

2024 Regular Session

SENATE BILL NO. 368

BY SENATOR BASS

HEALTH/ACC INSURANCE. Provides for actuarial review of certain state-mandated health insurance benefits. (8/1/24)

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AN ACT

To amend and reenact R.S. 44:4.1(B)(11), to enact Part VII of Chapter 11 of Title 22 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 22:2183, and to repeal Part VIII of Chapter 11 of Title 22 of the Louisiana Revised Statutes of 1950, comprised of R.S. 22:2187, relative to state-mandated health insurance benefits; to provide for selection of contractors to perform actuarial reviews of state-mandated health insurance benefits; to provide for the performance of actuarial reviews of proposed state-mandated health insurance benefits; to provide for requests for an actuarial review; to provide for the content of an actuarial review and report; to provide for use of an actuarial review and report; to provide for a public records disclosure exemption for actuarial reviews and reports; to provide for appropriation requests to cover the cost of state-mandated health insurance benefits; to provide for reviews after implementation of a state-mandated health insurance benefit; to provide with respect to the confidentiality of certain information; to repeal the Louisiana Mandated Health Benefit Commission; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Part VII of Chapter 11 of Title 22 of the Louisiana Revised Statutes of

1 1950, comprised of R.S. 22:2183, is hereby enacted to read as follows:

2 **PART VII. LOUISIANA MANDATED HEALTH BENEFITS**

3 **ACTUARIAL ANALYSIS**

4 **§2183. Actuarial reviews of proposed healthcare legislation**

5 **A. On or before December 1, 2024, the department shall retain by**
6 **contract one or more entities that have experience in actuarial reviews and**
7 **healthcare policy for the purpose of performing actuarial reviews of legislative**
8 **proposals that may impose a new health benefit coverage mandate on health**
9 **benefit plans or reduce or eliminate coverage mandated under health benefit**
10 **plans. At least one of the contractors shall be an actuary or actuarial firm or a**
11 **Louisiana-based university department or academic faculty with experience**
12 **analyzing health insurance premiums. The department shall ensure that the**
13 **contractors are independent and free from conflicts of interest that might affect**
14 **the neutrality of the actuarial reviews. The contractors, under the direction of**
15 **the department, shall conduct actuarial reviews of legislative proposals.**

16 **B. On or before September 1, 2024, the department shall convene a**
17 **public meeting to obtain input and recommendations from stakeholders**
18 **concerning the methodology for conducting the analysis provided for in**
19 **Subsection D of this Section.**

20 **C. A member of the legislature who requests an actuarial review of a**
21 **legislative proposal shall submit the request to the department no later than**
22 **December 1 of the year preceding the regular legislative session in which the**
23 **legislative proposal will be considered.**

24 **D. An actuarial review performed by the contractors pursuant to this**
25 **Section shall consider the predicted effects of the legislative proposal during the**
26 **five years immediately following the effective date of the legislative proposal, or**
27 **during another time period following the effective date of the legislative**
28 **proposal if such consideration is more actuarially feasible, including but not**
29 **limited to all of the following:**

1 (1) An estimate of the number of state residents who will be directly
2 affected by the legislative proposal.

3 (2) An estimate of changes in the rates of utilization of specific healthcare
4 services that may result from the legislative proposal.

5 (3) An estimate concerning any changes in consumer cost-sharing that
6 would result from the legislative proposal.

7 (4) An estimate of any increases or decreases in premiums charged to
8 covered persons or employers for health benefit plans offered in the individual,
9 small group, and large group markets that would result from the legislative
10 proposal.

11 (5) An estimate of the out-of-pocket healthcare cost changes associated
12 with the legislative proposal.

13 (6) An estimate of the potential long-term healthcare cost changes
14 associated with the legislative proposal.

15 (7) An estimate of the amounts necessary to defray the cost of the
16 mandate for health insurance products subject to state or federal laws requiring
17 payments to defray the costs, including an evaluation of whether the legislative
18 proposal includes a mandate requiring defrayal under such laws. The
19 department may seek the evaluation prior to requesting the remaining actuarial
20 review required by this Section.

21 (8) Identification of any potential health benefits for individuals or
22 communities that would result from the legislative proposal.

23 (9) To the extent practicable, the social and economic impacts of the
24 legislative proposal.

25 E. An actuarial review performed pursuant to this Section shall do all of
26 the following:

27 (1) Provide the information required by Paragraph (D)(4) of this Section
28 in terms of percentage increase or decrease and in terms of per-member,
29 per-month charges.

