

Amend **CSSB 10** (house committee printing) by adding the following SECTIONS to the bill, appropriately numbered, and renumbering the SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Subtitle G, Title 8, Insurance Code, is amended by adding Chapter 1508 to read as follows:

CHAPTER 1508. HEALTHY TEXAS PROGRAM

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1508.001. PURPOSE. (a) The purposes of the Healthy Texas Program established under this chapter are to:

(1) provide for access to quality small employer health benefit plans at an affordable price; and

(2) maximize reliance on strategies and procedures of managed care proven by the private sector.

(b) The program is not intended to diminish availability of traditional small employer health plan coverage to persons who are eligible for that coverage.

Sec. 1508.002. DEFINITIONS. In this chapter:

(1) "Board" means the board of directors of the program.

(2) "Group health benefit plan issuer" means an insurance company, association, organization, group hospital service corporation, or health maintenance organization that delivers or issues for delivery a group insurance policy or insurance agreement, a group hospital service contract, or a group evidence of coverage that provides health insurance or health care benefits. The term includes:

(A) a life, health, and accident insurance company operating under Chapter 841 or 982;

(B) a fraternal benefit society operating under Chapter 885; and

(C) a stipulated premium company operating under Chapter 884.

(3) "Program" means the Healthy Texas Program.

SUBCHAPTER B. CREATION OF PROGRAM; POWERS AND

DUTIES OF COMMISSIONER

Sec. 1508.051. CREATION ON COMMISSIONER DETERMINATION. (a) If the commissioner by rule determines that, in all or any part of

this state, small employer group health benefit plan coverage is not reasonably available to all market segments in the voluntary market, the commissioner may establish the Healthy Texas Program to deliver small employer group health benefit plans under this chapter to market segments identified as underserved.

(b) The program shall be administered by a board of directors and a management company in accordance with this chapter.

(c) The program is subject to the supervision and control of the commissioner.

Sec. 1508.052. GENERAL POWERS OF COMMISSIONER. (a) The commissioner shall provide general supervision for the program.

(b) In exercising authority under this chapter, the commissioner may:

(1) examine the operation of the program, and shall have free access to all the books, records, files, papers, and documents relating to the operation of the program as necessary to conduct an examination under this subdivision;

(2) summon, qualify, and examine as witnesses all persons having knowledge of program operations, including the members of the board, and officers and employees of the board;

(3) take any action necessary to enable this state and the program to fully participate in any federal program which may be enacted for purposes similar to the purposes of this chapter; and

(4) require the program to report to the department concerning risks insured by the program under this chapter, as considered necessary by the commissioner.

(c) The commissioner may review and approve policy forms, endorsements, and riders used by the program.

(d) The commissioner may receive and review rates and any rating methodology established for use by the program.

Sec. 1508.053. RULES. The commissioner may adopt rules as necessary to implement this chapter in the manner prescribed by Subchapter A, Chapter 36.

#### SUBCHAPTER C. BOARD OF DIRECTORS

Sec. 1508.101. BOARD OF DIRECTORS. (a) The commissioner of insurance shall appoint the members of the board not later than the 31st day after the effective date of the commissioner rule under

Section 1508.051(a) establishing the program. The board is composed of nine members appointed by the commissioner as follows:

(1) four members who are full-time employees of authorized small employer health benefit plan issuers;

(2) three public members who reside in this state; and

(3) two members who are licensed life and health insurance agents.

(b) Members serve staggered six-year terms.

(c) The commissioner or the commissioner's designated representative from the department shall serve as an ex officio member.

Sec. 1508.102. BOARD MEMBER IMMUNITY. (a) A member of the board is not liable for an act performed, or omission made, in good faith in the performance of powers and duties under this chapter.

(b) A cause of action does not arise against a member of the board for an act or omission described by Subsection (a).

Sec. 1508.103. OPEN MEETINGS; PUBLIC INFORMATION. The board is subject to:

(1) the open meetings law, Chapter 551, Government Code; and

(2) the public information law, Chapter 552, Government Code.

#### SUBCHAPTER D. PROGRAM ADMINISTRATION

Sec. 1508.151. PROGRAM AUTHORITY. (a) The program may exercise any of the authority that a health benefit plan issuer authorized to write health benefit plans in this state may exercise under the laws of this state.

