

BILL ANALYSIS

C.S.H.B. 2586
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Insurance
Committee Report (Substituted)

BACKGROUND AND PURPOSE

In 2003, the 78th Legislature, Regular Session, enacted S.B. 10, authorizing the creation of health group cooperatives. The rules adoption process and legislation enacted in 2007 make participation by a health insurance carrier in the health group cooperative market voluntary and provide that health group cooperatives may be composed of small employers or large employers, but not both small and large employers.

Since cooperatives were originally established, there has been a slow increase in offering such plans, in part because of the limits regarding the allowable premium rates applicable to the employers that participate in a cooperative, which require all employers to be charged the same rate for coverage through the cooperative. While this would appear to be a reasonable goal, the result is that the healthiest groups that are either applying for participation or already participating in a health group cooperative tend to leave the health group cooperative for a more cost-effective policy elsewhere. The strict risk pooling arrangement that does not allow for rate variances within a health group cooperative according to the characteristics of the participating employer can be overly limiting to a successful health group cooperative arrangement.

If rating protections already available to small employers in the Insurance Code are made available to small employers participating in a health group cooperative so that the rate variation is limited, and small employers are not effectively discouraged from participation, then all groups benefit from the larger purchasing power of the cooperative, mitigating the incentive for the healthiest groups to avoid or leave the cooperative.

C.S.H.B. 2586 amends the Insurance Code to allow a sole proprietor to become enrolled in health group cooperatives and to allow cooperatives and insurers to agree to vary rates by employer within the cooperative.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the commissioner of insurance in SECTIONS 3 and 6 of this bill.

ANALYSIS

C.S.H.B. 2586 amends the Insurance Code to define "eligible single-employee business" to mean a business entity that is owned and operated by sole proprietor, employed an average of fewer than two employees on business days during the preceding calendar year, and is eligible to participate in a cooperative under the Texas Health Insurance Portability and Availability Act and in accordance with provisions relating to a health group cooperative's election to treat participating employers separately for rating purposes. The bill requires a health group cooperative to arrange for either small or large employer health benefit plan coverage for eligible single-employee businesses participating in the cooperative, in addition to coverage for small and large employer groups.

C.S.H.B. 2586 clarifies the provision that allows a small employer to join a health group cooperative by excluding its membership in a health group cooperative consisting of only large employers rather than specifying its membership eligibility to join a health group cooperative consisting of only small employers or both small and large employers. The bill authorizes membership of a health group cooperative to consist of only small employers, only large employers, both small and large employers, both small employers and eligible single-employee businesses, both large employers and eligible single-employee businesses, or a combination of small employers, large employers, and eligible single-employee businesses. The bill authorizes eligible single-employee businesses to join a health group cooperative and enroll in health benefit plan coverage subject to the requirements related to the cooperative's election to permit such membership, which must permit participation and enrollment in a cooperative's health benefit plan coverage during the initial enrollment and annual enrollment periods. The bill clarifies that each health benefit plan offered by a health group cooperative must be made available to all employers participating in, rather than employees covered by, the cooperative.

C.S.H.B. 2586 authorizes a health group cooperative, with certain exceptions, to file an election with the commissioner of the Texas Department of Insurance (TDI) to permit eligible single-employee businesses to join the cooperative and to enroll in health benefit plan coverage. The bill requires the election to be filed not later than the 90th day before the date coverage for eligible single-employee businesses is to become effective. The bill authorizes a health group cooperative to file an election under these provisions only if a small or large employer health benefit plan issuer has agreed in writing to offer to issue coverage to the cooperative based on its membership after the election to permit eligible single-employee businesses to participate in the cooperative has become effective.

