

BILL ANALYSIS

S.B. 10
By: Averitt
Insurance
Committee Report (Amended)

BACKGROUND AND PURPOSE

Currently, many small businesses have difficulty obtaining health insurance for their employees. The high cost of insurance makes it too expensive for many to pay for insurance even though they would like to offer it to their employees. S.B. 10 allows small employers to form group health cooperatives with other small and large employers in order to obtain health coverage for employees, and sets forth provisions for the creation and conduct of such cooperatives.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Commissioner of Insurance in SECTION 4 (Article 26.14A, Insurance Code) and SECTION 8 and to the Comptroller of Public Accounts in SECTION 8 of this bill.

ANALYSIS

SECTION 1. Amends Article 26.11, Insurance Code, by amending Subdivisions (2) and (3) and adding Subdivision (5), as follows:

- (2) Redefines "board of directors."
- (3) Redefines "cooperative."
- (5) Defines "expanded service area."

SECTION 2. Amends the heading to Article 26.14, Insurance Code, to read as follows:
Art. 26.14. PRIVATE PURCHASING COOPERATIVES AND HEALTH GROUP COOPERATIVES.

SECTION 3. Amends Article 26.14, Insurance Code, by amending Subsections (a) and (d) and adding Subsections (e) and (f), as follows:

- (a) Authorizes two or more small or large employers to form a purchasing cooperative, rather than a cooperative, for the purchase of health benefit plans. Authorizes a person to form a health group cooperative for the purchase of employer health benefit plans, subject to Subsection (f) of this article.
- (d) Provides that a health group cooperative or certain of its officials and employees, in addition to a purchasing cooperative and certain of its officials and employees, is not liable for certain acts. Makes conforming changes.
- (e) Provides that a health group cooperative or certain of its officials and employees is not liable for failure to arrange for coverage of any particular illness, disease, or health condition.
- (f) Prohibits a health carrier from forming or being a member of a health group cooperative. Authorizes a health carrier to associate with a sponsoring entity to assist the sponsoring entity in forming a health group cooperative.

SECTION 4. Amends Chapter 26, Subchapter B, Insurance Code, by adding Article 26.14A, as follows:

Art. 26.14A. SPECIAL PROVISIONS RELATING TO HEALTH GROUP COOPERATIVES.

(a) Authorizes the membership of a health group cooperative to consist only of small employers or to consist of both small and large employers, at the option of the health group cooperative. Requires an employer to be a small or large employer as described by this chapter in order to participate as a member of a health group cooperative.

(b) Requires a health group cooperative to allow a small employer to join the health group cooperative and enroll in health benefit plan coverage and authorizes a health group cooperative to allow a large employer to do the same, subject to the requirements of Article 26.22 of this code.

(c) Requires a health group cooperative to allow any small employer to join the health group cooperative and enroll in the cooperative's health benefit plan coverage during its initial enrollment and annual open enrollment periods.

(d) Authorizes a sponsoring entity of a health group to inform the members of the entity about the cooperative and the health benefit plans offered by the cooperative. Requires coverage issued through the cooperative to be issued through a licensed agent marketing the coverage in accordance with Article 26.15(a)(3).

(e) Requires the commissioner to adopt rules governing the manner in which an employer may terminate, because of a financial hardship affecting the employer, participation in a health group cooperative.

(f) Provides that an employer's participation in a health group cooperative is voluntary, but requires an employer electing to participate in a health group cooperative to commit to purchasing coverage through the health group cooperative for two years, except as provided by Subsection (e).

(g) Provides that a health carrier issuing coverage to a health group cooperative:

(1) is required to use a standard presentation form, prescribed by the commissioner of insurance (commissioner) by rule, to market health benefit plan coverage through the health group cooperative;

(2) is authorized to contract to provide health benefit plan coverage with only one health group cooperative in any county and provides an exception;

(3) is required to allow enrollment in health benefit plan coverage in compliance with Subsection (c) and with the health carrier's agreement with the health group cooperative; and

(4) is exempt from the premium tax imposed by Article 4.11 of this code or the tax on revenues imposed under Section 33, Texas Health Maintenance Organization Act, and the retaliatory tax under Article 21.46 of this code for two years, with respect to the premiums or revenues received for coverage provided to each uninsured employee or dependent as defined by the commissioner in accordance with Subsection (h) of this article; and

(5) is required to maintain documentation to be provided by health group cooperatives to ensure compliance with the rules adopted by the commissioner under Subsection (h) of this article with respect to uninsured employees or dependents.

