

BILL ANALYSIS

C.S.H.B. 816
By: Hunter
State Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Certain provisions of the federal Patient Protection and Affordable Care Act require each state to establish a new insurance marketplace through which insurance plans will be offered to the residents of that state. Under such state health insurance plans, to be known as American health benefit exchanges, subsidies are to be made available for certain qualifying individuals. Even though the American health benefit exchange is to be a state plan, the federal government still administers and oversees this insurance. The federal act, however, does authorize individual states to prohibit coverage or reimbursement for specific services within the exchanges.

C.S.H.B. 816 prohibits any qualified health plan offered through the mandated state exchange from providing health insurance coverage for abortion services other than for abortions due to certain medical emergencies, in accordance with the applicable federal provisions, and instead allows for the purchase of optional or supplemental coverage to provide insurance coverage for abortion services.

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

C.S.H.B. 816 amends the Insurance Code to prohibit a qualified health plan offered through a health benefit exchange from providing coverage for an abortion other than coverage for an abortion performed when a condition exists, based on reasonable medical judgment, that complicates the medical condition of the pregnant woman or pregnant minor to an extent that the immediate abortion of her pregnancy is necessary to avert her death, or a delay in performing the abortion creates a serious risk of substantial and irreversible physical impairment of a major bodily function, other than a psychological or emotional condition. The bill specifies that provisions of the bill authorizing such a health plan to provide coverage for an abortion when certain specified conditions exist do not authorize coverage for an abortion based on a potential future medical condition that may result from a voluntary act of the woman or minor after the abortion is performed. The bill specifies that its provisions do not prevent a person from purchasing optional or supplemental coverage for abortions under a health benefit plan other than a qualified health plan offered through a health benefit exchange.

C.S.H.B. 816 makes its provisions applicable only to a qualified health plan offered through a health benefit exchange that is delivered, issued for delivery, or renewed on or after January 1, 2012. The bill provides for the meaning of "abortion" by reference to the Health and Safety Code and provides for the meaning of "health benefit exchange" and "qualified health plan" by reference to the federal Patient Protection and Affordable Care Act.

EFFECTIVE DATE

September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 816 differs from the original, in a provision of the bill establishing the conditions under which a qualified health plan offered through a health benefit exchange is authorized to cover an abortion, by requiring the determination that a certain medical condition exists to be based on reasonable medical judgment, rather than on the performing physician's good faith clinical judgment, as in the original. The substitute differs from the original, in that same bill provision, by making the provision applicable to the medical condition of a pregnant woman or pregnant minor, rather than to a pregnant woman as in the original. The substitute differs from the original by specifying that the condition complicating the medical condition of the pregnant woman or minor must complicate the medical condition to an extent that the immediate abortion of her pregnancy is necessary to avert her death, whereas the original specifies that the condition complicates the medical condition of the pregnant woman and necessitates the abortion of her pregnancy to avert her death. The substitute contains a provision not included in the original establishing as an alternate condition for which a qualified health plan offered through a health benefit exchange is authorized to cover an abortion that a delay in performing the abortion creates a serious risk of physical impairment of a major bodily function, other than a psychological or emotional condition. The substitute contains a provision not included in the original specifying that provisions of the bill authorizing such a health plan to provide coverage for an abortion when certain specified conditions exist do not authorize coverage for an abortion based on a potential future medical condition that may result from a voluntary act of the woman or minor after the abortion is performed.

C.S.H.B. 816 differs from the original by clarifying that its provisions do not prevent a person from purchasing optional or supplemental coverage for abortions, rather than optional supplemental coverage for an abortion as in the original. The substitute, in that same provision, differs from the original by specifying that the plan through which optional or supplemental coverage is purchased is a health benefit plan other than a qualified health plan offered through a health benefit exchange, whereas the original specifies that the coverage is purchased under certain circumstances through a health benefit plan.

C.S.H.B. 816 omits provisions included in the original establishing the conditions under which certain applicable health benefit plans may provide coverage for an abortion and the health benefit plans to which provisions relating to that coverage apply. The substitute omits provisions included in the original relating to the calculation of the premium for such coverage, notice regarding abortion coverage required to be provided to an enrollee, and the ability of an employee or group members to accept or reject abortion coverage. The substitute differs from the original by making a conforming change in a procedural provision establishing the applicability of the bill's provisions.