

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Hernandez Luna, Sheets, Thompson,  
Harless, Woolley, et al.

H.B. No. 2102

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the requirement that certain health benefit plans  
3 provide coverage for supplemental breast cancer screening.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. This Act shall be known as Henda's Law.

6 SECTION 2. Section 1201.005, Insurance Code, is amended to  
7 read as follows:

8 Sec. 1201.005. REFERENCES TO CHAPTER. In this chapter, a  
9 reference to this chapter includes a reference to:

10 (1) Section 1202.052;

11 (2) Section 1271.005(a), to the extent that the  
12 subsection relates to the applicability of Section 1201.105, and  
13 Sections 1271.005(d) and (e);

14 (3) Chapter 1351;

15 (4) Subchapters C and E, Chapter 1355;

16 (5) Subchapter A, Chapter 1356;

17 (6) Chapter 1365;

18 (7) Subchapter A, Chapter 1367; and

19 (8) Subchapters A, B, and G, Chapter 1451.

20 SECTION 3. The heading to Chapter 1356, Insurance Code, is  
21 amended to read as follows:

22 CHAPTER 1356. [~~LOW-DOSE~~] MAMMOGRAPHY AND OTHER BREAST CANCER  
23 SCREENING

24 SECTION 4. Sections 1356.001 through 1356.005, Insurance

1 Code, are designated as Subchapter A, Chapter 1356, Insurance Code,  
2 and a heading is added to Subchapter A to read as follows:

3 SUBCHAPTER A. LOW-DOSE MAMMOGRAPHY

4 SECTION 5. Section 1356.001, Insurance Code, is amended to  
5 read as follows:

6 Sec. 1356.001. DEFINITION. In this subchapter [~~chapter~~],  
7 "low-dose mammography" means the x-ray examination of the breast  
8 using equipment dedicated specifically for mammography, including  
9 an x-ray tube, filter, compression device, screens, films, and  
10 cassettes, with an average radiation exposure delivery of less than  
11 one rad mid-breast, with two views for each breast.

12 SECTION 6. Section 1356.002, Insurance Code, is amended to  
13 read as follows:

14 Sec. 1356.002. APPLICABILITY OF SUBCHAPTER [~~CHAPTER~~]. This  
15 subchapter [~~chapter~~] applies only to a health benefit plan that is  
16 delivered, issued for delivery, or renewed in this state and that is  
17 an individual or group accident and health insurance policy,  
18 including a policy issued by a group hospital service corporation  
19 operating under Chapter 842.

20 SECTION 7. Section 1356.003, Insurance Code, is amended to  
21 read as follows:

22 Sec. 1356.003. APPLICABILITY OF GENERAL PROVISIONS OF OTHER  
23 LAW. The provisions of Chapter 1201, including provisions relating  
24 to the applicability, purpose, and enforcement of that chapter,  
25 construction of policies under that chapter, rulemaking under that  
26 chapter, and definitions of terms applicable in that chapter, apply  
27 to this subchapter [~~chapter~~].

1 SECTION 8. Section 1356.004, Insurance Code, is amended to  
2 read as follows:

3 Sec. 1356.004. EXCEPTION. This subchapter [~~chapter~~] does  
4 not apply to a plan that provides coverage only for a specified  
5 disease or for another limited benefit.

6 SECTION 9. Chapter 1356, Insurance Code, is amended by  
7 adding Subchapter B to read as follows:

8 SUBCHAPTER B. SUPPLEMENTAL BREAST CANCER SCREENING

9 Sec. 1356.051. DEFINITIONS. In this subchapter:

10 (1) "Health benefit exchange" means an American Health  
11 Benefit Exchange administered by the federal government or created  
12 pursuant to Section 1311(b), Patient Protection and Affordable Care  
13 Act (42 U.S.C. Section 18031).

14 (2) "Qualified health plan" has the meaning assigned  
15 by Section 1301(a), Patient Protection and Affordable Care Act (42  
16 U.S.C. Section 18021).

17 (3) "Supplemental breast cancer screening" means a  
18 method of screening, including ultrasound imaging, that is designed  
19 to supplement mammography by detecting breast cancers that may not  
20 be visible using only mammography.

