SENATE AMENDMENTS

2nd Printing

By: Smithee, Hardcastle, Eiland, Bohac, Alonzo, et al. H.B. No. 2064

A BILL TO BE ENTITLED

AN ACT

relating to premium discounts for certain participants in the Texas Health Insurance Risk Pool and to related tax credits for health benefit plan issuers.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1506.105, Insurance Code, is amended by amending Subsection (e) and adding Subsections (e-1) and (e-2) to read as follows:

(e) Premium rates shall be established to provide fully for all of the expected costs of claims, including recovery of prior losses, expenses of operation, investment income from claim reserves, and any other cost factors, subject to the limitations [~~limitation~~] described in this subsection and Subsection (e-1). In no event may pool premium rates exceed 200 percent of the standard risk rate described by Subsection (d) [~~rates applicable to individual standard risks~~].

(e-1) Subject to Subsection (e-2), discounted premiums shall be offered on a sliding scale, based on financial need, as follows:

(1) for an individual whose household income is below 200 percent of the federal poverty measure, determined under the United States Department of Health and Human Services poverty guidelines in effect at the time coverage is provided, premium rates shall equal the standard risk rate described by Subsection

(d); and

(2) for an individual whose household income is at or below 300 percent, but not less than 200 percent, of the federal poverty measure, determined under the United States Department of Health and Human Services poverty guidelines in effect at the time coverage is provided, premium rates shall equal 140 percent of the standard risk rate described by Subsection (d).

(e-2) The aggregate premium discount under Subsection (e-1), determined by subtracting the dollar amount of premiums collected under Subsection (e-1) from the dollar amount that would have been collected if a discount was not available under Subsection (e-1), may not exceed $20 million in any two-year period, beginning with the two-year period that begins January 1, 2010, and ends December 31, 2011.

SECTION 2. Subchapter F, Chapter 1506, Insurance Code, is amended by adding Section 1506.260 to read as follows:

Sec. 1506.260. TAX CREDIT. (a) A health benefit plan issuer is entitled to a credit against the issuer's premium tax under Chapter 222 for premium discounts granted under Section 1506.105(e-1). Each issuer's share of the premium discounts is based on the method described by Section 1506.253 as calculated by the pool.

(b) The tax credit applies to the premium tax due in the calendar year following the calendar year in which the assessment is paid. An unused credit may be carried over to apply to the premium tax due in the five consecutive calendar years that follow the calendar year in which the credit may first be applied.

(c) The balance of a tax credit not claimed in a particular calendar year may be reflected in the books and records of the issuer as an admitted asset of the issuer.

(d) Available credit against premium tax allowed under this section may be transferred or assigned among health benefit plan issuers if:

(1) a merger, acquisition, or total assumption of reinsurance among the issuers occurs; or

(2) the commissioner by order approves the transfer or assignment.

SECTION 3. (a) This Act applies only to premium rates for coverage through the Texas Health Insurance Risk Pool under Chapter 1506, Insurance Code, as amended by this Act, that is in effect on or after January 1, 2010. Premium rates for coverage in effect before January 1, 2010, are governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

(b) A health benefit plan issuer may apply a tax credit under Section 1506.260, Insurance Code, as added by this Act, beginning with the first premium tax payment that is due on or after January 1, 2012.

SECTION 4. This Act takes effect September 1, 2009.

ADOPTED

MAY 12 2009

Latay Spaw
Secretary of the Senate

FLOOR AMENDMENT NO. 1 BY: [signature]

Amend H.B. No. 2064 (senate committee report) as follows:

(1) Add the following appropriately numbered SECTIONS to the bill and renumber subsequent SECTIONS of the bill accordingly:

SECTION ____. Section 843.342, Insurance Code, is amended by adding Subsections (m) and (n) to read as follows:

(m) Notwithstanding any other provision of this section, this subsection governs the payment of a penalty under this section. For a penalty under this section relating to a clean claim submitted by a physician or provider other than an institutional provider, the health maintenance organization shall pay the entire penalty to the physician or provider, except for any interest computed under Subsection (c), which shall be paid to the Texas Health Insurance Risk Pool. For a penalty under this section relating to a clean claim submitted by an institutional provider, the health maintenance organization shall pay 50 percent of the total penalty amount computed under this section, including interest, to the institutional provider and the remaining 50 percent of that amount to the Texas Health Insurance Risk Pool.

