

2016 Regular Session

HOUSE BILL NO. 312

BY REPRESENTATIVE DAVIS

INSURANCE/HEALTH: Reconstitutes the Louisiana Mandated Health Benefits Commission and repeals certain provisions relative to mandated health insurance benefits

1 AN ACT

2 To amend and reenact R.S. 36:686(F), to enact Part VIII of Chapter 11 of Title 22 of the  
3 Louisiana Revised Statutes of 1950, to be comprised of R.S. 22:2187, and to repeal  
4 R.S. 22:1047 and Part VII of Chapter 11 of Title 22 of the Louisiana Revised  
5 Statutes of 1950, comprised of R.S. 22:2186 and 2186.1, relative to mandated health  
6 insurance benefits; to reconstitute the Louisiana Mandated Health Benefits  
7 Commission and eliminate the requirements for periodic reevaluation of and a  
8 moratorium on such mandates; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. Part VIII of Chapter 11 of Title 22 of the Louisiana Revised Statutes of  
11 1950, to be comprised of R.S. 22:2187, is hereby enacted to read as follows:

12 PART VIII. LOUISIANA MANDATED HEALTH BENEFITS COMMISSION

13 §2187. Louisiana Mandated Health Benefits Commission

14 A. The Louisiana Mandated Health Benefits Commission is hereby created  
15 and shall exercise its powers, duties, functions, and responsibilities in the manner  
16 provided in R.S. 36:802. The commission shall be staffed by the office of health,  
17 life, and annuity within the Department of Insurance.

18 B. The commission shall be comprised of the following members:

- 19 (1) The chairman of the House Committee on Insurance or his designee.
- 20 (2) The chairman of the Senate Committee on Insurance or his designee.
- 21 (3) The commissioner of administration or his designee.

1                   (4) Two persons appointed by the commissioner of insurance.

2                   C. Members of the commission shall serve on an ex officio basis except that  
3 the two persons appointed by the commissioner of insurance shall serve terms  
4 concurrent with that of the commissioner of insurance.

5                   D. The commission shall conduct its duties under the direction of the  
6 commissioner of insurance. The commission shall elect its own chair, who shall  
7 preside at meetings, and its own vice chair, who shall preside in the absence of the  
8 chair. The commission shall conduct its business according to Robert's Rules of  
9 Order. A quorum for conducting business shall be a majority of the members. All  
10 members shall be voting members.

11                  E. The commissioner of insurance shall have the authority, in addition to the  
12 authority of the chairman of the commission, to order the commission to convene to  
13 conduct its business.

14                  F. Pursuant to 42 U.S.C. 18031(d)(3)(B), the annual cost of any mandated  
15 benefit in excess of Essential Health Benefits, hereinafter referred to as "EHBs", for  
16 Qualified Health Plans, hereinafter referred to as "QHPs", shall be a legal obligation  
17 of the state of Louisiana and shall be defrayed by the state through direct  
18 reimbursement to any health insurance issuer entitled to such reimbursement  
19 pursuant to 42 U.S.C. 18031(d)(3)(B)

20                  G. The duties of the commission shall include:

21                  (1) Reviewing proposed legislation in any session of the legislature to  
22 determine if the legislation creates a mandated health benefit that would require the  
23 state to defray the costs of the mandate for QHPs in excess of EHBs pursuant to 42  
24 U.S.C. 18031(d)(3)(B). The commission shall give full consideration to relevant  
25 implementing regulations in Title 45 of the Code of Federal Regulations.

26                  (a) After reviewing such proposed legislation, the commission, if it  
27 determines that a mandate for QHPs is in excess of EHBs, shall, in consultation with  
28 the Department of Insurance, notify the House and Senate committees on insurance  
29 of the commission's determination that a mandate has been proposed and shall  
30 provide an actuarial cost projection for the cost of the proposed mandate for QHPs  
31 and non-QHPs.

1           (b) In the event that the legislature enacts a mandate that is in excess of  
2           EHBs, the commission shall determine, pursuant to the review process specified in  
3           this Paragraph, what the cost of the enacted mandate is to all QHPs and shall, by  
4           majority vote in an open meeting, adopt an actuarially sound cost estimate for the  
5           first plan or policy year for the mandate in excess of EHBs for all QHPs in this state.

