

CHAPTER 58

(HB 635)

AN ACT relating to fiscal impact statements.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 6.350 is amended to read as follows:

- (1) A bill which would increase or decrease the benefits or increase or decrease participation in the benefits or change the actuarial accrued liability of any state-administered retirement system shall not be reported from a legislative committee of either house of the General Assembly for consideration by the full membership of that house unless the bill is accompanied by an actuarial analysis.
- (2) (a) An actuarial analysis required by this section shall show the economic effect of the bill on the state-administered retirement system over a thirty (30) year period, including:
 1. An estimate of the effect on the unfunded actuarial accrued liabilities and funding levels of the affected systems; and
 2. A projection of the annual employer costs to the systems of implementing the legislation over the thirty (30) year period. The annual employer cost projection shall include the effect on the contributions of participating employers as a percentage of total payroll and in total dollars of contributions.
- (b) If a bill affects more than one (1) state-administered retirement system, the actuarial analysis shall project costs for each affected state-administered retirement system.
- (c) A statement that the cost is negligible or indeterminable shall not be considered in compliance with this section. If a cost cannot be determined by the actuary in accordance with paragraph (a) of this subsection, then the systems shall certify in writing:
 1. The estimated number of individuals affected;
 2. The estimated change in benefit payments;
 3. The estimated change to employer costs; and
 4. The estimated change to administrative expenses.
- (d) An actuarial analysis shall state the actuarial assumptions and methods of computation used in the analysis and shall state whether or not the bill or resolution, if enacted, would, in the opinion of the actuary, make the affected state-administered retirement system actuarially unsound or, in the case of a system already actuarially unsound, more unsound. Actuarial cost methods and assumptions that meet actuarial standards of practice established by the Actuarial Standards Board shall be used in all cost projections.
- (e) An actuarial analysis required by this section shall be prepared by an actuary who is a fellow of the Conference of Consulting Actuaries or a member of the American Academy of Actuaries.
- (3) (a) An actuary commissioned to make an actuarial analysis that is required by this section, or for the purpose of seeking appropriations for a state-administered retirement system, shall include in the analysis a complete definition of each actuarial term used in the analysis and, either in the analysis or in a separate actuarial valuation report made available as a public record, an enumeration and explanation of each actuarial assumption used to complete the actuarial analysis.
- (b) If the actuary commissioned to complete the actuarial analysis is relying upon assumptions *or methods* that have not been previously established by the actuary in an actuarial valuation of the affected state-administered retirement system, the actuary shall clearly note and describe the new assumption *or method* and the basis for selecting the assumption *or method, including any documentation, studies, written opinions, calculations, and citations the actuary used to support the use of the assumption or method.*
- (4) The actuarial analysis required by this section:

- (a) Shall be completed by the actuary retained by the affected state-administered retirement system. The state-administered retirement systems shall provide the analysis without cost to the General Assembly;
 - (b) Shall be provided in a uniform format established by the Legislative Research Commission;~~and~~
 - (c) Shall include on the front page a summary of relevant data from the analysis, including but not limited to:
 - 1. The total nominal dollar savings or costs over the thirty (30) year period;
 - 2. The net present value of savings or costs over the thirty (30) year period; and
 - 3. The estimated change in the normal cost, if applicable; *and*
 - (d) *Shall include a certification by the actuary that the information provided is accurate.*
- (5) For purposes of this section, the terms:
- (a) "State-administered retirement system" shall include:
 - 1. The Kentucky Employees Retirement System and the State Police Retirement System administered by the Kentucky Retirement Systems and established under the provisions of KRS 16.505 to 16.652 and 61.510 to 61.705;
 - 2. The Kentucky Teachers' Retirement System established under KRS 161.220 to 161.716;
 - 3. The Judicial Retirement Plan established under KRS 21.345 to 21.580;
 - 4. The Legislators' Retirement Plan established under KRS 6.500 to 6.577; and
 - 5. The County Employees Retirement System established under KRS 78.510 to 78.852; and
 - (b) "Funding level" means the actuarial value of assets divided by the actuarially accrued liability expressed as a percentage.
- ➔Section 2. KRS 6.948 is amended to read as follows:
- (1) For purposes of this section, "mandated health benefit" means any requirement that any health benefit plan, as defined in KRS 304.17A-005:
 - (a) Provide a specified benefit;
 - (b) Include a specified coverage;
 - (c) Pay, indemnify, or reimburse for a specified medical service; or
 - (d) Pay, indemnify, or reimburse specified health care providers for specific health care services.
 - (2) (a) On and after June 24, 2003, in the General Assembly, a sponsor of a bill or an amendment that contains a mandated health benefit shall cause a financial impact statement to be prepared and attached to the measure before final consideration by the standing committee to which the measure has been referred.
 - (b) A bill in the orders of the day in the House or the Senate which does not have attached a financial impact statement as required by this section shall be retained in the orders of the day but passed over in the orders of the day until the financial impact statement is attached. Members may require, by a majority vote, that a financial impact statement be prepared on any bill and on any amendment in the orders of the day. Any member proposing an amendment from the floor which contains a mandated health benefit shall cause a financial impact statement to be prepared and attached to the amendment. Until the time a financial impact statement is prepared and attached to an amendment that contains a mandated health benefit, action on the proposed amendment shall not be in order.
 - (3) The financial impact statement shall be prepared by the Department of Insurance as provided in subsection (6) of this section.
 - (4) The sponsor of a bill or amendment that contains a mandated health benefit shall request the Department of Insurance, as soon as practicable, to prepare a financial impact statement. If the sponsor submits a request prior to filing the measure with the clerk of the House or Senate, the department shall keep the measure confidential until the sponsor authorizes public distribution. The department shall keep all financial impact statements and all requests for statements confidential until the person requesting the financial impact statement authorizes public distribution.

- (5) A majority of the members present at a meeting of any standing committee of the General Assembly, acting through the committee chair, may request the commissioner of the Department of Insurance to prepare a financial impact statement for any measure before the committee and submit the statement in accordance with subsection (6) of this section.
- (6) (a) The financial impact statement shall be in writing and signed by the commissioner of the Department of Insurance or the commissioner's designee, and shall determine the extent to which:
1. The mandated health benefit will increase or decrease the administrative expenses of insurers;
 2. The mandated health benefit will increase or decrease premiums; and
 3. The mandated health benefit will impact the total cost of health care in the Commonwealth, *which shall include* ~~including~~ any potential *future* cost savings that may be realized.
- (b) *In addition to the requirements of paragraph (a) of this subsection, the financial impact statement shall:*
1. *Provide any documentation, studies, written opinions, calculations, and citations in support of the commissioner's or his or her designee's findings and conclusions;*
 2. *Include in the statement an estimate of any potential future cost savings, with an explanation why the bill would or would not provide future cost savings; and*
 3. *Include a certification by the commissioner or his or her designee that the information provided is accurate.*
- (c) 1. If the sponsor of a bill that contains a mandated health benefit submits the request for a financial impact statement prior to filing the bill, the financial impact statement shall be completed as soon as possible, but no later than thirty (30) days after the request by the sponsor, unless the sponsor and the commissioner of the Department of Insurance agree otherwise.
2. The financial impact statement shall be completed as soon as possible, but no later than thirty (30) days after the request by the sponsor of a measure before a standing committee under subsection (2) of this section or by the committee chair under subsection (5) of this section.
3. The financial impact statement shall be completed as soon as possible after the request by a majority vote of the House or Senate or by the sponsor of a floor amendment pursuant to subsection (2)(b) of this section.

➔Section 3. KRS 6.949 is amended to read as follows:

- (1) Any bill, amendment, or committee substitute that creates a new crime, increases the penalty for an existing crime, decreases the penalty for an existing crime, changes the elements of the offense for an existing crime, repeals an existing crime, or proposes to increase, decrease, or otherwise impact incarceration shall be identified by the staff of the Legislative Research Commission as having a corrections impact on a "Corrections Impact Statement" form specified by the Legislative Research Commission.
- (2) If a bill, amendment, or committee substitute is identified as having a corrections impact under subsection (1) of this section, the staff of the Legislative Research Commission shall notify the sponsor of the bill, amendment, or committee substitute that a corrections impact is required.
- (3) If a bill, amendment, or committee substitute is identified as having a corrections impact, a "Corrections Impact Statement" shall be prepared by the staff of the Department of Corrections with the assistance of the Department of Kentucky State Police, Administrative Office of the Courts, Parole Board, and other persons, agencies, or organizations deemed necessary by the Department of Corrections staff assigned to prepare the corrections impact statement. The Department of Kentucky State Police, Administrative Office of the Courts, Parole Board, and other persons, agencies, and organizations that have been requested to provide information for the corrections impact statement shall do so within the period of time specified by the Department of Corrections staff person requesting the information, which in no case shall exceed two (2) business days unless an extension is granted by the requesting staff person.
- (4) The corrections impact statement shall contain the estimated costs, estimated savings, and necessary appropriations based upon:

- (a) Incarceration in jail prior to trial and during trial based on the available information about persons granted bail or other form of pretrial release and the length of time spent in jail prior to release;
 - (b) Supervision of a person who has been granted bail or pretrial release based on the average time spent between the time of release until the time of trial for the offense;
 - (c) Incarceration in jail for a misdemeanor following conviction based on the maximum time of incarceration authorized for the offense;
 - (d) Incarceration in a state correctional facility for a capital offense, or felony offense based on the maximum and minimum length of incarceration authorized for the offense, except for offenses in which incarceration in a county jail for a Class D felony is required;
 - (e) Incarceration in a county jail for a Class D felony for which incarceration in a county jail is authorized based on the maximum and minimum sentence of incarceration authorized for a Class D felony;
 - (f) Probation or conditional discharge supervision based on the maximum time of probation or conditional discharge authorized for the offense;
 - (g) Parole supervision based on the minimum expiration of sentence; and
 - (h) Treatment, education, and other programs which are to be paid by the state based on the average costs actually paid by the Department of Corrections during the previous fiscal year.
- (5) Insofar as possible, costs and savings for a change to an existing crime shall be calculated using:
- (a) Arrest data for the crime from the Department of Kentucky State Police;
 - (b) Pretrial incarceration data from the Administrative Office of the Courts;
 - (c) Preconviction jail data from the Administrative Office of the Courts;
 - (d) Conviction data from the Administrative Office of the Courts;
 - (e) Postconviction jail and imprisonment data from the Department of Corrections;
 - (f) Probation and parole data from the Department of Corrections; and
 - (g) Data from applicable agencies or organizations providing treatment, education, or other mandated programs.
- (6) Insofar as possible, costs or savings for a new crime shall be calculated in the same manner as specified in subsection (5) of this section using data for similar crimes unless that is determined by the Department of Corrections staff person to be impractical or impossible in which case the estimate for a new crime may be prepared using:
- (a) The maximum and minimum length of incarceration for the offense;
 - (b) An estimate of cost based on ten (10) persons being charged with the offense, and based on one hundred (100) persons being charged with the offense;
 - (c) An estimate of cost based on ten (10) persons and one hundred (100) persons being convicted of the offense and sent to jail if the offense is a misdemeanor using the criteria specified in subsection (7) of this section; and
 - (d) An estimate of cost based on ten (10) persons and one hundred (100) persons being convicted of a felony offense requiring imprisonment in a state-operated correctional facility unless the offense is a Class D felony for which imprisonment in a county jail is required in which case the cost shall be based on the amount paid by the Department of Corrections for a person incarcerated in a county jail for a Class D felony.
- (7) Costs or savings shall be based on the average costs actually paid by the Department of Corrections during the previous fiscal year for incarceration of a person in a state correctional facility, the average cost for supervision of a person placed on probation without electronic monitoring, the average cost of a person placed on probation with electronic monitoring, the average cost of parole supervision without electronic monitoring, and the average cost of parole supervision with electronic monitoring.
- (8) ***In addition to the requirements of subsections (4) to (7) of this section, the corrections impact statement shall contain:***

- (a) *Any documentation, studies, written opinions, calculations, and citations in support of the department's findings and conclusions:*
 - (b) *An estimate of potential future cost savings, if not already in the statement, with an explanation why the bill would or would not result in future cost savings; and*
 - (c) *Certification by the commissioner of the department that the information provided is accurate.*
- (9) If an amendment to a bill is combined into a committee substitute or a GA version of the bill is created incorporating a floor amendment, a new corrections impact statement shall be prepared combining the information in the original bill as modified by the amendment.

Signed by Governor April 4, 2024.