1 **(2) Provide the information required by Paragraph (D)(5) of this Section**
2 **in terms of dollar amounts.**

3 **(3) Provide the information required by Paragraph (D)(7) of this Section**
4 **in terms of per-member, per-month costs and monthly enrollment estimates by**
5 **health plan.**

6 **(4) Provide, if available, information concerning who would benefit from**
7 **any cost changes and health benefits from the legislative proposal, as required**
8 **by Paragraphs (D)(3) and (5) through (8) of this Section, and any**
9 **disproportionate effects that the legislative proposal would have on state**
10 **residents, which information, if available, shall be disaggregated, at a minimum,**
11 **by race, ethnicity, sex, gender, and age.**

12 **(5) Provide, to the extent practicable, a qualitative analysis of the impact**
13 **of the legislative proposal. For the purposes of this Paragraph, a member of the**
14 **legislature who requests an actuarial review of a legislative proposal pursuant**
15 **to this Section may designate one or more persons to provide data to the**
16 **contractors in order to inform this qualitative analysis.**

17 **F. In performing actuarial reviews of legislative proposals, the**
18 **contractors may utilize data from any reasonable source, including data**
19 **collected from insurance carriers. Insurance carriers shall provide information**
20 **to, and otherwise cooperate with, the contractors and the department for**
21 **purposes of this Section.**

22 **G. A request for an actuarial review pursuant to this Section and the**
23 **final report resulting from the request shall be treated as confidential, except**
24 **the information may be used by the requesting member of the legislature or by**
25 **the chairmen of the Senate and House committees on insurance until the**
26 **legislative proposal that is the subject of the actuarial review is introduced in**
27 **the regular legislative session following submission of the request for the**
28 **actuarial review or, if no legislative proposal is introduced, until after the end**
29 **of the legislative session following the submission of the request.**

1 H. Upon enactment of any legislative proposal for which a defrayal cost
2 has been estimated pursuant to Subsection D of this Section, the department
3 shall notify, in writing, the commissioner of administration and the chairmen
4 of the Senate Committee on Finance and House Committee on Appropriations
5 of the estimated cost. Upon receipt of the written notification, the commissioner
6 of administration shall request an appropriation to pay the estimated defrayal
7 cost of each enacted legislative proposal prior to implementation in the
8 subsequent plan year.

9 I. Each year following initial implementation, the department shall
10 require insurance carriers to provide actuarial estimates, based on appropriate
11 claims and other data, of the per-member, per-month amount necessary to
12 defray the cost of the enacted mandate for the subsequent plan year. After
13 determining these estimates to be actuarially sound, the department shall notify
14 the commissioner of administration and the chairmen of the Senate Committee
15 on Finance and House Committee on Appropriations of the amounts needed to
16 defray the cost of the enacted mandates for each health plan. The commissioner
17 of administration shall request an appropriation to pay these amounts prior to
18 implementation in the subsequent plan year.

19 J. Nothing in this Section shall be construed to delegate or require
20 delegation of any federal or state authority to a nonstate entity, including but
21 not limited to the authority to request fiscal impact analyses from the
22 Legislative Fiscal Office or the authority to make determinations regarding the
23 legal status of state benefit mandates under state and federal law.

24 K. Notwithstanding any other provision of law to the contrary, the
25 department shall not engage any contractor to perform an actuarial review
26 pursuant to this Section unless the department determines that there are
27 adequate resources available within existing appropriations to compensate the
28 contractor for the actuarial review.

29 L. Any claims, reimbursement, and other data, cost estimates, and other

information provided by a health insurer, health plan, or other health insurance issuer to a contractor, the department, or any other entity pursuant to the provisions of this Section shall be treated as confidential.

