

# Senate Bill 653

Sponsored by COMMITTEE ON GENERAL GOVERNMENT, CONSUMER AND SMALL BUSINESS PROTECTION

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires Director of Department of Consumer and Business Services to determine if premium rates proposed by insurer for health benefit plans for small employers and individual health benefit plans satisfy specified criteria. Allows person to petition director to contest approval or modification of premium rates and prescribes process. Requires director to pay attorney fees and expenses of petitioner who prevails on judicial review.

## A BILL FOR AN ACT

1  
2 Relating to health insurance premium rates; creating new provisions; and amending ORS 743.018 and  
3 743.019.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 743.018 is amended to read:

6 743.018. (1) Except for group life and health insurance, and except as provided in ORS 743.015,  
7 every insurer shall file with the Director of the Department of Consumer and Business Services all  
8 schedules and tables of premium rates for life and health insurance to be used on risks in this state,  
9 and shall file any amendments [*to*] or corrections [*of*] **to** such schedules and tables. Premium rates  
10 are subject to approval, disapproval or withdrawal of approval by the director as provided in ORS  
11 742.003, 742.005 and 742.007 **and this section**.

12 (2) Except as provided in ORS 743.737 and 743.760 and subsection (3) of this section, a rate filing  
13 by a carrier for any of the following health benefit plans subject to ORS 743.730 to 743.773 shall be  
14 available for public inspection [*immediately upon*] **no later than three days after** submission of the  
15 filing to the director:

16 (a) Health benefit plans for small employers.

17 (b) Portability health benefit plans.

18 (c) Individual health benefit plans.

19 (3) The director may by rule:

20 (a) Specify all information a carrier must submit as part of a rate filing under this section; and

21 (b) Identify the information submitted that will be exempt from disclosure under this section  
22 because the information constitutes a trade secret and would, if disclosed, harm competition.

23 (4) The director[, *after conducting an actuarial review of the rate filing,*] may approve a proposed  
24 premium rate for a health benefit plan for small employers or for an individual health benefit plan  
25 if[, *in the director's discretion,*] the proposed rates are:

26 (a) Actuarially sound;

27 (b) Reasonable and not excessive, inadequate or unfairly discriminatory; and

28 (c) Based upon reasonable administrative expenses.

29 (5) In order to determine whether the proposed premium rates for a health benefit plan for small  
30 employers or for an individual health benefit plan are reasonable and not excessive, inadequate or

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 unfairly discriminatory, the director [may] **shall** consider:

2 (a) The insurer's financial position, including but not limited to profitability, surplus, reserves  
3 and investment savings.

4 (b) Historical and projected administrative costs and medical and hospital expenses.

5 (c) Historical and projected loss ratio between the amounts spent on medical services and  
6 earned premiums.

7 (d) Any anticipated change in the number of enrollees if the proposed premium rate is approved.

8 (e) Changes to covered benefits or health benefit plan design.

9 (f) Changes in the insurer's health care cost containment and quality improvement efforts since  
10 the insurer's last rate filing for the same category of health benefit plan.

11 (g) Whether the proposed change in the premium rate is necessary to maintain the insurer's  
12 solvency or to maintain rate stability and prevent excessive rate increases in the future.

13 (h) Any public comments received under ORS 743.019 pertaining to the standards set forth in  
14 subsection (4) of this section and this subsection.

15 (6) **The director by order shall approve, disapprove or**, with the written consent of the  
16 insurer, [*the director may*] modify a schedule or table of premium rates filed in accordance with  
17 subsection (1) of this section.

18 (7) The requirements of this section do not supersede other provisions of law that require  
19 insurers, health care service contractors or multiple employer welfare arrangements providing  
20 health insurance to file schedules or tables of premium rates or proposed premium rates with the  
21 director or to seek the director's approval of rates or changes to rates.

22 **SECTION 2.** ORS 743.019 is amended to read:

23 743.019. (1) When an insurer files a schedule or table of premium rates for individual, portability  
24 or small employer health insurance under ORS 743.018, the Director of the Department of Consumer  
25 and Business Services shall open a 30-day public comment period on the rate filing that begins on  
26 the date the insurer files the schedule or table of premium rates. The director shall post all com-  
27 ments to the website of the Department of Consumer and Business Services without delay.

28 (2) The director shall give written notice to an insurer approving or disapproving a rate filing  
29 or, with the written consent of the insurer, modifying a rate filing submitted under ORS 743.018 no  
30 later than 10 business days after the close of the public comment period. The notice shall comply  
31 with the requirements of ORS 183.415.

32 **(3) The director shall post to the department's website:**

33 **(a) All documents filed by an insurer, or filed by a rating organization on behalf of an**  
34 **insurer, in accordance with ORS 743.018.**

35 **(b) Amendments or corrections to documents described in paragraph (a) of this sub-**  
36 **section.**

37 **(c) All orders issued under ORS 743.018 (6).**

38 **SECTION 3.** (1) A person adversely affected or aggrieved by an order approving or mod-  
39 ifying premium rates under ORS 743.018 (6) may file a petition with the Department of Con-  
40 sumer and Business Services to contest the order in the manner provided in this section and  
41 rules adopted by the Director of the Department of Consumer and Business Services. The  
42 proceeding shall be conducted as a contested case in accordance with ORS chapter 183 except  
43 that a petitioner is entitled to pursue all methods of discovery that are permissible under the  
44 Oregon Rules of Civil Procedure. The director may adopt rules limiting discovery only to the  
45 extent necessary to prevent abuse of the process or unreasonable delay.

1       **(2) Information obtained under this section may not be used for any purpose other than**  
2 **for making the findings and determinations described in ORS 743.018 (5). Upon the request**  
3 **of an insurer, the director may issue a protective order to limit subsequent disclosure of**  
4 **information obtained by a petitioner under this section if necessary to protect trade secrets,**  
5 **commercially sensitive information or other confidential information.**

6       **(3) The duties and powers of the director granted by this section are in addition to and**  
7 **not in lieu of the powers of the director under ORS 731.216 to 731.328.**

8       **(4) The director shall issue a final order no later than 30 days after the close of the re-**  
9 **cord of the contested case proceeding under this section. The order shall contain all of the**  
10 **findings of fact and conclusions of law required by ORS 743.018 (5).**

11       **(5) Final orders of the director under this section are subject to judicial review as orders**  
12 **in contested cases under ORS 183.480 to 183.497.**

13       **(6) A petitioner that prevails on judicial review of a final order issued under this section**  
14 **shall be reimbursed for reasonable costs and attorney fees by the department.**

15       **SECTION 4. Section 3 of this 2011 Act and the amendments to ORS 743.018 and 743.019**  
16 **by sections 1 and 2 of this 2011 Act apply to rate filings received by the Director of the De-**  
17 **partment of Consumer and Business Services on or after the effective date of this 2011 Act.**

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