

BILL ANALYSIS

S.B. 23
By: Nelson
Insurance
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Currently, the Texas Department of Insurance (TDI) does limited business and consumer outreach and assistance regarding access to health insurance. TDI does assist in community efforts to provide employer-based insurance options. Due to the lack of access to information and assistance with navigating health insurance options, there is a high uninsured rate, particularly among small businesses.

S.B. 23 creates "TexLink," an office within TDI, to provide access to information and assistance in educating the public about the importance of health coverage and about the numerous insurance options.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Commissioner of the Texas Department of Insurance in SECTION 2.04 (Section 1501.2525, Insurance Code), SECTION 2.06, and SECTION 3.01 (Section 4054.308, Insurance Code) of this bill.

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Department of Insurance in SECTION 1.01 (Section 524.151, Insurance Code) and SECTION 3.01 (Section 4054.306, Insurance Code) of this bill.

ANALYSIS

ARTICLE 1. TEXLINK TO HEALTH COVERAGE PROGRAM

SECTION 1.01. Amends Chapter 524, Insurance Code, as follows:

CHAPTER 524. New heading: TEXLINK TO HEALTH COVERAGE PROGRAM

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 524.001. DEFINITIONS. Defines "division" and "program."

Sec. 524.002. DIVISION RESPONSIBILITIES. Provides that the division of the Texas Department of Insurance that administers the TexLink to Health Coverage Program (division) implements this chapter under the direction of the commissioner of insurance (commissioner).

Sec. 524.003. New heading: TEXLINK TO HEALTH COVERAGE PROGRAM ESTABLISHED. Requires the Texas Department of Insurance (TDI) to develop and implement a health coverage program, rather than a public awareness and education program, that complies with this chapter. Sets forth specific objectives the TexLink to Health Coverage Program (program) must achieve. Requires the program to include a public awareness and education component.

[Reserves Sections 524.004-524.050 for expansion.]

SUBCHAPTER B. PUBLIC AWARENESS AND EDUCATION

Sec. 524.051. INFORMATION ABOUT SPECIFIC HEALTH BENEFIT PLAN ISSUERS. Authorizes the division, rather than TDI, to include information about specific health benefit plan issuers, rather than coverage issuers, in materials produced for

the program, but prohibits the division from favoring or endorsing one particular issuer over another.

Sec. 524.052. PUBLIC SERVICE ANNOUNCEMENTS. Redesignates existing Section 524.002 to Section 524.052. Requires the division, rather than TDI, to develop and make public service announcements to educate consumer and employers about the availability of health coverage in this state.

Sec. 524.053. New heading: INTERNET WEBSITE; PRINTED MATERIALS; NEWSLETTER. Redesignates existing Section 524.003 to Section 524.053. States that the division shall develop an Internet website and printed materials designed to educate small employers, individuals, and others seeking to purchase health coverage about health coverage in accordance with Section 524.003(a). The division shall make the printed materials produced under the program available to small employers, individuals, and others seeking to purchase health coverage. The division may: distribute the printed materials through facilities such as libraries, health care facilities, and schools as well as other venues the division selects; and use other distribution methods the division selects. The division may produce a newsletter to provide updated information about health coverage to subscribers who elect to receive the newsletter. The division may: produce a newsletter under this subsection for small employers, for individuals, or for other purchasers of health coverage; distribute the newsletter on a monthly, quarterly, or other basis; and distribute the newsletter as a printed document or electronically.

Sec. 524.054. TOLL-FREE TELEPHONE HOTLINE; ACCESS TO INFORMATION. States that the division may operate a toll-free telephone hotline to respond to inquiries and provide information and technical assistance concerning health coverage products. The Health and Human Services Commission, through its 2-1-1 telephone number for access to human services, may disseminate information regarding health coverage products provided to the commission by the department and may refer inquiries regarding health coverage products to the toll-free telephone hotline. The department may provide information to the Health and Human Services Commission as necessary to implement this subsection.

Sec. 524.055. EDUCATION FOR HIGH SCHOOL STUDENTS. States that the division may develop educational materials and a curriculum to be used in high school classes that educate students about: the importance and value of health coverage; comparing health benefit plans; and understanding basic provisions contained in health benefit plans. The division may consult with the Texas Education Agency in developing educational materials and a curriculum under this section.

Sec. 524.056. HEALTH COVERAGE FAIRS. States that the division may conduct health coverage fairs to provide small employers, individuals, and others seeking to purchase health coverage the opportunity to obtain information about health coverage from division employees and from health benefit plan issuers and agents that elect to participate. The division shall seek to obtain funding for health coverage fairs conducted under this section through gifts and grants obtained in accordance with Subchapter D.

Sec. 524.057. COMMUNITY EVENTS. States that the division may participate in events held in this state to promote awareness of the importance and value of health coverage and to educate small employers, individuals, and others seeking to purchase health coverage about health coverage in accordance with Section 524.003(a).

