

- SUBJECT:** Excluding certain premiums and fees from insurance taxes
- COMMITTEE:** Insurance — committee substitute recommended
- VOTE:** 8 ayes — Frullo, G. Bonnen, Guerra, Meyer, Paul, Sheets, Vo, Workman
0 nays
1 absent — Muñoz
- WITNESSES:** For — Susan Bittick, Ryan LLC; (*Registered, but did not testify:* Pati McCandless, BCBSTX; Marc Alcedo, Cigna Healthcare; David Gonzales, Humana Texas; John Brusniak, Ryan Law Firm; Bill Hammond, Texas Association of Business; Jamie Dudensing, Texas Association of Health Plans)
Against — None
On — Nancy Clark and Debra Diaz-Lara, Texas Department of Insurance
- BACKGROUND:** Insurance Code, sec. 222.002 requires an annual tax to be imposed on each insurer that receives gross premiums subject to taxation and each health maintenance organization that receives gross revenues from the sale of health maintenance certificates or contracts. This section specifies what an insurer or health maintenance organization shall include or exclude in the total gross amounts of premiums, membership fees, assessments, dues, revenues and other considerations received in a calendar year from certain certificates, contracts or insurance policies.

Insurance Code, sec. 257.003 requires an insurer to pay maintenance taxes on the correctly reported gross premiums from writing life, health and accident insurance and the gross considerations collected from writing annuity or endowment contracts in the state. This section specifies which premiums may not be included in the gross premiums on which a tax assessment is based.

The federal Affordable Care Act, sec. 9010 imposes a health insurance providers fee on each health insurance issuer, health maintenance organization, an insurance company that was subject to tax, an insurer providing a Medicare Advantage, Medicare Part D or Medicaid plan, or a non-fully insured multiple employer welfare arrangement. The insurance industry may increase health insurance premiums for policyholders and health maintenance organization charges for health care to recoup the cost of this fee. Some have expressed concern that passing these fees on to policyholders could artificially drive up the tax base.

DIGEST:

CSHB 2467 would prohibit additional premiums, revenues, or fees charged to policyholders under certain health plans to recoup the health insurance providers fee imposed under the federal Affordable Care Act from being included when determining an insurer's taxable gross premiums or a health maintenance organization's taxable gross revenues. This would apply whether the premiums, revenues, or fees were stated separately or included in the rates charged for coverage. These additional premiums, revenues, or fees also would not be included in the gross premiums on which a maintenance tax assessment is based.

The comptroller would adopt rules necessary to implement the provisions of the bill. The provisions of the bill would apply only to a tax liability accruing on or after January 1, 2013.

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, 2015.

NOTES:

According to the Legislative Budget Board, the bill would have a negative impact to general revenue related funds of about \$45 million through fiscal 2016-17.