothing in this section shall be construed to prohibit the  
39 emergency administration of epinephrine via a pre-filled auto-  
40 injector mechanism to a pupil for anaphylaxis by the school nurse  
41 or other employees designated pursuant to this section when the  
42 pupil is authorized to self-administer epinephrine pursuant to  
43 section 1 of P.L.1993, c.308 (C.18A:40-12.3), or when there is a  
44 coexisting diagnosis of asthma, or when a prescription is received  
45 from a licensed health care professional for epinephrine coupled  
46 with another form of medication, or when the epinephrine is

1 administered pursuant to subsection f. of section 1 of P.L.1997,  
2 c.368 (C.18A:40-12.5).  
3 (cf: P.L.2012, c.17, s.75)  
4

5 3. Section 7 of P.L.2007, c.57 (C.18A:40-12.6d) is amended to  
6 read as follows:

7 7. No school employee, including a school nurse, or any other  
8 officer or agent of a board of education or nonpublic school, or a  
9 physician<sup>2</sup> or an advanced practice nurse<sup>2</sup> providing a prescription  
10 under a standing protocol for school epinephrine pursuant to  
11 subsection f. of section 1 of P.L. 1997, c. 368 (C.18A:40-12.5),  
12 shall be held liable for any good faith act or omission consistent  
13 with the provisions of P.L.1997, c.368 (C.18A:40-12.5 et seq.), nor  
14 shall an action before the New Jersey State Board of Nursing lie  
15 against a school nurse for any such action taken by a person  
16 designated in good faith by the school nurse pursuant to section 2 of  
17 P.L.1997, c.368 (C.18A:40-12.6). Good faith shall not include  
18 willful misconduct, gross negligence or recklessness.  
19 (cf: P.L.2007, c.57, s.7)  
20

21 <sup>2</sup>4. (New section) Notwithstanding any law to the contrary,  
22 funds appropriated or otherwise made available pursuant to  
23 P.L.1991, c.226 (C.18A:40-23 et seq.) may be used to comply with  
24 the requirements of subsection f. of section 1 of P.L.1997,  
25 c.368 (C.18A:40-12.5) <sup>3</sup>in nonpublic schools<sup>3</sup> .<sup>2</sup>  
26

27 <sup>2</sup>[4.] <sup>5.</sup><sup>2</sup> This act shall take effect <sup>2</sup>[immediately] in the first  
28 full school year following the date of enactment<sup>2</sup>  
29  
30  
31

32  
33 Requires schools to maintain supply of epinephrine and permit  
34 administration of epinephrine to any student having anaphylactic  
35 reaction.

# ASSEMBLY, No. 304

## STATE OF NEW JERSEY 216th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2014 SESSION

**Sponsored by:**

**Assemblyman DAVID C. RUSSO**

**District 40 (Bergen, Essex, Morris and Passaic)**

**Assemblyman SCOTT T. RUMANA**

**District 40 (Bergen, Essex, Morris and Passaic)**

**Assemblywoman MARLENE CARIDE**

**District 36 (Bergen and Passaic)**

**Co-Sponsored by:**

**Assemblyman Diegnan**

**SYNOPSIS**

Requires schools to maintain supply of epinephrine and permit administration of epinephrine to any student having anaphylactic reaction.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel



A304 RUSSO, RUMANA

2

1 AN ACT concerning the emergency administration of epinephrine to  
2 students for anaphylaxis and amending P.L.1997, c.368 and  
3 P.L.2007, c.57.  
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:  
7

8 1. Section 1 of P.L.1997, c.368 (C.18A:40-12.5) is amended to  
9 read as follows:

10 1. Each board of education or chief school administrator of a  
11 nonpublic school shall develop a policy in accordance with the  
12 guidelines established by the Department of Education pursuant to  
13 section 4 of P.L.2007, c.57 (C.18A:40-12.6a) for the emergency  
14 administration of epinephrine via a pre-filled auto-injector  
15 mechanism to a pupil for anaphylaxis provided that:

16 a. the parents or guardians of the pupil provide to the board of  
17 education or chief school administrator of a nonpublic school  
18 written authorization for the administration of the epinephrine;

19 b. the parents or guardians of the pupil provide to the board of  
20 education or chief school administrator of a nonpublic school  
21 written orders from the physician or advanced practice nurse that  
22 the pupil requires the administration of epinephrine for anaphylaxis;

23 c. the board or chief school administrator of a nonpublic school  
24 informs the parents or guardians of the pupil in writing that the  
25 district and its employees or agents or the nonpublic school and its  
26 employees or agents shall have no liability as a result of any injury  
27 arising from the administration of the epinephrine via a pre-filled  
28 auto-injector mechanism;

29 d. the parents or guardians of the pupil sign a statement  
30 acknowledging their understanding that the district or the nonpublic  
31 school shall have no liability as a result of any injury arising from  
32 the administration of the epinephrine via a pre-filled auto-injector  
33 mechanism to the pupil and that the parents or guardians shall  
34 indemnify and hold harmless the district and its employees or  
35 agents or the nonpublic school and its employees or agents against  
36 any claims arising out of the administration of the epinephrine via a  
37 pre-filled auto-injector mechanism; and

38 e. the permission is effective for the school year for which it is  
39 granted and is renewed for each subsequent school year upon  
40 fulfillment of the requirements in subsections a. through d. of this  
41 section.

42 The policy developed by a board of education or chief school  
43 administrator of a nonpublic school shall require:

44 (1) the placement of a pupil's prescribed epinephrine in a secure  
45 but unlocked location easily accessible by the school nurse and

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.



1 designees to ensure prompt availability in the event of an allergic  
2 emergency at school or at a school-sponsored function. The  
3 location of the epinephrine shall be indicated on the pupil's  
4 emergency care plan. Back-up epinephrine shall also be available  
5 at the school if needed;

6 (2) the school nurse or designee to be promptly available on site  
7 at the school and school-sponsored functions in the event of an  
8 allergic reaction; and

9 (3) the transportation of the pupil to a hospital emergency room  
10 by emergency services personnel after the administration of  
11 epinephrine, even if the pupil's symptoms appear to have resolved.