Section 2. R.S. 44:4.1(B)(11) is hereby amended and reenacted to read as follows:

§4.1. Exceptions

* * *

B. The legislature further recognizes that there exist exceptions, exemptions, and limitations to the laws pertaining to public records throughout the revised statutes and codes of this state. Therefore, the following exceptions, exemptions, and limitations are hereby continued in effect by incorporation into this Chapter by citation:

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(11) R.S. 22:2, 14, 31, 42.1, 88, 244, 263, 265, 461, 550.7, 571, 572, 572.1, 572.2, 574, 601.3, 618, 639, 691.4, 691.5, 691.6, 691.7, 691.8, 691.9, 691.9.1, 691.10, 691.38, 691.56, 732, 752, 753, 771, 834, 972(D), 976, 1008, 1019.2, 1203, 1460, 1464, 1466, 1488, 1546, 1559, 1566(D), 1644, 1656, 1657.1, 1660.7, 1723, 1796, 1801, 1808.3, 1927, 1929, 1983, 1984, 2036, 2045, 2056, 2085, **2183**, 2091, 2293, 2303, 2508

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Section 3. Part VIII of Chapter 11 of Title 22 of the Louisiana Revised Statutes of 1950, comprised of R.S. 22:2187, is hereby repealed.

The original instrument was prepared by Brandi Cannon. The following digest, which does not constitute a part of the legislative instrument, was prepared by Curry J. Lann.

DIGEST
SB 368 Reengrossed 2024 Regular Session Bass

Proposed law requires, on or before Dec. 1, 2024, the Department of Insurance (LDI) to retain by contract one or more entities that have experience in actuarial reviews and healthcare policy for the purpose of performing actuarial reviews for legislative proposals that may impose a new health benefit coverage mandate on health benefit plans or reduce or eliminate coverage mandated under health benefit plans.

Proposed law requires that at least one of the contractors be an actuary or actuarial firm or a Louisiana-based university department or academic faculty with experience analyzing

health insurance premiums.

Proposed law provides that a member of the legislature who requests an actuarial review of a legislative proposal shall submit the request to LDI no later than Dec. 1 of the year preceding the regular legislative session in which the legislative proposal will be considered.

Proposed law provides that an actuarial review performed pursuant to proposed law shall consider the predicted effects of the legislative proposal during the five years immediately following the effective date of the legislative proposal, or during another time period following the effective date of the legislative proposal if such consideration is more actuarially feasible, including but not limited to specific enumerated factors.

Proposed law provides for the format in which the results of the actuarial review shall be reported.

Proposed law provides that the actuarial review shall include, to the extent practicable, a qualitative analysis of the impact of the legislative proposal. Further provides that a member of the legislature who requests an actuarial review of a legislative proposal may designate one or more persons to provide data for the review.

Proposed law provides for the length of time that a request for an actuarial review and the final report resulting from the request are to be treated as confidential and provides an exemption from the Public Records Law, R.S. 44:1 et seq.

Proposed law requires the commissioner of administration to request an appropriation to pay the estimated defrayal cost of each enacted legislative proposal.

Proposed law prohibits LDI from engaging any contractor to perform an actuarial review pursuant to proposed law unless the department determines that there are adequate resources available within existing appropriations to compensate the contractor for actuarial review.

Proposed law requires that any claims, reimbursement, and other data, cost estimates, and other information provided by a health insurer, health plan, or other health insurance issuer to a contractor, the department, or any other entity are to be treated as confidential.

Proposed law prohibits the interpretation of proposed law from delegating or requiring delegation of any federal or state authority to a non-state entity, including but not limited to the authority to request fiscal impact analyses from the Legislative Fiscal Office or the authority to make determinations regarding the legal status of state benefit mandates under state and federal law.

Present law creates the La. Mandated Health Benefits Commission, within the Department of Insurance, to review proposed legislation in any session of the legislature for the purpose of determining if the legislation creates a mandated health benefit that would require the state to defray the costs of the mandate. Present law further provides for the commission's membership, powers, duties, functions, and responsibilities.

Proposed law repeals present law.

Effective August 1, 2024.

(Amends R.S. 44:4.1(B)(11); adds R.S. 22:2183; repeals R.S. 22:2187)

Summary of Amendments Adopted by SenateCommittee Amendments Proposed by Senate Committee on Insurance to the original bill

1. Makes technical changes.
2. Removes limitation on maximum number of proposals to be reviewed.

Committee Amendments Proposed by Senate Committee on Finance to the engrossed bill

1. Authorizes a Louisiana-based university department or academic faculty with experience analyzing health insurance premiums to comply with proposed law contractor requirements in addition to an actuary or actuarial firm.
2. Requires that any claims, reimbursement, and other data, cost estimates, and other information provided by a health insurer, health plan, or other health insurance issuer to a contractor, the department, or any other entity are to be treated as confidential.
3. Prohibits any interpretation of proposed law from delegating or requiring delegation of any federal or state authority to a non-state entity.
4. Makes technical corrections.