

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** PCS for HB 773 Coverage for Diagnostic and Supplemental Breast Examinations

**SPONSOR(S):** Select Committee on Health Innovation

**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Select Committee on Health Innovation		Lloyd	Calamas

**SUMMARY ANALYSIS**

Breast cancer is the second most common form of cancer diagnosed in women and it is estimated that one in eight women will be diagnosed with breast cancer in her lifetime. It accounts for 30 percent of all new cancers in the United States each year. The median age at which a woman is diagnosed is age 62 with a very small percentage of women who are diagnosed under the age of 45. Survival rates have been increasing steadily since 1989 which many believe is tied to increases in awareness as well as advances in treatment options. For Florida, over 3,200 Floridians died of breast cancer in 2022, for a five-year impact adding up to 15,666 deaths. The number of new breast cancer diagnoses far outpaces that of any other cancer.

Biennial breast cancer screenings are included in mandatory coverage requirements under federal law; insured women within the recommended age range are currently eligible to receive a preventive screening every other year without any out of pocket costs. Should more detailed testing or diagnostic mammograms be necessary, however, those services are not federally mandated and, depending on the patient's health care coverage plan, would likely be subject to out of pocket costs similar to any other kind of diagnostic testing.

The state employee group health plan, administered by the Department of Management Services, provides health coverage for state employees, retirees, and their dependents. Currently, enrollees have no out of pocket cost for diagnostic and preventive imaging performed by an in-network provider. However, out of pocket costs for supplemental or diagnostic imaging may vary by contractor.

The PCS for HB 773 prohibits copayments and other cost sharing for supplemental or diagnostic breast imaging within the state employee group health plan, for plans that cover such services. The prohibition is effective January 1, 2025, consistent with the start of the new plan year.

The bill has a significant negative fiscal impact on the state employee group health plan, and no fiscal impact on state government.

The bill has an effective date of January 1, 2025.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

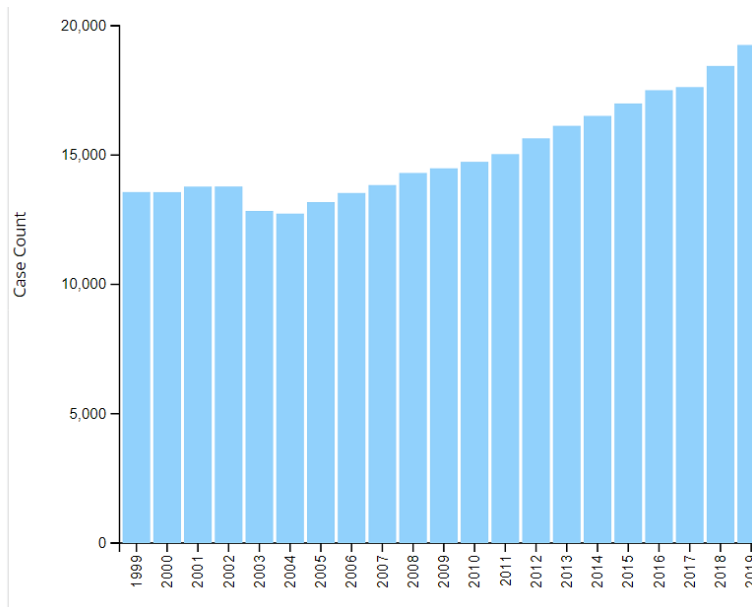
#### Background

#### Breast Cancer

Breast cancer is the second most common form of cancer diagnosed in women and it is estimated that one in eight women will be diagnosed with breast cancer in her lifetime.<sup>1</sup> It accounts for 30 percent of all new cancers in the United States each year.<sup>2</sup> The median age at which a woman is diagnosed is age 62 with a very small percentage of women who are diagnosed under the age of 45.<sup>3</sup> In its 2016 review of the screening guidelines, the United States Preventive Services Task Force (USPSTF) noted that the national mean age at diagnosis has remained virtually unchanged at 64 years since the late 1970s and the median age at time of death is 68 years during the same time as technology and screening percentages have increased significantly.<sup>4</sup>

The number of new diagnoses from 2022 data far outpaces the rate of any other types of new cancer cases. Female breast cancer cases were diagnosed at a rate of 114.9 per 100,000 women in Florida. The next closest diagnosis rate was for lung and bronchus cancer at 44 cases per 100,000 women.<sup>5</sup> The chart below shows the number of new female breast cancer diagnoses annually for the most recent 10-year period in which data is available.<sup>6</sup>

Annual Number of New Breast Cancers, Female, all Races and Ethnicities – Florida 1999-2020



