

BILL ANALYSIS

H.B. 1939
By: Gallego
Insurance
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The 76th Texas Legislature authorized a review of the impact mandated benefits have on the accessibility to and affordability of health insurance. Mandated benefits are coverages required by law to be included in health insurance policies sold by commercial insurance companies and health maintenance organizations. Insurance and business groups have long asserted that these mandated requirements increase the cost of health insurance, making it less affordable for consumers. However, consumer and employee advocates assert that these requirements are necessary to maintain minimum standards in health insurance coverage. These continuing questions, along with the state's higher than average rate of uninsured persons, prompted the Texas Legislature to look into the impact of these requirements on the rate of uninsured persons in Texas. The Joint Interim Committee on Mandated Health Benefits was established to study the impact mandated health benefits have on the rate of uninsured persons in Texas and to make recommendations to the 77th Legislature. House Bill 1939 contains specific recommendations proposed by the Joint Interim Committee on Mandated Health Benefits, including the establishment of an impact assessment process for proposed health benefit plan mandates or offers of coverage mandates to be conducted by the Legislative Budget Board and the establishment of a Sunset Advisory Commission review process for such mandates.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the commissioner of insurance in SECTION 1 (Articles 28.151 and 28.152, Insurance Code) and SECTION 2 of this bill.

ANALYSIS

House Bill 1939 amends the Insurance Code to require the chair of a standing committee of the legislature to send a copy of a bill that, if enacted, would create a health care benefit mandate or an offer of coverage mandate to the Legislative Budget Board (LBB) and request that an impact assessment of the mandate be prepared. The bill sets forth provisions regarding the preparation of an impact assessment and required actuarial assistance. The bill requires the Texas Department of Insurance (TDI) and the Texas Department of Health (TDH) to provide any available information requested by LBB for the purpose of preparing an impact assessment.

The bill sets forth the contents of the impact assessment, including the level of demand for coverage, the extent of the impact on an individual's health status, the impact on premiums, the cost per individual, the fiscal impact on the state, the impact on the economy and society of not providing coverage, and other related information. For an offer of coverage mandate, the bill provides the impact assessment must also estimate the difference in the cost of a health benefit plan that provides the coverage and a comparable health benefit plan that does not provide such coverage. For a health care benefit mandate, the bill provides that the impact statement must also estimate the impact of the mandate if the mandate was an offer of coverage mandate. A separate analysis of the costs of the health benefit plan mandate or offer of coverage mandate for the Employees Retirement System of Texas (ERS) group health benefit plans, individual health benefit plans, and small employer health benefit plans, even if those plans would not be subject to the mandate.

If the director of LBB determines that the impact of a proposed health benefit plan mandate or offer of coverage mandate cannot be fully ascertained or if a complete impact assessment cannot be completed within 21 days of receiving the bill, H.B. 1939 requires the director of LBB to report that fact in writing to the chair of the committee that sent the bill to LBB and prepare an impact statement that complies as much as possible with the applicable requirements and explains which of the requirements are not met and why they are not met. The bill provides that the assessment must be attached to the bill on first printing and requires an updated version of the impact assessment to be attached to each subsequent amended bill through the legislative process.

The bill requires the commissioner of insurance (commissioner) to assign a Sunset Advisory Commission review date to each health care benefit mandate or offer of coverage mandate provided for in a statute or in a rule adopted by the commissioner. The bill sets forth criteria and deadlines for the Sunset Advisory Commission reviews and related hearings, recommendations and reports. The bill requires TDI and TDH to provide appropriate information to the Sunset Advisory Commission.

Not later than January 1 of the year of a regular legislative session, the bill requires the commission to present to the legislature and the governor a report on each health care benefit mandate or offer of coverage mandate that was assessed during the previous year.

The bill requires the commissioner by rule to define "large health benefit plan carrier." The bill requires the commissioner by rule to require each large health benefit plan carrier and ERS to submit annually information that the commissioner, with the assistance of an advisory committee, determines is necessary for the assessment of health care benefit mandates and offer of coverage mandates. The bill requires the commissioner to appoint an advisory committee not later than December 1, 2003, and sets forth provisions relating to the composition of the advisory committee. The bill requires the advisory committee to work with TDI to ensure that data collected is sufficient to properly evaluate each health benefit mandate and offer of coverage mandate, compliance with requests for data is both feasible for health benefit plan carriers and as cost-effective as possible, and data collection formats are compatible with data collection formats under the federal Health Insurance Portability and Accountability Act of 1996. The bill provides that provisions relating to state agency advisory committees apply to the advisory committee.

The bill prohibits TDI from collecting information that could reasonably be expected to reveal the identity of a patient or a health care provider other than a hospital. The bill provides that information submitted by an individual health benefit plan carrier is not subject to disclosure as public information. The bill requires TDI to aggregate information submitted by all health benefit plan carriers and that aggregate information is subject to disclosure as public information.

Not later than June 1, 2004, the bill requires the commissioner of insurance to adopt rules as necessary to implement provisions related to the assessment of an enacted mandate by the Sunset Advisory Commission and the collection and reporting of data on mandates.

EFFECTIVE DATE

This Act takes effect September 1, 2003.