

**PROPOSED AMENDMENTS TO
HOUSE BILL 2605**

1 On page 1 of the printed bill, line 2, after the semicolon insert “creating
2 new provisions; and”.

3 Delete lines 4 through 27 and delete page 2.

4 On page 3, delete lines 1 through 23 and insert:

5 **“SECTION 1. (1) The Department of Consumer and Business Ser-**
6 **vices shall convene a work group of stakeholders and department staff**
7 **to consider modifying the standard for reviewing a rate filing under**
8 **ORS 743.018 (4) to allow the Director of the Department of Consumer**
9 **and Business Services to disapprove a rate only if the rate falls outside**
10 **of a range of rates that are:**

11 **“(a) Actuarially sound;**

12 **“(b) Reasonable and not excessive, inadequate or unfairly**
13 **discriminatory; and**

14 **“(c) Based upon reasonable administrative expenses.**

15 **“(2) The department shall report the findings of the work group to**
16 **the appropriate interim committees of the Legislative Assembly no**
17 **later than September 15, 2016.**

18 **“SECTION 2. ORS 743.018 is amended to read:**

19 **“743.018. (1) Except for group life and health insurance, and except as**
20 **provided in ORS 743.015, every insurer shall file with the Director of the**
21 **Department of Consumer and Business Services all schedules and tables of**
22 **premium rates for life and health insurance to be used on risks in this state,**

1 and shall file any amendments to or corrections of such schedules and tables.
2 Premium rates are subject to approval, disapproval or withdrawal of ap-
3 proval by the director as provided in ORS 742.003, 742.005, [and] 742.007 **and**
4 **743.019.**

5 “(2) Except as provided in ORS 743.737 and subsection (3) of this section,
6 a rate filing by a carrier for any of the following health benefit plans subject
7 to ORS 743.730 to 743.773 shall be available for public inspection immediately
8 upon submission of the filing to the director:

9 “(a) Health benefit plans for small employers.

10 “(b) Individual health benefit plans.

11 “(3) The director may by rule:

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

14 “(b) Identify the information submitted that will be exempt from disclo-
15 sure under this section because the information constitutes a trade secret
16 and would, if disclosed, harm competition.

17 “(4) The director, after conducting an actuarial review of the rate filing,
18 may approve a proposed premium rate for a health benefit plan for small
19 employers or for an individual health benefit plan if, in the director’s dis-
20 cretion, the proposed rates are:

21 “(a) Actuarially sound;

22 “(b) Reasonable and not excessive, inadequate or unfairly discriminatory;
23 and

24 “(c) Based upon reasonable administrative expenses.

25 “(5) In order to determine whether the proposed premium rates for a
26 health benefit plan for small employers or for an individual health benefit
27 plan are reasonable and not excessive, inadequate or unfairly discriminatory,
28 the director may consider:

29 “(a) The insurer’s financial position, including but not limited to profit-
30 ability, surplus, reserves and investment savings.

1 “(b) Historical and projected administrative costs and medical and hospi-
2 tal expenses.

3 “(c) Historical and projected loss ratio between the amounts spent on
4 medical services and earned premiums.

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

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

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

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

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

16 “[6] *With the written consent of the insurer, the director may modify a*
17 *schedule or table of premium rates filed in accordance with subsection (1) of*
18 *this section.*]

19 “[7] (6) The requirements of this section do not supersede other pro-
20 visions of law that require insurers, health care service contractors or mul-
21 tiple employer welfare arrangements providing health insurance to file
22 schedules or tables of premium rates or proposed premium rates with the
23 director or to seek the director’s approval of rates or changes to rates.

24 “**SECTION 3.** ORS 743.019 is amended to read:

25 “743.019. (1) When an insurer files a schedule or table of premium rates
26 for individual or small employer health insurance under ORS 743.018, the
27 [*Director of the*] Department of Consumer and Business Services shall open
28 a 30-day public comment period on the rate filing that begins on the date the
29 insurer files the schedule or table of premium rates. The [*director*] **depart-**
30 **ment** shall post all **of the** comments **received** to the **department’s** website

1 [of the Department of Consumer and Business Services] without delay.

