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SENATE BILL 24-073

BY SENATOR(S) Smallwood and Rodriguez, Bridges, Buckner, Cutter, Exum, Ginal, Hansen, Kirkmeyer, Lundeen, Mullica, Priola, Van Winkle; also REPRESENTATIVE(S) Velasco and Titone, Bacon, Bird, Clifford, Duran, Epps, Hernandez, Herod, Jodeh, Lieder, Lindsay, Mabrey, Marshall, Sirota.

CONCERNING A CHANGE TO THE MAXIMUM NUMBER OF EMPLOYEES THAT AN EMPLOYER MAY EMPLOY TO QUALIFY AS A SMALL EMPLOYER FOR HEALTH-CARE INSURANCE COVERAGE.

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** In Colorado Revised Statutes, 10-16-102, **amend** (40.5)(a) introductory portion, (40.5)(a)(II), (61)(b) introductory portion, and (61)(b)(II) as follows:

**10-16-102. Definitions.** As used in this article 16, unless the context otherwise requires:

(40.5) (a) "Large employer" means any person ~~firm, corporation, partnership, or association~~ that:

*Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.*

(II) Employed an average of more than ~~one hundred~~ FIFTY eligible employees on business days during the immediately preceding calendar year, except as provided in subsection (40.5)(c) of this section; and

(61) (b) ~~Effective January 1, 2016, "Small employer" means any person firm, corporation, partnership, or association that:~~

(II) Employed an average of at least one but not more than ~~one hundred~~ FIFTY eligible employees on business days during the immediately preceding calendar year, except as provided in ~~paragraph (c) of this subsection (61)~~ SUBSECTION (61)(e) OF THIS SECTION; and

**SECTION 2.** In Colorado Revised Statutes, 10-16-105.1, **amend** (3.5) as follows:

**10-16-105.1. Guaranteed renewability - exceptions - individual and small employer health benefit plans - rules.** (3.5) (a) If a carrier issues a small group health benefit plan to a small employer that, at the time the plan was issued, was a small employer but subsequently employs more than ~~one hundred~~ FIFTY eligible employees, this article 16 and any rules promulgated by the commissioner concerning small group health benefit plans continue to apply to the health benefit plan as long as the employer renews its current small group health benefit plan or a similar plan offered by the carrier pursuant to subsection (3.5)(b) of this section, in accordance with the renewal requirements applicable to other small group health benefit plans subject to this article 16 and rules promulgated by the commissioner pursuant to this article 16.

(b) If a small employer was issued a small group health benefit plan and subsequently employs more than ~~one hundred~~ FIFTY employees and the employer opts to renew the small group health benefit plan, the carrier that issued the small group health benefit plan shall offer the employer the same small group health benefit plan or, if the same plan is no longer being offered to any small employer, a similar small group health benefit plan that the carrier offers to other small employers.

(c) A carrier that issued a small group health benefit plan to a small employer shall notify the employer, within sixty days after becoming aware that the employer employs more than ~~one hundred~~ FIFTY employees, but no later than the anniversary date of the issuance of the employer's health

benefit plan, that the provisions of Colorado law governing small group health benefit plans will cease to apply to the employer if the employer fails to renew its current small group health benefit plan or elects to enroll in a different health benefit plan.

(d) (I) IF AN EMPLOYER WAS ISSUED A SMALL GROUP HEALTH BENEFIT PLAN BEFORE JANUARY 1, 2026, AND EMPLOYS BETWEEN FIFTY-ONE AND ONE HUNDRED EMPLOYEES, THE EMPLOYER MAY ELECT TO REMAIN IN THE SMALL GROUP HEALTH BENEFIT MARKET FOR FIVE YEARS AFTER THE DATE OF THE ISSUANCE OF THE EMPLOYER'S EXISTING HEALTH BENEFIT PLAN OR ELECT TO ENTER THE LARGE GROUP HEALTH BENEFIT MARKET AT THE EXPIRATION OF THE EMPLOYER'S EXISTING HEALTH BENEFIT PLAN.

