LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 14, 2009

TO: Honorable John T. Smithee, Chair, House Committee on Insurance

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

IN RE: **SB1257** by Averitt (Relating to the regulation of certain market conduct activities of certain life, accident, and health insurers and health benefit plan issuers; providing civil liability and administrative and criminal penalties.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for SB1257, As Engrossed: a negative impact of ($154,948) through the biennium ending August 31, 2011.

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
2010	($78,724)
2011	($76,224)
2012	($76,224)
2013	($76,224)
2014	($76,224)

All Funds, Five-Year Impact:

Fiscal Year	Probable (Cost) from *General Revenue Fund* 1	Probable Revenue Gain from *Insurance Maint Tax Fees* 8042	Probable (Cost) from *Insurance Maint Tax Fees* 8042	Change in Number of State Employees from FY 2009
2010	($78,724)	$251,170	($251,170)	2.5
2011	($76,224)	$241,779	($241,779)	2.5
2012	($76,224)	$241,779	($241,779)	2.5
2013	($76,224)	$241,779	($241,779)	2.5
2014	($76,224)	$241,779	($241,779)	2.5

Fiscal Analysis

The bill would amend the Insurance Code to expand the regulation of certain market conduct activities of certain life, accident, and health insurers and health benefit plan issuers.

ARTICLE 1 of the bill would create an independent review process for certain rescission decisions. The bill would require the Texas Department of Insurance (TDI) to adopt standards for the independent review organizations and to adopt rules to implement these provisions.

ARTICLE 2 would require preferred provider benefit plan companies to include its medical loss ratio in the annual report to TDI. The bill would require TDI to publish this information on the agency's website and to adopt rules to implement these provisions.

ARTICLE 3 of the bill would create a complaint process for premium rate increases for small employer health benefit plans. The bill would require the Office of Public Insurance Counsel (OPIC) to accept complaints against small employer health benefit plans from small employers, eligible employees or their dependents concerning significant rate increases. The bill would authorize OPIC to determine which complaints are appropriate to refer to TDI and authorize TDI to issue an order assessing penalties if the rate is determined to be excessive. The bill would allow OPIC to request reimbursement from TDI for costs and fees associated with the investigation and resolution of complaint of a rate increase. The bill would not require, but would allow, TDI to reimburse OPIC for these expenses.

The bill would create the Honesty-In-Premium Account as fund in the General Revenue Fund. The bill would allow TDI to make an assessment against each small employer health benefit plan issuer to cover the costs of investigating and resolving a complaint. The bill would allow the fund to receive revenue from any assessments TDI makes as specified in the bill and from interest earned on the fund.

ARTICLE 4 would implement a recommendation in the Legislative Budget Board (LBB) Government Effectiveness and Efficiency Report entitled, "Require Health Plans That Rank Physicians To Meet National Standards." The bill would provide that health benefit plans which rank physicians must meet standards as prescribed by the Commissioner of Insurance by rule. The bill would require that the Commissioner of Insurance consider national standards and performance measures emphasizing quality of health care. The bill would require that a health benefit plan that ranks physicians must disclose the standards and measurements by which each physician is ranked to the physician. The bill would provide due process for the physician to dispute the ranking.

The bill would take effect immediately if it receives a vote of two-thirds of all the members elected to each house. If this Act does not receive the vote necessary for immediate effect, then the bill would take effect September 1, 2009.

Methodology

Based on the analysis by TDI, it is anticipated that the loss ratio collection and review process and the complaint process will require an additional 1.5 full-time-equivalent positions (FTEs) in each fiscal year of the 2010-11 biennium. Each year, the 1.5 FTEs would cost $105,713 for salaries and wages with associated benefit costs of $30,202, travel costs of $1,250, and telephone and other operating expenses of $4,614. One-time equipment expenditures are anticipated to be $9,391 in fiscal year 2010. Additionally, expert witnesses will be required in contested rate cases at a cost of $100,000 each year of fiscal years 2010 to 2014. Since insurance maintenance tax is self-leveling, this analysis assumes that the costs to implement this bill would come from fund balances or the maintenance tax would be set to recover a higher level of revenue.

Since reimbursements from ARTICLE 3 are at the discretion of TDI, this analysis assumes that TDI would not make assessments on the small employer health benefit plan issuer and therefore would not reimburse OPIC for costs related to the complaint process.

Based on analysis provided by OPIC, it is anticipated that the complaint process will require an additional 1 FTE to analyze complaints to determine if the rate change is sufficient to warrant OPIC's participation. The 1 FTE would have a salary cost of $59,286 with associated benefits of $16,938 each fiscal year. Additionally, a one-time equipment cost of $2,500 is anticipated in fiscal year 2010. These costs would be funded through General Revenue.

It is not anticipated that the requirements of ARTICLE 4 of the bill would have any fiscal impact to the state.

Based on analysis provided by the Employee Retirement System (ERS), this bill would have no significant fiscal impact on the agency.

Based on analysis provided by the Teacher Retirement System (TRS), this bill would have no fiscal impact on the agency.

This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. Legislative policy, implemented as Government Code 403.094, consolidated special funds (except those affected by constitutional, federal, or other restrictions) into the General Revenue Fund as of August 31, 1993, and eliminated all applicable statutory revenue dedications as of August 31, 1995. Each subsequent Legislature has reviewed bills that affect funds consolidation. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

Technology

The bill is anticipated to have a technology impact of $5,388 in fiscal year 2010.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 359 Office of Public Insurance Counsel, 454 Department of Insurance

LBB Staff: JOB, KJG, MW, CH