C.S.H.B. 2586 requires provisions relating to guaranteed issuance of plans, to rating requirements, and to mandated benefits that are applicable to small employers to apply to eligible single-employee businesses that are members of the health group cooperative on the date an election filed with the commissioner becomes effective and until the election is rescinded. The bill requires a health group cooperative that files an election with the commissioner to permit an eligible single-employee business to join the health group cooperative and enroll in health benefit plan coverage to permit participation and enrollment in the cooperative's health benefit plan coverage during the initial enrollment and annual open enrollment periods by each eligible single-employee business that elects to participate and agrees to satisfy the requirements associated with participation in and coverage through the cooperative. The bill provides that certain membership restrictions imposed by a health group cooperative and applicable to small employers apply to eligible single-employee businesses.

C.S.H.B. 2586 authorizes a health group cooperative to rescind its election to permit eligible single-employee businesses to join the cooperative and enroll in health benefit plan coverage only if the election has been effective for at least two years, unless the rescission takes place before the second anniversary of the effective date of the election under rules adopted by the commission for such early rescission; the health group cooperative files notice of the rescission with the commissioner not later than the 180th day before the effective date of the rescission; and the health group cooperative provides written notice of termination of coverage to all eligible single-employee business members of the cooperative not later than the 180th day before the effective date of the termination. The bill requires the commissioner to adopt rules under which a health group cooperative may rescind its election to permit eligible single-employee businesses to join the cooperative before the second anniversary of the effective date of the election.

C.S.H.B. 2586 authorizes a health group cooperative that files notice of rescission to choose to permit existing eligible single-employee businesses to remain active, covered members of the cooperative, but only if all such members of the cooperative are provided the same opportunity. The bill prohibits a health group cooperative that has rescinded an election from filing a

subsequent election to permit eligible single-employee businesses to join the cooperative and enroll in health benefit plan coverage before the fifth anniversary of the effective date of the rescission.

C.S.H.B. 2586 clarifies that, except for a requirement imposed on health group cooperatives offering more than one health plan that each plan offered be made available to all participating employers, a cooperative has the sole authority to make benefit elections and perform other administrative functions for the cooperative's participating employers but is prohibited from limiting, restricting, or conditioning an employer's or employee's membership in a cooperative or choice among benefit plans.

C.S.H.B. 2586 authorizes a health group cooperative to file with the commissioner, an election to treat participating employers within the cooperative as separate employers for purposes of rating small and large employer health benefit plans, subject to the rating requirements under Texas law applicable to such plans. The bill requires a health group cooperative to provide all participating and prospective employers a written notice of its election to treat participating employers within the cooperative as separate employers for purposes of rating small and large employer health benefit plans. The bill requires that employers participating in the cooperative when such an election is made be provided notice of the election not later than the 90th day before the date the election becomes effective, which notice must contain the quote for the premium rate applicable to the employer as of the date the plan is renewed. The bill requires an employer who applies to become a participating employer in the health group cooperative to be provided notice of election when the prospective employer applies to become a participating employer.

C.S.H.B. 2586 provides that an election is effective either on the date the plan to which the election applies is initially issued or on the date the plan is renewed and that it remains in effect until at least the first anniversary of that effective date. The bill requires the commissioner to adopt rules governing the eligibility of a single-employee business to participate in a health group cooperative under these provisions and requires the rules to ensure that each eligible single-employee business has a business purpose and was not formed solely to obtain health benefit plan coverage.

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 2586 differs from the original by removing the provision that the membership of a health group include cooperatives consisting of small employers and eligible single-employee businesses; large employers and eligible single-employee businesses; and small employers, large employers, and eligible single-employee businesses. The substitute differs from the original by authorizing membership of a health group cooperative to consist of only small employers, only large employers, both small and large employers, both small employers and eligible single-employee businesses, both large employers and eligible single-employee businesses, or a combination of small employers, large employers, and eligible single-employee businesses. The substitute differs from the original by clarifying that an employer who applies to become a participating employer in the health group cooperative to be provided notice of election filed by a cooperative to treat participating employers within the cooperative as separate employers for rating purposes when the prospective employer applies to become a participating employer.