12 f. The policy developed by a board of education or chief  
13 school administrator of a nonpublic school shall also:

14 (1) permit the school nurse or trained designee to administer  
15 epinephrine via a pre-filled auto-injector mechanism to any pupil  
16 whose parent or guardian has not met the requirements of  
17 subsections a., b., and d. of this section and has not received the  
18 notice required pursuant to subsection c. of this section when the  
19 nurse or designee in good faith believes that the pupil is having an  
20 anaphylactic reaction; and

21 (2) require each public and nonpublic school to maintain in a  
22 secure but unlocked and easily accessible location a supply of  
23 epinephrine auto-injectors that is prescribed under a standing  
24 protocol from a licensed physician, and is accessible to the school  
25 nurse and trained designees for administration to a pupil having an  
26 anaphylactic reaction.

27 (cf: P.L.2007, c.57, s.2)

28

29 2. Section 2 of P.L.1997, c.368 (C.18A:40-12.6) is amended to  
30 read as follows:

31 2. The policy for the administration of medication to a pupil  
32 shall provide that the school nurse shall have the primary  
33 responsibility for the administration of the epinephrine. The school  
34 nurse shall designate, in consultation with the board of education, or  
35 chief school administrator of a nonpublic school additional  
36 employees of the school district or nonpublic school who volunteer  
37 to administer epinephrine via a pre-filled auto-injector mechanism  
38 to a pupil for anaphylaxis when the nurse is not physically present  
39 at the scene. **【The】** Except as otherwise provided pursuant to  
40 subsection f. of section 1 of P.L.1997, c. 368 (C.18A:40-12.5), the  
41 school nurse shall determine that:

42 a. the designees have been properly trained in the  
43 administration of the epinephrine via a pre-filled auto-injector  
44 mechanism using standardized training protocols established by the  
45 Department of Education in consultation with the Department of  
46 Health and Senior Services;

- 1       b. the parents or guardians of the pupil consent in writing to the  
2 administration of the epinephrine via a pre-filled auto-injector  
3 mechanism by the designees;
- 4       c. the board or chief school administrator of a nonpublic school  
5 informs the parents or guardians of the pupil in writing that the  
6 district and its employees or agents or the nonpublic school and its  
7 employees and agents shall have no liability as a result of any injury  
8 arising from the administration of the epinephrine to the pupil;
- 9       d. the parents or guardians of the pupil sign a statement  
10 acknowledging their understanding that the district or nonpublic  
11 school shall have no liability as a result of any injury arising from  
12 the administration of the epinephrine via a pre-filled auto-injector  
13 mechanism to the pupil and that the parents or guardians shall  
14 indemnify and hold harmless the district and its employees or  
15 agents against any claims arising out of the administration of the  
16 epinephrine via a pre-filled auto-injector mechanism to the pupil;  
17 and
- 18       e. the permission is effective for the school year for which it is  
19 granted and is renewed for each subsequent school year upon  
20 fulfillment of the requirements in subsections a. through d. of this  
21 section.

22       The Department of Education, in consultation with the  
23 Department of Health and Senior Services, shall require trained  
24 designees for students enrolled in a school who may require the  
25 emergency administration of epinephrine for anaphylaxis when the  
26 school nurse is not available.

27       Nothing in this section shall be construed to prohibit the  
28 emergency administration of epinephrine via a pre-filled auto-  
29 injector mechanism to a pupil for anaphylaxis by the school nurse  
30 or other employees designated pursuant to this section when the  
31 pupil is authorized to self-administer epinephrine pursuant to  
32 section 1 of P.L.1993, c.308 (C.18A:40-12.3), or when there is a  
33 coexisting diagnosis of asthma, or when a prescription is received  
34 from a licensed health care professional for epinephrine coupled  
35 with another form of medication, or when the epinephrine is  
36 administered pursuant to subsection f. of section 1 of P.L.1997,  
37 c.368 (C.18A:40-12.5).  
38 (cf: P.L.2007, c.57, s.3)

39  
40       3. Section 7 of P.L.2007, c.57 (C.18A:40-12.6d) is amended to  
41 read as follows:

42       7. No school employee, including a school nurse, or any other  
43 officer or agent of a board of education or nonpublic school, or a  
44 physician providing a prescription under a standing protocol for  
45 school epinephrine pursuant to subsection f. of section 1 of P.L.  
46 1997, c. 368 (C.18A:40-12.5), shall be held liable for any good faith  
47 act or omission consistent with the provisions of P.L.1997, c.368

1 (C.18A:40-12.5 et seq.), nor shall an action before the New Jersey  
2 State Board of Nursing lie against a school nurse for any such  
3 action taken by a person designated in good faith by the school  
4 nurse pursuant to section 2 of P.L.1997, c.368 (C.18A:40-12.6).  
5 Good faith shall not include willful misconduct, gross negligence or  
6 recklessness.

7 (cf: P.L.2007, c.57, s.7)

8

9 4. This act shall take effect immediately.

10

11

12

STATEMENT

13

14 Current law requires boards of education and nonpublic school  
15 administrators to develop policies concerning the emergency  
16 administration of epinephrine to a student provided that the  
17 student's parent or guardian provides written authorization for  
18 administration of the epinephrine and written orders from a  
19 physician that the student requires epinephrine for anaphylaxis.  
20 This bill would amend the law concerning the emergency  
21 administration of epinephrine to require that school nurses and  
22 trained designees be permitted to administer epinephrine to any  
23 student whose parent has not met the prior authorization and  
24 physician order requirements when the nurse or designee in good  
25 faith believes that the student is having an anaphylactic reaction.  
26 The bill also would require that public and nonpublic schools  
27 maintain in a secure but unlocked and easily accessible location a  
28 supply of epinephrine auto-injectors that is prescribed under a  
29 standing protocol from a licensed physician and is accessible to the  
30 school nurse and trained designees for administration to a pupil  
31 having an anaphylactic reaction. The bill also amends the law  
32 providing immunity from liability to school employees and agents  
33 for good faith acts or omissions concerning the emergency  
34 administration of epinephrine to specifically include a physician  
35 providing a prescription under a standing protocol for school  
36 epinephrine.

