

## **BILL ANALYSIS**

Senate Research Center  
88R1053 SCL-F

S.B. 1137  
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Health & Human Services  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The United States Supreme Court, in a unanimous 8-0 opinion issued in December 2020, affirmed that states can act to protect local businesses and their patients from pharmacy benefit manager (PBM) overreach. Importantly, the ruling clarified that states can regulate certain activities of employer-sponsored self-funded health plans, also known as ERISA plans, and their PBMs that were previously thought to be outside state jurisdiction.

S.B. 1137 builds upon the landmark PBM reforms passed in 2021 and extends applicability of patient and pharmacy protections already in law to all PBM activity in the state, regardless of the health plan types.

As proposed, S.B. 1137 amends current law relating to applicability of certain insurance laws to pharmacy benefit managers.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the commissioner of insurance in SECTION 2 of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter D, Chapter 4151, Insurance Code, by adding Section 4151.155, as follows:

Sec. 4151.155. **APPLICABILITY OF CERTAIN LAWS TO PHARMACY BENEFIT MANAGERS.** (a) Requires a pharmacy benefit manager, except as provided by this section, to comply with the provisions of Chapter 1369 (Benefits Related to Prescription Drugs and Devices and Related Services) with respect to each plan administered by the pharmacy benefit manager, regardless of whether a provision of that chapter is specifically made applicable to the plan.

(b) Provides that a pharmacy benefit manager is not required to comply with a provision of Chapter 1369:

- (1) with respect to a plan expressly excluded from the applicability of the provision; or
- (2) to the extent that the commissioner of insurance (commissioner) determines that the nature of third-party administrators renders the provision inapplicable to pharmacy benefit managers.

SECTION 2. Requires the commissioner, as soon as practicable after the effective date of this Act, to repeal all rules that are inconsistent with Section 4151.155, Insurance Code, as added by this Act.

SECTION 3. Makes application of Section 4151.155, Insurance Code, as added by this Act, prospective to January 1, 2024.

SECTION 4. Effective date: September 1, 2023.