<sup>1</sup> American Cancer Society, *Key Statistics for Breast Cancer*, [Breast Cancer Statistics | How Common Is Breast Cancer? | American Cancer Society](#) (last visited January 27, 2024).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> Albert L. Siu, M.D. MSPH, on behalf of the U.S. Preventive Services Task Force, *Screening for Breast Cancer: U.S. Preventive Services Task Force Recommendation Statement*, *ANNALS OF INTERNAL MED.*, (February 16, 2016, Clinical Guideline) available at [Recommendation: Breast Cancer: Screening | United States Preventive Services Taskforce \(uspreventiveservicestaskforce.org\)](#) (last visited January 28, 2027).

<sup>5</sup> *Supra*, note 1.

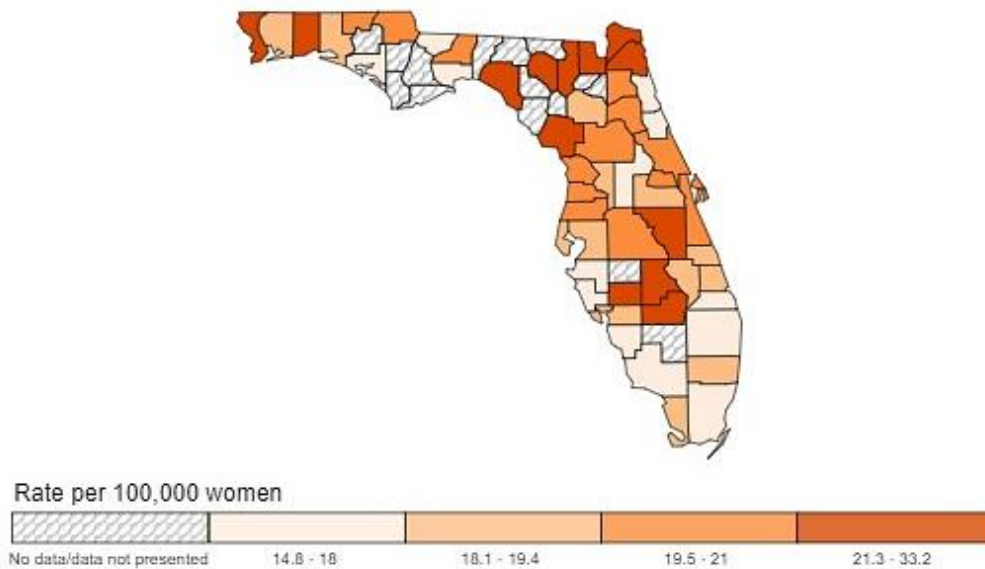
<sup>6</sup> Centers for Disease Control and Prevention, *U.S. Cancer Statistics Data Visualizations Tool*, (1999-2020 data), U.S. Department of Health and Human Services, Centers for Disease Control and Prevention and National Cancer Institute (released in November 2023); available at [USCS Data Visualizations - CDC](#) <https://gis.cdc.gov/Cancer/USCS/-/Trends/> (last visited January 27, 2024).

The survival rate for female breast cancer is high. At five years, the relative survival rate for all races and ethnicities is 90 percent.<sup>7</sup> When broken down by race and ethnicity, the five-year survival rate shows an almost 10-point difference between Black, non-Hispanic women and several other race and ethnicity groups, as shown below.

5-Year Relative Survival: Female Breast Cancer By Race and Ethnicity – National Rates	
Race, Ethnicity	5-Year Survival %
White, Non-Hispanic	91.5
Black, Non-Hispanic	82.9
American Indian and Alaska Native, Non-Hispanic	88.4
Asian and Pacific Islander, Non-Hispanic	91.7
Hispanic	88.8
<b>All Races, All Ethnicities</b>	<b>90.3</b>

Over 3,200 Floridians died of breast cancer in 2022, for a five-year impact adding up to 15,666 deaths.<sup>8</sup> For 2020, the rate of cancer deaths, all races and ethnicities for Florida, was 17.8 per 100,000 women. Higher rates of breast cancer deaths appear in small clusters in many rural areas of the Panhandle having insufficient numbers to provide a range for reporting purposes. For 2020, the statewide rate of breast cancer deaths was 17.8 per 100,000 women.<sup>9</sup>

### Rate of Cancer Deaths in Florida Female Breast, All Ages, All Races and Ethnicities, Female, 2016-2020



<sup>7</sup> *Id.*

<sup>8</sup> Florida Department of Health, *FLHealthCharts, Deaths Counts Query* (query run January 28, 2024) available at: [https://www.flhealthcharts.gov/FLQUERY\\_New/Death/Count](https://www.flhealthcharts.gov/FLQUERY_New/Death/Count) (last visited January 28, 2024).

