

BILL ANALYSIS

Senate Research Center

S.B. 1367
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State Affairs
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Changes in federal law have made the Texas Health Insurance Pool (THIP) unnecessary. S.B. 1376 requires the THIP board to create a plan of dissolution once THIP enrollees are able to obtain coverage in the private insurance market. The plan of dissolution must be approved by the commissioner of insurance. Once all THIP enrollees have left THIP, the administrative and financial responsibilities of THIP will transfer to the Texas Department of Insurance to complete any obligations tied to THIP. S.B. 1376 contains a provision that allows the commissioner of insurance to adjust timelines and requirements for the dissolution plan in case federal law changes or is amended.

S.B. 1367 amends current law relating to abolishing the Texas Health Insurance Pool.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of insurance (commissioner) in SECTION 6 and SECTION 7 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. DEFINITIONS. Defines "board," "commissioner," "department," "health benefit exchange," and "pool" in this Act.

SECTION 2. PLAN FOR DISSOLUTION. Requires the board of directors (board) of the Texas Health Insurance Pool (THIP), as soon as practicable after the effective date of this Act, to:

(1) develop a plan for:

(A) dissolving the board and THIP after THIP's obligations to issue and continue health benefit coverage terminate under Sections 3 and 4 of this Act; and

(B) transferring to the commissioner of insurance (commissioner) and the Texas Department of Insurance (TDI) any continuing obligations of the board and THIP, any assets of THIP, any rights of the board or THIP that accrued before the dissolution of the board or THIP or that accrue with respect to coverage issued by THIP before THIP's dissolution, and any authority previously held by the board the continuation of which is necessary or appropriate; and

(2) submit the plan to the commissioner for the commissioner's approval.

SECTION 3. ACCEPTANCE OF ENROLLEES. Provides that the latest date on which THIP may issue health benefit coverage is the later of:

(1) December 31, 2013; or

(2) the earliest date on which health benefit coverage is reasonably available on a guaranteed issue basis to each class of individuals eligible for health benefit coverage through THIP immediately before the effective date of this Act, as determined by the commissioner.

SECTION 4. TERMINATION OF POOL COVERAGE. Provides that health benefit coverage that is issued to an individual by THIP and that is otherwise in force terminates on the later of:

(1) January 1, 2014; or

(2) the earliest date on which the individual is enrolled in comparable health benefit coverage or could reasonably be expected to have obtained health benefit coverage on a guaranteed issue basis, as determined by the commissioner.

SECTION 5. EXERCISE OF POOL'S RECOVERY RIGHTS. Authorizes TDI to exercise any authority to recover overpayments or other amounts THIP would have been authorized to recover or collect had THIP not been dissolved, including amounts recoverable under THIP's subrogation rights.

SECTION 6. TRANSFER OF CERTAIN FUNDS; ASSESSMENT AUTHORITY CONTINUED. (a) Requires that any fund in which money belonging to THIP is kept and any other assets of THIP be transferred to TDI on dissolution of THIP. Requires that money and any other money recovered or otherwise collected by TDI under this Act on behalf of THIP be used by TDI to satisfy obligations of THIP in accordance with this Act, Chapter 1506 (Texas Health Insurance Pool), Insurance Code, as that chapter existed before its repeal by this Act, and the dissolution plan.

(b) Provides that the authority of the board to make assessments under Subchapter F (Assessments for Operation of Pool), Chapter 1506, Insurance Code, as that subchapter existed before its repeal by this Act, is continued and may be exercised by the commissioner until the commissioner determines that all financial obligations of the board and THIP have been satisfied.

(c) Requires that money collected by TDI under Subsections (a) and (b) of this section be deposited to an account in the Texas Treasury Safekeeping Trust Company to be used for the purposes described by this Act. Authorizes the money deposited to the account to be used to pay fees for the Texas Treasury Safekeeping Trust Company account. Authorizes TDI to transfer money into the treasury local operating fund to disburse the money as required by this Act.

(d) Requires the commissioner, when the commissioner determines that all financial obligations of the board and THIP have been satisfied, to make a final accounting with respect to THIP finances and:

(1) make any necessary final assessment under this section; or

(2) refund any surplus assessments or other surplus money collected on behalf of THIP, other than money described by Subsection (e) of this section, on a pro rata basis to the health benefit plan issuers that paid the assessments to the extent possible or on another equitable basis to the extent pro rata refunds are not possible.

(e) Requires that the money paid or payable under Section 83.342(m) (relating to setting forth penalty payment under this section) and Section 1301.137(l) (relating to setting forth penalty payment under this section), Insurance Code, if it is no longer necessary to finance premium discounts as prescribed by Section 1506.260 (Funding for Premium Discounts), Insurance Code, be distributed and used as follows:

(1) \$5 million is required to be distributed to the corporation established under Chapter 182 (Texas Health Services Authority), Health and Safety Code, to be used for a purpose provided by that chapter; and

(2) any money available after the amount required by Subdivision (1) of this subsection has been distributed in accordance with that subdivision is required to

be distributed to the fund established under Subchapter F (Healthy Texas Small Employer Premium Stabilization Fund), Chapter 1508 (Healthy Texas Program), Insurance Code, to be used:

(A) before January 1, 2014, for a purpose provided by that subchapter; and

(B) on and after January 1, 2014, for any other purpose authorized by the commissioner by rule to improve access to health benefit coverage for individuals without coverage.

(f) Provides that money paid or payable under Section 843.342(m) and Section 1301.137(l), Insurance Code, is subject to audit by the State Auditor's Office.

SECTION 7. DELAYED IMPLEMENTATION. Authorizes the commissioner by rule to delay the implementation of any part of Sections 1-6 of this Act or the THIP dissolution plan established under this Act if:

(1) the guaranteed issue of health benefit coverage is delayed;

(2) the operation of a health benefit exchange in this state is delayed; or

(3) the commissioner determines that health benefit coverage expected to be available on a guaranteed issue basis to a class of individuals eligible for coverage under Chapter 1506, Insurance Code, immediately before the effective date of this Act, is not reasonably available to those individuals in this state.

SECTION 8. REPEALER. (a) Repealers, effective January 1, 2014: Sections 1506.007(a-1) (relating to requiring a health benefit plan issuer, employer, or other person who is required to provide notice to an individual of the individual's ability to continue coverage in accordance with COBRA to also provide notice to the individual of the availability of coverage under THIP at a certain time) and (a-2) (relating to requiring a health benefit plan issuer who is providing coverage to an individual in accordance with COBRA to notify the individual of the availability of coverage under THIP not later than the 45th day before the date that coverage expires), Sections 1506.205(b) (relating to prohibiting the total amount of administrative costs and fees paid in a calendar year to all THIP administrators from exceeding 12.5 percent of the gross premium receipts of THIP for the calendar year) and (c) (relating to authorizing the commissioner to approve payment of a higher amount, not to exceed 15 percent of the gross premium receipts of THIP for the calendar year, under certain conditions), Section 1251.255(b) (relating to requiring an insurer to notify and provide certain information), and Section 1271.305 (Notification of Risk Pool Eligibility), Insurance Code.

(b) Repealer, effective September 1, 2015: Chapter 1506 (Texas Health Insurance Pool), Insurance Code.

SECTION 9. EFFECTIVE DATE. Effective date: upon passage or September 1, 2013.