(II) (A) AN EMPLOYER THAT WAS ISSUED A SMALL GROUP HEALTH BENEFIT PLAN BEFORE JANUARY 1, 2026, AND EMPLOYS BETWEEN FIFTY-ONE AND ONE HUNDRED EMPLOYEES MAY SWITCH BETWEEN SMALL GROUP HEALTH BENEFIT PLANS BEING OFFERED BY THE CARRIER FOR FIVE YEARS AFTER THE DATE OF THE ISSUANCE OF THE EMPLOYER'S HEALTH BENEFIT PLAN.

(B) AN EMPLOYER THAT SWITCHES BETWEEN SMALL GROUP HEALTH BENEFIT PLANS OFFERED BY THE CARRIER MUST SWITCH TO A SMALL GROUP HEALTH BENEFIT PLAN THAT IS ONE METAL LEVEL ABOVE OR BELOW THE EMPLOYER'S EXISTING SMALL GROUP HEALTH BENEFIT PLAN.

(III) IF AN EMPLOYER THAT WAS ISSUED A SMALL GROUP HEALTH BENEFIT PLAN BEFORE JANUARY 1, 2026, AND EMPLOYS BETWEEN FIFTY-ONE AND ONE HUNDRED EMPLOYEES ELECTS TO ENTER THE LARGE GROUP HEALTH BENEFIT MARKET AND NOT TO CONTINUE RECEIVING COVERAGE UNDER A SMALL GROUP HEALTH BENEFIT PLAN BEFORE THE EXPIRATION OF THE FIVE-YEAR PERIOD DESCRIBED IN SUBSECTION (3.5)(d)(I) OF THIS SECTION, THE EMPLOYER MAY NOT SWITCH BACK TO RECEIVING SMALL GROUP HEALTH BENEFIT COVERAGE WITHIN THE FIVE-YEAR PERIOD AND IS CLASSIFIED AS A LARGE EMPLOYER, AS DEFINED IN SECTION 10-16-102 (40.5).

(e) (I) ON OR BEFORE JULY 1, 2025, CARRIERS OFFERING SMALL GROUP HEALTH BENEFIT PLANS SHALL SUBMIT TO THE COMMISSIONER TWO RATE FILINGS FOR PLAN YEAR 2026. THE TWO RATE FILINGS MUST DEMONSTRATE THE IMPACT OF SENATE BILL 24-073, ENACTED IN 2024, ON PREMIUMS FOR SMALL GROUP HEALTH BENEFIT PLANS FOR EMPLOYERS WITH

FEWER THAN FIFTY-ONE ELIGIBLE EMPLOYEES.

(II) THIS SUBSECTION (3.5), SECTION 10-16-102 (40.5) AND (61), AND SECTION 10-16-1401 (15), AS AMENDED BY SENATE BILL 24-073, ENACTED IN 2024, WILL BE REPEALED IF THE RATE FILINGS SUBMITTED BY CARRIERS PURSUANT TO SUBSECTION (3.5)(e)(I) OF THIS SECTION DEMONSTRATE THAT THE PREMIUMS FOR THE MAJORITY OF INDIVIDUALS COVERED BY SMALL GROUP HEALTH BENEFIT PLANS WOULD INCREASE BY MORE THAN THREE PERCENT AFTER ACCOUNTING FOR NORMAL PREMIUM TRENDS FOR SMALL GROUP HEALTH BENEFIT PLANS.