<sup>9</sup> *Supra*, note 5.

## Risks and Risk Factors

There are no absolute ways to prevent breast cancer as there might be with other forms of cancer; however, there are some risk factors that may increase a woman's chances of receiving a diagnosis. Some risk factors that are out of an individual's control are:

- Being born female;
- Aging beyond 55;
- Inheriting certain gene changes;
- Having a family or personal history of breast cancer;
- Being of certain race or ethnicity;
- Being taller;
- Having dense breast tissue;
- Having certain benign breast conditions;
- Starting menstrual periods early, usually before age 12;
- Having radiation to the chest; and
- Being exposed to the drug, diethylstilbestrol (DES).<sup>10</sup>

For many of the factors above, it is unclear why these particular characteristics make an individual more susceptible to a cancer diagnosis other than perhaps being female. Other risk factors can be related to personal behaviors such as drinking alcohol excessively, being overweight or obese, not having children, or being less physically active.<sup>11</sup>

However, men can and do receive breast cancer diagnoses, just in very small numbers. About one in every 100 breast cancers diagnosed in the United States is found in a man.<sup>12</sup> For men, unique risk factors from those listed above may include genetic mutations, liver disease, conditions which affect the testicles, and the genetic condition known as Klinefelter syndrome.<sup>13</sup>

The USPSTF has called out advancing age as the most important risk factor for breast cancer in most women.<sup>14</sup> Age is also key in the factors cited by the USPSTF for when the net benefit of a regular biennial or annual mammogram screening for a person at regular risk may no longer be positive. For women between the ages of 70 to 74, the risks begin to outweigh the benefit, especially if the woman has other co-existing health conditions.<sup>15</sup> For those aged 75 and older, the USPSTF found insufficient evidence to be able to assess whether screening mammograms for those age 75 offered a net benefit. While a screening mammogram's risks as a procedure is considered to be a low risk, the principal harms identified were concerns of both over-diagnosis and under-diagnosis coupled with the anxiety caused by the follow-up procedures and false positives.

Beyond age, the next greatest risk factors are tied to hereditary and familial factors. About 5 to 10 percent of women who develop breast cancer have a mother or sister who also has breast cancer.<sup>16</sup> Additionally, while white women have had historically higher incident rates of cancer than African-American women; however, significantly more African American women die annually.

## Prevention and Screenings

Having regular screenings for breast cancer are important as screenings aid in finding cancer early. Early detection with breast cancer gives an individual the best chance at successful treatment and higher incidences of survival.

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<sup>10</sup> American Cancer Society, Breast Cancer Risk Factors You Cannot Change, available at Breast Cancer Risk Factors You Can't Change | American Cancer Society (last visited January 28, 2027).

<sup>11</sup> American Cancer Society, Lifestyle -related Breast Cancer Risk Factors, available at Lifestyle-related Breast Cancer Risk Factors | American Cancer Society (last visited January 28, 2024).

<sup>12</sup> Centers for Disease Control and Prevention, Breast Cancer in Men, available at <https://www.cdc.gov/cancer/breast/men/> (last visited January 27, 2024).

<sup>13</sup> *Id.*

<sup>14</sup> *Supra*, note 4.

<sup>15</sup> *Id.*

<sup>16</sup> *Supra*, note 4.

A mammogram is an x-ray picture of the breast which may be able to detect breast cancer up to three years before it can be felt.<sup>17</sup> A screening mammography can often find evidence before there is any other evidence or symptoms of the cancer.

In October 2015, the American Cancer Society (ACS) modified its screening guidelines for women at average risk to start annual screenings at age 45, instead of age 40. Under the revised guidelines, it was recommended that women could still begin getting mammograms yearly from age 40 to 44 if they chose that screening pattern. The ACS guideline further recommended that beginning at age 55, women at average risk could transition to biennial screening. The change in the guideline was based on the ACS' finding that the evidence showed that the risk of cancer for women ages 40 to 44 was lower than the risk of harm associated with unnecessary biopsies.<sup>18</sup>

The accuracy of mammography is not 100 percent; however, detection through mammography does improve with a woman's age and has an overall accuracy rate of 85 percent.<sup>19</sup> Women should also be prepared by their health care practitioners of the chances of a callback back for a supplemental test. Approximately 10 percent of women are recalled for further testing or evaluation with an additional mammography, an ultrasound, or sometimes a biopsy.<sup>20</sup>

Biennial breast cancer screenings are included on the USPSTF list of recommended preventive services as part of the Essential Health Benefits coverages for women ages 50 to 74 years old with a "B" score.<sup>21</sup> With inclusion in the EHB package, preventive breast cancer screenings for insured women within the recommended age range qualify for the service from a network provider at no cost sharing. Should more detailed testing or diagnostic mammograms be necessary; however, those services are generally no longer considered to be preventive. Depending on the insured's insurance coverage plan, the additional diagnostic services, if covered, would incur the insured's regular out of pocket costs for diagnostic testing and be subject potentially to the insured's co-insurance or deductible requirements.

