LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 24, 2007

TO: Honorable David Dewhurst, Lieutenant Governor, Senate

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **SB23** by Nelson (Relating to promoting the purchase and availability of health coverage.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for SB23, As Passed 2nd House: a negative impact of ($11,969,771) through the biennium ending August 31, 2009.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2008	($5,867,528)
2009	($6,102,243)
2010	($6,516,959)
2011	($6,990,920)
2012	($7,464,880)

All Funds, Five-Year Impact:

Fiscal Year	Probable (Cost) from *DEPT INS OPERATING ACCT* 36	Probable Revenue Gain from *DEPT INS OPERATING ACCT* 36	Probable (Cost) from *GENERAL REVENUE FUND* 1	Probable (Cost) from *GR DEDICATED ACCOUNTS* 994
2008	($153,849)	$153,849	($5,867,528)	($296,608)
2009	($153,849)	$153,849	($6,102,243)	($318,236)
2010	($18,168,849)	$18,168,849	($6,516,959)	($339,863)
2011	($19,808,974)	$19,808,974	($6,990,920)	($364,581)
2012	($19,805,849)	$19,805,849	($7,464,880)	($389,298)

Fiscal Year	Probable (Cost) from *OTHER SPECIAL STATE FUNDS* 998	Probable (Cost) from *STATE HIGHWAY FUND* 6	Probable (Cost) from *FEDERAL FUNDS* 555	Change in Number of State Employees from FY 2007
2008	($29,786)	($1,321,936)	($1,257,102)	3.0
2009	($31,957)	($1,418,327)	($1,348,766)	3.0
2010	($36,611)	($1,624,880)	($1,545,188)	3.0
2011	($39,611)	($1,624,880)	($1,545,188)	3.0
2012	($39,093)	($1,735,041)	($1,649,947)	3.0

Fiscal Analysis

The bill would amend the Insurance Code relating to promoting the purchase and availability of health coverage.

The bill would require the Texas Department of Insurance (TDI) to establish a TexLink to Health Coverage Division to educate the public about health coverage, promote the purchase of health coverage, assist individuals and small employers with technical information necessary to understand health coverage products, promote and facilitate the development of health coverage options, and increase public awareness of health coverage. The bill would require TDI to develop public service announcements, printed materials, and an internet website and would allow the division to produce a newsletter, operate a toll-free hotline, conduct health coverage fairs, and participate in community events. The bill would amend the definitions and regulations of children's health benefit plans. The bill would require the commissioner to adopt by rule the minimum benefits required to be provided under children's health benefit plans. The bill would require TDI to create a specialty certification program for agents who market small employer benefit plans. The bill would authorize TDI to obtain funding from certain grants and gifts.

The bill would require certain health benefit plans to provide coverage for certain cardiovascular screening medical procedures. The bill would require TDI to ensure health maintenance organization report cards are accessible to the public on TDI's website. The bill would provide for the regulation of entities acting as contracting agents in the secondary market for certain physician discounts. The bill would require certain health benefit plans to provide coverage for prosthetic devices, orthotic devices, and related professional services. The bill would require that grants from the Texas Enterprise Fund be made only if the recipient, as one of the performance targets in the agreement, commit to providing a health benefits plan to the recipient's full-time employees who are employed in a facility or activity financed by the grant. The bill would require certain health benefit plans to provide coverage for acute or chronic medical conditions/hemophilia. The bill would require TDI to establish a registry for health care providers under the Texas Choice Provider Program. The bill would change certain expiration dates to 2007 from 2009 for provisions of the Insurance Code relating to certain assessments. The bill would require certain health benefit plans to provide enrolles certain access to and a right to receive certain information from participating and nonparticipating providers.

The bill would establish a Healthy Texas Program to provide for access to quality small employer health benefit plans at an affordable price, and maximize reliance on strategies and procedures of managed care proven by private sector. The program is not intended to diminish the availability of existing coverage and may be offered only if the commission of insurance determines that coverage is not reasonably available to all market segments in the voluntary market. The bill would require commissioner of insurance to provide general supervision of the program, authorize TDI to adopt rules for the program, and appoint a board of directors for the program. The bill would require Healthy Texas Program to operate as a health benefit plan issuer, and be subject to the maintenance tax imposed under Chapter 257. To carry out purposes of the program, the board would be required to contract with a management company for program operations; propose rates to be used by the program; contract for audit services; and compile an annual operating report. The bill would set eligibility criteria for a program's applicant and require the commissioner to establish employer contribution and employee participation requirements by rule. The board would also be required to develop a plan of dissolution of the program by the seventh anniversary of the program's establishment. The bill would also authorize the Texas Public Finance Authority (TPFA) to issue revenue bonds to cover the program's operations in a total amount not to exceed $200 million. The debt authorized would not be state debt and therefore not impact General Revenue. Revenue bond proceeds would be used to establish the initial surplus for the program, reserves, operating costs, bond costs of issuance, and other necessary costs as determined by TPFA's board. Debt service for the bonds would be paid through an increase in the insurance maintenance tax and if necessary, an additional surcharge on employers in the program. The Healthy Texas Program would not be allowed to issue a health benefit plan before January 1, 2010.