6           (c) Following the adoption of the cost estimate by majority vote, the  
7           commission shall tender the cost estimate to the division of administration, the  
8           speaker of the House of Representatives, the president of the Senate, and the  
9           chairman of the House Committee on Appropriations, the chairman of the House  
10          Committee on Insurance, the chairman of the Senate Committee on Finance, and the  
11          chairman of the Senate Committee on Insurance.

12          (d) For any policy or plan years following the initial effective policy or plan  
13          year, the commission shall include historical experience of the cost of the mandate  
14          in excess of EHBs in its deliberative process.

15          (e) Following adoption of the cost estimate, the commission shall, in  
16          conjunction with the Department of Insurance, give formal notice of such adoption  
17          in the State Register.

18          (2) Conducting the review process specified in this Subsection for any  
19          mandate that was enacted after December 31, 2011, and if determined to be a  
20          mandate in excess of EHBs for QHPs, the commission shall follow the process for  
21          adoption of the cost of the enacted mandate in the manner prescribed in  
22          Subparagraphs (1)(b) through (e) of this Subsection.

23          (3) Promulgating rules and regulations pursuant to the Administrative  
24          Procedure Act.

25          (4) Any functions necessary and proper for the completion of the duties  
26          specified in this Subsection.

27          H. Any health insurance issuer that issues QHPs shall have the right to  
28          appear and be heard and to submit information to the commission for consideration  
29          in the performance of the duties of the commission.

30          I. Any health insurance issuer that objects to the adoption of the cost  
31          estimate pursuant to Subsection G of this Section shall have the right to file an

1 appeal in the Nineteenth Judicial District Court of the state of Louisiana within thirty  
2 days of the adoption of the cost estimate in open meeting.

3 J. For purposes of this Section, "health insurance issuer" means an entity  
4 subject to the insurance laws and regulations of this state, or subject to the  
5 jurisdiction of the commissioner, that contracts or offers to contract to provide,  
6 deliver, arrange for, pay for, or reimburse any of the costs of health care services,  
7 including through a health benefit plan, and shall include a sickness and accident  
8 insurance company, a health maintenance organization, a preferred provider  
9 organization or any similar entity, or any other entity providing a plan of health  
10 insurance or health benefits.

11 Section 2. R.S. 36:686(F) is hereby amended and reenacted to read as follows:

12 §686. Transfer of agencies to the Department of Insurance

13 \* \* \*

14 F. The Louisiana Mandated Health Benefits Commission (~~R.S. 22:2186 et~~  
15 ~~seq.~~) (R.S. 22:2187) is hereby placed within the Department of Insurance and shall  
16 exercise its powers, duties, functions, and responsibilities in the same manner as  
17 agencies transferred in the manner provided in R.S. 36:802.

18 \* \* \*

19 Section 3. R.S. 22:1047 and Part VII of Chapter 11 of Title 22 of the Louisiana  
20 Revised Statutes of 1950, comprised of R.S. 22:2186 and 2186.1, are hereby repealed in their  
21 entirety.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 312 Reengrossed                      2016 Regular Session                      Davis

**Abstract:** Reconstitutes and repurposes the La. Mandated Health Benefits Commission. Eliminates the 2004-2008 moratorium on health insurance mandates.

Present law provides for a 17-member La. Mandated Health Benefits Commission within the Dept. of Insurance (DOI). Provides that the duties of the commission shall encompass:

- (1) An optional review of all proposed legislation that would mandate coverage by health insurers of specifically enumerated benefits, services, conditions, or medical products.

- (2) To annually report findings and recommendations, if any, on mandated benefits proposals to the legislature.

Present law specifies the factors that the commission shall consider when reviewing mandated benefits proposals. Provides for staffing by the office of health insurance of DOI. Requires the commission to meet annually, no later than 60 days prior to the date that the regular session of the legislature convenes for that year, to review mandated benefits proposals received by Jan. 15. Requires the commission to report its findings to the House and Senate insurance committees no later than 30 days prior to the date that the regular session of the legislature convenes. Requires the commission to consider, analyze, and report to the House and Senate committees on insurance prior to the regular legislative session on proposed mandated benefits submitted to the commission after Jan. 15 of each year. Requires the House and Senate insurance committees to consider the commission's report when a mandated benefit proposal is brought before them.