(III) THE COMMISSIONER SHALL NOTIFY THE REVISOR OF STATUTES IN WRITING OF THE DATE WHEN THE CONDITIONS SPECIFIED IN SUBSECTION (3.5)(e)(II) OF THIS SECTION HAVE OCCURRED BY E-MAILING THE NOTICE TO REVISOROFSTATUTES.GA@COLEG.GOV. THIS SUBSECTION (3.5), SECTION 10-16-102 (40.5) AND (61), AND SECTION 10-16-1401 (15), AS AMENDED BY SENATE BILL 24-073, ENACTED IN 2024, ARE REPEALED UPON THE DATE IDENTIFIED IN THE NOTICE THAT THE CONDITIONS SPECIFIED IN SUBSECTION (3.5)(e)(II) OF THIS SECTION HAVE OCCURRED OR, IF THE NOTICE DOES NOT SPECIFY THAT DATE, UPON THE DATE OF THE NOTICE TO THE REVISOR OF STATUTES.

(IV) NOTWITHSTANDING SECTION 10-16-155, THE COMMISSIONER SHALL UTILIZE RESOURCES ALLOCATED FOR ACTUARIAL REVIEW PURSUANT TO SECTION 10-16-155 TO ANALYZE THE RATE FILINGS SUBMITTED BY CARRIERS PURSUANT TO SUBSECTION (3.5)(e)(I) OF THIS SECTION.

**SECTION 3.** In Colorado Revised Statutes, 10-16-155, **amend** (9) as follows:

**10-16-155. Actuarial reviews of proposed health-care legislation - division to contract with third parties - required considerations - confidentiality - limits on expenditures - rate filings - repeal.** (9)

(a) Notwithstanding any other provision of this section to the contrary, the division shall not engage any contractor to perform an actuarial review as described in this section unless the division determines that there are adequate resources available within existing appropriations to compensate the contractor for the actuarial review.

(b) AFTER JULY 1, 2025, THE DIVISION SHALL USE RESOURCES

ALLOCATED FOR ACTUARIAL REVIEWS OF LEGISLATIVE PROPOSALS PURSUANT TO THIS SECTION FOR THE REVIEW OF RATE FILINGS FILED WITH THE COMMISSIONER PURSUANT TO SECTION 10-16-105.1 (3.5)(e).

(c) IN THE EVENT THAT THE DIVISION DETERMINES THERE ARE NOT ADEQUATE RESOURCES AVAILABLE WITHIN EXISTING APPROPRIATIONS TO COMPENSATE THE CONTRACTOR FOR AN ACTUARIAL REVIEW IN ACCORDANCE WITH SUBSECTION (9)(a) OF THIS SECTION, THE DIVISION SHALL PRIORITIZE RESOURCES TO ENSURE THAT AN ACTUARIAL REVIEW OF THE RATE FILINGS SUBMITTED TO THE COMMISSIONER PURSUANT TO SECTION 10-16-105.1 (3.5)(e) OCCURS BEFORE DECEMBER 31, 2025.

**SECTION 4.** In Colorado Revised Statutes, 10-16-1401, **amend** (15)(a) introductory portion and (15)(a)(II) as follows:

**10-16-1401. Definitions.** As used in this part 14, unless the context otherwise requires:

(15) (a) "Large employer" means any person ~~firm, corporation, partnership, or association~~ that:

(II) Employed an average of more than ~~one hundred~~ FIFTY eligible employees on business days during the immediately preceding calendar year, except as provided in subsection (15)(c) of this section; and

**SECTION 5. Effective date.** This act takes effect January 1, 2026; except that section 10-16-105.1 (3.5)(e), Colorado Revised Statutes, as enacted in section 2 of this act, and sections 3, 5, and 6 of this act take effect upon passage.

**SECTION 6. Safety clause.** The general assembly finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety or for appropriations for

the support and maintenance of the departments of the state and state institutions.

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Steve Fenberg  
PRESIDENT OF  
THE SENATE

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Julie McCluskie  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES

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Cindi L. Markwell  
SECRETARY OF  
THE SENATE

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Robin Jones  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES

APPROVED \_\_\_\_\_

(Date and Time)

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Jared S. Polis  
GOVERNOR OF THE STATE OF COLORADO