37 A growing number of children in the United States have food  
38 allergies, which can lead to severe and potentially life-threatening  
39 allergic reactions. Receiving an immediate dose of injectable  
40 epinephrine for anaphylaxis can be a life-saving measure. A child  
41 may experience an allergic reaction for the first time while at  
42 school, in which case the child would not have a prior prescription  
43 for epinephrine on file with the school. In response to the rise in  
44 child food allergies, a number of states have enacted laws allowing  
45 schools to maintain a supply of epinephrine not prescribed to an  
46 individual student that can be used for any student in an  
47 anaphylactic emergency. Similarly, a recently introduced federal

**A304 RUSSO, RUMANA**

6

1 bill, the “School Access to Emergency Epinephrine Act,” would  
2 encourage states to require that their public elementary and  
3 secondary schools maintain a supply of epinephrine that can be  
4 administered to any student believed in good faith to be having an  
5 anaphylactic reaction.

# ASSEMBLY EDUCATION COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 304**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: FEBRUARY 24, 2014

The Assembly Education Committee reports favorably Assembly Bill No. 304 with committee amendments.

Current law requires boards of education and nonpublic school administrators to develop policies concerning the emergency administration of epinephrine to a student provided that the student's parent or guardian provides written authorization for administration of the epinephrine and written orders from a physician that the student requires epinephrine for anaphylaxis. As amended, this bill provides that in addition to administering epinephrine in those instances in which a student's parent has provided the written authorization and written orders from a physician, school nurses and trained designees would be permitted to administer epinephrine to any student when the nurse or designee in good faith believes that the student is having an anaphylactic reaction. The bill also would require that public and nonpublic schools maintain in a secure but unlocked and easily accessible location a supply of epinephrine auto-injectors that is prescribed under a standing protocol from a licensed physician and is accessible to the school nurse and trained designees for administration to a pupil having an anaphylactic reaction. The bill also amends the law providing immunity from liability to school employees and agents for good faith acts or omissions concerning the emergency administration of epinephrine to specifically include a physician providing a prescription under a standing protocol for school epinephrine.

The committee amended the bill to specify that in the event that a licensed athletic trainer volunteers to administer epinephrine, it would not be a violation of the "Athletic Training Licensure Act," P.L.1984, c.203. Additionally, the committee made technical amendments to the bill to change references to the "Department of Health and Senior Services" to the "Department of Health."

A growing number of children in the United States have food allergies, which can lead to severe and potentially life-threatening allergic reactions. Receiving an immediate dose of injectable epinephrine for anaphylaxis can be a life-saving measure. A child may experience an allergic reaction for the first time while at school, in

which case the child would not have a prior prescription for epinephrine on file with the school.

This bill was pre-filed for introduction in the 2014-2015 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

# LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

## ASSEMBLY, No. 304

### STATE OF NEW JERSEY 216th LEGISLATURE

DATED: MAY 22, 2014

#### SUMMARY

**Synopsis:** Requires schools to maintain supply of epinephrine and permit administration of epinephrine to any student having anaphylactic reaction.

**Type of Impact:** Likely No Fiscal Impact

**Agencies Affected:** School Districts

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>Local Cost</b>	Likely No Expenditure Increase		

- The Office of Legislative Services (OLS) notes that Assembly Bill No. 304 (1R) may not lead to an increase in school district expenditures, as there is currently a program that provides four epinephrine auto-injectors to schools at no cost. The OLS assumes that school districts would use this program.
- In the event that the program that provides epinephrine auto-injectors to schools were not available, the OLS estimates that Assembly Bill No. 304 (1R) would have a minimum Statewide cost of \$250,000. This assumes each of the approximately 2,500 schools in the State purchases one epinephrine auto-injector at a cost of \$100 each. Future costs would vary based on the need of schools to replace an auto-injector, either due to use or its expiration.

#### BILL DESCRIPTION

Assembly Bill No. 304 (1R) of 2014 requires all public and nonpublic schools to maintain a supply of epinephrine auto-injectors in a secure, but unlocked and easily accessible location. The bill also authorizes the school nurse and trained designees to administer epinephrine to a student having an anaphylactic reaction if the student's parent or guardian has not previously provided written authorization for the administration of epinephrine, as required under current law.

**FISCAL ANALYSIS*****EXECUTIVE BRANCH***

None received.

***OFFICE OF LEGISLATIVE SERVICES***

The OLS believes that school districts can satisfy the requirements of Assembly Bill No. 304 (1R) without increasing expenditures. There is currently a program under which schools are provided with four epinephrine auto-injectors at no cost upon application and demonstrating that the school has a standing order from a licensed physician for the medication. The OLS assumes school districts would use this option to satisfy the requirements of Assembly Bill No. 304 (1R).

It should be noted that the program that provides epinephrine auto-injectors to schools is offered by a private entity, and may be ended at any time. If school districts were required to purchase the auto-injectors, the OLS estimates that it would cost school districts a minimum of \$250,000. While a sizable range of costs have been observed, a report from the National Institutes of Health<sup>1</sup> indicates that the median cost of one epinephrine auto-injector is approximately \$100. Assembly Bill No. 304 (1R) does not specify the number of auto-injectors a school must maintain; assuming each of the approximately 2,500 public schools in the State purchases one auto-injector to satisfy the requirement of the legislation, the total outlay would be \$250,000. The cost would be greater if some schools elect to maintain a larger supply of epinephrine auto-injectors or if a school uses an auto-injector and must replace it. Any future costs would be dependent on the frequency with which schools must replace epinephrine auto-injectors, either because one was used or has reached its expiration date.<sup>2</sup>

*Section: Education*

*Analyst: Allen T. Dupree*  
*Lead Fiscal Analyst*

*Approved: David J. Rosen*  
*Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

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<sup>1</sup> Accessed at [www.ncbi.nlm.nih.gov/pubmed/19492662](http://www.ncbi.nlm.nih.gov/pubmed/19492662) on January 2, 2014.

