

## **BILL ANALYSIS**

Senate Research Center  
88R21729 RDS-F

C.S.S.B. 1581  
By: Bettencourt  
Health & Human Services  
4/17/2023  
Committee Report (Substituted)

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

Texas regulations and mandates hinder innovation and add costs to an already expensive system—forcing employers and families to bear the cost. Each mandate raises costs that are passed on in higher premiums. In 2021, Texas reached a high-water mark for the number of mandates placed on health insurance. Following the session, Texans saw a 13 percent increase in premiums, while around the nation, year-over-year premiums were flat. Currently, 87 percent of employers say that healthcare costs are rising at an unsustainable rate.

S.B. 1581 creates the Texas Health Insurance Mandate Advisory Collaborative at The University of Texas Health Science Center at Houston to prepare analyses of bills and joint resolutions that would impose new mandates on health benefit plan issuers in this state. The center will take requests from the legislature year-round even if the legislature is not in session.

Within 60 days of receiving a request, the advisory collaborative will determine the following and issue a report:

- If the proposed legislation has or will decrease or increase total spending for health care services.
- If it has or will increase the utilization of any relevant healthcare services.
- If it has or will increase or decrease administrative expenses of a health benefit plan issuers and expenses of enrollees, plan sponsors, and policyholders.
- If the proposal has or will increase or decrease spending by all persons in the private sector, by public sector entities, including state or local retirement systems and political subdivisions, and individuals purchasing individual health insurance or health benefit plan coverage in this state.
- Coverage for any relevant health care service is or was, without the mandate, generally available or utilized.
- Any relevant healthcare service is supported by medical and scientific evidence.

If while completing the analysis the collaborative is unable to provide a reliable estimate of the cost, then they must provide a basis for that determination. Also, the mandate advisor collaborative may consult with any other person who has relevant knowledge and experience. S.B. 1581 will provide a tool for the legislature to help determine the costs associated with the mandates it passes on health benefit plan issuers and the people of this state. Lastly, the bill clearly states that no request may be submitted for analysis of legislation that has already been enacted.

C.S.S.B. 1581 amends current law relating to the establishment of the Texas Health Insurance Mandate Advisory Collaborative and authorizes a fee.

## **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the commissioner of insurance in SECTION 1 (Section 38.456, Insurance Code) of this bill.

## **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 38, Insurance Code, by adding Subchapter J, as follows:

### **SUBCHAPTER J. TEXAS HEALTH INSURANCE MANDATE ADVISORY COLLABORATIVE**

Sec. 38.451. DEFINITIONS. Defines "center," "enrollee," "health benefit plan issuer," "health benefits coverage," "health care provider," "health care service," "mandate," and "mandate advisory collaborative."

Sec. 38.452. ESTABLISHMENT OF MANDATE ADVISORY COLLABORATIVE. Requires the Center for Healthcare Data at The University of Texas Health Science Center at Houston (center) to establish the Texas Health Insurance Mandate Advisory Collaborative (collaborative) to prepare analyses of legislative documents that would impose new mandates on health benefit plan issuers in this state.

Sec. 38.453. REQUEST FOR ANALYSIS OF MANDATE. (a) Authorizes the lieutenant governor, the speaker of the house of representatives, or the chair of the appropriate committee in either house of the legislature, regardless of whether the legislature is in session, to submit a request to the collaborative to prepare and develop an analysis of proposed legislation that imposes a new mandate on health benefit plan issuers in this state.

(b) Prohibits a request from being submitted under this section for an analysis of legislation that has already been enacted.

(c) Requires that a request submitted under this section include a copy of the relevant legislative documents.

Sec. 38.454. ANALYSIS OF MANDATE. (a) Requires the collaborative, except as provided by Subsection (b), on receiving a request under Section 38.453, to conduct an analysis of, as applicable, and prepare an estimate of, as applicable, the extent to which:

(1) the mandate is expected to increase or decrease total spending in this state for any relevant health care service, including the estimated dollar amount of that increase or decrease;

(2) the mandate is expected to increase the utilization of any relevant health care service in this state;

(3) the mandate is expected to increase or decrease administrative expenses of health benefit plan issuers and expenses of enrollees, plan sponsors, and policyholders;

(4) the mandate is expected to increase or decrease spending by all persons in the private sector, by public sector entities, including state or local retirement systems and political subdivisions, and by individuals purchasing individual health insurance or health benefit plan coverage in this state;

(5) coverage for any relevant health care service is, without the mandate, generally available or utilized; or

(6) any relevant health care service is supported by medical and scientific evidence, including:

(A) determinations made by the United States Food and Drug Administration;

(B) coverage determinations made by the Centers for Medicare and Medicaid Services;

(C) determinations made by the United States Preventive Services Task Force; and

(D) nationally recognized clinical practice guidelines.

(b) Requires the collaborative, if, in conducting an analysis under this section, the collaborative determines that the collaborative is unable to provide a reliable assessment of a factor described by Subsection (a), to include in the analysis a statement providing the basis for that determination.

(c) Authorizes the collaborative, in conducting an analysis under this section, to consult with persons with relevant knowledge and expertise.

Sec. 38.455. REPORT. Requires the center, not later than 60 days after the collaborative receives a request under Section 38.453, to prepare a written report containing the results of the analysis conducted by the collaborative under Section 38.454 and to:

(1) deliver the report to the lieutenant governor, the speaker of the house of representatives, and the appropriate committees in each house of the legislature; and

(2) make the report available on a generally accessible Internet website operated by the center.

Sec. 38.456. FUNDING OF MANDATE ADVISORY COLLABORATIVE; FEE. (a) Requires the Texas Department of Insurance (TDI) to assess an annual fee on each health benefit plan issuer in the amount necessary to implement this subchapter.

(b) Requires TDI, in consultation with the center, to:

(1) determine the amount of the fee assessed under this section; and

(2) adjust the amount of the fee assessed under this section for each state fiscal biennium to address any:

(A) estimated increase in costs to implement this subchapter; or

(B) deficits incurred during the preceding year as a result of implementing this subchapter.

(c) Requires a health benefit plan issuer, not later than August 1 of each year, to pay the fee assessed under this section to TDI. Authorizes the legislature to appropriate money received under this section only to the center to be used by the center to administer the center's duties under this subchapter.

(d) Requires the commissioner of insurance (commissioner) to adopt rules to administer this section.

Sec. 38.457. DATA CALL ON ADMINISTRATIVE EXPENSES. (a) Requires the commissioner, not later than 30 days after receiving a request from the center, to issue a special data call for an estimate of administrative expenses related to a specific mandate.

(b) Requires the commissioner to provide the special data call issued under this section to only the five largest health benefit plan issuers affected by the mandate, as measured by a health benefit plan issuer's total number of enrollees.

(c) Provides that a response to the special data call issued under this section is not subject to disclosure under Chapter 552 (Public Information), Government Code.

(d) Prohibits a report prepared by the center under this subchapter from disclosing a health benefit plan issuer's individual response to a data call under this section.

SECTION 2. (a) Requires the center, as soon as practicable after the effective date of this Act, to develop a cost estimate of the amount necessary to fund the actual and necessary expenses of implementing Subchapter J, Chapter 38, Insurance Code, as added by this Act, for the first state fiscal biennium in which the collaborative will operate under that subchapter.

(b) Requires the center, not later than January 1, 2024, to establish the collaborative as required by Section 38.452, Insurance Code, as added by this Act.

SECTION 3. Requires the commissioner, not later than January 1, 2024, to adopt rules as required by Section 38.456, Insurance Code, as added by this Act.

SECTION 4. Effective date: upon passage or September 1, 2023.