

## **BILL ANALYSIS**

S.B. 1940  
By: Hancock  
Insurance  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

The state operates a health insurance risk pool that seeks to provide health insurance to eligible Texans who are otherwise unable to obtain health insurance due to certain health conditions. Following the enactment of certain federal legislation that generally prohibited insurers from rejecting applicants due to preexisting health conditions, the legislature took steps toward dissolving the risk pool in 2019. S.B. 1940 seeks to provide a safety net for vulnerable Texans in case federal action requires the establishment of a state risk pool to cover individuals with high-cost medical conditions by postponing the dissolution of the risk pool to August 2021 and providing the commissioner of insurance with broader authority to seek federal waivers with respect to insurance provided under the risk pool.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the commissioner of insurance in SECTION 3 of this bill.

### **ANALYSIS**

S.B. 1940 amends the Insurance Code to postpone from August 31, 2019, to August 31, 2021, the expiration of provisions governing the temporary health insurance risk pool. The bill clarifies that the commissioner of insurance may apply for federal funds and use those funds to establish and administer the risk pool to the extent that those funds are available under federal law.

S.B. 1940 changes the exclusive purpose of the risk pool from providing a temporary mechanism for maximizing available federal funding to assist Texas residents in obtaining access to quality health care at minimum cost to the public to providing a temporary mechanism to assist Texas residents in obtaining access to quality, guaranteed issue health coverage at minimum cost to the public. The bill prohibits the risk pool from being used in a manner that requires the state to assume functions currently performed by the U.S. Department of Health and Human Services or the IRS under the federal Patient and Affordable Care Act, including establishing an exchange or administering premium tax credits.

S.B. 1940 revises provisions relating to the provision of coverage under the risk pool to reflect the change in the purpose of the risk pool and to authorize the commissioner to increase access to guaranteed issue health coverage by establishing a certain high risk pool. The bill authorizes the commissioner, if necessary to ensure access to quality individual health insurance coverage for individuals with preexisting conditions, to take actions necessary to establish a temporary high risk pool substantially similar to the risk pool authorized by former Chapter 1506, Insurance

Code, repealed by Chapter 615 (S.B. 1367), Acts of the 83rd Legislature, Regular Session, 2013, including:

- appointing a board of directors to govern the temporary high risk pool;
- adopting rules or a plan of operation for the temporary high risk pool; and
- contracting with a third party.

The bill establishes that any rule or plan of operation adopted remains in effect only until 30 days following the end of the next regular session of the legislature unless a law is enacted that authorizes coverage to be issued by the temporary risk pool and provides for funding for coverage under the temporary risk pool.

S.B. 1940 removes language limiting the applicable federal law provisions under which the commissioner may apply to the U.S. secretary of health and human services for a waiver with respect to insurance provided under the risk pool to provisions enacted on or after May 1, 2017. The bill postpones from June 1, 2018, to June 1, 2020, the date on which the Texas Department of Insurance is required to begin submitting the annual report of risk pool activities.

**EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2019.