FISCAL IMPACT REPORT

SPONSOR SHPAC **LAST UPDATED** 3/9/2023
ORIGINAL DATE 3/7/2023
SHORT TITLE Publicly Funded Health Agency Purchasing **BILL NUMBER** CS/Senate Bill 453/a/SFC
ANALYST Simon

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*
(dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
		$306.2	$291.2	$597.4	Recurring/Nonrecurring	NMPSIA Benefits Fund
		$340	$340	$680	Recurring/Nonrecurring	GSD Benefits Fund
		$300	$300	$600	Recurring/Nonrecurring	APS Benefits Fund
Total		$946.2	$931.2	$1,877.4	Recurring/Nonrecurring	

Parentheses ( ) indicate expenditure decreases.
*Amounts reflect most recent analysis of this legislation.

Is a companion to Senate Bill 484
Relates to appropriation in the General Appropriation Act

Sources of Information

LFC Files

Responses Received From
Public School Insurance Authority (NMPSIA)
Retiree Health Care Authority (RHCA)
General Services Department (GSD)

No Response Received
Albuquerque Public Schools (APS)

SUMMARY

Synopsis of SFC Amendment to Senate Bill 453

The Senate Finance Committee amendment to Senate Health and Public Affairs Committee substitute for Senate Bill 453 exempts the Retiree Health Care Authority from the provisions of the bill.

Synopsis of SHPAC Substitute of Senate Bill 453

The Senate Health and Public Affairs Committee Substitute for Senate Bill 453 (SB453/SHPACS) would require members of the Interagency Benefits Advisory Committee (IBAC) to include requests for both self-insured programs and fully insured programs for health care benefits in all requests when releasing a request for proposals. The bill would require that a contract entered into during FY24 last for not more than one calendar year. For contracts beginning in FY25, the agencies must include requirements that providers be reimbursed through Medicare reference-based pricing. The bill also requires the IBAC entities to submit a joint powers agreement, requires annual open enrollment period for all participants, and requires agencies to conduct claims recovery audits to ensure claims are paid properly and accurately.

This bill does not contain an effective date and, as a result, would go into effect June 16, 2023, (90 days after the Legislature adjourns) if signed into law.

FISCAL IMPLICATIONS

Agency analysis notes the request for proposals process is a lengthy and expensive process. Agencies anticipate additional costs for consulting services and additional staff. Typically, the agencies contract with a benefits consultant to help the agencies design a request and evaluate responses. Significant staff time is required to complete a request for proposals. Agencies state, in total, proposal design, evaluation, contract negotiations, and plan implementation can take 18 months to complete. Because SB453/SHPACS would only add one additional RFP cycle, these costs are assumed to be nonrecurring.

However, agency analysis also indicates additional costs for contracting with a claims auditor to review claims and ensure they are being paid properly and accurately. Theoretically, this claims review process should result in cost savings for the plans; however, it is unclear how many, if any, claims will be found to have been overpaid.

NMPSIA notes it the requirements of SB453/SHPACS would require 1 additional FTE. However, agencies did not note the possibility of interagency coordination on administrative functions to improve efficiency. Previous LFC program evaluations have noted the failure of the IBAC agencies to realize cost savings on administrative tasks.

Analysis from APS is not available, but costs are assumed to be similar to the other agencies.

SIGNIFICANT ISSUES

In 1997, the state enacted the Health Care Purchasing Act, requiring publicly funded health agencies to participate in a consolidated purchasing process in an effort to provide public employees access to more affordable and better quality health benefits through cost containment and the savings produced by consolidated purchasing (See Section 13-7-2 NMSA 1978). The law forms IBAC to provide the agencies with a way to conduct a consolidated purchasing effort for employee benefits programs. The members of IBAC are the General Services Department (GSD), the Public School Insurance Authority (NMPSIA), the Retiree Health Care Authority (RHCA) and Albuquerque Public Schools (APS). Each agency is responsible for their own self-funded insurance plan and each agency designs its plan independently from the others. The

agencies do issue a joint request for proposals, although agencies can select different vendors from the responses. The bill would amend the Health Care Purchasing Act to require the agencies, other than RHCA, to enter into a joint powers agreement. Current law allows the agencies to do this but does not require it.

