

LEG REG REVIEW

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LEG REG REVIEW is a periodic newsletter produced by Vince Phillips who retired from active lobbying after 31 years of advocacy in Harrisburg. It contains news on the legislative and regulatory scene in Pennsylvania that may be of interest to the Insurance and Business Communities. Annual subscriptions are \$100 and information may be obtained by contacting PHILLIPS ASSOCIATES at 717/728-1217 or e-mail to xenobun@aol.com.

MANDATED BENEFIT BILL SIGNED INTO LAW

On May 1, Governor Josh Shapiro signed **Senate Bill 8** (K. Ward-R-Westmoreland) into law as **Act 1 of 2023**. This law expands first-dollar preventive care health insurance coverage with more advanced breast imaging. It allows for an advanced annual breast screening and genetic counseling for those seen as having increased breast risk factors. Taking effect July 1, 2023, SB 8 applies to all individual and small-group health insurance policies when a rate or form filing to the Insurance Department takes place. For groups of over 100, the new law takes effect 180 days after enactment. Legislative action was bi-partisan with a Senate 50-0 vote and a 200-0 House vote.

NOTE: The April 25 Fiscal Note from the House Appropriations Committee included a reminder that the Affordable Care Act contains a provision that additional essential health benefits added by a state can be required to be paid for by the state but that currently this provision has not been enforced.

HOUSE WORKERS COMPENSATION INSURANCE ACTIONS

The House passed legislation relating to Workers Compensation,

- On May 2, the House passed **House Bill 760** (Pisciottano-D-Allegheny) by 114-86 which included 12 Republican crossovers to vote with the Democratic majority. This bill requires insurers to offer direct deposit as an option for Workers Compensation payments for one year after enactment. After that time, direct deposit would be required. **NOTE:** The State Workers Insurance Fund (SWIF) already has direct deposit.
- Also on May 2, the House approved **House Bill 930** (Dawkins-D-Phila.) expanding WC coverage for serious and permanent disfigurement to all parts of the body caused by a workplace accident. The vote was partisan, 112-88 with 11 GOP crossovers.
- A third bill affecting WC was also approved by the House on May 2. **House Bill 413** (Galloway-D-Bucks) seeks to strengthen requirements for a construction worker to be classified as an independent contractor rather than as an employee. HB 413 stipulates that independent contractors must have a written contract that is project-specific with definite time parameters to complete the project. Its goal is to reduce Workers Compensation fraud. The partisan vote of 113-88 included 11 GOP crossovers.

STATE IRA FOR MOST EMPLOYERS REPORTED by HOUSE COMMERCE COMMITTEE

On May 3, the House Commerce Committee voted out **House Bill 577** (Mullens-D-Lackawanna) by a partisan 12-9 vote with all Democrats voting for. This bill would establish a state-run Individual Retirement Account (IRA) with mandatory participation by for-profit and non-profit employers with five or more employees unless:

- The employer already has a “*tax-favored*” retirement plan
- The employer has not been in business “*at all times*” for less than 15 consecutive months

Called ‘Keystone Saves’, this program requires that covered employers participate by registering with the Treasury Department which will have access to employer data maintained by the PA Department of Labor & Industry. Employers will automatically enroll employees into the state-run plan and take deductions out of an employee’s gross pay at four-percent going to the Keystone Savings retirement plans. If an employee does not select one of four investment options, a Roth IRA will be chosen for him or her by the Keystone Saves program.

NOTES:

- Employees may opt out but must take the initiative to do so. In other words, they will be enrolled in the state-run plan automatically unless they proactively say no. However, Section 1113 (Page 28) does say that an employer is not liable for an employee's decision to opt out.
- The 4% deduction from gross wages may be increased by one-percent a year with a cap of 10%.
- There would be an annual open enrollment period of at least two weeks where the employee may choose another of the four investment options.
- Covered employers may replace a "*qualifying arrangement with a specified tax-favored retirement plan*" for their employees.
- Employers will notify the Treasury Department of new hires.

A link follows:

<https://www.legis.state.pa.us/CFDOCS/Legis/PN/Public/btCheck.cfm?txtType=PDF&sessYr=2023&sessInd=0&billBody=H&billTyp=B&billNbr=0577&pn=1137>.

HOUSE VOTES 201-0 re INSURANCE DATA PRIVACY on May 2

House Bill 739 (Boyle-D-Phila. and Pickett-R-Bradford). seeks to bring PA in line with the National Association of Insurance Commissioners (NAIC) model language regarding insurance data security. Among other things, it creates compliance requirements as to what cyber protections are necessary and a mechanism of reporting compliance status to the Insurance Department. One mandate is a Stress Test ("risk assessment").

Exempt are licensees with: fewer than ten employees; less than \$5 million in gross revenue; less than \$10 million in year-end total assets from the risk assessment. However, they are not exempted from reporting privacy breaches or the 2005 regulatory requirement that licensees have written plans in place (physical, administrative, and technical) to protect insurance information.

HB 739 also allows the Commissioner to adopt NAIC Valuation Manual exemptions by notice in the Pennsylvania Bulletin. The change will allow up-to-date versions of the manual to be adopted timely, which is important to maintain accreditation with the National Association of Insurance Commissioners (NAIC). Link: <https://www.legis.state.pa.us/CFDOCS/Legis/PN/Public/btCheck.cfm?txtType=PDF&sessYr=2023&sessInd=0&billBody=H&billTyp=B&billNbr=0739&pn=0688>.

HOUSE APPROVES FLOOD INSURANCE TASK FORCE

On May 1, the House voted 166-35 to send **House Bill 735** (Warren-D-Bucks) to the Senate. HB 735 would establish the Flood Insurance Premium Assistance Task Force to look at ways Flood Insurance premiums can be discounted. It also seeks ways for communities to be more inclined to build flood protection infrastructure.

NOTE: licensed insurance agents or Surplus Lines licensees would **NOT** be designated to serve on the Task Force as a member. The no votes were cast by Republicans.

SENATE COMMITTEE WORK

- On May 2, the Senate Health & Human Services Committee reported out three bills unanimously.
- **Mandated benefits Senate Bill 100** (Brooks-R-Crawford/Mercer/Lawrence) mandates insurance coverage for Lyme Disease testing and treatment with both short-term and long-term antibiotics.
- **Senate Bill 549** (Muth-D-Berks/Chester/Montgomery) would require informed consent for pelvic, rectal, and prostate exams.
- **Senate Bill 205** (Fontana-D-Allegheny) would require carbon monoxide detectors in child care centers and nursery schools.
- Reported out of the Senate Law & Justice Committee 11-0 on April 25 was **Senate Bill 429** (Regan-R-Cumberland/York). It would expand the purview of the Heart & Lung Act (Workers Compensation) to additional classes of law enforcement such as Ft. Indiantown Gap Police, State Inspector's officers, etc. Status: Re-referred to Senate Appropriations Committee on May 1.