(b) The program shall operate as a health benefit plan issuer, and is subject to the maintenance tax imposed under Chapter 257 as if the program were an insurer.

Sec. 1508.152. PLAN OF OPERATION; COMMISSIONER APPROVAL.

(a) The board shall submit to the commissioner a plan of operation and any amendments to that plan necessary or suitable to ensure the fair, reasonable, and equitable administration of the program.

(b) The plan of operation must be approved by the commissioner before inception of any program operations.

(c) The commissioner by rule may approve the plan of

operation and any subsequent amendments if the commissioner determines the plan or the plan as amended is suitable to ensure the fair, reasonable, and equitable administration of the program.

(d) The plan of operation is effective on the written approval of the commissioner.

Sec. 1508.153. MANAGEMENT COMPANY. (a) To fully carry out the purposes of the program, the board shall contract with a management company that is qualified to administer, manage, and operate the program. The management company must hold a certificate of authority as an administrator under Chapter 4151.

(b) The management company must be approved by the commissioner.

Sec. 1508.154. FILING OF RATES. The board shall file with the commissioner the proposed rates and rate information to be used by the program in connection with the issuance of policies, riders, or endorsements. Rates must be set in amounts sufficient to carry all claims to maturity and to meet all expenses incurred in the writing and servicing of the business.

Sec. 1508.155. AUDIT. (a) The board shall by contract secure the services of an independent auditor, who shall annually audit:

(1) the operations and transactions of the program;  
and

(2) the manner in which the management company is performing the company's duties.

(b) The independent auditor shall deliver to the board a report of the results of the audit conducted under this section.

Sec. 1508.156. ANNUAL REPORT. (a) The board shall compile a calendar year annual operating report regarding the program, and shall submit the report to the commissioner not later than March 31 of the following calendar year.

(b) The annual report must be accompanied by a copy of the auditor's report under Section 1508.155(b).

Sec. 1508.157. PROGRAM COVERAGE; ELIGIBILITY. (a) A small employer health benefit plan offered through the program must provide coverage consistent with that offered under a small employer health benefit plan subject to Subchapter F, Chapter

1501.

(b) An applicant for coverage from the program is eligible for the coverage if the applicant has:

(1) not been covered by a health benefit plan during the 12-month period preceding the date of the application; or

(2) has lost health benefit plan coverage due to a qualifying event.

(c) The commissioner by rule shall establish employer contribution and employee participation requirements applicable to coverage under the program, as well as other participation criteria applicable to small employer participation.

Sec. 1508.158. CONTRACTS. The board may, subject to commissioner approval, enter into contracts as necessary or proper to implement this chapter.

#### SUBCHAPTER E. PROGRAM DISSOLUTION

Sec. 1508.201. DEFINITION. In this subchapter, "plan" means the plan of dissolution and termination of the program required by this subchapter.

Sec. 1508.202. PLAN OF DISSOLUTION. (a) The board, at the direction of the commissioner and not later than the seventh anniversary of the date on which the program is established, shall develop and submit to the commissioner a plan for dissolution of the program and termination of program operations in accordance with this subchapter.

(b) The plan must:

(1) ensure the fair, reasonable, and equitable winding down and dissolution of the program and termination of program operations; and

(2) provide for the sharing of any remaining program assets on a proportionate basis in accordance with this subchapter.

Sec. 1508.203. APPROVAL OF PLAN BY COMMISSIONER; COMMISSIONER ACTION IF PLAN NOT APPROVED. (a) The commissioner may approve the plan if the commissioner determines the plan meets the requirements of Sections 1508.202 and 1508.204. The plan is effective on the written approval of the commissioner.

(b) If the board fails to submit a plan the commissioner can approve, the commissioner, after notice and hearing, shall adopt a

plan by rule.

Sec. 1508.204. PLAN REQUIREMENTS. (a) The plan must:

(1) specify the date after which a person covered by a small employer health benefit plan issued by the program and effective on the date of the plan of dissolution may not submit additional claims;

(2) provide for:

(A) the filing, receipt, processing, and payment of all claims against the program, and all debts of the program, and the extinguishment of all liabilities of the program, including balances on any lines of credit that may have been established by or on behalf of the program, and including any credit for or refund of any overpayment;

(B) the collection and receipt of all outstanding amounts owed to the program;

(C) a final audit of the program by the state auditor, as provided by Section 1508.205; and

(D) the distribution of any surplus assets of the program that remain after the closing date, in a manner that shares the remaining program assets on a proportionate basis and in accordance with this section; and

(3) specify, as the closing date, the effective date of the closing of the transactions required by the plan and addressed in this section.