21 Sec. 1356.052. APPLICABILITY OF SUBCHAPTER. (a) This  
22 subchapter applies only to a health benefit plan that provides  
23 benefits for medical or surgical expenses incurred as a result of a  
24 health condition, accident, or sickness, including an individual,  
25 group, blanket, or franchise insurance policy or insurance  
26 agreement, a group hospital service contract, or an individual or  
27 group evidence of coverage or similar coverage document that is

1 offered by:

2 (1) an insurance company;

3 (2) a group hospital service corporation operating  
4 under Chapter 842;

5 (3) a fraternal benefit society operating under  
6 Chapter 885;

7 (4) a stipulated premium company operating under  
8 Chapter 884;

9 (5) an exchange operating under Chapter 942;

10 (6) a health maintenance organization operating under  
11 Chapter 843; or

12 (7) an approved nonprofit health corporation that  
13 holds a certificate of authority under Chapter 844.

14 (b) Notwithstanding Section 1501.251 or any other law, this  
15 subchapter applies to coverage under a small employer health  
16 benefit plan subject to Chapter 1501.

17 Sec. 1356.053. EXCEPTION. This subchapter does not apply  
18 to:

19 (1) a plan that provides coverage:

20 (A) only for benefits for a specified disease or  
21 for another limited benefit;

22 (B) only for accidental death or dismemberment;

23 (C) for wages or payments in lieu of wages for a  
24 period during which an employee is absent from work because of  
25 sickness or injury;

26 (D) as a supplement to a liability insurance  
27 policy;

1           (E) for credit insurance;

2           (F) only for dental or vision care;

3           (G) only for hospital expenses; or

4           (H) only for indemnity for hospital confinement;

5           (2) a Medicare supplemental policy as defined by  
6 Section 1882(g)(1), Social Security Act (42 U.S.C. Section 1395ss);

7           (3) a workers' compensation insurance policy;

8           (4) medical payment insurance coverage provided under  
9 a motor vehicle insurance policy;

10           (5) a long-term care policy, including a nursing home  
11 fixed indemnity policy, unless the commissioner determines that the  
12 policy provides benefit coverage so comprehensive that the policy  
13 is a health benefit plan as described by Section 1356.052; or

14           (6) a qualified health plan offered through a health  
15 benefit exchange.

16           Sec. 1356.054. COVERAGE REQUIRED. A health benefit plan  
17 that provides coverage for mammography, including coverage for  
18 low-dose mammography required by Subchapter A, must also provide  
19 coverage for supplemental breast cancer screening if a physician  
20 treating the enrollee or screening the enrollee for breast cancer  
21 finds that the enrollee has:

22           (1) dense breast tissue, as defined by the Breast  
23 Imaging Reporting and Database System (Fourth Edition) established  
24 by the American College of Radiology; and

25           (2) additional risk factors for breast cancer that  
26 warrant supplemental breast cancer screening beyond mammography.

27           SECTION 10. This Act applies only to a health benefit plan

1 that is delivered, issued for delivery, or renewed on or after  
2 January 1, 2012. A health benefit plan that is delivered, issued  
3 for delivery, or renewed before January 1, 2012, is governed by the  
4 law as it existed immediately before the effective date of this Act,  
5 and that law is continued in effect for that purpose.

6 SECTION 11. This Act takes effect September 1, 2011.

ADOPTED

MAY 25 2011

*Atay Dew*  
Secretary of the Senate

By: *Rodney Ellis*

H.B. No. 2102

Substitute the following for H.B. No. 2102:

By: *Rodney Ellis*

C.S. H.B. No. 2102

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the requirement that certain mammography reports  
3 contain information regarding supplemental breast cancer  
4 screening.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. This Act shall be known as Henda's Law.

