

1 AN ACT relating to fiscal impact statements.

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

3 ➔Section 1. KRS 6.948 is amended to read as follows:

4 (1) As used in this section:

5 (a) "Amendment" includes a committee substitute;

6 (b) "Department" means the Department of Insurance;

7 (c) "Federal cost defrayal impact statement" means a statement prepared and
8 transmitted in accordance with subsection (6) of this section;

9 (d) "Health benefit plan" has the same meaning as in KRS 304.17A-005, except
10 that for purposes of this section the term does not include:

11 1. A state employee health plan; or

12 2. Any other self-insured policy, certificate, plan, or contract;

13 (e) "Health mandate impact statement" means a statement prepared and
14 transmitted in accordance with subsection (5) of this section;

15 (f) "Mandated health benefit" means a requirement that any health benefit plan or
16 state employee health plan:

17 1. Provide a specified benefit, including but not limited to a specified
18 coverage;

19 2. Pay, indemnify, or reimburse for a specified medical service; or

20 3. Pay, indemnify, or reimburse specified health care providers for specific
21 health care services;

22 (g) "Sponsor" means a member of the General Assembly that has made a request
23 to the Legislative Research Commission for a bill or amendment;

24 (h) "State employee health plan" means any fully insured health benefit plan or
25 self-insured plan issued or renewed to public employees under KRS 18A.225
26 or 18A.2254; and

27 (i) "State employee health plan impact statement" means a statement prepared

1 and transmitted in accordance with subsection (7) of this section.

2 (2) (a) Any bill or amendment that contains a mandated health benefit shall be
3 identified by the staff of, and on a form specified by, the Legislative Research
4 Commission.

5 (b) If a bill or amendment is identified as having a mandated health benefit under
6 paragraph (a) of this subsection, the staff of the Legislative Research
7 Commission shall:

8 1. Notify the sponsor of the bill or amendment that a health mandate
9 impact statement, federal cost defrayal impact statement, and state
10 employee health plan impact statement, as applicable, are required; and

11 2. Upon introduction, adoption, or filing of the legislation:

12 a. For a mandated health benefit that applies to any health benefit
13 plan, request the department to prepare and transmit a health
14 mandate impact statement and federal cost defrayal impact
15 statement in accordance with this section; and

16 b. For a mandated health benefit that applies to any state employee
17 health plan, request the Department of Employee Insurance to
18 prepare and transmit a state employee health plan impact statement
19 in accordance with this section.

20 (3) (a) The individuals referenced in paragraph (b) of this subsection may, in
21 accordance with that paragraph, request the department or the Department of
22 Employee Insurance, as applicable, to prepare any or all of the following:

- 23 1. A health mandate impact statement;
24 2. A federal cost defrayal impact statement; or
25 3. A state employee health plan impact statement.

26 (b) Any or all of the following may make a request under paragraph (a) of this
27 subsection:

- 1 1. For any introduced bill or adopted or filed amendment:
 - 2 a. The sponsor of the bill or amendment; or
 - 3 b. Any of the following members from a chamber of the General
4 Assembly with possession of the legislation:
 - 5 i. Any member of the majority or minority leadership; or
 - 6 ii. A chair of a standing committee; and
 - 7 2. For any bill or amendment that has not been introduced, filed, or
8 adopted, the sponsor of the bill or amendment.
- 9 (4) (a) Except as provided in paragraph (b) of this subsection, when a request is made
10 under this section, the department or Department of Employee Insurance,
11 including its staff and third-party contractors, shall:
- 12 1. Keep the bill or amendment confidential until the bill or amendment is
13 published for public distribution by the Legislative Research
14 Commission; and
 - 15 2. Keep the impact statement, including the request for the statement and
16 any information relating thereto, confidential until the statement is
17 published for public distribution by the Legislative Research
18 Commission.
- 19 (b) Paragraph (a) of this subsection shall not apply to any communications with
20 or transmittals to:
- 21 1. Staff or third-party contractors designated by the department or
22 Department of Employee Insurance to receive and prepare the impact
23 statements required under this section;
 - 24 2. Staff designated by the Legislative Research Commission;
 - 25 3. The requester; or
 - 26 4. Any other person designated by the requester.
- 27 (c) Any health mandate impact statement, federal cost defrayal impact statement,

1 or state employee health plan impact statement requested under this section
 2 shall be prepared and transmitted by the department or Department of
 3 Employee Insurance as provided in this section.

