

BILL ANALYSIS

Senate Research Center

S.B. 1367
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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.

As proposed, 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 8 of this bill.

Rulemaking authority previously granted to the commissioner is rescinded in SECTION 9 (Sections 1506.005, 1506.058, and 1506.258, Insurance Code) of this bill.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. (a) 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 through a health benefit exchange 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.

(b) Provides that notwithstanding Section 1251.255(b) (relating to required procedure for notifying individuals of their eligibility for coverage under the Texas Health Insurance Risk Pool), Section 1271.305 (Notification of Risk Pool Eligibility), and Section 1506.007(a-1) (relating to requiring certain entities who are required to provide notice to an individual of the individual's ability to continue coverage under COBRA to simultaneously provide notice to the individual of the availability of coverage under THIP) and (a-2) (relating to requiring a health benefit plan issuer who is providing coverage to an individual under COBRA to notify the individual of the availability of coverage under THIP not later than the 45th day before the expiration of coverage), Insurance Code, an insurer, health maintenance organization, or other health benefit plan issuer is not required to give notice under those sections on or after the date on which THIP is no longer required to issue health benefit coverage.

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, as determined by the commissioner or could reasonably be expected to have obtained health benefit coverage on a guaranteed issue basis through a health benefit exchange, as determined by the commissioner.

SECTION 5. SATISFACTION OF COVERAGE OBLIGATIONS INCURRED UNDER PREVIOUS POOL COVERAGE. Requires TDI, on dissolution of THIP, to accept and process claims for payment of obligations incurred under health benefit coverage previously issued by THIP and pay any obligations of THIP incurred under that coverage.

SECTION 6. 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 7. TRANSFER OF CERTAIN FUNDS; ASSESSMENT AUTHORITY CONTINUED. (a) Requires any fund in which money belonging to THIP is kept and any other assets of THIP to 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 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 (d) 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.

(d) Requires that the money be directed, at the commissioner's discretion, to the fund established under Subchapter F (Healthy Texas Small Employer Premium Stabilization Fund), Chapter 1508 (Healthy Texas Program), Insurance Code, for a purpose provided by that subchapter or to the corporation established under Chapter 182 (Texas Health Services Authority), Health and Safety Code, for a purpose provided by that chapter, if money paid or payable under Sections 843.342(m) (relating to governing penalty payment under this section) and 1301.137(l) (relating to governing penalty payment under this section), Insurance Code, is no longer necessary to finance premium discounts as prescribed by Section 1506.260 (Funding for Premium Discounts), 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.

SECTION 8. DELAYED IMPLEMENTATION. Authorizes the commissioner by rule to delay the implementation of any part of Sections 1-7 of this Act or 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 9. REPEALER. Repealers, effective September 1, 2015: Chapter 1506 (Texas Health Insurance Pool), Section 1251.255(b) (relating to requiring an insurer to notify and provide certain items), and Section 1271.305 (Notification of Risk Pool Eligibility), Insurance Code.

SECTION 10. EFFECTIVE DATE. Effective date: upon passage or September 1, 2013.