

OFFICE OF FISCAL ANALYSIS

Legislative Office Building, Room 5200
Hartford, CT 06106 ◊ (860) 240-0200
<http://www.cga.ct.gov/ofa>

sSB-355

AN ACT ESTABLISHING THE 340B DRUG PRICING
NONDISCRIMINATION ACT.

AMENDMENT

LCO No.: 6168

File Copy No.: 354

Senate Calendar No.: 252

OFA Fiscal Note

See Fiscal Note Details

The amendment strikes the underlying bill and its associated fiscal impact, including the savings to the University of Connecticut Health Center and the cost to the Insurance Department, and results in the fiscal impact below.

It appears that the amendment intends to permit, in those cases allowed by federal law, small employers to group together under an association health plan (AHP) and be treated as one large employer in the fully insured market for the purposes of certain insurance laws.¹ To the extent the amendment allows certain associations of small employers to avoid small group rating laws, this would be a change from current law that may result in a fiscal impact to the state.²

¹ The federal Employee Retirement Income Security Act of 1974 (ERISA) permits a narrower definition of an association health plan that can be treated as a single large employer. See, for example, DOL Advisory Opinion 2005-25A, and https://www.cms.gov/CCIIO/Resources/Files/Downloads/association_coverage_9_1_2011.pdf

² It is not clear if the "notwithstanding any provision of the general statutes" clause actually results in a new treatment of bona fide associations compared to current practice described in Connecticut Insurance Department bulletin HC-123, because association health plans are currently permitted. Such plans just must apply individual or small group-applicable laws dependent on the size of employer members of the association health plan.

The amendment results in an indeterminant change to insurance premiums tax revenue to the extent sponsoring associations that provide AHPs to their small employer members 1) meet the federal requirements to operate as a single employer in the large group market, 2) are treated as such by Connecticut, and 3) enroll employers in a way that impacts health plan premiums in the fully insured market.

The amendment may increase or decrease revenue from the state's 1.5% tax on net direct premiums and subscriber charges by changing the total amount of such premiums and subscriber charges subject to the tax beginning as early as the 2023 plan year. While some employers are likely to shift to AHPs to take advantage of lower premiums, such a shift could adversely affect the risk pool and lead to higher premiums in the small group market for those small businesses that remain.^{3,4} It is unknown if total premiums across all fully insured markets may increase or decrease on net. The Department of Revenue Services collected \$202.3 million from the insurance premiums tax in FY 21; it is uncertain how much of that revenue was collected on health plan premiums and subscriber charges that could be affected by the amendment.

The amendment also requires the Insurance Department to adopt implementing regulations, which has no fiscal impact.

The preceding Fiscal Impact statement is prepared for the benefit of the members of the General Assembly, solely for the purposes of information, summarization and explanation and does not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

³ Large group plans are not subject to the adjusted community rating requirements in the small group market, which can lead to lower premiums for lower risk-populations.

⁴ This is just one possible way the amendment may impact total premiums subject to the insurance premiums tax.