2 “[*(2) The director shall give written notice to an insurer approving or dis-*
3 *approving a rate filing or, with the written consent of the insurer, modifying*
4 *a rate filing submitted under ORS 743.018 no later than 10 business days after*
5 *the close of the public comment period. The notice shall comply with the re-*
6 *quirements of ORS 183.415.*]

7 **“(2) The department shall make a preliminary decision to approve,**
8 **disapprove or modify a rate filing. The department shall notify the**
9 **insurer of, and make available to the public, the preliminary decision,**
10 **including:**

11 **“(a) An explanation of the findings and rationale that are the basis**
12 **for the decision; and**

13 **“(b) Any actuarial or other analyses, calculations or evaluations**
14 **relied upon by the department in arriving at the decision.**

15 **“(3) The department shall provide the insurer or any person ad-**
16 **versely affected or aggrieved by the preliminary decision the opportu-**
17 **nity to meet with the department to discuss and respond to the**
18 **preliminary decision. However, an insurer or other person may not**
19 **substitute new facts or data for the facts or data submitted by the**
20 **insurer in the filing. The meeting shall:**

21 **“(a) Include a department employee who reviewed the rate filing;**
22 **and**

23 **“(b) Comply with the requirements of ORS 192.610 to 192.690.**

24 **“(4)(a) The department may approve a modified rate filing only with**
25 **the written consent of the insurer. An insurer’s consent to the modi-**
26 **fied rate filing does not preclude the insurer from contesting the**
27 **modified rate filing by requesting a reconsideration under subsection**
28 **(6) of this section or by requesting a contested case hearing.**

29 **“(b) If the modified rate filing is reversed as a result of a recon-**
30 **sideration or contested case hearing, the rate filing, as approved in the**

1 reconsideration or final order in a contested case, may take effect on
2 or after the date of the reconsideration or final order, in accordance
3 with rules adopted by the department.

4 “(5)(a) The department shall issue an order, no later than 30 days
5 after the close of the public comment period described in subsection
6 (1) of this section, approving, disapproving or modifying the rate filing
7 based on the information submitted during the public comment period.
8 However, the department may not consider new facts or data that are
9 offered as a substitute for the facts or data submitted by the insurer
10 in the filing. The order shall be mailed to the insurer and posted to
11 the department’s website.

12 “(b) The order must include:

13 “(A) An explanation of the findings and rationale that are the basis
14 for the order, including any actuarial or other analyses, calculations
15 or evaluations relied upon by the department in its findings or ra-
16 tionale; and

17 “(B) Notice of the right of the insurer or any person adversely af-
18 fected or aggrieved by the order to contest the order by requesting:

19 “(i) An expedited reconsideration in accordance with subsection (6)
20 of this section; or

21 “(ii) A contested case hearing in accordance with ORS chapter 183.

22 “(6) If an insurer or a person adversely affected or aggrieved by an
23 order approving, disapproving or modifying a rate filing submits to the
24 department a request for reconsideration no later than 10 days after
25 the date the order is issued under subsection (5) of this section:

26 “(a) The requester may not substitute new facts or data for the
27 facts and data that were submitted by the insurer in the filing, but
28 may provide a brief, memorandum or analysis based on the evidence
29 contained in the filing or received and considered by the department
30 during the public comment period;

1 **“(b) The Director of the Department of Consumer and Business**
2 **Services may not delegate the decision-making authority for the re-**
3 **consideration request to any other individual;**

4 **“(c) The director shall issue a decision on the request for reconsid-**
5 **eration no later than 30 days after the request is received by the de-**
6 **partment; and**

7 **“(d) The decision shall include:**

8 **“(A) An explanation of the findings and rationale that are the basis**
9 **for the decision; and**

10 **“(B) Notice of the right to a contested case hearing in accordance**
11 **with ORS chapter 183.**

12 **“(7) Subsections (2) and (5) of this section do not require the de-**
13 **partment to perform any actuarial or other analyses, calculations or**
14 **evaluations.**

15 **“(8) The department may adopt rules modifying the procedures de-**
16 **scribed in subsections (2) to (6) of this section, but only to the extent**
17 **necessary to comply with 42 U.S.C. 300gg-94.”.**

18 In line 24, delete “3” and insert “4”.

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