

BILL ANALYSIS

Senate Research Center

S.B. 2087
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Business & Commerce
5/24/2017
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The 79th Texas Legislature created the Texas Health Insurance Pool (pool) to provide health insurance to eligible Texans unable to obtain health insurance due to health conditions.

The 83rd Texas Legislature passed S.B. 1367 to dissolve the pool due to changes in federal law that generally prohibited carriers from rejecting applicants due to health conditions.

As part of this year's health reform efforts, bills have been filed at the federal level that would provide federal funding for state pools to cover individuals with high cost medical conditions, or provide reinsurance, thus allowing carriers to reduce health insurance premiums generally. Because the final form of the federal funding is unknown at this time, but might be available prior to the next Texas legislative session, provisions must be made in state law this session to permit the Texas Department of Insurance to access the federal funds on an interim basis. (Original Author's / Sponsor's Statement of Intent)

S.B. 2087 amends current law relating to the creation of a temporary health insurance risk pool.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of insurance in SECTION 1 (Section 1510.010, Insurance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle G, Title 8, Insurance Code, by adding Chapter 1510, as follows:

CHAPTER 1510. TEMPORARY HEALTH INSURANCE RISK POOL

Sec. 1510.001. DEFINITION. Defines "pool."

Sec. 1510.002. ESTABLISHMENT OF TEMPORARY HEALTH INSURANCE RISK POOL. Authorizes the commissioner of insurance (commissioner), to the extent that federal funds become available under federal law, regulation, or executive action after March 1, 2017, to apply for such funds and use such funds to establish and administer a temporary health insurance risk pool (pool) for the purposes of this chapter.

Sec. 1510.003. PURPOSE OF POOL. (a) Provides that the exclusive purpose of the pool is to provide a temporary mechanism for maximizing available federal funding to assist residents of this state in obtaining access to quality health care at minimum cost to the public.

(b) Prohibits the pool from being used to expand the Medicaid program, including the program administered under Chapter 32 (Medical Assistance Program), Human Resources Code, and the program administered under Chapter 533 (Medicaid Managed Care Program), Government Code.

Sec. 1510.004. PROVISION OF COVERAGE. Authorizes the commissioner, subject to any requirements for obtaining federal funds held in the pool, to use pool funds for certain purposes.

Sec. 1510.005. CONTRACTS AND AGREEMENTS. (a) Authorizes the commissioner to enter into a contract or agreement that the commissioner determines is appropriate to carry out this chapter, including a contract or agreement with certain entities.

(b) Authorizes the commissioner to contract for stop-loss insurance for risks incurred under this chapter.

Sec. 1510.006. FUNDING. (a) Authorizes the commissioner to use funds appropriated to the Texas Department of Insurance (TDI) to apply for federal funding and grants and administer this chapter.

(b) Authorizes the commissioner to, notwithstanding Section 6(e)(2)(B) (relating to improving access to health benefit coverage for individuals without coverage), Chapter 615 (S.B. 1367), Acts of the 83rd Legislature, Regular Session, 2013, use money appropriated to TDI from the healthy Texas small employer premium stabilization fund for the exclusive purposes of this chapter, other than for paying salaries and salary related benefits.

(c) Requires the commissioner, notwithstanding Section 6(e)(2)(B), Chapter 615 (S.B. 1367), Acts of the 83rd Legislature, Regular Session, 2013, to transfer money from the healthy Texas small employer premium stabilization fund to the TDI operating account in an amount equal to the amount of money appropriated to TDI from that fund, as described by Subsection (b), for the direct and indirect costs of the exclusive purposes of this chapter.

(d) Prohibits the commissioner, except as provided by Subsections (a) and (b), from using any state funds to fund the pool unless the funds are specifically appropriated for that purpose.

(e) Authorizes the commissioner to use federal funds to administer this chapter, as appropriate.

Sec. 1510.007. PUBLIC EDUCATION AND OUTREACH. (a) Authorizes the commissioner to use funds appropriated to TDI for the exclusive purposes of this chapter to develop and implement public education, outreach, and facilitated enrollment strategies under this chapter.

(b) Authorizes the commissioner to contract with marketing organizations to perform or provide assistance with the strategies described by Subsection (a).

Sec. 1510.008. WAIVER. (a) Authorizes the commissioner to apply to the United States (U.S.) secretary of health and human services under 42 U.S.C. Section 18052 for a waiver of applicable provisions of the Patient Protection and Affordable Care Act (Pub. L. No. 111-148) and any applicable regulations or guidance or under any applicable provision of federal law enacted on or after May 1, 2017, for a waiver of applicable provisions of any federal law, regulations, or guidance with respect to health insurance coverage consistent with Section 1510.003.

(b) Authorizes the commissioner to take any action the commissioner considers appropriate to make an application under this section.

(c) Authorizes the commissioner to implement a state plan that meets the requirements of a waiver granted in response to an application under Subsection (a) if the plan is consistent with state and federal law and approved by the U.S. secretary of health and human services.

Sec. 1510.009. **ADDITIONAL AUTHORITY.** Authorizes the commissioner, in addition to the powers granted to the commissioner under this chapter, to exercise any authority that may be exercised under the law of this state by a reinsurer or a health benefit plan issuer authorized to write health benefit plans in this state.

Sec. 1510.010. **RULES.** Authorizes the commissioner to adopt rules necessary to implement this chapter, including rules to administer the pool and distribute money from the pool.

Sec. 1510.011. **EXEMPTION FROM STATE TAXES AND FEES.** Provides that, notwithstanding any other law, a program created under this chapter is not subject to any state tax, regulatory fee, or surcharge, including a premium or maintenance tax or fee.

Sec. 1510.012. **ANNUAL REPORT OF POOL ACTIVITIES.** (a) Requires TDI, beginning June 1, 2018, to, not later than June 1 of each year, submit a report to the governor, the lieutenant governor, and the speaker of the house of representatives.

(b) Requires that the report submitted under Subsection (a) meet certain requirements.

Sec. 1510.013. **EXPIRATION OF CHAPTER.** Provides that this chapter expires August 31, 2019.

SECTION 2. Requires the commissioner, notwithstanding Section 6(d)(2) (relating to refunding surplus assessments or money collected on behalf of the pool), Chapter 615 (S.B. 1367), Acts of the 83rd Legislature, Regular Session, 2013, on the effective date of this Act, to transfer any money remaining outside the state treasury in the Texas Treasury Safekeeping Trust Company account established under Section 6(c) (relating to money being deposited to an account in the Texas Treasury Safe Trust Company), Chapter 615 (S.B. 1367), Acts of the 83rd Legislature, Regular Session, 2013, to the healthy Texas small employer premium stabilization fund.

SECTION 3. Effective date: upon passage or September 1, 2017.