4 (5) A health mandate impact statement shall:

5 (a) Be in writing;

6 (b) Be signed by the commissioner of the department or the commissioner's
 7 designee;

8 (c) Determine the extent to which the mandated health benefit will:

9 1. Increase or decrease administrative expenses of insurers offering health
 10 benefit plans;

11 2. Increase or decrease health benefit plan premiums in the market or
 12 markets to which the mandate applies; and

13 3. Impact the total cost of health care for health benefit plan insureds,
 14 **which shall include**~~including~~ any potential **future** cost savings that
 15 may be realized;~~and~~

16 **(d) 1. Provide any documentation, studies, written opinions, calculations,**
 17 **and citations in support of the commissioner's or his or her designee's**
 18 **findings and conclusions;**

19 **2. Include in the statement an estimate of any potential future cost**
 20 **savings, with an explanation why the bill would or would not provide**
 21 **future cost savings; and**

22 **3. Include a certification by the commissioner or his or her designee that**
 23 **the information provided is accurate; and**

24 ~~(e)~~~~(d)~~ Be completed and transmitted to staff designated by the Legislative
 25 Research Commission and the requester as soon as possible, but not later than
 26 thirty (30) days after the request is made to the department, unless the
 27 requestor and commissioner of the department agree otherwise.

- 1 (6) (a) A federal cost defrayal impact statement shall:
- 2 1. Be in writing;
- 3 2. Be signed by the commissioner of the department or the commissioner's
- 4 designee;
- 5 3. a. Indicate:
- 6 i. Whether a bill or amendment that contains a mandated health
- 7 benefit may result in the state being required to make
- 8 payments to defray costs under 42 U.S.C. sec. 18031(d)(3)
- 9 and 45 C.F.R. sec. 155.170, as amended; and
- 10 ii. If applicable, which provision or provisions of the bill or
- 11 amendment may trigger the requirement to make payments
- 12 to defray costs under 42 U.S.C. sec. 18031(d)(3) and 45
- 13 C.F.R. sec. 155.170, as amended.
- 14 b. When making a determination under subdivision a. of this
- 15 subparagraph, the department shall consider whether the provision
- 16 or provisions would apply under KRS 304.17A-099(2);
- 17 4. If it is indicated under subparagraph 3. of this paragraph that the bill or
- 18 amendment may result in the state being required to make payments,
- 19 include a cost defrayal fiscal analysis prepared in accordance with
- 20 paragraph (b) of this subsection;~~and~~
- 21 **5. Comply with paragraph (c) of this subsection; and**
- 22 **6.** Be completed and transmitted to staff designated by the Legislative
- 23 Research Commission and the requestor as soon as possible, but not
- 24 later than the following, unless the requestor and the commissioner of
- 25 the department agree otherwise:
- 26 a. For an indication required under subparagraph 3. of this paragraph,
- 27 ten (10) business days after the request is made to the department;

1 and

2 b. For a cost defrayal fiscal analysis required under subparagraph 4.
3 of this paragraph, thirty (30) days after the request is made to the
4 department.

5 (b) A cost defrayal fiscal analysis shall:

6 1. Be conducted by:

7 a. The department; and

8 b. An actuary selected by the department;

9 2. Be based on an analysis performed in accordance with generally
10 accepted actuarial principles and methodologies;

11 3. Determine the extent to which benefits required under the bill or
12 amendment are already covered by health insurers; and

13 4. Include an estimate of the payments the state may be required to make
14 under 42 U.S.C. sec. 18031(d)(3) and 45 C.F.R. sec. 155.170, as
15 amended, if the bill or amendment is enacted into law.

16 **(c) In addition to the requirements of paragraphs (a) and (b) of this subsection,**
17 **the federal cost defrayal impact statement shall:**

18 **1. Provide any documentation, studies, written opinions, calculations,**
19 **and citations in support of the commissioner's or his or her designee's**
20 **findings and conclusions; and**

21 **2. Include a certification by the commissioner or his or her designee that**
22 **the information provided is accurate.**

23 (7) A state employee health plan impact statement shall:

24 (a) Be in writing;

25 (b) Be signed by the commissioner of the Department of Employee Insurance or
26 the commissioner's designee;

27 (c) Determine the extent to which:

- 1 1. The mandated health benefit will increase or decrease state employee
- 2 health plan premiums;~~and~~
- 3 2. The increased or decreased premiums identified in subparagraph 1. of
- 4 this paragraph may be passed on to state employee health plan
- 5 insureds~~[public employees]~~; and
- 6 **3. The mandated health benefit will impact the total cost of health care**
- 7 **for state employee health plan insureds, which shall include any**
- 8 **potential future cost savings that may be realized;**
- 9 (d) **1. Provide any documentation, studies, written opinions, calculations,**
- 10 **and citations in support of the commissioner's or his or her designee's**
- 11 **findings and conclusions;**
- 12 **2. Include in the statement an estimate of any potential future cost**
- 13 **savings, with an explanation why the bill would or would not provide**
- 14 **future cost savings; and**
- 15 **3. Include a certification by the commissioner or his or her designee that**
- 16 **the information provided is accurate; and**
- 17 (e) Be completed and transmitted to staff designated by the Legislative Research
- 18 Commission and the requester as soon as possible, but not later than thirty
- 19 (30) days after the request is made to the Department of Employee Insurance,
- 20 unless the requestor and commissioner of the Department of Employee
- 21 Insurance agree otherwise.