HOUSE
RESEARCH
ORGANIZATION bill analysis 4/30/97

HB 3027
Smithee

SUBJECT: Premium tax credits in exchange for insurance losses under indigent plan

COMMITTEE: Insurance — favorable, without amendment

VOTE: 9 ayes — Smithee, Van de Putte Averitt, Bonnen, Burnam, Eiland, G. Lewis, Olivo, Wise

0 nays

WITNESSES: For — Jay Thompson, Medical Protective

Against — None

BACKGROUND: In 1989, the Legislature established a program that offered eligible health care professionals reduced malpractice insurance rates as an incentive to serve indigent patients. In exchange for offering the reduced rate, the state agreed to pay insurance companies the first $25,000 on most medical malpractice claims and $100,000 on obstetrical claims against eligible health care providers. The Legislature discontinued the reduced insurance rate program in September 1, 1995.

HB 1, the general appropriations bill for fiscal 1998-99, would appropriate at least $2 million to reimburse insurance companies for claims under the discontinued program. Outstanding claims by insurance companies for fiscal 1996-97 total $4 million.

DIGEST: Under HB 3027, beginning January 1, 1999, insurers that were required to give premium discounts to health care professionals whose practice consisted of at least 10 percent charity care would be eligible to receive a premium tax credit for any premium discounts previously given, less any amount paid by the state in malpractice claims.

Insurers could receive the premium credit beginning with premium taxes paid on March 1, 1999. Insurers could credit the total amount of any premium discounts issued, minus any reimbursements received prior to January 1, 1999. The premium tax credit rate would be 20 percent for five or more successive years, beginning March 1, 1999. Insurers electing to receive premium tax credits could not file reimbursement claims against the state after January 1, 1999. Also, any claims filed before January 1, 1999, that had not been paid would not be paid by the state.

Insurers that did not elect to receive premium credits could still receive state reimbursements, and self insured insurers would be allowed to claim reimbursements.

The premium tax credits authorized by HB 3027 would not apply to any retaliatory insurance taxes collected by the comptroller.

The bill would take effect September 1, 1997.

SUPPORTERS SAY:

HB 3027 would allow insurance companies the option of receiving premium tax credits, less any reimbursements for malpractice claims already paid by the state as of January 1, 1999, instead of reimbursements for malpractice claims resulting from the indigent health care program enacted in 1989. The state has been appropriating less money than needed to cover the cost of claims under the program, and allowing insurance companies to apply premium tax credits for past discounts against future premium taxes would assure that they would eventually be reimbursed for participating in the discontinued program.

The bill would also allow the state to amortize the cost of the payments over five or more years and eliminate the pressure to appropriate more money to cover claims. Insurance companies would know they would eventually be fully reimbursed, and the state could pay its debt by taking in less tax revenue from insurers at a regular rate of 20 percent a year rather than paying the claims up front through appropriations.

This bill would allow the insurance companies that provided about $16.7 million in premium discounts to physicians under the program to be reimbursed, less the $4.3 million in claims already paid by the state. The ultimate liability of the state under the failed program could be as much as $48 million, according to the Comptroller's Office in the latest Texas Performance Review report *Gaining Ground.* In 1994, the state appropriated $2 million to pay claims under the program, and these funds were exhausted within weeks.

The bill would limit the state's future liability for claims against insurance companies electing to receive premium tax credits and would allow insurance companies eventually to recoup their losses under the failed plan.

OPPONENTS SAY: The state should honor its commitment to appropriate the funds needed to reimburse insurance companies for claims it promised to pay under the program each biennium.

NOTES: The companion bill, SB 1648 by Cain, has been referred to the Finance Committee.