

BILL ANALYSIS

C.S.S.B. 1367
By: Duncan
Insurance
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that changes in federal law have made the Texas Health Insurance Pool unnecessary. In order to reflect these changes in federal law, C.S.S.B. 1367 seeks to abolish the Texas Health Insurance Pool.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the commissioner of insurance in SECTIONS 6 and 7 of this bill.

ANALYSIS

C.S.S.B. 1367 requires the board of directors of the Texas Health Insurance Pool, as soon as practicable after the bill's effective date, to develop a plan for dissolving the board and the pool after the pool's obligations to issue and continue health benefit coverage terminate under the bill's provisions. The bill requires the board to develop a plan for transferring to the commissioner of insurance and the Texas Department of Insurance (TDI) any continuing obligations of the board and the pool, any assets of the pool, any rights of the board or the pool that accrued before their dissolution or that accrue with respect to coverage issued by the pool before its dissolution, and any authority previously held by the board that is necessary or appropriate to continue; and requires the board to submit the plan to the commissioner for approval.

C.S.S.B. 1367, effective January 1, 2014, repeals statutory provisions requiring certain health benefit plan issuers, employers, or other persons, as applicable, to provide notice to certain individuals of the availability of coverage under the pool, and provisions governing the maximum total amount of administrative costs and fees paid in a calendar year to all pool administrators. The bill, effective September 1, 2015, repeals statutory provisions relating to the Texas Health Insurance Pool.

C.S.S.B. 1367 designates the latest date on which the pool is authorized to issue health benefit coverage as the later of December 31, 2013, or 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 the pool immediately before the bill's effective date, as determined by the commissioner. The bill establishes that health benefit coverage issued to an individual by the pool and that is otherwise in force terminates on the later of January 1, 2014, or the earliest date on which the individual is either 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.

C.S.S.B. 1367 authorizes TDI to exercise any authority to recover overpayments or other amounts the pool would have been authorized to recover or collect had the pool not been dissolved, including amounts recoverable under the pool's subrogation rights.

C.S.S.B. 1367 requires any fund in which money belonging to the pool is kept and any other assets of the pool to be transferred to TDI on dissolution of the pool. The bill requires TDI to use that money and any other money recovered or otherwise collected by TDI on behalf of the pool to satisfy obligations of the pool in accordance with the bill's provisions, statutory provisions governing the pool, and the dissolution plan. The bill continues the authority of the board as it exists prior to the dissolution of the pool in order to make assessments for the pool's operation, and authorizes the commissioner to exercise that authority until the commissioner determines that all financial obligations of the board and the pool have been satisfied. The bill requires the money collected to be deposited to an account in the Texas Treasury Safekeeping Trust Company to be used for the purposes described by the bill and authorizes the money to be used to pay fees for the account.

C.S.S.B. 1367 authorizes TDI to transfer money into the treasury local operating fund to disburse the money as required by the bill. The bill requires the commissioner, on determining that all financial obligations of the board and the pool have been satisfied, to make a final accounting with respect to pool finances and to make any necessary final assessment or to refund any surplus assessment or other surplus money collected on behalf of the pool either 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. The bill requires \$5 million to be distributed to the Texas Health Services Authority for a purpose provided by Health and Safety Code provisions governing that corporation, if money paid or payable under statutory provisions prescribing certain penalty payments for nonpayment of claims by health maintenance organizations and preferred provider benefit plans is no longer necessary to finance premium discounts for the pool, with any remaining balance distributable to the healthy Texas small employer premium stabilization fund as follows:

- before January 1, 2014, for a purpose provided by statutory provisions governing that fund; and
- 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.

The bill subjects money paid or payable under statutory provisions prescribing certain penalty payments for nonpayment of claims by health maintenance organizations and preferred provider benefit plans to audit by the State Auditor's Office.

C.S.S.B. 1367 authorizes the commissioner by rule to delay implementation of the bill's provisions or of the pool dissolution plan if the guaranteed issue of health benefit coverage is delayed, if the operation of a health benefit exchange in Texas is delayed, or if 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 the pool is not reasonably available to such individuals in Texas.