<sup>2</sup> A fact sheet produced by the Massachusetts Department of Environmental Protection indicates that a typical EpiPen has a shelf life of 20 months, [www.mass.gov/eea/docs/dep/recycle/laws/epifax.pdf](http://www.mass.gov/eea/docs/dep/recycle/laws/epifax.pdf), accessed on January 2, 2014.



# SENATE EDUCATION COMMITTEE

## STATEMENT TO

[First Reprint]

### **ASSEMBLY, No. 304**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: NOVEMBER 13, 2014

The Senate Education Committee favorably reports Assembly Bill No. 304 (1R) with committee amendments.

Current law requires boards of education and nonpublic school administrators to develop policies concerning the emergency administration of epinephrine to a student provided that the student's parent or guardian provides written authorization for administration of the epinephrine and written orders from a physician that the student requires epinephrine for anaphylaxis. As amended, this bill provides that in addition to administering epinephrine in those instances in which a student's parent has provided the written authorization and written orders from a physician, school nurses and trained designees would be permitted to administer epinephrine to any student when the nurse or designee in good faith believes that the student is having an anaphylactic reaction. The bill also would require that public and nonpublic schools maintain in a secure but unlocked and easily accessible location a supply of epinephrine auto-injectors that is prescribed under a standing protocol from a licensed physician or an advanced practice nurse and is accessible to the school nurse and trained designees for administration to a pupil having an anaphylactic reaction. The bill also amends the law providing immunity from liability to school employees and agents for good faith acts or omissions concerning the emergency administration of epinephrine to specifically include a physician or an advanced practice nurse providing a prescription under a standing protocol for school epinephrine.

The committee amended the bill to: (1) specify that an advanced practice nurse, in addition to a physician, may prescribe the school epinephrine; (2) add a section providing that funds made available for nonpublic school nursing services pursuant to P.L.1991, c.226 may be used to comply with the requirements of the bill; and (3) delay the effective date until the first full school year following the date of enactment.

As amended and reported by the committee, this bill is identical to Senate Bill No. 801 with committee amendments, which also was reported by the committee on this same date.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### [Second Reprint] **ASSEMBLY, No. 304**

with committee amendments

# STATE OF NEW JERSEY

DATED: DECEMBER 8, 2014

The Senate Budget and Appropriations Committee reports favorably Assembly Bill No. 304 (2R), with committee amendments.

As amended, this bill, provides additional authority under current law concerning policies of school boards and nonpublic school administrators regarding the emergency administration of epinephrine to students having an anaphylactic reaction. This bill, as amended, provides that school nurses and trained designees will be permitted to administer epinephrine to any student when the nurse or designee in good faith believes that the student is having an anaphylactic reaction. This authority is in addition to permission currently provide for administering epinephrine in those instances in which a student's parent has provided the written authorization and written orders from a physician.

The bill also requires that public and nonpublic schools maintain in a secure but unlocked and easily accessible location a supply of epinephrine auto-injectors that is prescribed under a standing protocol from a licensed physician or an advanced practice nurse and is accessible to the school nurse and trained designees for administration to a pupil having an anaphylactic reaction. The bill also amends the law providing immunity from liability to school employees and agents for good faith acts or omissions concerning the emergency administration of epinephrine to specifically include a physician or an advanced practice nurse providing a prescription under a standing protocol for school epinephrine.

As amended and reported by the committee, this bill is identical to Senate Bill No. 801 (1R) as also amended and reported by the committee on this same date.

#### COMMITTEE AMENDMENTS:

The committee amendments: (1) clarify the intent of the bill by specifically providing that school nurses and trained designees would be permitted to administer epinephrine to any student without a known history of anaphylaxis; and (2) clarify that the funds made available

pursuant to P.L.1991, c.226 would be used in nonpublic schools to comply with the provisions of the bill.

FISCAL IMPACT:

In the Legislative Fiscal Estimate on this bill the Office of Legislative Services (OLS) notes that the bill may not lead to an increase in school district expenditures, as there is currently a program operated by a private entity that provides four epinephrine auto-injectors to schools at no cost if a school applies for the program and shows it has a standing order from a licensed physician for the medication. The OLS assumes that school districts would use this program.

However, if the private entity ended their program, and if school districts were required to purchase the auto-injectors, the OLS estimates that it would cost school districts a minimum of \$250,000. While a sizable range of costs have been observed, a report from the National Institutes of Health indicates that the median cost of one epinephrine auto-injector is approximately \$100.

The bill does not specify the number of auto-injectors a school must maintain. Assuming each of the approximately 2,500 public schools in the State purchases one auto-injector the total outlay would be \$250,000. The cost would be greater if some schools elect to maintain a larger supply of epinephrine auto-injectors or if a school uses an auto-injector and must replace it. Any future costs would be dependent on the frequency with which schools must replace epinephrine auto-injectors, either because one was used or has reached its expiration date.

# LEGISLATIVE FISCAL ESTIMATE

[Third Reprint]

## ASSEMBLY, No. 304

### STATE OF NEW JERSEY 216th LEGISLATURE

DATED: DECEMBER 18, 2014

#### SUMMARY

**Synopsis:** Requires schools to maintain supply of epinephrine and permit administration of epinephrine to any student having anaphylactic reaction.