(n) In this section, "institutional provider" means a hospital or other medical or health-related service facility that provides care for the sick or injured or other care that may be covered in an evidence of coverage.

SECTION ____. Section 1301.137, Insurance Code, is amended by adding Subsection (l) to read as follows:

(l) Notwithstanding any other provision of this section, this subsection governs the payment of a penalty under this section. For a penalty under this section relating to a clean claim submitted by a preferred provider other than an institutional provider, the insurer shall pay the entire penalty to the preferred provider, except for any interest computed under Subsection (c), which shall be paid to the Texas Health Insurance Risk Pool. For a penalty under this section relating to a clean claim submitted by an institutional provider, the insurer shall pay 50 percent of the penalty amount computed under this section, including interest, to the institutional provider and the remaining 50 percent of that amount to the Texas Health Insurance Risk Pool.

(2) In the recital to SECTION 1 of the bill (page 1, line 13), strike "adding Subsections (e-1) and (e-2)" and substitute "adding Subsection (e-1)".

(3) In SECTION 1 of the bill, in amended Section 1506.105(e-1), Insurance Code (page 1, line 23), strike "Subsection (e-2)" and substitute "the availability of funds under Section 1506.260".

(4) In SECTION 1 of the bill (page 1, lines 38-44), strike added Section 1506.105(e-2), Insurance Code.

(5) In SECTION 2 of the bill (page 1, line 47, through page 2, line 3), strike added Section 1506.260, Insurance Code, and substitute the following new Section 1506.260, Insurance Code:

Sec. 1506.260. FUNDING FOR PREMIUM DISCOUNTS. The board shall collect penalty payments and interest paid by health maintenance organizations as provided by Section 843.342 and insurers as provided by Section 1301.137. The board may use funds collected under this section only to finance premium discounts under Section 1506.105(e-1). The board may require a health maintenance organization or an insurer to make payments under this section and make reports concerning those payments in a manner determined by the board.

(6) In SECTION 3 of the bill (page 2, line 4), insert the following between "3." and "(a)":

(a) Sections 843.342 and 1301.137, Insurance Code, as amended by this Act, apply only to a penalty or interest on a penalty owed with respect to a clean claim paid on or after the effective date of this Act. A penalty or interest on a penalty owed with respect to a clean claim paid before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

(7) In SECTION 3(a) of the bill (page 2, lines 7 and 8), strike "2010" each place it appears and substitute "2011".

(8) In SECTION 3 of the bill, strike existing Subsection (b) (page 2, lines 11-14).

(9) In SECTION 3 of the bill, reletter subsections appropriately.

ADOPTED

MAY 12 2009

Secretary of the Senate

FLOOR AMENDMENT NO. 2 BY:

Amend H.B. No. 2064 (senate committee report) as follows:

(1) In SECTION 4 of the bill (page 2, line 15) strike "September 1, 2009" and substitute "January 1, 2010".

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 14, 2009

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

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

IN RE: **HB2064** by Smithee (Relating to premium discounts for certain participants in the Texas Health Insurance Risk Pool and to related tax credits for health benefit plan issuers.), **As Passed 2nd House**

No fiscal implication to the State is anticipated.

The bill would amend Chapter 1506 of the Insurance Code to provide discounted insurance premiums for specified participants in the Texas Health Insurance Risk Pool (Health Pool). The bill would provide that discounted premiums would be offered to certain members of the Health Pool on a sliding scale based on a person's financial need as defined by the bill.