Effective January 1, 2014, C.S.S.B. 1367 repeals the following provisions of the Insurance Code:

- Sections 1506.007(a-1) and (a-2)
- Sections 1506.205(b) and (c)
- Section 1251.255(b)
- Section 1271.305

Effective September 1, 2015, the bill repeals Chapter 1506, Insurance Code.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.S.B. 1367 may differ from the engrossed version in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the engrossed and committee substitute versions of the bill.

SENATE ENGROSSED

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. DEFINITIONS.

SECTION 1. Same as engrossed version.

SECTION 2. PLAN FOR DISSOLUTION.

SECTION 2. Same as engrossed version.

SECTION 3. ACCEPTANCE OF ENROLLEES.

SECTION 3. Same as engrossed version.

SECTION 4. TERMINATION OF POOL COVERAGE.

SECTION 4. Same as engrossed version.

SECTION 5. EXERCISE OF POOL'S RECOVERY RIGHTS.

SECTION 5. Same as engrossed version.

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

(b) The authority of the board to make assessments under Subchapter F, 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 the pool have been satisfied.

(c) Money collected by the department under Subsections (a) and (b) of this section shall be deposited to an account in the Texas Treasury Safekeeping Trust Company to be used for the purposes described by this Act. The money deposited to the account may be used to pay fees for the Texas Treasury Safekeeping Trust Company account. The

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

(b) The authority of the board to make assessments under Subchapter F, 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 the pool have been satisfied.

(c) Money collected by the department under Subsections (a) and (b) of this section shall be deposited to an account in the Texas Treasury Safekeeping Trust Company to be used for the purposes described by this Act. The money deposited to the account may be used to pay fees for the Texas Treasury Safekeeping Trust Company account. The

department may transfer money into the treasury local operating fund to disburse the money as required by this Act.

(d) When the commissioner determines that all financial obligations of the board and the pool have been satisfied, the commissioner shall make a final accounting with respect to pool 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 the pool, other than money described by Subsection (e) of this section:

(A) on a pro rata basis to the health benefit plan issuers that paid the assessments to the extent possible; or

(B) on another equitable basis to the extent pro rata refunds are not possible.

(e) If money paid or payable under Subsection (m), Section 843.342 and Subsection (l), Section 1301.137, Insurance Code, is no longer necessary to finance premium discounts as prescribed by Section 1506.260, Insurance Code, as that section existed immediately before the effective date of this Act, and no other use is prescribed for that money by another Act of the legislature, the money shall be directed, at the commissioner's discretion, to the fund established under Subchapter F, Chapter 1508, Insurance Code, for a purpose provided by that subchapter or to the corporation established under Chapter 182, Health and Safety Code, for a purpose provided by that chapter.

department may transfer money into the treasury local operating fund to disburse the money as required by this Act.

(d) When the commissioner determines that all financial obligations of the board and the pool have been satisfied, the commissioner shall make a final accounting with respect to pool 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 the pool, other than money described by Subsection (e) of this section:

(A) on a pro rata basis to the health benefit plan issuers that paid the assessments to the extent possible; or

(B) on another equitable basis to the extent pro rata refunds are not possible.

(e) If money paid or payable under Subsection (m), Section 843.342 and Subsection (l), Section 1301.137, Insurance Code, is no longer necessary to finance premium discounts as prescribed by Section 1506.260, Insurance Code, as that section existed immediately before the effective date of this Act, the money shall be distributed and used as follows:

(1) \$5 million shall be distributed to the corporation established under Chapter 182, 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 shall be distributed to the fund established under Subchapter F, Chapter 1508, 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) Money paid or payable under Subsection (m), Section 843.342 and Subsection (l), Section 1301.137, Insurance Code, is subject to audit by the State Auditor's Office.

SECTION 7. DELAYED IMPLEMENTATION.

SECTION 7. Same as engrossed version.

SECTION 8. REPEALER.

SECTION 8. Same as engrossed version.

SECTION 9. EFFECTIVE DATE. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

SECTION 9. Same as engrossed version.