7 SECTION 2. Subchapter B, Chapter 86, Health and Safety  
8 Code, is amended by adding Section 86.013 to read as follows:

9 Sec. 86.013. INFORMATION ON SUPPLEMENTAL BREAST CANCER  
10 SCREENING. (a) On completion of a mammogram, a mammography  
11 facility certified by the United States Food and Drug  
12 Administration or by a certification agency approved by the United  
13 States Food and Drug Administration shall provide to the patient  
14 the following notice:

15 "If your mammogram demonstrates that you have dense breast  
16 tissue, which could hide abnormalities, and you have other risk  
17 factors for breast cancer that have been identified, you might  
18 benefit from supplemental screening tests that may be suggested by  
19 your ordering physician.

20 "Dense breast tissue, in and of itself, is a relatively  
21 common condition. Therefore, this information is not provided to  
22 cause undue concern, but rather to raise your awareness and to  
23 promote discussion with your physician regarding the presence of  
24 other risk factors, in addition to dense breast tissue.

1       "A report of your mammography results will be sent to you and  
2 your physician. You should contact your physician if you have any  
3 questions or concerns regarding this report."

4       (b) Notwithstanding any other law, this section does not  
5 create a cause of action or create a standard of care, obligation,  
6 or duty that provides a basis for a cause of action.

7       (c) The information required by this section or evidence  
8 that a person violated this section is not admissible in a civil,  
9 judicial, or administrative proceeding.

10       SECTION 3. A mammography facility is not required to comply  
11 with the requirements of Section 86.013, Health and Safety Code, as  
12 added by this Act, until January 1, 2012.

13       SECTION 4. This Act takes effect September 1, 2011.



**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION**

**May 26, 2011**

**TO:** Honorable Joe Straus, Speaker of the House, House of Representatives

**FROM:** John S O'Brien, Director, Legislative Budget Board

**IN RE: HB2102** by Hernandez Luna (Relating to the requirement that certain mammography reports contain information regarding supplemental breast cancer screening. ), **As Passed 2nd House**

<b>No significant fiscal implication to the State is anticipated.</b>
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The bill would amend the Insurance Code relating to the requirement that certain mammography reports contain information regarding supplemental breast cancer screening.

Based on the analysis provided by the Texas Department of Insurance (TDI), it is assumed that any costs associated with the implementation of this bill would be absorbed within existing agency resources. Also based on information provided by TDI, this analysis assumes that implementation of the bill could result in a one-time revenue gain (\$31,000 in fiscal year 2012) in General Revenue-Dedicated Texas Department of Insurance Fund 36 from filing fees. Since General Revenue-Dedicated Texas Department of Insurance Fund 36 is a self-leveling account, this analysis also assumes that any additional revenue resulting from the implementation of the bill would accumulate in the account fund balances and that the department would adjust the assessment of the maintenance tax or other fees accordingly in the following year.

It is assumed that any costs associated with the Employee Retirement System, the University of Texas System Administration, the Texas A&M University System, and the Teacher Retirement System implementing the provisions of this bill could be absorbed within existing agency resources.

In fiscal years 2014 through 2016, these costs may differ depending on the essential health benefits approved by Health and Human Services per Section 1311 (d) (3) (B) of the Patient Protection and Affordable Care Act of 2010.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 454 Department of Insurance, 323 Teacher Retirement System, 327 Employees Retirement System, 710 Texas A&M University System Administrative and General Offices, 720 The University of Texas System Administration

**LBB Staff:** JOB, ESi, KJG, MW, CH

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION**

**May 20, 2011**

**TO:** Honorable Robert Duncan, Chair, Senate Committee on State Affairs

**FROM:** John S O'Brien, Director, Legislative Budget Board

**IN RE: HB2102** by Hernandez Luna (Relating to the requirement that certain mammography reports contain information regarding supplemental breast cancer screening.), **Committee Report 2nd House, Substituted**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Insurance Code relating to the requirement that certain mammography reports contain information regarding supplemental breast cancer screening.

Based on the analysis provided by the Texas Department of Insurance (TDI), it is assumed that any costs associated with the implementation of this bill would be absorbed within existing agency resources. Also based on information provided by TDI, this analysis assumes that implementation of the bill could result in a one-time revenue gain (\$31,000 in fiscal year 2012) in General Revenue-Dedicated Texas Department of Insurance Fund 36 from filing fees. Since General Revenue-Dedicated Texas Department of Insurance Fund 36 is a self-leveling account, this analysis also assumes that any additional revenue resulting from the implementation of the bill would accumulate in the account fund balances and that the department would adjust the assessment of the maintenance tax or other fees accordingly in the following year.