Proposed law abolishes the La. Mandated Health Benefits Commission provided for in present law.

Proposed law instead provides for a 5-member La. Mandated Health Benefits Commission. Provides that this commission shall consist of the chairman of the House Insurance Committee, the chairman of the Senate Insurance Committee, the commissioner of administration, and two persons appointed by the commissioner of insurance. Further provides that the commission shall be staffed by the office of health, life, and annuity within DOI.

Proposed law states that, pursuant to federal law, the annual cost of any mandated benefit in excess of Essential Health Benefits (EHBs) for Qualified Health Plans (QHPs) shall be a legal obligation of the state of La. and shall be defrayed by the state through direct reimbursement to any health insurance issuer entitled to such reimbursement pursuant to such federal law.

Proposed law provides the duties of the commission shall include:

- (1) Reviewing proposed legislation in any legislative session to determine if the legislation creates a mandated health benefit that would require the state to defray the costs of the mandate for QHPs in excess of EHBs pursuant to federal law. Provides that after such review, the commission, if it determines that a mandate for QHPs is in excess of EHBs, shall, in consultation with DOI, notify the House and Senate committees on insurance of the commission's determination that a mandate has been proposed and shall provide an actuarial cost projection for the cost of the proposed mandate for QHPs and non-QHPs. Provides that if the legislature enacts a mandate that is in excess of EHBs, the commission shall determine what the cost of the enacted mandate is to all QHPs and shall, by majority vote in an open meeting, adopt an actuarially sound cost estimate for the first plan or policy year for the mandate. Subsequently requires the commission to tender the cost estimate to the division of administration, the speaker of the House of Representatives, the president of the Senate, and the chairman of the House Appropriations Committee, the chairman of the House Insurance Committee, the chairman of the Senate Finance Committee, and the chairman of the Senate Insurance Committee. Specifies that for any subsequent policy or plan years, the commission shall include historical experience of the cost of the mandate in excess of EHBs in its deliberative process. Further requires that, following adoption of the cost estimate, the commission shall, in conjunction with DOI, give formal notice of such adoption in the State Register.
- (2) Conducting the review process specified in (1) above for any mandate that was enacted after December 31, 2011, and, if determined to be a mandate in excess of EHBs for QHPs, requiring the commission to follow the process for adoption of the cost of the enacted mandate in the manner prescribed in (1) above.
- (3) Promulgating rules and regulations pursuant to the Administrative Procedure Act.
- (4) Any functions necessary and proper for the completion of its duties.

Proposed law further provides that any health insurance issuer that issues QHPs shall have the right to appear and be heard and to submit information to the commission for consideration.

Proposed law additionally provides that any health insurance issuer that objects to the commission's adoption of the cost estimate of a mandate shall have the right to file an appeal in the 19th Judicial District Court within 30 days of the adoption of such cost estimate.

Proposed law defines "health insurance issuer" for purposes of proposed law.

Present law requires that existing health insurance mandates undergo an actuarial cost analysis by DOI, to be reported to the House and Senate insurance committees prior to commencement of the 2003 Regular Session of the Legislature for their periodic reevaluation. Further requires that any mandate enacted after Jan. 1, 2001, also undergo an actuarial cost analysis by DOI, the results of which shall be reported to the House and Senate committees on insurance prior to commencement of the fourth regular session of the legislature after the regular session in which it was enacted or reenacted for their periodic reevaluation. Further provides for a mandate moratorium from 2004 to 2008 by providing that health insurers shall not be required to deliver, issue, or renew a health benefit plan on or after Jan. 1, 2004, and before Dec. 31, 2008, that includes any additional mandated benefit or mandated option beyond those statutory requirements in effect for health benefit plans on July 2, 2003.

Proposed law eliminates present law.

(Amends R.S. 36:686(F); Adds R.S. 22:2187; Repeals R.S. 22:1047, 2186, and 2186.1)

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Insurance to the original bill:

1. Reconstitute and repurpose the La. Mandated Health Benefits Commission.
2. Give any health insurance issuer that issues QHPs the right to appear and be heard and to submit information to the commission.
3. Give any health insurance issuer that objects to the commission's adoption of the cost estimate of a mandate the right to file an appeal within 30 days of such adoption.
4. Add a definition of "health insurance issuer" for purposes of proposed law.