**Type of Impact:** Likely No Fiscal Impact

**Agencies Affected:** School Districts

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Cost</b>	None – See comments below		
<b>Local Cost</b>	Likely No Expenditure Increase		

- The Office of Legislative Services (OLS) notes that Assembly Bill No. 304 (3R) may not lead to an increase in school district expenditures, as there is currently a program that provides four epinephrine auto-injectors to schools at no cost. The OLS assumes that school districts would use this program.
- In the event that the program that provides epinephrine auto-injectors to schools were not available, the OLS estimates that Assembly Bill No. 304 (3R) would have a minimum Statewide cost of \$250,000. This assumes each of the approximately 2,500 schools in the State purchases one epinephrine auto-injector at a cost of \$100 each. Future costs would vary based on the need of schools to replace an auto-injector, either due to use or its expiration.
- Assembly Bill No. 304 (3R) provides that funds made available to school districts to provide nursing services in nonpublic schools may be used to maintain a supply of epinephrine auto-injectors at a nonpublic school. This provision would not lead to a change in State expenditures. Rather, if any of this funding were used to purchase epinephrine auto-injectors, there could be a reduction in other nursing services provided.

## **BILL DESCRIPTION**

Assembly Bill No. 304 (3R) of 2014 requires all public and nonpublic schools to maintain a supply of epinephrine auto-injectors in a secure, but unlocked and easily accessible location. Under the bill, funds appropriated for the provision of nursing services in nonpublic schools may be used to maintain a supply of epinephrine auto-injectors in nonpublic schools. The bill also authorizes the school nurse and trained designees to administer epinephrine to a student who does not have a known history of anaphylaxis or any student whose parent or guardian has not previously provided written authorization for the administration of epinephrine, as required under current law.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS believes that school districts can satisfy the requirements of Assembly Bill No. 304 (3R) without increasing expenditures. There is currently a program under which schools are provided with four epinephrine auto-injectors at no cost upon application and demonstrating that the school has a standing order from a licensed physician for the medication. The OLS assumes school districts would use this option to satisfy the requirements of Assembly Bill No. 304 (3R).

It should be noted that the program that provides epinephrine auto-injectors to schools is offered by a private entity, and may be ended at any time. If school districts were required to purchase the auto-injectors, the OLS estimates that it would cost school districts a minimum of \$250,000. While a sizable range of costs has been observed, a report from the National Institutes of Health<sup>1</sup> indicates that the median cost of one epinephrine auto-injector is approximately \$100. Assembly Bill No. 304 (3R) does not specify the number of auto-injectors a school must maintain; assuming each of the approximately 2,500 public schools in the State purchases one auto-injector to satisfy the requirement of the legislation, the total outlay would be \$250,000. The cost would be greater if some schools elect to maintain a larger supply of epinephrine auto-injectors or if a school uses an auto-injector and must replace it. Any future costs would be dependent on the frequency with which schools must replace epinephrine auto-injectors, either because one was used or has reached its expiration date.<sup>2</sup>

Under current law, school districts receive funding to provide certain nursing services to students enrolled in nonpublic schools located in the district. Assembly Bill No. 304 (3R) provides that these funds may be used to maintain the supply of epinephrine auto-injectors in nonpublic schools. The OLS notes that the funding for nonpublic nursing services is provided on a per-pupil basis, and allowing the funds to be used to purchase epinephrine auto-injectors would

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<sup>1</sup> Accessed at [www.ncbi.nlm.nih.gov/pubmed/19492662](http://www.ncbi.nlm.nih.gov/pubmed/19492662) on November 19, 2014.

<sup>2</sup> A fact sheet produced by the Massachusetts Department of Environmental Protection indicates that a typical EpiPen has a shelf life of 20 months, [www.mass.gov/eea/docs/dep/recycle/laws/epifax.pdf](http://www.mass.gov/eea/docs/dep/recycle/laws/epifax.pdf), accessed on November 19, 2014.

not impact State expenditures. Rather, if funds were used to purchase epinephrine auto-injectors, then there could be a corresponding decrease in other services provided.

*Section: Education*

*Analyst: Allen T. Dupree  
Lead Fiscal Analyst*

*Approved: David J. Rosen  
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

# SENATE, No. 801

## STATE OF NEW JERSEY 216th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2014 SESSION

**Sponsored by:**

**Senator KEVIN J. O'TOOLE**

**District 40 (Bergen, Essex, Morris and Passaic)**

**Senator SHIRLEY K. TURNER**

**District 15 (Hunterdon and Mercer)**

**Co-Sponsored by:**

**Senators Beach, Ruiz and Vitale**

**SYNOPSIS**

Requires schools to maintain supply of epinephrine and permit administration of epinephrine to any student having anaphylactic reaction.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel



**(Sponsorship Updated As Of: 10/28/2014)**



1 AN ACT concerning the emergency administration of epinephrine to  
2 students for anaphylaxis and amending P.L.1997, c.368 and  
3 P.L.2007, c.57.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. Section 1 of P.L.1997, c.368 (C.18A:40-12.5) is amended to  
9 read as follows:

10 1. Each board of education or chief school administrator of a  
11 nonpublic school shall develop a policy in accordance with the  
12 guidelines established by the Department of Education pursuant to  
13 section 4 of P.L.2007, c.57 (C.18A:40-12.6a) for the emergency  
14 administration of epinephrine via a pre-filled auto-injector  
15 mechanism to a pupil for anaphylaxis provided that:

16 a. the parents or guardians of the pupil provide to the board of  
17 education or chief school administrator of a nonpublic school  
18 written authorization for the administration of the epinephrine;

19 b. the parents or guardians of the pupil provide to the board of  
20 education or chief school administrator of a nonpublic school  
21 written orders from the physician or advanced practice nurse that  
22 the pupil requires the administration of epinephrine for anaphylaxis;

23 c. the board or chief school administrator of a nonpublic school  
24 informs the parents or guardians of the pupil in writing that the  
25 district and its employees or agents or the nonpublic school and its  
26 employees or agents shall have no liability as a result of any injury  
27 arising from the administration of the epinephrine via a pre-filled  
28 auto-injector mechanism;

29 d. the parents or guardians of the pupil sign a statement  
30 acknowledging their understanding that the district or the nonpublic  
31 school shall have no liability as a result of any injury arising from  
32 the administration of the epinephrine via a pre-filled auto-injector  
33 mechanism to the pupil and that the parents or guardians shall  
34 indemnify and hold harmless the district and its employees or  
35 agents or the nonpublic school and its employees or agents against  
36 any claims arising out of the administration of the epinephrine via a  
37 pre-filled auto-injector mechanism; and

38 e. the permission is effective for the school year for which it is  
39 granted and is renewed for each subsequent school year upon  
40 fulfillment of the requirements in subsections a. through d. of this  
41 section.

