

## **BILL ANALYSIS**

S.B. 1771  
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Insurance  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Businesses with 20 or more full-time employees offer federal Consolidated Omnibus Budget and Reconciliation Act of 1985 (COBRA) continuation coverage, allowing workers and their dependents the option to retain coverage under the company's health insurance for 18 months and 36 months, respectively. These individuals are required to pay the entire cost of the premium plus an administrative fee. For businesses with fewer than 20 full-time employees, Texas offers a state continuation coverage, similar to COBRA, for six months.

The American Recovery and Reinvestment Act of 2009 provides for a 65 percent premium assistance program for COBRA and state continuation coverage programs. Because Texas' state continuation coverage is only for six months, as opposed to 18-month COBRA coverage, former employees of business with fewer than 20 full-time employees are unable to access health insurance coverage and the federal premium assistance program for an equal period of time.

S.B. 1771 aligns the state continuation coverage periods to match COBRA continuation coverage by extending the state continuation coverage from six months to nine months.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

S.B. 1771 amends the Insurance Code to require an employer or group policy or contract holder, not later than the 60th day after this bill's effective date, to provide notice to any former employee, member, dependent, or enrollee who is an extended election eligible individual that includes a description of the extended election period available to the individual under these provisions; a description, displayed in a prominent manner, of the individual's right to a reduced premium and any conditions on entitlement to the reduced premium under the American Recovery and Reinvestment Act of 2009 (ARRA); a form that allows the individual to request treatment as an assistance eligible individual, as defined by ARRA, to whom the premium subsidy would apply; the cost of continuation coverage and the period of coverage available; an election form that includes the return address and the due date for making the election; and notice that if the individual is entitled to the reduced premium and later becomes eligible for other group health plan coverage or Medicare, the individual must notify the employer in writing or the individual may be subject to a tax penalty. The bill authorizes an extended election eligible individual to elect continuation coverage beginning on the effective date of this bill and ending on the 60th day after the date on which the required notice is provided to the eligible individual. The bill specifies that the period of continuation coverage for an extended election eligible individual who elects continuation coverage begins with the first period of coverage beginning on or after the effective date of this bill and does not extend beyond the date the period of continuation coverage would have ended if the coverage had been elected during the election period required under the law as it existed before this bill's effective date. The bill requires the 60-day election period to be disregarded for purposes of determining a 63-day period referred to in federal and state law as creditable coverage for preexisting conditions. The

bill defines an "extended election eligible individual" to mean an employee, member, dependent, or enrollee who became eligible for continuation coverage due to involuntary termination, other than involuntary termination for cause, at any time during the period that begins on September 1, 2008, and ends on February 16, 2009, who did not elect such coverage or whose elected continuation coverage lapsed or was canceled without reinstatement for a reason other than exhaustion of the maximum period of continuation coverage allowable under law, and whose involuntary termination on which the eligibility is based occurred during that same period. The bill establishes that the above provisions expire September 1, 2013.

S.B. 1771 extends the deadline by which an employee, member, or dependent must provide to the employer or group policyholder a written request for the continuation of group coverage from not later than the 31st day to not later than the 60th day after the later of the date the group coverage would otherwise terminate or the date the individual is given, in a format prescribed by the commissioner of insurance, notice by either the employer or the group policyholder of the right to continuation of group coverage. The bill requires the initial payment of contributions to the employer or group policyholder by an individual who elects to continue group coverage to be made not later than the 45th day after the date of the initial election for coverage and on the due date of each payment thereafter. The bill establishes that, following that first payment, the payment of any other premium is considered timely if made on or before the 30th day after the date on which the payment is due, and makes conforming changes. The bill amends the options for the earliest date on which group coverage continued under these provisions is authorized to terminate to include the date the maximum continuation period provided by law would end, which is for any employee, member, or dependent not eligible for continuation coverage under the federal Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), nine months after the date the employee, member, or dependent elects to continue the group coverage or, for any employee, member, or dependent eligible for continuation coverage under COBRA, six additional months following any period of continuation coverage provided under COBRA. The bill removes as an option six months after the date the employee, member, or dependent elects to continue the group coverage and specifies that the option of the date on which similar benefits are provided or available to the insured under any state or federal law excludes continuation coverage under COBRA. The bill applies the above provisions relating to group coverage including a request for continuation of coverage, payment of contributions, and the termination of continued coverage to an enrollee, to provisions relating to benefits provided by a health maintenance organization (HMO) plan.

S.B. 1771 provides that an individual eligible for benefits from the continuation of coverage under a group or blanket insurance policy or HMO plan, who did not elect continuation coverage during the election period or whose elected continuation coverage lapsed or was canceled without reinstatement is eligible for coverage under the Texas Health Insurance Risk Pool and specifies that eligibility is subject to a 180-day exclusion of coverage under statutory provisions relating to preexisting conditions. The bill provides that the 180-day exclusion of coverage does not apply to an individual eligible for benefits from the continuation of coverage who did not elect continuation coverage during the election period or whose elected continuation coverage lapsed or was canceled without reinstatement, following a period of continuation coverage under COBRA. The bill establishes that pool coverage for an individual eligible under these provisions excludes charges or expenses incurred before the expiration of 180 days from the effective date of coverage with regard to certain preexisting conditions.

#### **EFFECTIVE DATE**

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