

By: Duncan
(Smithee)

S.B. No. 1367

Substitute the following for S.B. No. 1367:

By: Smithee

C.S.S.B. No. 1367

A BILL TO BE ENTITLED

AN ACT

relating to abolishing the Texas Health Insurance Pool.

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

SECTION 1. DEFINITIONS. In this Act:

(1) "Board" means the board of directors of the pool.

(2) "Commissioner" means the commissioner of insurance.

(3) "Department" means the Texas Department of Insurance.

(4) "Health benefit exchange" has the meaning assigned by Section 1369.201, Insurance Code.

(5) "Pool" means the Texas Health Insurance Pool established under Chapter 1506, Insurance Code, as that chapter existed before its repeal by this Act.

SECTION 2. PLAN FOR DISSOLUTION. As soon as practicable after the effective date of this Act, the board shall:

(1) develop a plan for:

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

(B) transferring to the commissioner and the department:

(i) any continuing obligations of the board and the pool;

- 1 (ii) any assets of the pool;
- 2 (iii) any rights of the board or the pool
3 that accrued before the dissolution of the board or the pool or that
4 accrue with respect to coverage issued by the pool before the pool's
5 dissolution; and
- 6 (iv) any authority previously held by the
7 board the continuation of which is necessary or appropriate; and
- 8 (2) submit the plan to the commissioner for the
9 commissioner's approval.

10 SECTION 3. ACCEPTANCE OF ENROLLEES. The latest date on
11 which the pool may issue health benefit coverage is the later of:

- 12 (1) December 31, 2013; or
- 13 (2) the earliest date on which health benefit coverage
14 is reasonably available on a guaranteed issue basis to each class of
15 individuals eligible for health benefit coverage through the pool
16 immediately before the effective date of this Act, as determined by
17 the commissioner.

18 SECTION 4. TERMINATION OF POOL COVERAGE. Health benefit
19 coverage that is issued to an individual by the pool and that is
20 otherwise in force terminates on the later of:

- 21 (1) January 1, 2014; or
- 22 (2) the earliest date on which the individual:
23 (A) is enrolled in comparable health benefit
24 coverage; or
25 (B) could reasonably be expected to have obtained
26 health benefit coverage on a guaranteed issue basis, as determined
27 by the commissioner.

1 SECTION 5. EXERCISE OF POOL'S RECOVERY RIGHTS. The
2 department may exercise any authority to recover overpayments or
3 other amounts the pool would have been authorized to recover or
4 collect had the pool not been dissolved, including amounts
5 recoverable under the pool's subrogation rights.

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

15 (b) The authority of the board to make assessments under
16 Subchapter F, Chapter 1506, Insurance Code, as that subchapter
17 existed before its repeal by this Act, is continued and may be
18 exercised by the commissioner until the commissioner determines
19 that all financial obligations of the board and the pool have been
20 satisfied.

21 (c) Money collected by the department under Subsections (a)
22 and (b) of this section shall be deposited to an account in the
23 Texas Treasury Safekeeping Trust Company to be used for the
24 purposes described by this Act. The money deposited to the account
25 may be used to pay fees for the Texas Treasury Safekeeping Trust
26 Company account. The department may transfer money into the
27 treasury local operating fund to disburse the money as required by

1 this Act.

2 (d) When the commissioner determines that all financial
3 obligations of the board and the pool have been satisfied, the
4 commissioner shall make a final accounting with respect to pool
5 finances and:

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

8 (2) refund any surplus assessments or other surplus
9 money collected on behalf of the pool, other than money described by
10 Subsection (e) of this section:

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

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

15 (e) If money paid or payable under Subsection (m), Section
16 843.342 and Subsection (l), Section 1301.137, Insurance Code, is no
17 longer necessary to finance premium discounts as prescribed by
18 Section 1506.260, Insurance Code, as that section existed
19 immediately before the effective date of this Act, the money shall
20 be distributed and used as follows:

21 (1) \$5 million shall be distributed to the corporation
22 established under Chapter 182, Health and Safety Code, to be used
23 for a purpose provided by that chapter; and

24 (2) any money available after the amount required by
25 Subdivision (1) of this subsection has been distributed in
26 accordance with that subdivision shall be distributed to the fund
27 established under Subchapter F, Chapter 1508, Insurance Code, to be

1 used:

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

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

7 (f) Money paid or payable under Subsection (m), Section
8 843.342 and Subsection (l), Section 1301.137, Insurance Code, is
9 subject to audit by the State Auditor's Office.

10 SECTION 7. DELAYED IMPLEMENTATION. The commissioner by
11 rule may delay the implementation of any part of Sections 1 through
12 6 of this Act or the pool dissolution plan established under this
13 Act if:

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

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

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

23 SECTION 8. REPEALER. (a) Effective January 1, 2014, the
24 following laws are repealed:

25 (1) Subsections (a-1) and (a-2), Section 1506.007,
26 Insurance Code;

27 (2) Subsections (b) and (c), Section 1506.205,

1 Insurance Code;

2 (3) Subsection (b), Section 1251.255, Insurance Code;

3 and

4 (4) Section 1271.305, Insurance Code.

5 (b) Effective September 1, 2015, Chapter 1506, Insurance
6 Code, is repealed.

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