HOUSE RESEARCH ORGANIZATION bill analysis	5/9/2003	HB 3550 Delisi (CSHB 3550 by Eiland)

SUBJECT: Applicability of insurance-related taxes to Medicaid and CHIP benefit plans

COMMITTEE: Insurance — committee substitute recommended

VOTE: 8 ayes — Smithee, Seaman, Bonnen, Eiland, Gallego, B. Keffer, Taylor, Van Arsdale

0 nays

1 absent — Thompson

WITNESSES: For — Chris Bowers, Texas Association of Health Plans

Against — None

On — Trey Berndt, Texas Health and Human Services Commission

BACKGROUND: Insurance Code, sec. 4.11 states that every insurance carrier shall pay the comptroller a tax upon its gross premiums received from the following types of business: life insurance, accident insurance, health insurance, life and accident insurance, life and health insurance, health and accident insurance, or life, health, and accident insurance, including variable life insurance, credit life insurance, and credit accident and health insurance for profit or otherwise or for mutual benefit or protection.

These premium taxes are classified as occupation taxes. The Texas Constitution in Art. 7, sec. 3 establishes that one-fourth of the state's revenue from occupation taxes shall be set apart annually for public free schools. The remaining three-quarters of revenue goes into general revenue.

Insurers who contract with the state or federal government to offer health assistance benefits are exempt from the premium tax on gross premiums received from these governmental benefit plans.

DIGEST: CSHB 3550 would amend the Insurance Code to suspend the premium tax exemption for health plans that offer policies for medical assistance benefits under Medicaid and the Children's Health Insurance Program (CHIP) from

January 1, 2004, through December 31, 2005. The provision suspending the tax exemption would expire on December 31, 2005.

The bill would require the Health and Human Services Commission (HHSC) to ensure that any experience rebate or profit-sharing for health plan providers under CHIP or for Medicaid managed care plans be calculated by treating premium, maintenance, and other taxes as allowable expenses for the purposes of determining the amount of an experience rebate or of profit-sharing.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2003.

SUPPORTERS SAY:

Health plans that offer benefits under Medicaid and CHIP are exempt from premium taxes ranging from 1.75 percent to 2 percent on their gross premium revenues. CSHB 3550 would suspend that exemption for fiscal 2004-05 and generate more than $51.1 million in new general revenue funds during that period. A portion of this revenue could be applied to state medical assistance programs in order to qualify for additional federal matching funds. CHIP has a 72 percent federal matching rate that could draw more than $140 million in additional funds for the next biennium.

CSHB 3550 would protect health plans by sunsetting the suspended premium tax exemption at the end of the next biennium, and by requiring HHSC to ensure that any experience rebate or profit-sharing for the plans be calculated by treating premium, maintenance, and other taxes as allowable expenses for the purposes of determining the amount of an experience rebate or of profit-sharing.

The bill would provide a creative way to use premium tax dollars to acquire sorely needed revenue for the state’s health assistance programs. Other states, such as New Mexico and Arizona, successfully have adopted similar arrangements. Texas should pursue this plan that would have little or no effect on insurers but could significantly increase revenues for Medicaid and CHIP programs.

OPPONENTS SAY:

Despite the dire budget circumstances of the state, CSHB 3550 would be an obfuscatory means to obtain additional federal matching funds for CHIP and Medicaid programs by, in effect, "borrowing" money from HMOs. The bill would not provide statutory provisions for federal reimbursement to the Medicaid and CHIP programs. If these standards were applied to CSHB 3550, the net revenue gain in all funds would be approximately $44 million for the next biennium — not as high as the $140 million suggested.

The bill's fiscal note does not contemplate the timing of annual payments for premium tax liability or the required prepayment schedule. Those considerations would result in no funds for fiscal year 2004 and an estimated $50.5 million for fiscal year 2005.

OTHER OPPONENTS SAY:

This bill should be accompanied by a rider in HB 1 by Heflin to assure health plans that the additional premium taxes would be taken into account during the overall rate setting negotiations for the next biennium, and that this bill would not result in an effective 2 percent rate cut for plans during that period.

NOTES:

According to the Legislative Budget Board, CSHB 3550 would show a positive impact to general revenue funds of $51.1 million through fiscal 2004-2005. The estimated revenue for fiscal 2004 would be $18.8 million in general revenue and $6.3 million to the Foundation School Fund. The revenue projections for fiscal 2005 would be $19.5 million in general revenue and $26.5 million to the Foundation School Fund. Since the bill would not provide that the insurance tax be included as an allowable cost for reimbursement under the state Medicaid and CHIP programs, the fiscal note does not reflect federal matching gains drawn with additional available state funds.

The House engrossed version of HB 2292 by Wohlgemuth contains language similar to the original version of HB 3550. In addition, that bill, if enacted, would take precedence over any related legislation.

The committee substitute differs from the bill as introduced by including the sunset provision that would reinstate the exemption from the premium tax for health plans on January 1, 2006. The substitute also added language relating to the calculation of experience rebates and profit-sharing.