It is assumed that any costs associated with the Employee Retirement System, the University of Texas System Administration, the Texas A&M University System, and the Teacher Retirement System implementing the provisions of this bill could be absorbed within existing agency resources.

In fiscal years 2014 through 2016, these costs may differ depending on the essential health benefits approved by Health and Human Services per Section 1311 (d) (3) (B) of the Patient Protection and Affordable Care Act of 2010.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 454 Department of Insurance, 323 Teacher Retirement System, 327 Employees Retirement System, 710 Texas A&M University System Administrative and General Offices, 720 The University of Texas System Administration

**LBB Staff:** JOB, KJG, MW, CH

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION**

**May 12, 2011**

**TO:** Honorable Robert Duncan, Chair, Senate Committee on State Affairs

**FROM:** John S O'Brien, Director, Legislative Budget Board

**IN RE:** HB2102 by Hernandez Luna (Relating to the requirement that certain health benefit plans provide coverage for supplemental breast cancer screening.), **As Engrossed**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Insurance Code relating to the requirement that certain health benefit plans provide coverage for supplemental breast cancer screening.

Based on the analysis provided by the Texas Department of Insurance (TDI), it is assumed that any costs associated with the implementation of this bill would be absorbed within existing agency resources. Also based on information provided by TDI, this analysis assumes that implementation of the bill could result in a one-time revenue gain (\$33,100 in fiscal year 2012) in General Revenue-Dedicated Texas Department of Insurance Fund 36 from filing fees. Since General Revenue-Dedicated Texas Department of Insurance Fund 36 is a self-leveling account, this analysis also assumes that any additional revenue resulting from the implementation of the bill would accumulate in the account fund balances and that the department would adjust the assessment of the maintenance tax or other fees accordingly in the following year.

In fiscal years 2014 through 2016, these costs may differ depending on the essential health benefits approved by Health and Human Services per Section 1311 (d) (3) (B) of the Patient Protection and Affordable Care Act of 2010.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 454 Department of Insurance, 323 Teacher Retirement System, 327 Employees Retirement System, 710 Texas A&M University System Administrative and General Offices, 720 The University of Texas System Administration

**LBB Staff:** JOB, KJG, MW, CH

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION**

**May 2, 2011**

**TO:** Honorable John T. Smithee, Chair, House Committee on Insurance

**FROM:** John S O'Brien, Director, Legislative Budget Board

**IN RE: HB2102** by Hernandez Luna (Relating to the requirement that certain health benefit plans provide coverage for supplemental breast cancer screening.), **Committee Report 1st House, Substituted**

<b>No significant fiscal implication to the State is anticipated.</b>
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The bill would amend the Insurance Code relating to the requirement that certain health benefit plans provide coverage for supplemental breast cancer screening.

Based on the analysis provided by the Texas Department of Insurance (TDI), it is assumed that any costs associated with the implementation of this bill would be absorbed within existing agency resources. Also based on information provided by TDI, this analysis assumes that implementation of the bill could result in a one-time revenue gain (\$33,100 in fiscal year 2012) in General Revenue-Dedicated Texas Department of Insurance Fund 36 from filing fees. Since General Revenue-Dedicated Texas Department of Insurance Fund 36 is a self-leveling account, this analysis also assumes that any additional revenue resulting from the implementation of the bill would accumulate in the account fund balances and that the department would adjust the assessment of the maintenance tax or other fees accordingly in the following year.

