Health Impact Assessment Legislation in the States

Overview

Health care consumes a large percentage of state budgets, and legislators are looking for ways to reduce those costs and improve the public’s health. One way to meet these goals is by identifying and addressing the health risks and benefits of public policy decisions made outside the health sector in areas such as transportation, housing, education, natural resources and energy, and the economy. Health impact assessments (HIAs) bring together public health expertise, scientific data, and stakeholder input to evaluate the potential health effects of proposed policy changes and to develop practical solutions that minimize risks and maximize health benefits. Government officials, academics, nongovernmental organizations, and industry have used this flexible, data-driven approach in communities across the country.

HIAs can help state decision-makers and local communities craft smarter policies that protect the public’s health; facilitate collaboration between government agencies, health officials, and constituent groups; and streamline the way health concerns are integrated into policy decisions. According to the National Research Council, HIA is a promising tool to improve people’s health and decrease health care costs because of its “broad applicability, its focus on adverse and beneficial health effects, its ability to incorporate various types of evidence, and its emphasis on stakeholder participation.”

The National Conference of State Legislatures (NCSL) in consultation with the Health Impact Project, a collaboration of the Robert Wood Johnson Foundation and The Pew Charitable Trusts, recently examined states that are considering the use or aspects of HIAs. NCSL reviewed state legislation and conducted interviews with state legislators, legislative staff, and personnel of state agencies responsible for implementing HIA policy to gain insight into the variety of approaches and respondents’ impressions of HIAs.
NCSL's review found that since 2009, 17 states considered 56 bills that would create a mandate for some consideration of health effects when making decisions on proposed policies, plans, or projects. Many of the analyses proposed in these bills would not fit the strict definition of an HIA, but eight states have considered legislation that incorporated most elements of a formal HIA. (See examples in Table 1.) Although the majority of these bills were not enacted, NCSL's review demonstrated that state policymakers are increasingly exploring how HIAs can help identify the potential and often overlooked health consequences of policies, plans, programs, and projects across a range of sectors.

This issue brief looks at several states' legislative efforts to promote the use of HIAs and highlights key considerations for lawmakers interested in developing bills that can advance the implementation of assessments in their states to reduce costs and improve public health.

The Six Steps of Health Impact Assessment

Health Impact Assessment is “a systematic process that uses an array of data sources and analytic methods and considers input from stakeholders to determine the potential effects of a proposed policy, plan, program, or project on the health of a population and the distribution of those effects within the population. HIA provides recommendations on monitoring and managing those effects.”

HIA has six basic steps and encourages public input at each stage.

• **Screening**: Determine whether an HIA is needed and likely to be useful.

• **Scoping**: Identify the potential health risks and benefits associated with the policy, plan, program, or project under consideration and develop a work plan and timeline for the HIA.

• **Assessing**: Describe the baseline health of affected communities and assess the potential effects of the policy, plan, program, or project.

• **Developing recommendations**: Develop practical solutions that can be implemented within the political, economic, or technical limitations of the policy, plan, program, or project.

• **Reporting**: Disseminate the findings to decision-makers, affected communities, and other stakeholders.

• **Monitoring and evaluating**: Monitor the changes in health or health risk factors and evaluate the efficacy of the measures that are implemented and the HIA process as a whole.


Case studies: Sample HIA legislation across the states

Transportation policy in Massachusetts

Transportation projects such as roads, highways, public transit, and pedestrian and bicycle accommodations, can affect a range of factors important to health, such as air quality; whether people can safely exercise or walk to school; and access to healthy foods, employment, and education. Public health research shows that well-planned transportation projects offer a prime opportunity to improve health.

In recognition of this, the Massachusetts Legislature in 2009 enacted what is commonly known as the “Healthy Transportation Compact,” which establishes the use of HIAs to “determine the effect of transportation projects on public health and vulnerable populations.” The act also requires outreach to identify community concerns before making decisions on transportation projects. The interagency initiative includes the secretaries of transportation, health and human services, energy and environmental affairs, and housing and economic development, as well as the highway administrator, transit administrator, and commissioner of public health. These agencies have tested HIA for one planning project and are developing criteria for deciding when assessments are needed and the procedures for conducting them.