Sec. 524.058. HEALTH COVERAGE PROVIDED THROUGH COLLEGES AND UNIVERSITIES. States that the division may cooperate with a public or private college or university to promote enrollment in health coverage programs sponsored by or through the college or university.

Sec. 524.059. SUPPORT FOR COMMUNITY-BASED PROJECTS. States that the division may provide support and assistance to individuals and organizations seeking to develop community-based health coverage plans for uninsured individuals.

Sec. 524.060. OTHER EDUCATION. States that the division may provide other appropriate education to the public regarding health coverage and the importance and value of health coverage in accordance with Section 524.003(a).

Sec. 524.061. TASK FORCE. The commissioner may appoint a task force to make recommendations regarding the division's duties under this subchapter. If appointed, the task force must be composed of: one representative from each of the following groups or entities: health coverage consumers; small employers; employers generally; insurance agents; the office of public insurance counsel; the Texas Health Insurance Risk Pool; physicians; advanced practice nurses; hospital trade associations; and medical units of institutions of higher education; a representative of the Health and Human Services Commission responsible for programs under Medicaid and the children's health insurance program; and one or more representatives of health benefit plan issuers. In addition to the individuals listed in Subsection (a), the commissioner may select to serve on any task force one or more individuals with experience in public relations, marketing, or another related field of professional services. The division may consult the task force regarding the content for the public service announcements, Internet website, printed materials, and other educational materials required or authorized by this subchapter. The commissioner has authority to make final decisions as to what the program's materials will contain.

[Reserves Sections 524.062-524.100 for expansion.]

SUBCHAPTER C. ASSISTANCE FOR CERTAIN BUSINESSES

Sec. 524.101. FEDERAL TAX "TOOL KIT" FOR CERTAIN BUSINESSES. States that the division may produce materials that provide information about obtaining health coverage in a manner that qualifies for favorable treatment under federal tax laws.

Sec. 524.102. ASSISTANCE FOR SMALL EMPLOYERS AND SINGLE-EMPLOYEE BUSINESSES. States that the division staff may respond to telephone inquiries regarding health coverage options for small employers and single-employee businesses and may speak at events to provide information about health coverage options for small employers and single-employee businesses and about the importance and value of health coverage.

Sec. 524.103. COOPERATIVES FOR SMALL AND LARGE EMPLOYERS. States that the division may provide information regarding the formation of or participation in private purchasing cooperatives and health group cooperatives in accordance with Subchapter B, Chapter 1501.

Sec. 524.104. ACCOUNTANT. States that the division may consult an accountant with experience in federal tax law and the purchase of group health coverage as necessary to implement this subchapter.

[Reserves Sections 524.105-524.150 for expansion.]

SUBCHAPTER D. FUNDING

Sec. 524.151. FUNDING. Redesignates existing Section 524.005 to Section 524.151. States that the department may accept gifts and grants from any party, including a health benefit plan issuer or a foundation associated with a health benefit plan issuer, to assist with funding the program. The department shall adopt rules governing acceptance of donations that are consistent with Chapter 575, Government Code. Before adopting rules under this section, the department shall: submit the proposed rules to the Texas Ethics Commission for review; and consider the commission's recommendations regarding the regulations.

ARTICLE 2. CHILDREN'S HEALTH BENEFIT PLAN FOR SMALL EMPLOYERS

SECTION 2.01. Amends Section 1501.002, Insurance Code, by adding Subdivision (1-a) and amending Subdivision (15), to define "children's health benefit plan" and redefine "small employer health benefit plan."

SECTION 2.02. Amends Section 1501.003, Insurance Code, as follows:

Sec. 1501.003. **APPLICABILITY: SMALL EMPLOYER HEALTH BENEFIT PLANS.** (a) An individual or group health benefit plan is a small employer health benefit plan subject to Subchapters C-H if it provides health care benefits covering two or more eligible employees of a small employer and: the employer pays a portion of the premium or benefits; the employer or a covered individual treats the health benefit plan as part of a plan or program for purposes of Section 106 or 162, Internal Revenue Code of 1986 (26 U.S.C. Section 106 or 162); or
(3) the health benefit plan is an employee welfare benefit plan under 29 C.F.R. Section 2510.3-1(j). A children's health benefit plan is a small employer benefit plan and, except as specifically provided by Section 1501.2525, is subject to Subchapters C-H in the same manner as any other small employer health benefit plan.

SECTION 2.03. Subsection (b), Section 1501.154, Insurance Code, is amended to read as follows: If a small employer offers multiple health benefit plans, the collective participation in those plans, including any children's health benefit plan, must be at least: 75 percent of the employer's eligible employees; or if applicable, the lower participation level offered by the small employer health benefit plan issuer under Section 1501.155.