The bill would take effect on September 1, 2007.

Methodology

Based on the analysis of TDI, it is assumed there would be costs associated with establishing the TexLink to Health Coverage Division at TDI. Costs for the TexLink to Health Coverage Division would include salaries for 3.0 FTEs, one Manager IV, one Insurance Specialist II, and one Administrative Assistant III, in the amount of $112,128 each fiscal year with associated benefit costs of $31,721 each fiscal year. Other costs and operating expenses are assumed to be $10,000 each fiscal year. These costs are included in the tables above.

Based on the analysis the Texas Department of Insurance (TDI), it is assumed that there would be a one-time revenue gain of $42,500 in the General Revenue Dedicated Account Fund 36 in fiscal year 2008 associated with approval filings filed as a result of the bill. Since TDI is required to generate revenues equivalent to its costs of operation under current law, this analysis assumes that all costs incurred in excess of the revenue gain realized as a result of the bill would be paid for from General Revenue - Dedicated Fund 36 from either existing fund balances or insurance maintenance tax revenues. These costs could be offset by any gifts or grants received by TDI.

It is assumed the Office of the Governor could implement the provision of the bill regarding the Texas Enterprise Fund by utilizing existing resources.

Based on the analysis of the Teacher Retirement System (TRS), it is assumed the provisions of the bill would not have a siginificant fiscal impact on the health benefit plans administered by TRS. Based on the analysis of the Employees Retirement System (ERS), it is assumed the provisions of the bill relating to coverage of non-network health care providers would require that non-contracted providers be paid at their billed charges rather than the Blue Cross Blue Shield allowable charge and that this provision would result in a cost to the state in All Funds to health benefit plans administered by ERS of $8,592,960 in fiscal year 2008, $9,219,530 in fiscal year 2009, $9,846,100 in fiscal year 2010, $10,562,180 in fiscal year 2011, and $11,278,260 in fiscal year 2011. These costs are reflected in the tables above. It is assumed all other provisions of the bill would not have a significant fiscal impact to the health benefit plans administered by ERS.

Based on the analysis of the Health and Human Services Commission, it is assumed any duties and responsibilities at that agency associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

The fiscal impact related to the provisions of the bill establishing the Healthy Texas Program relate to the revenue bonds issued to fund the program. The maximum amount of the bonds is $200 million, for a maximum 20 year term. The costs are based on estimates from TPFA and assume that program funding would be required beginning September 1, 2009. Therefore, $200 million of taxable bonds would be issued on September 1, 2009 at a 7.5 percent interest rate and a 20 year level debt service structure. (The intended use of the proceeds for initial working capital would not meet federal income tax requirements for tax-exempt bonds.) There would be no debt service in the 2008-09 biennium. The tables above show that the gains to General Revenue Dedicated Fund 36 from the insurance maintenance surtax would be spent on debt service, resulting in a net zero impact to the fund. The debt services is assumed to be $18,015,000 in fiscal year 2010, $19,655,125 in fiscal year 2011, and $19,652,000 in fiscal year 2012.

To cover the cost of debt service, TDI would have to raise its maintenance tax under Chapter 257. Because the tax rate is currently set at the maximum rate of 0.004 percent, it is anticipated that the bill’s provisions would authorize an additional surtax, up to 1 percent, would be used. It is not anticipated that the surtax rate would have to be higher than the 1 percent cap.

The Comptroller estimates that there would be some small undetermined loss to the General Revenue Fund and to the Foundations School Fund because the higher maintenance taxes imposed by Texas would result in a reduction in retaliatory taxes collected from foreign insurers writing business in the state. These losses would depend on the amount and timing of the debt issuance and cannot be estimated.

Technology

There would be a one-time technology impact of $8,664 in fiscal year 2008.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 323 Teacher Retirement System, 327 Employees Retirement System, 347 Public Finance Authority, 454 Department of Insurance, 529 Health and Human Services Commission, 304 Comptroller of Public Accounts, 537 State Health Services, Department of, 701 Central Education Agency

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