The bill would amend Chapters 843 and 1301 of the Insurance Code to provide that a portion of certain penalty payments and interest payments that are statutorily paid by Health Maintenance Organizations and Preferred Provider Benefit plans for late claim payments would be used to fund the discounted premiums. The board of directors of the Health Pool would collect these penalty and interest payments.

The bill would take effect January 1, 2010.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts
LBB Staff: JOB, SD, RS

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 28, 2009

TO: Honorable Robert Duncan, Chair, Senate Committee on State Affairs

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

IN RE: **HB2064** by Smithee (Relating to premium discounts for certain participants in the Texas Health Insurance Risk Pool and to related tax credits for health benefit plan issuers.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2064, As Engrossed: an impact of $0 through the biennium ending August 31, 2011.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	$0
2011	$0
2012	($20,000,000)
2013	$0
2014	($20,000,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from *General Revenue Fund* 1	Probable Savings/(Cost) from *Foundation School Fund* 193
2010	$0	$0
2011	$0	$0
2012	($15,000,000)	($5,000,000)
2013	$0	$0
2014	($15,000,000)	($5,000,000)

Fiscal Analysis

The bill would amend the Insurance Code by allowing a credit to be taken against an insurers premium tax liability for required discounts on the premiums paid by certain individuals through the Health Insurance Risk Pool. The discounted premiums would be offered on a sliding scale based on a person's financial need. The total premium discount allowed would be capped at $20 million in any two-year period.

Each health benefit plan issuer would be entitled to a credit against the premium tax for their share of the new premium discounts granted under the Health Insurance Risk Pool. The credit would apply to the premium tax due in the calendar year following the calendar year in which the assessment was paid. A health benefit plan issuer could apply a tax credit beginning with the first premium tax payment due on or after January 1, 2012.

The bill would take effect September 1, 2009.

Methodology

According to the Health Pool, surveys of membership income levels indicate that up to 48 percent of enrollees would qualify for the discounted premiums based on the financial need guidelines. Health Pool premiums in 2007 totaled $182,378,034, the 48 percent subset of members that would qualify for the discounted premiums would easily meet the $20 million biennial limit. The fiscal impact is based on the assumption that the full capped credit would be taken in the report filed March 1, 2012, and the credit would continue to be taken every two years thereafter. Any unused credit may be carried over to apply to the premium tax due in the five consecutive calendar years that follow the calendar year in which the credit was first applied.

The insurance premium tax is classified as an occupation tax, with 25 percent of its revenues constitutionally dedicated to the General Revenue Account 0193 - Foundation School Fund. The proposed assessment credit would reduce insurers' insurance premium tax liabilities and thereby cause a loss to General Revenue and also to the Foundation School Fund.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 454 Department of Insurance
LBB Staff: JOB, KJG, SD, CH, MN, RS

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

March 27, 2009

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

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

IN RE: **HB2064** by Smithee (Relating to premium discounts for certain participants in the Texas Health Insurance Risk Pool and to related tax credits for health benefit plan issuers.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2064, Committee Report 1st House, Substituted: an impact of $0 through the biennium ending August 31, 2011.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	$0
2011	$0
2012	($20,000,000)
2013	$0
2014	($20,000,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from *General Revenue Fund* 1	Probable Savings/(Cost) from *Foundation School Fund* 193
2010	$0	$0
2011	$0	$0
2012	($15,000,000)	($5,000,000)
2013	$0	$0
2014	($15,000,000)	($5,000,000)

Fiscal Analysis

The bill would amend the Insurance Code by allowing a credit to be taken against an insurers premium tax liability for required discounts on the premiums paid by certain individuals through the Health Insurance Risk Pool. The discounted premiums would be offered on a sliding scale based on a person's financial need. The total premium discount allowed would be capped at $20 million in any two-year period.