A health care provider may order additional tests like these below to make a further evaluation of a screening mammogram or to make additional treatment decisions:<sup>22</sup>

- **A breast ultrasound** uses machine-generated sound waves, called sonograms, to make pictures of areas inside the breast.
- **Diagnostic mammogram** may be used if a problem such as a lump, or an abnormal area has been located on a screening mammogram. The diagnostic mammogram is more a detailed x-ray of the breast.
- **Breast magnetic resonance imaging (MRI)** scans the body with a magnet linked to a computer. The MRI can make detailed pictures of areas inside the breast.
- **Biopsy** is a test that removes tissue or fluid from the breast to looked at under a microscope and to perform more testing. A biopsy can be done as a fine-needle, aspiration, core biopsy, or an open biopsy.

The percentage of Florida women over the age of 50 who undergo breast cancer screenings has steadily increased. However, women in certain Florida communities and women who are uninsured or underinsured women face challenges in accessing breast cancer screenings. Florida's overall

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<sup>17</sup> Centers for Disease Control and Prevention, *What is a Mammogram?* available at: [What Is a Mammogram? | CDC](#) What Is a Mammogram? | CDC, (last visited January 28, 2024).

<sup>18</sup> American Cancer Society, *Frequently Asked Questions About the American Cancer Society's Breast Cancer Screening Guidelines*, available at [What Is a Mammogram? | CDC](#) (last visited January 28, 2024).

<sup>19</sup> *Id.*

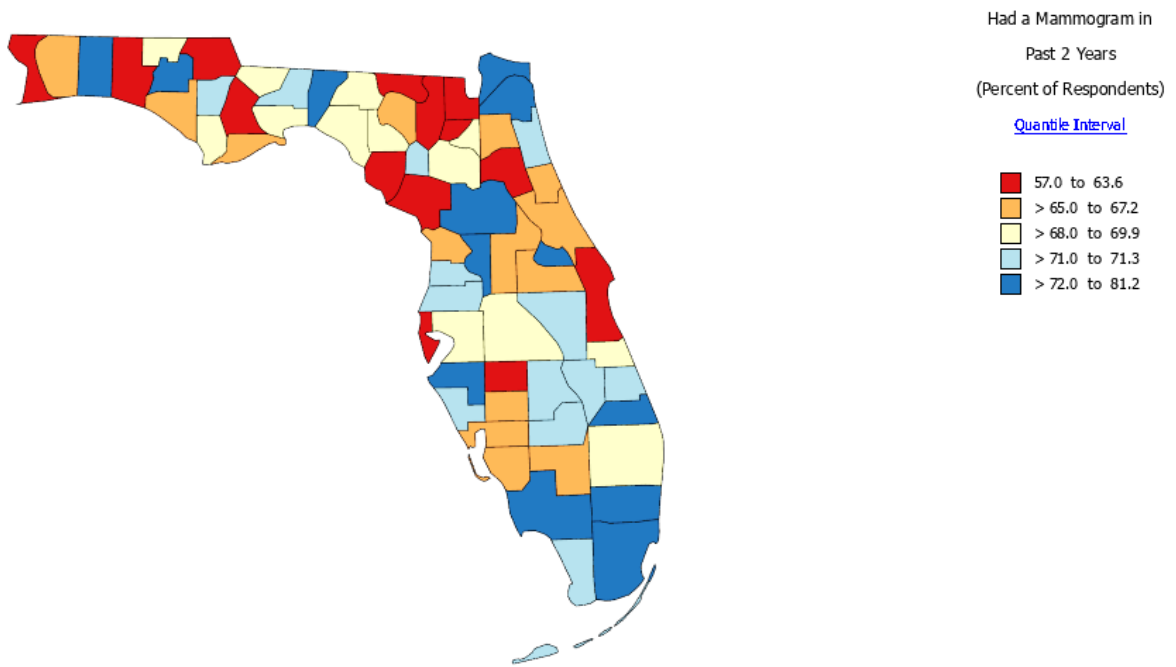
<sup>20</sup> *Id.*

<sup>21</sup> Under the Affordable Care Act, benefits identified by the United States Preventive Services Task Force as having an "A" or B" effectiveness rating must be covered as an essential health benefit with no cost sharing to an individual insured under a qualified health plan with in-network providers.