Consolidated purchasing is one tool state and local governments nationwide have used to address rising health care costs. According to the National Conference of State Legislatures, most states currently allow local governments, public schools, higher education institutions, and other public employers to pool resources to purchase health care benefits. A few states require pooling, to spread risk among multiple public employers and control costs.

Previous LFC program evaluations have noted the IBAC agencies have been unsuccessful at addressing key cost drivers, including high payment rates negotiated on their behalf by commercial carriers. Those program evaluations found the agencies pay higher rates than Medicare for health care services (and Medicare rates are generally higher than Medicaid rates).

The bill would require agencies to solicit proposals for both self-insured plans and fully insured plans. For self-insured plan, the employer offers insurance to employees with its own funds and pays a third-party administrator to process claims. The employer takes on the risk related to health claims. For a fully insured plan, private insurance companies offer coverage and take on the claims risk. According to the National Conference of State Legislatures, 29 states, including New Mexico, have employee benefits programs that are entirely self-insured. Only two states, Idaho and North Dakota, have systems that are entirely fully insured plans. Other states have some self-insured options and some fully insured options.

The bill would require future contracts to base provider rates on Medicare-referenced prices. The bill does not require the agencies to meet a certain threshold for the reference-based price, but would require reimbursements to be referenced. This could potentially provide additional performance data for policymakers to consider when evaluating the effectiveness of the programs.

A recent analysis from the Rand Corporation found some states have successfully used reference based pricing to limit costs. That study found the prices paid by commercial insurers in New Mexico, which includes the state's group benefits programs, were 289 percent of the Medicare reference price, the 14th highest rate in the country. Nationwide, the average was 224 percent, although some states were as low as 175 percent.

Agency analysis notes not all services are currently covered by Medicare and an alternative reference price for some services would be needed. Additionally, agencies suggest the bill could result in a loss of providers:

> The IBAC is a significant commercial payor in New Mexico and a fundamental change in reimbursement methodology will have a drastic impact on the providers payor mix in our state where commercial reimbursement helps support providers who are receiving much lower reimbursement from other government programs. Currently, New Mexican's do not have adequate access to providers and specialists in the current environment and substitute SB453 may create additional constraints as providers may opt to not practice in New Mexico.

Agency analysis further notes:

> SB453 does not specify if Medicare pricing is for in-network providers and out-of-network providers. For in-network claims, Medicare reference-based pricing may cause contract violations due to providers having existing network contracts where reimbursement rates are specified using a method not necessarily tied to Medicare.

However, the bill would only apply to future contracts and does not require a specific Medicare reference price point.

Cost Escalations

Rising health care costs have led agencies to come to the Legislature to seek additional funding for health care costs. For several years, the Retiree Health Care Authority has sought an increase in active employee and employer contributions for the agency. Legislation introduced in the 2023 legislative session would raise an additional $27.2 million per year for the program. For NMPSIA, increasing health insurance rates have proved challenging for public school educators. Advocates have prioritized increasing the share of insurance premiums covered by the state, and the executive budget proposal included $100 million to cover up to 100 percent of health insurance premiums for some employees. For GSD, the department has been reluctant to pass along rising costs, leading to a multi-year rate freeze and a significant deficit in the state's employee benefits fund. This has led GSD to request a total of $95 million in general fund revenue to backfill deficits.

TECHNICAL ISSUES

On Page 4, Lines 2 and 3, language included in the bill implies the Legislative Finance Committee may need to approve the joint powers agreement. Typically, the committee does not approve actions of executive agencies. A separate statute requires the secretary of the Department of Finance and Administration to approve joint powers agreements. The sponsor may wish to clarify that only the secretary would be allowed to approve a joint powers agreement.

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