In fiscal years 2014 through 2016, these costs may differ depending on the essential health benefits approved by Health and Human Services per Section 1311 (d) (3) (B) of the Patient Protection and Affordable Care Act of 2010.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 454 Department of Insurance, 323 Teacher Retirement System, 327 Employees Retirement System, 710 Texas A&M University System Administrative and General Offices, 720 The University of Texas System Administration

**LBB Staff:** JOB, KJG, MW, CH

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION**

**April 19, 2011**

**TO:** Honorable John T. Smithee, Chair, House Committee on Insurance

**FROM:** John S O'Brien, Director, Legislative Budget Board

**IN RE: HB2102** by Hernandez Luna (Relating to the requirement that certain health benefit plans provide coverage for supplemental breast cancer screening.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB2102, As Introduced: a negative impact of (\$1,587,720) through the biennium ending August 31, 2013.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2012	\$0
2013	(\$1,587,720)
2014	(\$1,715,499)
2015	(\$1,845,277)
2016	(\$1,917,665)

**All Funds, Five-Year Impact:**

Fiscal Year	Probable (Cost) from <i>General Revenue Fund</i> 1	Probable (Cost) from <i>GR Dedicated Accounts</i> 994	Probable (Cost) from <i>Other Special State Funds</i> 998	Probable (Cost) from <i>State Highway Fund</i> 6
2012	\$0	\$0	\$0	\$0
2013	(\$1,587,720)	(\$62,583)	(\$8,915)	(\$333,243)
2014	(\$1,715,499)	(\$67,590)	(\$9,628)	(\$359,902)
2015	(\$1,845,277)	(\$72,590)	(\$9,628)	(\$359,902)
2016	(\$1,917,665)	(\$75,100)	(\$10,698)	(\$399,891)

Fiscal Year	Probable (Cost) from <i>Federal Funds</i> 555
2012	\$0
2013	(\$350,538)
2014	(\$378,581)
2015	(\$406,624)
2016	(\$420,645)

## **Fiscal Analysis**

The bill would amend the Insurance Code relating to the requirement that certain health benefit plans provide coverage for supplemental breast cancer screening. The bill would add requirements that health benefit plans offering coverage for mammography must also provide coverage for supplemental breast cancer screening in cases where a physician finds that a patient has dense breast tissue as well as additional risk factors believed to warrant screening beyond mammography. The bill would define supplemental breast cancer screening to include breast MRI or any other screening method recommended by a professional association or agency with expertise in mammography, including the National Cancer Institute and the National Comprehensive Cancer Network, based on a patient's specific risk factors.

The bill would take effect September 1, 2011. The changes in the requirements apply only to a health benefit plan that is delivered, issued for delivery, or renewed on or after January 1, 2012.

## **Methodology**

Based on the analysis provided by the Employee Retirement System (ERS), the expanded health benefits coverage would cost \$1,459,721 in General Revenue, \$62,583 in General Revenue – Dedicated 994, \$8,915 in Other Special State Funds 998, \$333,243 in State Highway Fund 6, and \$350,538 in Federal Funds in fiscal year 2013. It is assumed that the costs in fiscal years 2014 through 2016 would increase in accordance with the projected annual benefit cost trend.

Based on the analysis provided by the University of Texas System Administration, the expanded health benefits coverage would cost the plan \$128,000 in General Revenue in fiscal year 2013. It is assumed that the costs in fiscal years 2014 through 2016 would increase in accordance with the projected annual benefit cost trend.

Based on the analysis provided by the Texas Department of Insurance (TDI), it is assumed that any costs associated with the implementation of this bill would be absorbed within existing agency resources. Also based on information provided by TDI, this analysis assumes that implementation of the bill could result in a one-time revenue gain (\$33,100 in fiscal year 2012) in General Revenue-Dedicated Texas Department of Insurance Fund 36 from filing fees. Since General Revenue-Dedicated Texas Department of Insurance Fund 36 is a self-leveling account, this analysis also assumes that any additional revenue resulting from the implementation of the bill would accumulate in the account fund balances and that the department would adjust the assessment of the maintenance tax or other fees accordingly in the following year.

Based on the analysis provided by the Texas A&M University System and the Teacher Retirement System, it is assumed that all duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing agency resources.

In fiscal years 2014 through 2016, these costs may differ depending on the essential health benefits approved by Health and Human Services per Section 1311 (d) (3) (B) of the Patient Protection and Affordable Care Act of 2010.

## **Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 323 Teacher Retirement System, 327 Employees Retirement System, 454 Department of Insurance, 710 Texas A&M University System Administrative and General Offices, 720 The University of Texas System Administration

**LBB Staff:** JOB, KJG, MW, CH