Health impact reviews in Washington

In 2006, the Washington state Legislature created the governor’s interagency coordinating council on health disparities, defined as the often-higher rates of illness and mortality among people with lower incomes and those from racial and ethnic minority groups in contrast to other population groups. The law authorized health impact reviews as one mechanism to address this problem. These reviews are intended to help policymakers understand how proposed legislation might affect what the Legislature termed “social determinants of health”— education, jobs, and access to safe housing and healthy foods, for example—that are known to influence health and health disparities.

Under the law, a state legislator or the governor can request a review of a legislative or budgetary proposal, and the resulting study must include “the best available empirical information and professional assumptions” and must consider how the proposal could affect social determinants of health and health disparities. For requests submitted during a legislative session, reviews must be completed by the state board of health within 10 days. To ensure that the board of health did not face unreasonable demands, and in the interests of analytic quality and budget and resource management, the legislation gave the board the authority to limit the number of reviews it produces.

Environmental policy in Alaska

Major federal or state environmental decisions, such as the placement of a new highway, allowable use of public lands, or permitting of large industrial facilitates, require an extensive list of studies, including assessments of environmental impact and studies of the potential effects on endangered species as well as on historical, cultural, and economic resources. Legislators from a number of states have proposed integrating HIAs into this process.

In 2005, a local health department and several tribal organizations in Alaska began using HIAs to integrate health considerations into environmental impact statements for oil, gas, and mining projects. Building on these efforts, in 2010, H. B. 399 sought to integrate HIAs into state environmental policy. The bill mandated an analysis of health effects for any project that required an environmental assessment or impact statement and was located within a mile of a potentially vulnerable community.
The bill did not advance beyond the House Health and Social Services Committee. However, interagency collaboration between state, tribal, and federal health and regulatory agencies on the first HIAs completed in the state ultimately led to a decision by the Alaska Department of Health and Social Services and the Alaska Department of Natural Resources to establish an HIA program and implement HIAs routinely for large-scale natural resource development proposals. Although the Legislature did not choose to make HIAs mandatory, the state Department of Health and Social Services now conducts them as part of the permit process for all major oil, gas, and mining projects.14

**HIAs can help state decision-makers and local communities craft smarter policies that protect the public’s health, facilitate collaboration, and streamline the way health concerns are integrated into policy decisions.**

**Land use and planning in Maryland and California**

Policy decisions around community growth and development can have both positive and negative effects on public health. HIAs can provide a systematic way for planners to consider the potential health effects of land-use planning and development decisions.

In 2007, both the California and Maryland legislatures considered integrating HIAs into land-use planning. The California Healthy Places Act proposed that the State Department of Public Health would provide guidance, technical assistance, and grants to local public health agencies and community organizations to conduct HIAs.15 Similarly, the Maryland Healthy Places Act would have funded a test project within the Department of Health and Mental Hygiene to facilitate the involvement of local health officials in community planning and land-use decisions through HIAs.16 Neither bill was ultimately signed into law.
Table 1
Select State Legislation That Included Elements of HIA