SECTION 2.04. Amends Subchapter F, Chapter 1501, Insurance Code, by adding Section 1501.2525, as follows:

Sec. 1501.2525. **CHILDREN'S HEALTH BENEFIT PLAN.** States that a small employer health benefit plan issuer may offer to a small employer a children's health benefit plan in accordance with this section. A children's health benefit plan provides coverage to children younger than 25 years of age: who are dependents of eligible employees; and whose family income is at or below 400 percent of the federal poverty level as determined by rules adopted by the commissioner. A children's health benefit plan may not provide coverage to an eligible employee or the spouse of an eligible employee. The commissioner by rule shall adopt minimum benefits required to be provided under a children's health benefit plan. This subchapter applies to a children's health benefit plan except to the extent the commissioner by rule determines that a provision of this subchapter is inappropriate as applied to a children's health benefit plan.

SECTION 2.05. Amends Subchapter B, Chapter 1502, Insurance Code, by adding Section 1502.054, as follows:

Sec. 1502.054. **INAPPLICABILITY OF OTHER LAW.** States that a children's health benefit plan offered under this chapter is not subject to Section 1501.2525.

SECTION 2.06. States that the commissioner of insurance shall adopt any rules necessary to implement the change in law made by this article not later than December 1, 2007. A small employer health benefit plan issuer may not offer a children's health benefit plan under Section 1501.2525, Insurance Code, as added by this article, before January 1, 2008.

ARTICLE 3. SPECIALTY CERTIFICATION FOR CERTAIN LIFE, ACCIDENT, AND HEALTH AGENTS

SECTION 3.01. Amends Chapter 4054, Insurance Code, by adding Subchapter G, as follows:

SUBCHAPTER G. SPECIALTY CERTIFICATION FOR AGENTS SERVING CERTAIN EMPLOYER GROUPS

Sec. 4054.301. **CERTIFICATION PROGRAM.** States that the department shall establish a voluntary specialty certification program for individuals who market small employer health benefit plans in accordance with Chapter 1501.

Sec. 4054.302. **QUALIFICATIONS.** States that to be eligible to receive a specialty certification under this subchapter, an individual must: hold a general life, accident, and health license under this chapter; satisfy the requirements of this subchapter; and submit evidence of completion of training to the department in the manner prescribed by the commissioner. To maintain a specialty certification under this subchapter, an individual must continue to hold a general life, accident, and health license under this chapter.

Sec. 4054.303. **TRAINING.** States that to be certified under this subchapter, an individual must first complete training in the law, including department rules, applicable to small employer health benefit plans offered under Chapter 1501. An individual seeking specialty certification under this subchapter must complete a course applicable to small employer health benefit plans under Chapter 1501, as prescribed and approved by the commissioner. Except as provided by Subsection (c), an individual is not eligible for the specialty certification unless, on completion of the course, it is certified to the commissioner as required by the department that the individual has: completed the course; and passed an examination testing the individual's knowledge and qualification. An individual seeking specialty certification under this chapter is not required to complete the course and examination required by Subsection (b) if the individual demonstrates to the department, in the manner prescribed by the department, that the individual holds a designation as: a Registered Health Underwriter (RHU); a Certified Employee Benefit Specialist (CEBS); or a Registered Employee Benefits Consultant (REBC).

Sec. 4054.304. **CONTINUING EDUCATION REQUIREMENTS.** States that to renew a specialty certification under this subchapter, the individual must complete five hours of continuing education applicable to small employer health benefit plans during the two-year certification period. Each hour of continuing education completed in accordance with this section may be used to satisfy an hour of a continuing education requirement otherwise applicable to the agent under this title.

Sec. 4054.305. **OFFER OF SERVICES TO ALL GROUP SIZES.** States that to hold a specialty certification under this subchapter, an individual must agree to market small employer health benefit plans to small employers that satisfy the requirements of Chapter 1501 without regard to the number of employees to be covered under the plan.

Sec. 4054.306. **ADVERTISING.** An individual who holds a specialty certification may advertise, in the manner specified by department rule, that the individual is specially trained to serve small employers.

Sec. 4054.307. **LIST MAINTAINED BY DEPARTMENT; WEBSITE.** Requires TDI to maintain a list of all individuals who hold a specialty certification under this chapter, together with the business address and phone number of each individual and a general description of the individual's service area. Requires TDI to publish the list on the TDI website.

Sec. 4054.308. **RULES.** Authorizes the commissioner of insurance, in accordance with Section 36.001 (General Rulemaking Authority), to adopt rules as necessary to administer this subchapter.

SECTION 3.02. Section 4001.002, Insurance Code, is amended by adding Subsection (a-1) to read as follows: (a-1) Except as otherwise provided by this code, this title applies to each individual who holds a specialty certification under Subchapter G, Chapter 4054.

SECTION 3.03. Not later than January 1, 2008, the Texas Department of Insurance may begin issuing specialty certifications under Subchapter G, Chapter 4054, Insurance Code, as added by this article.

ARTICLE 4. EFFECTIVE DATE

SECTION 4.01. Effective date: September 1, 2007.

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