

ACT No. 45

2016 Regular Session

HOUSE BILL NO. 312

BY REPRESENTATIVE DAVIS

1 AN ACT

2 To amend and reenact R.S. 36:686(F), to enact Part VIII of Chapter 11 of Title 22 of the
3 Louisiana Revised Statutes of 1950, to be comprised of R.S. 22:2187, and to repeal
4 R.S. 22:1047 and Part VII of Chapter 11 of Title 22 of the Louisiana Revised
5 Statutes of 1950, comprised of R.S. 22:2186 and 2186.1, relative to mandated health
6 insurance benefits; to reconstitute the Louisiana Mandated Health Benefits
7 Commission and eliminate the requirements for periodic reevaluation of and a
8 moratorium on such mandates; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. Part VIII of Chapter 11 of Title 22 of the Louisiana Revised Statutes of
11 1950, to be comprised of R.S. 22:2187, is hereby enacted to read as follows:

12 PART VIII. LOUISIANA MANDATED HEALTH BENEFITS COMMISSION

13 §2187. Louisiana Mandated Health Benefits Commission

14 A. The Louisiana Mandated Health Benefits Commission is hereby created
15 and shall exercise its powers, duties, functions, and responsibilities in the manner
16 provided in R.S. 36:802. The commission shall be staffed by the office of health,
17 life, and annuity within the Department of Insurance.

18 B. The commission shall be comprised of the following members:

19 (1) The chairman of the House Committee on Insurance or his designee.

20 (2) The chairman of the Senate Committee on Insurance or his designee.

21 (3) The commissioner of administration or his designee.

22 (4) Two persons appointed by the commissioner of insurance.

1 C. Members of the commission shall serve on an ex officio basis except that
2 the two persons appointed by the commissioner of insurance shall serve terms
3 concurrent with that of the commissioner of insurance.

4 D. The commission shall conduct its duties under the direction of the
5 commissioner of insurance. The commission shall elect its own chair, who shall
6 preside at meetings, and its own vice chair, who shall preside in the absence of the
7 chair. The commission shall conduct its business according to Robert's Rules of
8 Order. A quorum for conducting business shall be a majority of the members. All
9 members shall be voting members.

10 E. The commissioner of insurance shall have the authority, in addition to the
11 authority of the chairman of the commission, to order the commission to convene to
12 conduct its business.

13 F. Pursuant to 42 U.S.C. 18031(d)(3)(B), the annual cost of any mandated
14 benefit in excess of Essential Health Benefits, hereinafter referred to as "EHBs", for
15 Qualified Health Plans, hereinafter referred to as "QHPs", shall be a legal obligation
16 of the state of Louisiana and shall be defrayed by the state through direct
17 reimbursement to any health insurance issuer entitled to such reimbursement
18 pursuant to 42 U.S.C. 18031(d)(3)(B)

19 G. The duties of the commission shall include:

20 (1) Reviewing proposed legislation in any session of the legislature to
21 determine if the legislation creates a mandated health benefit that would require the
22 state to defray the costs of the mandate for QHPs in excess of EHBs pursuant to 42
23 U.S.C. 18031(d)(3)(B). The commission shall give full consideration to relevant
24 implementing regulations in Title 45 of the Code of Federal Regulations.

25 (a) After reviewing such proposed legislation, the commission, if it
26 determines that a mandate for QHPs is in excess of EHBs, shall, in consultation with
27 the Department of Insurance, notify the House and Senate committees on insurance
28 of the commission's determination that a mandate has been proposed and shall
29 provide an actuarial cost projection for the cost of the proposed mandate for QHPs
30 and non-QHPs.

1 (b) In the event that the legislature enacts a mandate that is in excess of
2 EHBs, the commission shall determine, pursuant to the review process specified in
3 this Paragraph, what the cost of the enacted mandate is to all QHPs and shall, by
4 majority vote in an open meeting, adopt an actuarially sound cost estimate for the
5 first plan or policy year for the mandate in excess of EHBs for all QHPs in this state.

6 (c) Following the adoption of the cost estimate by majority vote, the
7 commission shall tender the cost estimate to the division of administration, the
8 speaker of the House of Representatives, the president of the Senate, and the
9 chairman of the House Committee on Appropriations, the chairman of the House
10 Committee on Insurance, the chairman of the Senate Committee on Finance, and the
11 chairman of the Senate Committee on Insurance.

12 (d) For any policy or plan years following the initial effective policy or plan
13 year, the commission shall include historical experience of the cost of the mandate
14 in excess of EHBs in its deliberative process.

15 (e) Following adoption of the cost estimate, the commission shall, in
16 conjunction with the Department of Insurance, give formal notice of such adoption
17 in the State Register.

18 (2) Conducting the review process specified in this Subsection for any
19 mandate that was enacted after December 31, 2011, and if determined to be a
20 mandate in excess of EHBs for QHPs, the commission shall follow the process for
21 adoption of the cost of the enacted mandate in the manner prescribed in
22 Subparagraphs (1)(b) through (e) of this Subsection.

23 (3) Promulgating rules and regulations pursuant to the Administrative
24 Procedure Act.

25 (4) Any functions necessary and proper for the completion of the duties
26 specified in this Subsection.

27 H. Any health insurance issuer that issues QHPs shall have the right to
28 appear and be heard and to submit information to the commission for consideration
29 in the performance of the duties of the commission.

30 I. Any health insurance issuer that objects to the adoption of the cost
31 estimate pursuant to Subsection G of this Section shall have the right to file an

1 appeal in the Nineteenth Judicial District Court of the state of Louisiana within thirty
2 days of the adoption of the cost estimate in open meeting.

3 J. For purposes of this Section, "health insurance issuer" means an entity
4 subject to the insurance laws and regulations of this state, or subject to the
5 jurisdiction of the commissioner, that contracts or offers to contract to provide,
6 deliver, arrange for, pay for, or reimburse any of the costs of health care services,
7 including through a health benefit plan, and shall include a sickness and accident
8 insurance company, a health maintenance organization, a preferred provider
9 organization or any similar entity, or any other entity providing a plan of health
10 insurance or health benefits.

11 Section 2. R.S. 36:686(F) is hereby amended and reenacted to read as follows:

12 §686. Transfer of agencies to the Department of Insurance

13 * * *

14 F. The Louisiana Mandated Health Benefits Commission (~~R.S. 22:2186 et~~
15 ~~seq.~~) (R.S. 22:2187) is hereby placed within the Department of Insurance and shall
16 exercise its powers, duties, functions, and responsibilities in the same manner as
17 agencies transferred in the manner provided in R.S. 36:802.

18 * * *

19 Section 3. R.S. 22:1047 and Part VII of Chapter 11 of Title 22 of the Louisiana
20 Revised Statutes of 1950, comprised of R.S. 22:2186 and 2186.1, are hereby repealed in their
21 entirety.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____