

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

February 28, 2011

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

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

IN RE: HB636 by Zerwas (Relating to creation of the Texas Health Insurance Connector.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB636, As Introduced: a negative impact of (\$7,594,560) through the biennium ending August 31, 2013.

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
2012	(\$3,798,480)
2013	(\$3,796,080)
2014	\$0
2015	\$0
2016	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Probable Savings/(Cost) from <i>Federal Funds</i> 555
2012	(\$3,798,480)	(\$8,201,520)
2013	(\$3,796,080)	(\$8,203,920)
2014	\$0	\$0
2015	\$0	\$0
2016	\$0	\$0

Fiscal Analysis

The bill would add a new chapter to the Insurance Code to establish a Health Insurance Connector (Connector) in Texas as the vehicle for a health insurance exchange as required by the federal Patient Protection and Affordable Care Act of 2010. The Connector would be operated under the direction of a seven-member board of directors, which is authorized to adopt rules when time does not permit legislative action. Members of the board are not entitled to compensation, but are entitled to reimbursement for travel or other expenses incurred while performing duties as a board member. The board is required to issue a report on the development and implementation of the Connector by January 1 of each odd-numbered year and not later than January 1, 2014. It must also submit a financial report annually by January 31.

The bill would authorize the board to employ an executive director, a chief fiscal officer, a general counsel, a technology officer, and any other employee necessary to carry out the Connector's responsibilities and functions. It would also allow the board to determine the compensation of these employees.

The bill would require the Connector to: establish procedures for the certification, recertification, and decertification of health benefit plans as qualified health plans; provide for the operation of a toll-free telephone hotline; maintain an Internet website whereby persons could obtain standardized information about qualified health plans through searchable databases; rate qualified health plans; inform individuals about eligibility for Medicaid, Children's Health Insurance Program (CHIP) or other public health benefit programs, and coordinate with the Health and Human Services Commission (HHSC) to enroll the individual if they qualify; provide a calculator to determine the cost of coverage to the enrollee after application of any federal subsidies; certify that an individual is exempt from the federal individual responsibility penalty and notify the U.S. Secretary of the Treasury of the exemption; establish a "navigator" program and engage in marketing and outreach activities; establish criteria for eligibility as a qualified individual, process applications for, and enroll qualified persons in and disenroll qualified persons from qualified health plans; establish billing and payment policies for issuers of qualified health plans; collect and maintain information concerning qualified health plans; and conduct any other necessary activities.

The bill would allow the Connector to enter into contracts necessary to implement or administer its functions, including contracts with the Texas Department of Insurance (TDI) or HHSC to provide services in exchange for payment. It would require the Connector to enter into a memorandum of understanding with TDI and HHSC regarding the exchange of information and the division of regulatory functions among the three entities. The bill would also allow the Connector to enter into information-sharing agreements with federal and state agencies, which would have to include adequate protection with respect to confidentiality, and comply with all applicable state and federal laws. The bill would allow the Connector to take legal action to recover or collect amounts due the Connector and to be sued.

The bill would allow the Connector to charge an assessment on the issuers of qualified health plans and health benefit plans applying for certification. It would also allow the Connector to accept and use federal funds and grants from public or private organizations. The Connector would not be subject to any state tax, regulatory fee, or surcharge, including a premium or maintenance tax or fee. The bill would establish a special trust fund outside of the state treasury into which the Connector could deposit revenues. The trust fund would be in the custody of the Texas Comptroller of Public Accounts and be separate and apart from all public money or funds of the state.

If enacted, the bill would take effect on September 1, 2011. If it receives a vote of two-thirds of all members elected to each house, it would take effect immediately.

Methodology

HHSC estimates a total cost of \$12,000,000 in fiscal year 2012 (\$3,798,480 in General Revenue funds and \$8,201,520 in Federal Funds) and \$12,000,000 in fiscal year 2013 (\$3,796,080 in General Revenue funds and \$8,203,920 in Federal Funds) to allow its eligibility systems to interface with the Connector. Over the biennium, it includes \$14,000,000 for data center expansion and \$10,000,000 for the Texas Integrated Eligibility Redesign System (TIERS) to interface with the Connector. HHSC believes they will experience these costs even if the federal government operates the exchange. HHSC indicates that other functions, such as having the Executive Commissioner serve on the Connector board (as a nonvoting ex officio member), can be absorbed within existing resources. It also assumes that the cost of services it provides to the Connector through contracts would come from the operating budget of the Connector.

TDI indicates the bill will not have a significant fiscal impact for it and that costs for any additional rulemaking, forms modifications, and legal services such as developing memoranda of understanding with the Connector could be handled within existing resources.

TDI also provided an estimate of the cost to set up and operate an exchange such as the Connector in this bill. Their estimate is based on previous agency procurement and start-up experience from Texas Health Insurance Pool, information from the Massachusetts Connector, and eligibility and cost experience of Texas CHIP. TDI's estimate includes the cost of administration and operations, information technology, eligibility screening infrastructure and support, and for a call center. It does not include the cost to fund "Navigator" grants to provide education and outreach, as required by the ACA:

Fiscal Year	Total Cost (in millions)
2012	\$56
2013	\$75.6
2014	\$174.5
2015 (4 months)	\$28.1

The above costs would be paid through federal grants available to set up health insurance exchanges. Costs after December 31, 2014 would come from assessments on insurers, payments by individuals and employers for premiums, and other revenues deposited in the special trust fund outside of the state treasury as defined in the bill.

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

HHSC estimates a total cost of \$14,000,000 for data center expansion and \$10,000,000 for TIERS to interface with the Connector.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 116 Sunset Advisory Commission, 304 Comptroller of Public Accounts, 359 Office of Public Insurance Counsel, 454 Department of Insurance, 529 Health and Human Services Commission

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