Each health benefit plan issuer would be entitled to a credit against the premium tax for their share of the new premium discounts granted under the Health Insurance Risk Pool. The credit would apply to the premium tax due in the calendar year following the calendar year in which the assessment was paid. A health benefit plan issuer could apply a tax credit beginning with the first premium tax payment due on or after January 1, 2012.

The bill would take effect September 1, 2009.

Methodology

According to the Health Pool, surveys of membership income levels indicate that up to 48 percent of enrollees would qualify for the discounted premiums based on the financial need guidelines. Health Pool premiums in 2007 totaled $182,378,034, the 48 percent subset of members that would qualify for the discounted premiums would easily meet the $20 million biennial limit. The fiscal impact is based on the assumption that the full capped credit would be taken in the report filed March 1, 2012, and the credit would continue to be taken every two years thereafter. Any unused credit may be carried over to apply to the premium tax due in the five consecutive calendar years that follow the calendar year in which the credit was first applied.

The insurance premium tax is classified as an occupation tax, with 25 percent of its revenues constitutionally dedicated to the General Revenue Account 0193 - Foundation School Fund. The proposed assessment credit would reduce insurers' insurance premium tax liabilities and thereby cause a loss to General Revenue and also to the Foundation School Fund.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 454 Department of Insurance

LBB Staff: JOB, KJG, SD, CH, MN, RS

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

March 17, 2009

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

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

IN RE: **HB2064** by Smithee (Relating to premium discounts for certain participants in the Texas Health Insurance Risk Pool and to related tax credits for health benefit plan issuers.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2064, As Introduced: an impact of $0 through the biennium ending August 31, 2011.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	$0
2011	$0
2012	($20,000,000)
2013	($35,672,000)
2014	($35,672,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from *General Revenue Fund* 1	Probable Savings/(Cost) from *Foundation School Fund* 193
2010	$0	$0
2011	$0	$0
2012	($15,000,000)	($5,000,000)
2013	($26,754,000)	($8,918,000)
2014	($26,754,000)	($8,918,000)

Fiscal Analysis

The bill would amend the Insurance Code by allowing a credit to be taken against an insurers premium tax liability for required discounts on the premiums paid by certain individuals through the Health Insurance Risk Pool. The discounted premiums would be offered on a sliding scale based on a person's financial need. The total premium discount allowed would be capped at $20 million for the two-year period beginning January 1, 2010, and ending December 31, 2011.

Each health benefit plan issuer would be entitled to a credit against the premium tax for their share of the new premium discounts granted under the Health Insurance Risk Pool. The credit would apply to the premium tax due in the calendar year following the calendar year in which the assessment was paid. A health benefit plan issuer could apply a tax credit beginning with the first premium tax payment due on or after January 1, 2012.

The bill would take effect September 1, 2009.

Methodology

According to the Health Pool, surveys of membership income levels indicate that up to 48 percent of enrollees would qualify for the discounted premiums based on the financial need guidelines. Health Pool premiums in 2007 totaled $182,378,034, the 48 percent subset of members that would qualify for the discounted premiums would easily meet the initial $20 million biennial limit. The fiscal impact is based on the assumption that the full capped credit would be taken in the report filed March 1, 2012. However, any unused credit may be carried over to apply to the premium tax due in the five consecutive calendar years that follow the calendar year in which the credit was first applied.

The table above assumes the Health Insurance Risk Pool discounted premiums would continue indefinitely with the $20 million cap applying only to the 2010-2011 biennium. As a result, the health plan issuer would be entitled to a premium tax credit each year. The estimate assumes each issuer would have the tax liability to claim the full credit in the following calendar year in which the credit was earned.

The insurance premium tax is classified as an occupation tax, with 25 percent of its revenues constitutionally dedicated to the General Revenue Account 0193 - Foundation School Fund. The proposed assessment credit would reduce insurers' insurance premium tax liabilities and thereby cause a loss to General Revenue and also to the Foundation School Fund.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 454 Department of Insurance

LBB Staff: JOB, KJG, SD, CH, MN, RS