<table>
<thead>
<tr>
<th>State</th>
<th>Bill(s)</th>
<th>Legislative summary</th>
<th>Outcomes</th>
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<tr>
<td>Alaska</td>
<td>H.B. 399 (2010 Sess.)</td>
<td>Would have mandated an HIA for projects requiring an environmental assessment or impact statement and located within one mile of a potentially vulnerable community</td>
<td>Referred to the House Health and Social Services Committee but did not advance</td>
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<td>California</td>
<td>A.B. 1472 (2007-2008 Sess.)†</td>
<td>Would have provided guidance, technical assistance, and grants to ensure that transportation and land-use planning decisions considered health concerns</td>
<td>Passed the state Assembly but did not clear the Appropriations Committee</td>
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<td>Maryland</td>
<td>H.B. 1034 (2007 Sess.)††</td>
<td>Proposed a test program to facilitate local health officials’ involvement in community planning and land-use decisions through HIAs</td>
<td>Legislature adjourned before the bill could be finalized</td>
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<td>Massachusetts</td>
<td>S.B. 2087; Chap. No. 25 (2009)†</td>
<td>Requires HIAs to “determine the effect of transportation projects on public health and vulnerable populations” and to facilitate community outreach on transportation projects</td>
<td>Enacted in 2009</td>
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<td>New Mexico</td>
<td>S.B. 256 (2009 Sess.), S.B. 71 (2010 Sess.), S.B. 98 (2011 Sess.)††</td>
<td>A 2009 bill would have required the Finance Committee to include community health impact information in an analysis of legislation affecting community health. Modified bills in 2010 and 2011 would have required the committee to request a health impact report prepared by a “health policy institute” directed by the Department of Health.</td>
<td>The 2009 bill, as well as modified versions in the 2010 and 2011 sessions, failed</td>
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<td>Vermont</td>
<td>H. 202 (2011-2012 Sess.); Enacted as Act 48°</td>
<td>Requires the Department of Health to recommend a plan to implement a “public health impact assessment process” to evaluate the health effects of local, municipal, and state policy and planning decisions</td>
<td>Enacted in 2011; resulting plan includes HIA-based recommendations such as supporting towns and planning commissions to consider health in decision-making°</td>
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<td>Washington</td>
<td>Wash. Rev. Code 43.20.270; Wash. Rev. Code 43.20.285 **</td>
<td>Creates an interagency council on health disparities and authorizes health impact reviews as one mechanism to address this problem</td>
<td>Enacted in 2006</td>
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<td>West Virginia</td>
<td>S.B. 12 (2011 Sess.); S.B. 25 (2012 Sess.); H.B. 3089 (2013 Sess.)††</td>
<td>Would have required a “public health impact statement” on any new or modified rule regarding air or water pollution</td>
<td>The 2011 bill, as well as modified versions in the 2012 and 2013 sessions, failed</td>
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Key considerations in pursuing HIA legislation

NCSL’s analysis identified four major factors policymakers could consider when drafting HIA legislation in order to maximize the utility of this policy tool:

Determine whether an HIA would be useful

HIAs can provide valuable insight into how a project or policy will affect the public’s health. For certain topics, however, an HIA will provide scant new information or the health concerns may be included in another study. In drafting HIA legislation, policymakers can avoid unnecessary and duplicative studies by carefully specifying the criteria and process for determining when an HIA is merited.

According to the National Research Council, HIAs are most beneficial when a policy decision has the potential to affect health; the health effects would not be identified or addressed by another study; and adequate resources and time exist to conduct an HIA within the timeframe of the decision.17

In the examples reviewed by NCSL, legislators took a number of approaches for determining the criteria under which an HIA would be conducted. Some focused on a particular policy sector, topic, or isolated project. For example, Massachusetts requires the use of HIAs in transportation planning in general, and the California and Maryland Health Places Acts would have funded HIAs that addressed decisions about the built-environment.18 Alternatively, HIAs have been used to examine the health effects of specific projects, such as rebuilding a bridge.19 Another approach is to conduct HIAs upon request. Washington state law specifies that assessments could apply to any proposed legislative or budgetary change but will only be done upon request by the governor or a legislator.20 Alaska H. B. 399 would have allowed for the possibility that HIAs could be initiated by a community request.21

Establish guidelines for determining the range of health effects to study

Unlike other health-related assessments that focus on a narrow, predetermined set of health risks, HIAs begin with a broad, systematic consideration of all features of a proposed policy or project that might affect health. This big-picture approach addresses less obvious risks and benefits and eliminates minor issues, yielding a prioritized set of points that warrant full analysis based on their significance to health and the level of concern among stakeholders. A highly prescriptive or narrow approach that specifies certain health effects may result in other equally important issues being missed. On the other hand, a lack of clear procedures for identifying which effects will be included can lead to an excessively broad and poorly defined study.