(b) The closing date may not be earlier than the third anniversary, or later than the seventh anniversary, of the effective date of the plan.

Sec. 1508.205. AUDIT. The transactions necessary to complete execution of the plan are subject to audit by the state auditor under Chapter 321, Government Code. The state auditor shall report the cost of the final audit conducted under this section to the board and the comptroller, and the board shall remit that amount to the comptroller for deposit to the general revenue fund.

Sec. 1508.206. OPERATION OF PROGRAM AFTER CLOSING DATE.

(a) The program shall continue the program's existence until the third anniversary of the closing date established by the plan,

solely for the purpose of prosecuting or defending in the program's name any action or proceeding by or against the program.

(b) During the three-year period established by Subsection (a), the board members serving at the time of dissolution shall continue to manage the affairs of the program for the sole purpose stated by that subsection, and have the powers and immunities necessary to accomplish that sole purpose, in accordance with Section 1508.102.

(c) If, during the three-year period established by Subsection (a), a board member fails to serve, the commissioner shall appoint a replacement member in accordance with Section 1508.101.

#### SUBCHAPTER F. REVENUE BOND PROGRAM AND PROCEDURES

Sec. 1508.251. LEGISLATIVE FINDING. The legislature finds that the issuance of bonds for the purpose of providing a method to raise funds to provide small employer health benefit plans through the Healthy Texas Program for employers in this state is for the benefit of the public and in furtherance of a public purpose.

Sec. 1508.252. DEFINITION. In this subchapter, "bond resolution" means the resolution or order authorizing bonds to be issued under this subchapter.

Sec. 1508.253. APPLICABILITY OF OTHER LAWS. (a) The following laws apply to bonds issued under this subchapter to the extent consistent with this subchapter:

- (1) Chapters 1201 through 1202, Government Code;
- (2) Chapters 1205 through 1207, Government Code;
- (3) Chapters 1231 through 1232, Government Code; and
- (4) Chapter 1371, Government Code.

(b) In the event of a conflict between this subchapter and a law listed in Subsection (a), this subchapter controls.

Sec. 1508.254. ISSUANCE OF BONDS AUTHORIZED. On behalf of the program, the Texas Public Finance Authority shall issue revenue bonds to:

- (1) establish the initial surplus of the program;
- (2) establish and maintain reserves;
- (3) pay initial operating costs;
- (4) pay costs related to issuance of the bonds; and

(5) pay other costs related to the bonds as may be determined by the board.

Sec. 1508.255. BOND LIMITS. The Texas Public Finance Authority may issue, on behalf of the program, bonds in a total amount not to exceed \$200 million.

Sec. 1508.256. TERMS OF ISSUANCE; BOND CONDITIONS. (a) Bonds may be issued at public or private sale.

(b) Bonds may mature not later than the 20th anniversary of the date of issuance.

(c) Bonds must be issued in the name of the program.

Sec. 1508.257. ADDITIONAL COVENANTS. In a bond resolution, the board may make additional covenants with respect to the bonds and the designated income and receipts of the program pledged to payment of the bonds, and may provide for the flow of funds and the establishment, maintenance, and investment of funds and accounts with respect to the bonds.

Sec. 1508.258. SPECIAL ACCOUNTS. (a) A bond resolution may establish special accounts, including an interest and sinking fund account, reserve account, and other accounts.

(b) The chief financial officer of the program or the officer's designee shall administer the accounts in accordance with this code.

Sec. 1508.259. SOURCE OF PAYMENT; STATE DEBT NOT CREATED.

(a) Bonds are payable only from:

(1) the maintenance tax surcharge established under Section 1508.260; or

(2) any other amounts the program is authorized to levy, charge, or collect in connection with paying any portion of the bonds.

(b) Bonds are obligations solely of the program. Bonds do not create a pledging, giving, or lending of the faith, credit, or taxing authority of this state.