(h) Requires the commissioner to determine, by rule, who constitutes an uninsured employee or dependent for purposes of Subsection (g)(4) of this article.

(i) Exempts a health benefit plan issued by a health carrier to provide coverage with a health group cooperative from a state law, including a rule, that relates to a particular illness, disease, or treatment or regulates the differences in rates applicable to services provided within a health benefit plan network or outside the network.

(j) Requires the commissioner, by rule, to implement the exemption authorized by Subsection (i) of this article.

(k) Authorizes a health group cooperative to offer more than one health benefit plan, but requires each plan offered to be made available to all employees covered by the cooperative.

(l) Authorizes a health carrier to provide health benefit plan coverage to an expanded service area that includes the entire state, with notice to the commissioner. Authorizes a health carrier to apply for approval of an expanded service area that comprises less than the entire state by filing an application with the commissioner, in a form and manner prescribed by the commissioner, at least 60 days before the date the health carrier issues coverage to the health group cooperative in the expanded service area. Requires the application to be deemed approved by the Texas Department of Insurance (TDI) after 60 days after the receipt of the application by TDI unless the application was either affirmatively approved or disapproved by written order of the commissioner before that date. Authorizes the commissioner to rescind an approval granted to a health carrier under this subsection upon finding that the health carrier has failed to market fairly to all eligible employers in the state or expanded service area after notice and opportunity for hearing.

(m) Prohibits the provisions of this Article from serving to limit or restrict small or large employer's access to health benefit plans under this chapter.

SECTION 5. Amends the heading to Article 26.15, Insurance Code, to read as follows:

Art. 26.15. POWERS AND DUTIES OF TEXAS HEALTH BENEFITS PURCHASING COOPERATIVE, PRIVATE PURCHASING COOPERATIVES, AND HEALTH GROUP COOPERATIVES.

SECTION 6. Amends Article 26.15, Insurance Code, by amending Subsection (d) and adding Subsection (e), as follows:

(d) Prohibits a cooperative from limiting, restricting, or conditioning an employer's or employee's membership in the cooperative or choice among benefit plans based on the risk characteristics of a group or any member of the group, in addition to other existing requirements placed on a cooperative.

(e) Provides that a health group cooperative must have at least 10 participating employers to be eligible to exercise the authority granted under Subsection (a)(1) of this article.

SECTION 7. Amends Articles 26.16(a), (b), and (d), Insurance Code, as follows:

(a) Deletes language providing that the employees of a cooperative are not required to be licensed under Article 20A.15 or 20A.15A, Insurance Code. Provides that the existing exemption from licensure includes a health group cooperative that acts to provide information about and to solicit membership in the cooperative, subject to Article 26.14A(d) of this code.

(b) Provides that a private purchasing cooperative, rather than a cooperative, is considered an employer solely for the purposes of benefit elections under the code. Provides that a health group cooperative that is composed only of small employers is considered a single employer under this code and requires such a health group cooperative to be treated in the same manner as a single small employer for the purposes of this chapter, including certain purposes. Provides that a health group cooperative that is composed of small and large employers is considered a single employer under this code and, in relation to the small employers that are members of the cooperative, shall be treated in the same manner as a small employer. Provides that a health group cooperative that is composed of small and large employers may elect to extend the protections of this chapter that are applicable to small employer groups to the large employer groups that participate in the cooperative. Provides that a health group cooperative has sole authority to make benefit elections and perform other administrative functions under the code for the cooperative's participating employers. Requires TDI to develop an expedited approval process for health benefit plan coverage

arranged by a health group cooperative.

(d) Extends certain provisions that apply to each small employer carrier to each large employer carrier. Makes conforming changes.

SECTION 8. (a) Requires the Commissioner of Insurance to adopt rules as necessary to implement the changes in law made by this Act not later than January 1, 2004, except for the tax exemption in Article 26.14A(g)(4).

(b) Requires the comptroller of public accounts to adopt rules or procedures as necessary to implement the exemption, with respect to the tax exemption in Article 26.14(g)(4).

SECTION 9. Effective date: September 1, 2003. Makes application of this Act prospective.

EFFECTIVE DATE

September 1, 2003.

EXPLANATION OF COMMITTEE AMENDMENT

Committee Amendment No. 1 provides that a health benefit plan provided through a health group cooperative must provide coverage for diabetes equipment, supplies, and services, as required by Article 21.53G of the Insurance Code.