42 The policy developed by a board of education or chief school  
43 administrator of a nonpublic school shall require:

44 (1) the placement of a pupil's prescribed epinephrine in a secure  
45 but unlocked location easily accessible by the school nurse and

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 designees to ensure prompt availability in the event of an allergic  
2 emergency at school or at a school-sponsored function. The  
3 location of the epinephrine shall be indicated on the pupil's  
4 emergency care plan. Back-up epinephrine shall also be available  
5 at the school if needed;

6 (2) the school nurse or designee to be promptly available on site  
7 at the school and school-sponsored functions in the event of an  
8 allergic reaction; and

9 (3) the transportation of the pupil to a hospital emergency room  
10 by emergency services personnel after the administration of  
11 epinephrine, even if the pupil's symptoms appear to have resolved.

12 f. The policy developed by a board of education or chief  
13 school administrator of a nonpublic school shall also:

14 (1) permit the school nurse or trained designee to administer  
15 epinephrine via a pre-filled auto-injector mechanism to any pupil  
16 whose parent or guardian has not met the requirements of  
17 subsections a., b., and d. of this section and has not received the  
18 notice required pursuant to subsection c. of this section when the  
19 nurse or designee in good faith believes that the pupil is having an  
20 anaphylactic reaction; and

21 (2) require each public and nonpublic school to maintain in a  
22 secure but unlocked and easily accessible location a supply of  
23 epinephrine auto-injectors that is prescribed under a standing  
24 protocol from a licensed physician, and is accessible to the school  
25 nurse and trained designees for administration to a pupil having an  
26 anaphylactic reaction.

27 (cf: P.L.2007, c.57, s.2)

28

29 2. Section 2 of P.L.1997, c.368 (C.18A:40-12.6) is amended to  
30 read as follows:

31 2. The policy for the administration of medication to a pupil  
32 shall provide that the school nurse shall have the primary  
33 responsibility for the administration of the epinephrine. The school  
34 nurse shall designate, in consultation with the board of education, or  
35 chief school administrator of a nonpublic school additional  
36 employees of the school district or nonpublic school who volunteer  
37 to administer epinephrine via a pre-filled auto-injector mechanism  
38 to a pupil for anaphylaxis when the nurse is not physically present  
39 at the scene. **【The】** Except as otherwise provided pursuant to  
40 subsection f. of section 1 of P.L.1997, c. 368 (C.18A:40-12.5), the  
41 school nurse shall determine that:

42 a. the designees have been properly trained in the  
43 administration of the epinephrine via a pre-filled auto-injector  
44 mechanism using standardized training protocols established by the  
45 Department of Education in consultation with the Department of  
46 Health and Senior Services;

1       b. the parents or guardians of the pupil consent in writing to the  
2 administration of the epinephrine via a pre-filled auto-injector  
3 mechanism by the designees;

4       c. the board or chief school administrator of a nonpublic school  
5 informs the parents or guardians of the pupil in writing that the  
6 district and its employees or agents or the nonpublic school and its  
7 employees and agents shall have no liability as a result of any injury  
8 arising from the administration of the epinephrine to the pupil;

9       d. the parents or guardians of the pupil sign a statement  
10 acknowledging their understanding that the district or nonpublic  
11 school shall have no liability as a result of any injury arising from  
12 the administration of the epinephrine via a pre-filled auto-injector  
13 mechanism to the pupil and that the parents or guardians shall  
14 indemnify and hold harmless the district and its employees or  
15 agents against any claims arising out of the administration of the  
16 epinephrine via a pre-filled auto-injector mechanism to the pupil;  
17 and

18       e. the permission is effective for the school year for which it is  
19 granted and is renewed for each subsequent school year upon  
20 fulfillment of the requirements in subsections a. through d. of this  
21 section.

22       The Department of Education, in consultation with the  
23 Department of Health and Senior Services, shall require trained  
24 designees for students enrolled in a school who may require the  
25 emergency administration of epinephrine for anaphylaxis when the  
26 school nurse is not available.

27       Nothing in this section shall be construed to prohibit the  
28 emergency administration of epinephrine via a pre-filled auto-  
29 injector mechanism to a pupil for anaphylaxis by the school nurse  
30 or other employees designated pursuant to this section when the  
31 pupil is authorized to self-administer epinephrine pursuant to  
32 section 1 of P.L.1993, c.308 (C.18A:40-12.3), or when there is a  
33 coexisting diagnosis of asthma, or when a prescription is received  
34 from a licensed health care professional for epinephrine coupled  
35 with another form of medication, or when the epinephrine is  
36 administered pursuant to subsection f. of section 1 of P.L.1997,  
37 c.368 (C.18A:40-12.5).