Policymakers can consider a number of strategies to refine the scope of health issues to be evaluated by HIAs. In the examples reviewed by NCSL, legislators took several approaches. While some legislative efforts did not consider the broad range of health effects that defines an HIA, the Healthy Places legislation introduced in Maryland and California, and Alaska’s efforts to build HIAs into state environmental policy are examples of legislation that took a broad view of a policy sector and specified a detailed set of links between the policy change and public health that an HIA should evaluate.22 The Massachusetts Healthy Transportation Compact briefly alluded to public health issues in general without defining a set of effects.23 Other bills did not specify a list of health considerations but instead used a standard definition of HIA or included language implying that assessments should consider a broad array of health effects.
Determine whether HIAs should be encouraged or required

Legislators have proposed that HIAs either be mandated for specific projects or situations or encouraged through incentives such as funding or technical assistance to communities. For example, Massachusetts’ Healthy Transportation Compact includes a broad mandate for the departments of Public Health and Transportation to implement HIAs for new transportation projects, guaranteeing that HIAs inform those decisions likely to affect health.24 Alternatively, the Healthy Places bills proposed in California and Maryland, for instance, would have offered grants to eligible local communities interested in using the studies to improve land-use decisions.25 Each approach has potential advantages and disadvantages. Requiring HIAs secures the consideration of public health data in the decision-making process, while incentives can encourage the use of HIAs without creating new requirements.

Determine how HIAs will be funded

The availability of funds affects an agency’s ability to conduct HIAs and can also affect the quality of the information the assessments provide. For certain projects, the HIA is incorporated into the project budget. For others, dedicated funds to support the HIA are solicited from federal agencies or private foundations. In further instances, if a community requests an HIA, funding to support the effort comes from state agency sources dedicated to HIAs.

NCSL’s analysis found that many of the bills did not specify a funding mechanism for HIAs. For example, the Massachusetts Healthy Transportation Compact did not dedicate funding to support required HIAs, and the health department subsequently sought external grant funding.26 Bills that included a funding mechanism featured a range of approaches. For example, in Washington state, the Legislature directed the board of health to use available funds to conduct health impact reviews and to collaborate with the state department of health to obtain additional federal and private funding.27 The board conducted health impact reviews between 2007 and 2009, but then suspended them from 2009 to late 2013 because of funding limitations.28 The reviews resumed in late 2013 and are currently conducted upon request.29 New Mexico’s S.B. 71 proposed a health impact reporting fund that would collect an annual fee from health insurers in the state to pay for health impact reports.30 Data suggest that HIAs often cost substantially less to conduct than other types of environmental and health risk studies.31 If appropriately applied to those decisions that are most likely to have important health implications and for which an assessment is likely to yield important, new, actionable recommendations, HIAs have the potential to deliver health-related cost savings while improving public health outcomes.

Resources


For further information, please visit: www.healthimpactproject.org.

2 For a full list of bills reviewed, see the National Conference of State Legislatures’ Environmental Health Legislation Database at: http://www.ncsl.org/research/environment-and-natural-resources/environmental-health-legislation-database.aspx. The list of 56 bills in 17 states was compiled by searching the database for the keywords “health impact” across all years. It includes all bills identified using these keywords as of May 2014. Bills considered in legislative sessions prior to 2009 are not included in the database. However, NCSL’s review included select bills from before 2009.


4 Massachusetts Department of Transportation, “Healthy Transportation Compact.”


9 Ibid.

10 Ibid.


12 NCSL, “Environmental Health Legislation Database.”


21 “An Act establishing a health impact assessment program in the [Alaska] Department of Health and Social Services; and providing for an effective date.”

22 “An act to add Part 10.5 (commencing with Section 116097)”; “Maryland Healthy Places Act”; “An Act establishing a health impact assessment program in the [Alaska] Department of Health and Social Services; and providing for an effective date.”

23 “An Act Modernizing the Transportation Systems of the Commonwealth.”
For further information, please visit:
healthimpactproject.org

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The Health Impact Project, a collaboration of the Robert Wood Johnson Foundation and The Pew Charitable Trusts, is a national initiative designed to promote and support the use of HIAs as a decision-making tool. The project works with government agencies and policymakers to help them implement HIAs; partners with foundations to fund HIAs; provides training and technical assistance; conducts research and policy analysis to support the field; and convenes the National HIA Meeting. The project also partners with foundations to guide and support regional HIA initiatives and collaborates with government agencies and nonprofits around the United States to find practical ways to build health into decisions.