LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 7, 2015

TO: Honorable John Frullo, Chair, House Committee on Insurance

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB3006** by Coleman (Relating to the distribution and use of certain penalties paid by health maintenance organizations and insurers for violating certain provisions governing prompt payment of physicians and health care providers.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3006, Committee Report 1st House, Substituted: a negative impact of ($25,600,000) through the biennium ending August 31, 2017.

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
2016	($12,800,000)
2017	($12,800,000)
2018	($12,800,000)
2019	($12,800,000)
2020	($12,800,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from *General Revenue Fund* 1	Probable Revenue Gain/(Loss) from *Healthy TX Sm Emp Prem Stabil. Fund* 329	Probable Savings/(Cost) from *Healthy TX Sm Emp Prem Stabil. Fund* 329	Probable Savings from *GR Match For Medicaid* 758
2016	($32,800,000)	$32,800,000	($32,800,000)	$20,000,000
2017	($32,800,000)	$32,800,000	($32,800,000)	$20,000,000
2018	($32,800,000)	$32,800,000	($32,800,000)	$20,000,000
2019	($32,800,000)	$32,800,000	($32,800,000)	$20,000,000
2020	($32,800,000)	$32,800,000	($32,800,000)	$20,000,000

Fiscal Year	Probable Revenue Gain from *Federal Funds* 555	Probable (Cost) from *Federal Funds* 555
2016	$5,000,000	($5,000,000)
2017	$5,000,000	($5,000,000)
2018	$5,000,000	($5,000,000)
2019	$5,000,000	($5,000,000)
2020	$5,000,000	($5,000,000)

Fiscal Analysis

The bill would amend the Insurance Code relating to the distribution and use of certain penalties paid by health maintenance organizations (HMOs) and insurers for violating certain provisions governing prompt payment of physicians and health care providers.

The bill amends Section 843.342 and 1301.137 of the Insurance Code to direct that penalties paid by non-institutional providers be paid back to the physician, provider, or preferred provider by the HMO or the insurer, except for any interest computed in the statutes. The interest revenue shall be paid to the Texas Department of Insurance (TDI) to be distributed to the Healthy Texas Premium Stabilization Fund (Healthy Texas Fund) and be used for any purpose authorized by rule by the Commissioner of Insurance to improve access to health benefit coverage.

The bill amends Section 843.342 and 1301.137 of the Insurance Code to direct that 50 percent of penalties collected from institutional providers, including interest, be distributed to the Healthy Texas Fund and may be appropriated to the Health and Human Services Commission (HHSC) to be used as follows: 1) the first $5 million may be used only to fund HHSC's consumer assistance for Medicaid program; 2) the next $20 million may be used only to provide postpartum coverage through the child health plan program operated under Chapter 62, Health and Safety Code, and Medicaid; and 3) amounts in excess of the amounts described in (1) and (2) may be used only to increase reimbursement rates to health care providers who provide services through the Texas Women's Health Program.

The bill directs that any penalties relating to clean claims submitted by institutional providers that were paid under Section 843.342(m) or 1301.137(l) of the Insurance Code, before the effective date of this Act, and that remain unexpended and unobligated on the effective date of this Act, shall be used by TDI to provide grants to hospitals in the state to upgrade the hospitals' emergency rooms and trauma facilities. The Commissioner of Insurance shall adopt rules governing the distribution of these grants and distribute all the funds by no later than September 1, 2017.

The bill 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, the bill takes effect on September 1, 2015.

This bill 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. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

Methodology

Under current law, penalties and interest collected through Sections 843.342 (m) and 1301.137 (l) of the Insurance Code are collected by the Texas Health Insurance Risk Pool and transferred to the credit of the General Revenue Fund. Based on information provided in the Comptroller of Public Account's (CPA) 2016-17 Biennial Revenue Estimate, these revenues are estimated to be $32.8 million each year of the 2016-17 biennium.

The bill directs that interest collected from penalties paid under Sections 843.342 (m) and 1301.137 (l) of the Insurance Code be paid to TDI and be distributed to the Healthy Texas Fund to be used for any purpose authorized by rule by the Commissioner of Insurance to improve access to health benefit coverage. Based on information provided by TDI and the CPA, this analysis assumes that approximately 4 percent or $1.3 million of the $32.8 million currently collected and deposited to the credit of General Revenue is attributable to interest collections. The remaining $31.5 million would be utilized by HHSC for the purposes prescribed in Sections 843.342 and 1301.137 of the Insurance Code, as amended by the bill.

Assuming that $31.5 million in the Healthy Texas Fund annually would be utilized for HHSC, then $5 million would be allocated to Medicaid consumer support, $20 million would be allocated to post-partum expenses in the CHIP and Medicaid programs, and the remaining $6.5 million would be allocated to the Texas Women's Health Program for rate increases. It is assumed that the $5 million allocated for Medicaid consumer support will qualify for a 50% match rate in Medicaid Federal Funds and that the $20 million allocated annually to post-partum expenses in Medicaid will result in equivalent savings of $20 million annually in General Revenue - Match for Medicaid.

The bill further directs that any penalties relating to clean claims submitted by institutional providers that were paid under Section 843.342(m) or 1301.137(l) of the Insurance Code before the effective date of this Act and that remain unexpended and unobligated on the effective date of this Act be used by TDI to provide grants to hospitals in the state to upgrade the hospitals' emergency rooms and trauma facilities by no later than September 1, 2017. Based on information provided by TDI and the CPA, this amount is estimated to be $117.1 million, of which $47.1 million was transferred to the Healthy Texas Fund with the remaining $70.0 million deposited to the General Revenue Fund. While the bill does not stipulate whether the funds would be transferred to a specific account, this analysis assumes that the funds would be transferred to the Healthy Texas Fund. However, given the unknown nature of any amounts collected under the provisions of the bill that may remain unexpended or unobligated at the end of fiscal year 2015, the fiscal impact of that provision of the bill cannot be determined. Additionally, according to TDI, the agency would have to contract with an outside party in order to oversee the administration and distribution of these grants due to the lack of knowledge or experience with these matters. Due to the unknown amount and size of grants that are to be made available to hospitals, the fiscal impact for the cost of administration cannot be determined at this time.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 454 Department of Insurance, 529 Health and Human Services Commission

LBB Staff: UP, AG, NV, ER, SD, CH