38 (cf: P.L.2007, c.57, s.3)

39  
40       3. Section 7 of P.L.2007, c.57 (C.18A:40-12.6d) is amended to  
41 read as follows:

42       7. No school employee, including a school nurse, or any other  
43 officer or agent of a board of education or nonpublic school, or a  
44 physician providing a prescription under a standing protocol for  
45 school epinephrine pursuant to subsection f. of section 1 of P.L.  
46 1997, c. 368 (C.18A:40-12.5), shall be held liable for any good faith  
47 act or omission consistent with the provisions of P.L.1997, c.368

1 (C.18A:40-12.5 et seq.), nor shall an action before the New Jersey  
2 State Board of Nursing lie against a school nurse for any such  
3 action taken by a person designated in good faith by the school  
4 nurse pursuant to section 2 of P.L.1997, c.368 (C.18A:40-12.6).  
5 Good faith shall not include willful misconduct, gross negligence or  
6 recklessness.  
7 (cf: P.L.2007, c.57, s.7)

8

9 4. This act shall take effect immediately.

10

11

12

STATEMENT

13

14 Current law requires boards of education and nonpublic school  
15 administrators to develop policies concerning the emergency  
16 administration of epinephrine to a student provided that the  
17 student's parent or guardian provides written authorization for  
18 administration of the epinephrine and written orders from a  
19 physician that the student requires epinephrine for anaphylaxis.  
20 This bill would amend the law concerning the emergency  
21 administration of epinephrine to require that school nurses and  
22 trained designees be permitted to administer epinephrine to any  
23 student whose parent has not met the prior authorization and  
24 physician order requirements when the nurse or designee in good  
25 faith believes that the student is having an anaphylactic reaction.  
26 The bill also would require that public and nonpublic schools  
27 maintain in a secure but unlocked and easily accessible location a  
28 supply of epinephrine auto-injectors that is prescribed under a  
29 standing protocol from a licensed physician and is accessible to the  
30 school nurse and trained designees for administration to a pupil  
31 having an anaphylactic reaction. The bill also amends the law  
32 providing immunity from liability to school employees and agents  
33 for good faith acts or omissions concerning the emergency  
34 administration of epinephrine to specifically include a physician  
35 providing a prescription under a standing protocol for school  
36 epinephrine.

37 A growing number of children in the United States have food  
38 allergies, which can lead to severe and potentially life-threatening  
39 allergic reactions. Receiving an immediate dose of injectable  
40 epinephrine for anaphylaxis can be a life-saving measure. A child  
41 may experience an allergic reaction for the first time while at  
42 school, in which case the child would not have a prior prescription  
43 for epinephrine on file with the school. In response to the rise in  
44 child food allergies, a number of states have enacted laws allowing  
45 schools to maintain a supply of epinephrine not prescribed to an  
46 individual student that can be used for any student in an  
47 anaphylactic emergency. Similarly, a recently introduced federal

**S801 O'TOOLE, TURNER**

6

1 bill, the "School Access to Emergency Epinephrine Act," would  
2 encourage states to require that their public elementary and  
3 secondary schools maintain a supply of epinephrine that can be  
4 administered to any student believed in good faith to be having an  
5 anaphylactic reaction.

# SENATE EDUCATION COMMITTEE

## STATEMENT TO

### **SENATE, No. 801**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: NOVEMBER 13, 2014

The Senate Education Committee favorably reports Senate Bill No. 801 with committee amendments.

Current law requires boards of education and nonpublic school administrators to develop policies concerning the emergency administration of epinephrine to a student provided that the student's parent or guardian provides written authorization for administration of the epinephrine and written orders from a physician that the student requires epinephrine for anaphylaxis. As amended, this bill provides that in addition to administering epinephrine in those instances in which a student's parent has provided the written authorization and written orders from a physician, school nurses and trained designees would be permitted to administer epinephrine to any student when the nurse or designee in good faith believes that the student is having an anaphylactic reaction. The bill also would require that public and nonpublic schools maintain in a secure but unlocked and easily accessible location a supply of epinephrine auto-injectors that is prescribed under a standing protocol from a licensed physician or an advanced practice nurse and is accessible to the school nurse and trained designees for administration to a pupil having an anaphylactic reaction. The bill also amends the law providing immunity from liability to school employees and agents for good faith acts or omissions concerning the emergency administration of epinephrine to specifically include a physician or an advanced practice nurse providing a prescription under a standing protocol for school epinephrine.

The committee amended the bill to: (1) specify that in the event that a licensed athletic trainer volunteers to administer epinephrine, it would not be a violation of the "Athletic Training Licensure Act," P.L.1984, c.203; (2) specify that an advanced practice nurse, in addition to a physician, may prescribe the school epinephrine; (3) add a section providing that funds made available for nonpublic school nursing services pursuant to P.L.1991, c.226 may be used to comply with the requirements of the bill; and (4) delay the effective date until the first full school year following the date of enactment. Additionally, the committee made technical amendments to the bill to

change references to the “Department of Health and Senior Services” to the “Department of Health.”

This bill was pre-filed for introduction in the 2014-2015 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

As amended and reported by the committee, this bill is identical to Assembly Bill No. 304 (1R) with committee amendments, which also was reported by the committee on this same date.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

[First Reprint]

## **SENATE, No. 801**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: DECEMBER 8, 2014

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 801 (1R), with committee amendments.

As amended, this bill, provides additional authority under current law concerning policies of school boards and nonpublic school administrators regarding the emergency administration of epinephrine to students having an anaphylactic reaction. This bill, as amended, provides that school nurses and trained designees will be permitted to administer epinephrine to any student when the nurse or designee in good faith believes that the student is having an anaphylactic reaction. This authority is in addition to permission currently provide for administering epinephrine in those instances in which a student's parent has provided the written authorization and written orders from a physician.

The bill also requires that public and nonpublic schools maintain in a secure but unlocked and easily accessible location a supply of epinephrine auto-injectors that is prescribed under a standing protocol from a licensed physician or an advanced practice nurse and is accessible to the school nurse and trained designees for administration to a pupil having an anaphylactic reaction. The bill also amends the law providing immunity from liability to school employees and agents for good faith acts or omissions concerning the emergency administration of epinephrine to specifically include a physician or an advanced practice nurse providing a prescription under a standing protocol for school epinephrine.

