

SUBJECT: Extending and revising temporary health insurance risk pool

COMMITTEE: Insurance — favorable, without amendment

VOTE: 6 ayes — Lucio, Oliverson, Lambert, Paul, C. Turner, Vo

0 nays

3 absent — G. Bonnen, S. Davis, Julie Johnson

SENATE VOTE: On final passage, April 26 — 30-0, on Local and Uncontested Calendar

WITNESSES: *On House companion bill, HB 3325:*

For — (*Registered, but did not testify:* Jason Baxter, Texas Association of Health Plans; Jessica Boston, Texas Association of Business; Jennifer Cawley, Texas Association of Life and Health Insurance; Patricia Kolodzey, BlueCross BlueShield of Texas; Shannon Meroney, Texas Association of Health Underwriters; Clayton Stewart, Texas Medical Association)

Against — None

On — (*Registered, but did not testify:* Doug Danzeiser, Texas Department of Insurance)

BACKGROUND: Insurance Code ch. 1510 governs a temporary health insurance risk pool administered by the Texas Department of Insurance's commissioner, who may apply for federal funds that became available after March 1, 2017, to administer the risk pool. The exclusive purpose of the pool is to provide a temporary mechanism for maximizing available federal funding to assist state residents in obtaining access to quality health care at minimum cost to the public. The pool may not be used to expand Medicaid.

Sec. 1510.004 allows the commissioner, subject to requirements to obtain federal funds, to use pool funds to provide:

- alternative individual health insurance coverage to eligible individuals that does not diminish the availability of traditional commercial coverage;
- funding to individual health benefit plan issuers covering individuals with certain health or cost characteristics in exchange for lower premium rates; or
- a reinsurance program for health benefit plan issuers in the individual market in exchange for lower premium rates.

Under sec. 1510.008, the commissioner may apply to the U.S. Department of Health and Human Services secretary under 42 U.S.C. Sec. 18052 for a waiver of applicable provisions of the Patient Protection and Affordable Care Act or under any applicable federal law enacted on or after May 1, 2017.

The temporary health insurance risk pool expires August 31, 2019.

Some have suggested extending the temporary health insurance risk pool to provide coverage for individuals with high-cost medical conditions after certain federal legislation was enacted generally prohibiting insurers from rejecting applicants due to preexisting conditions.

DIGEST: SB 1940 would extend the temporary health insurance risk pool governed by Insurance Code ch. 1510 from August 31, 2019, to August 31, 2021, and would revise administration and operation of the pool.

The bill would amend the statutory purpose of the pool by removing mention of using the pool to maximize available federal funding and specifying that the pool would assist state residents in obtaining access to guaranteed issue health coverage. The pool could not be used in a manner that required the state to assume functions currently performed by certain federal agencies under the federal Patient Protection and Affordable Care Act, including establishing an exchange or administering premium tax credits.

SB 1940 would allow the commissioner of the Texas Department of

Insurance to increase access to guaranteed issue health coverage by establishing a high risk pool. If necessary to ensure access to quality coverage for individuals with preexisting conditions, the commissioner could take actions to establish a temporary high risk pool substantially similar to the former Texas Health Insurance Pool under Insurance Code ch. 1506, which was abolished in 2013, including:

- appointing a board of directors to govern the pool;
- adopting rules of a plan or operation for the pool; and
- contracting with a third party.

An adopted rule or plan of operation would remain in effect only until 30 days after the end of the next regular session of the Legislature unless a law was enacted authorizing and providing funding for coverage to be issued by the temporary risk pool.

The bill would specify that the commissioner could apply for federal funds available under any federal law rather than funds that became available under federal law, regulation, or executive action made after March 1, 2017.

SB 1940 would extend the date by which the Texas Department of Insurance was required to begin annual reporting on pool activities from June 1, 2018, to June 1, 2020.

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, 2019.

NOTES:

According to the Legislative Budget Board, the bill would have a negative impact of \$13.1 million in fiscal 2020 and \$30.3 million in fiscal 2021 to the Premium Stabilization Fund.