<sup>22</sup> Centers for Disease Control and Prevention, *How is Breast Cancer Diagnosed?* Available at [How Is Breast Cancer Diagnosed? | CDC](#) (last visited January 27, 2028).

screening rate for women over the age of 40 is 73.27 percent which is slightly higher than the national average of 71.5 percent.<sup>23</sup>

**Screening and Risk Factors for Florida by County  
(2017-2019 County Level Modeled Estimates Combining BRFSS & NHIS)  
Had a Mammogram in Past 2 Years  
All Races (includes Hispanic), Female, Ages 40+**



## State Employee Health Plan

The State of Florida offers its eligible employees, retirees, and their dependents a rich benefits package which includes comprehensive health insurance coverage. The Division of State Group Insurance (DSGI) within the Department of Management Services (DMS) administers the state group health insurance program (Program) under Ch. 110, F.S. The Program is a cafeteria plan managed consistent with section 125 of the Internal Revenue Service Code.<sup>24</sup> To administer the program, DSGI contracts with third party administrators for self-insured plans and fully insured HMOs to offer both standard and high deductible policies. For the 2024 Plan Year which began January 1, 2024, the HMO plans under contract with DSGI are Aetna, Capital Health Plan, and United Healthcare, and the PPO plan is Florida Blue.<sup>25</sup>

### Breast Cancer Screening Coverage

Currently, the Program covers 100 percent of the costs of screening, preventive mammograms, (consistent with federal requirements related to essential health benefits coverage). Out of pocket costs, such as copayments, may vary for supplemental and diagnostic imaging based on the enrollee's plan and the provider selected.

### Effects of Proposed Changes

<sup>23</sup> National Cancer Institute, *State Cancer Profiles – Florida* (map and data generated on January 28, 2024) available at [State Cancer Profiles > Screening and Risk Factors Table](#) (last visited January 28, 2024).

<sup>24</sup> A section 125 cafeteria plan is a type of employer offered, flexible health insurance plan that provides employees a menu of pre-tax and taxable qualified benefits to choose from, but employees must be offered at least one taxable benefit such as cash, and one qualified benefit, such as a Health Savings Account.

<sup>25</sup> Department of Management Services, Division of State Group Insurance, *2024 Open Enrollment Brochure for Active State Employee Participants*

PCS for HB 773 requires state group health insurance products which provide coverage for diagnostic and supplemental breast examinations to provide that coverage without imposing any cost sharing liability on the insured, such as a deductible, copayment, coinsurance, or cost-sharing. While current plans provide diagnostic breast examinations without cost sharing, cost sharing for supplemental examinations vary. The bill provides parameters for what constitutes supplemental breast examinations, prohibiting cost sharing for examinations that are:

- Medically necessary and appropriate examinations which may include magnetic resonance imaging and ultrasounds and other types of examinations;
- Used when no abnormality is seen or suspected; and
- Based on family medical history or other increased risk factors.

Under the bill, the state group plan will be responsible for the entire payment to the diagnostic and supplemental breast examination provider.

The effective date of the bill is January 1, 2025.

#### B. SECTION DIRECTORY:

- Section 1:** Amends s. 110.123, F.S., relating to state group insurance program.  
**Section 2:** Provides an effective date.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

The bill's prohibition on out of pocket costs for diagnostic and supplemental breast examinations in will reduce revenue to the program, generating a need cover the additional costs with increased premiums.

##### 2. Expenditures:

This benefit change has the potential to generate a higher insurance premium for the state group health plan. Historically, the state has covered premium inflation in the Program with General Revenue, rather than pass on premium increases to employees.

The DSGI estimated the fiscal impact would be \$4.1 million annually based on reductions in out of pocket costs.<sup>26</sup> DSGI did not estimate the cost of increased utilization.

#### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

##### 1. Revenues:

None.

##### 2. Expenditures:

None.

#### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill's prohibition on cost sharing may increase business revenue for diagnostic imaging providers, if state group health plan enrollees increase their utilization of breast exams as a result of the bill.

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<sup>26</sup> Department of Management Services, 2023 Legislative Bill Analysis – SB 460 (February 8, 2023) (on file with the Select Committee on Health Innovation).

D. FISCAL COMMENTS:

None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The DSGI has sufficient rule-making authority under current law to implement the bill's provisions.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**