(c) Each bond must include a statement that the state is not obligated to pay any amount on the bond and that the faith, credit, and taxing authority of this state are not pledged, given, or lent to those payments.

(d) Each bond issued under this subchapter must state on its



face that the bond is payable solely from the revenues pledged for that purpose and that the bond does not and may not constitute a legal or moral obligation of the state.

Sec. 1508.260. MAINTENANCE TAX SURCHARGE. (a) A maintenance tax surcharge is assessed against:

(1) the program; and

(2) subject to Subsection (d), each group health benefit plan issuer in this state that issues a group health benefit plan to an employer to provide health insurance or health care benefits.

(b) The maintenance tax surcharge under Subsection (a)(1) shall be set in an amount sufficient to pay all debt service on the bonds. The maintenance tax surcharge shall be set by the commissioner at the same time and shall be collected by the comptroller on behalf of the program in the same manner as provided under Chapter 257 for the collection of the maintenance tax assessed under that chapter.

(c) To establish the surcharge under Subsection (b), the commissioner shall increase the maintenance tax rate to which the program is subject to a rate sufficient to pay all debt service on the bonds, subject to the maximum tax rate established by Chapter 257. If the resulting tax rate is insufficient to pay all costs for the program under this subchapter and all debt service on the bonds, the commissioner may assess an additional surcharge to the program, not to exceed one percent of the program's gross small employer group health benefit plan premiums, as necessary to cover all debt service on the bonds. In this subsection, the maintenance tax surcharge includes the additional maintenance tax assessed under this subsection and the additional surcharge assessed under this subsection to pay all debt service of the bonds.

(d) If the assessment procedure established under Subsection (c) is insufficient to cover all debt service on the bonds, and subject to the operating procedure provisions in the program plan of operation, the commissioner may assess group health benefit plan issuers described by Subsection (a)(2) a surcharge, not to exceed one percent of the gross group health benefit plan premiums, exclusive of small employer group health benefit plan

premiums, to cover all debt service on the bonds. For purposes of this subsection, the maintenance tax surcharge includes the surcharge assessed under this subsection to pay all debt service of the bonds.

(e) The program and a group health benefit plan issuer, respectively, may pass through the maintenance tax surcharge established under Subsections (c) and (d) to the policyholders of the program and those issuers.

Sec. 1508.261. EXEMPTION FROM TAXATION. The bonds issued under this subchapter, any interest from the bonds, and all assets pledged to secure the payment of the bonds are free from taxation by this state or a political subdivision of this state.

Sec. 1508.262. AUTHORIZED INVESTMENTS. Bonds issued under this subchapter constitute authorized investments under Subchapter D, Chapter 425.

Sec. 1508.263. STATE NOT TO IMPAIR BOND OBLIGATIONS; PLEDGE. (a) The state pledges to and agrees with the owners of any bonds issued in accordance with this subchapter that the state will not limit or alter the rights vested in the program to fulfill the terms of any agreements made with the owners of the bonds or in any way impair the rights and remedies of those owners until the bonds, any premium or interest, and all costs and expenses in connection with any action or proceeding by or on behalf of those owners are fully met and discharged.

(b) The program may include the pledge and agreement of the state in any agreement with the owners of the bonds.

Sec. 1508.264. ENFORCEMENT BY MANDAMUS. A writ of mandamus and all other legal and equitable remedies are available to any party at interest to require the program and any other party to carry out agreements and to perform functions and duties under this subchapter, the Texas Constitution, or a bond resolution.

SECTION \_\_\_\_\_. (a) Not later than November 1, 2008, the commissioner of insurance shall provide an interim progress report to the lieutenant governor, the speaker of the house of representatives, and the members of the 81st Legislature regarding the operation of the Healthy Texas Program established under Chapter 1508, Insurance Code, as added by this Act. The report must

include information regarding:

(1) the potential economic impact that the program would have on the small employer insurance market in this state;

(2) the anticipated impact that the program would have on the quality of health care provided in this state;

(3) the progress of any proposed or adopted rules addressing the program;

(4) the progress of a draft or approved plan of operation for the program; and

(5) the efficacy and feasibility of expanding the program to include application to governmental entities.

(b) A health benefit plan may not be issued by the Healthy Texas Program established under Chapter 1508, Insurance Code, as added by this Act, before January 1, 2010.