As amended and reported by the committee, this bill is identical to Assembly Bill No. 304 (2R) as also amended and reported by the committee on this same date.

### COMMITTEE AMENDMENTS:

The committee amendments: (1) clarify the intent of the bill by specifically providing that school nurses and trained designees would be permitted to administer epinephrine to any student without a known history of anaphylaxis; and (2) clarify that the funds made available



pursuant to P.L.1991, c.226 would be used in nonpublic schools to comply with the provisions of the bill.

FISCAL IMPACT:

In the Legislative Fiscal Estimate on the identical Assembly bill the Office of Legislative Services (OLS) notes that the bill may not lead to an increase in school district expenditures, as there is currently a program operated by a private entity that provides four epinephrine auto-injectors to schools at no cost if a school applies for the program and shows it has a standing order from a licensed physician for the medication. The OLS assumes that school districts would use this program.

However, if the private entity ended their program, and if school districts were required to purchase the auto-injectors, the OLS estimates that it would cost school districts a minimum of \$250,000. While a sizable range of costs have been observed, a report from the National Institutes of Health indicates that the median cost of one epinephrine auto-injector is approximately \$100.

The bill does not specify the number of auto-injectors a school must maintain. Assuming each of the approximately 2,500 public schools in the State purchases one auto-injector the total outlay would be \$250,000. The cost would be greater if some schools elect to maintain a larger supply of epinephrine auto-injectors or if a school uses an auto-injector and must replace it. Any future costs would be dependent on the frequency with which schools must replace epinephrine auto-injectors, either because one was used or has reached its expiration date.

# LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

**SENATE, No. 801**

## **STATE OF NEW JERSEY 216th LEGISLATURE**

DATED: DECEMBER 22, 2014

### SUMMARY

**Synopsis:** Requires schools to maintain supply of epinephrine and permit administration of epinephrine to any student having anaphylactic reaction.

**Type of Impact:** Likely No Fiscal Impact

**Agencies Affected:** School Districts

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Cost</b>	None – See comments below		
<b>Local Cost</b>	Likely No Expenditure Increase		

- The Office of Legislative Services (OLS) notes that Senate Bill No. 801 (2R) may not lead to an increase in school district expenditures, as there is currently a program that provides four epinephrine auto-injectors to schools at no cost. The OLS assumes that school districts would use this program.
- In the event that the program that provides epinephrine auto-injectors to schools were not available, the OLS estimates that Senate Bill No. 801 (2R) would have a minimum Statewide cost of \$250,000. This assumes each of the approximately 2,500 schools in the State purchases one epinephrine auto-injector at a cost of \$100 each. Future costs would vary based on the need of schools to replace an auto-injector, either due to use or its expiration.
- Senate Bill No. 801 (2R) provides that funds made available to school districts to provide nursing services in nonpublic schools may be used to maintain a supply of epinephrine auto-injectors at a nonpublic school. This provision would not lead to a change in State expenditures. Rather, if any of this funding were used to purchase epinephrine auto-injectors, there could be a reduction in other nursing services provided.

## **BILL DESCRIPTION**

Senate Bill No. 801 (2R) of 2014 requires all public and nonpublic schools to maintain a supply of epinephrine auto-injectors in a secure, but unlocked and easily accessible location. Under the bill, funds appropriated for the provision of nursing services in nonpublic schools may be used to maintain a supply of epinephrine auto-injectors in nonpublic schools. The bill also authorizes the school nurse and trained designees to administer epinephrine to a student who does not have a known history of anaphylaxis or any student whose parent or guardian has not previously provided written authorization for the administration of epinephrine, as required under current law.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS believes that school districts can satisfy the requirements of Senate Bill No. 801 (2R) without increasing expenditures. There is currently a program under which schools are provided with four epinephrine auto-injectors at no cost upon application and demonstrating that the school has a standing order from a licensed physician for the medication. The OLS assumes school districts would use this option to satisfy the requirements of Senate Bill No. 801 (2R).

It should be noted that the program that provides epinephrine auto-injectors to schools is offered by a private entity, and may be ended at any time. If school districts were required to purchase the auto-injectors, the OLS estimates that it would cost school districts a minimum of \$250,000. While a sizable range of costs has been observed, a report from the National Institutes of Health<sup>1</sup> indicates that the median cost of one epinephrine auto-injector is approximately \$100. Senate Bill No. 801 (2R) does not specify the number of auto-injectors a school must maintain; assuming each of the approximately 2,500 public schools in the State purchases one auto-injector to satisfy the requirement of the legislation, the total outlay would be \$250,000. The cost would be greater if some schools elect to maintain a larger supply of epinephrine auto-injectors or if a school uses an auto-injector and must replace it. Any future costs would be dependent on the frequency with which schools must replace epinephrine auto-injectors, either because one was used or has reached its expiration date.<sup>2</sup>

Under current law, school districts receive funding to provide certain nursing services to students enrolled in nonpublic schools located in the district. Senate Bill No. 801 (2R) provides that these funds may be used to maintain the supply of epinephrine auto-injectors in nonpublic schools. The OLS notes that the funding for nonpublic nursing services is provided on a per-pupil basis, and allowing the funds to be used to purchase epinephrine auto-injectors would not impact State expenditures. Rather, if funds were used to purchase epinephrine auto-injectors, then there could be a corresponding decrease in other services provided.

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<sup>1</sup> Accessed at [www.ncbi.nlm.nih.gov/pubmed/19492662](http://www.ncbi.nlm.nih.gov/pubmed/19492662) on November 19, 2014.

<sup>2</sup> A fact sheet produced by the Massachusetts Department of Environmental Protection indicates that a typical EpiPen has a shelf life of 20 months, [www.mass.gov/eea/docs/dep/recycle/laws/epifax.pdf](http://www.mass.gov/eea/docs/dep/recycle/laws/epifax.pdf), accessed on November 19, 2014.

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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).