SUBJECT: Premium rates for certain small employer health benefit plans

COMMITTEE: Insurance — committee substitute recommended

VOTE: 8 ayes — Smithee, Eiland, Averitt, G. Lewis, J. Moreno, Olivo, Seaman, Thompson

0 nays

1 absent — Burnam

WITNESSES: For — Robert Desmond, Texas Health Care Purchasing Alliance; Lara Laneri Keel, TABCC; Stacey Merritt, Texas Association of Health Underwriters; Becky Parker; *Registered but did not testify:* Troy Alexander, Texas Medical Association; Shirley Huntzler, Texas Association of Health Underwriters; David Pinkus, Small Business United of Texas; Mark Shilling, National Federation of Independent Business; Jay Thompson, Texas Association of Life & Health Insurers; Ken Tooley, Texas Association of Insurance & Financial Advisors

Against — Will Davis, Texas Association of Life & Health Insurers

On — Lisa McGiffert, Consumers Union

BACKGROUND: Under 28 Texas Administrative Code sec. 26.11(d), if group size is used as a case characteristic by a small employer insurance carrier, the highest rate factor associated with the group size classification may not exceed the lowest rate factor of such a classification by more than 20 percent.

Insurance Code, sec. 26.32 sets guidelines for establishing index rates for underwriting small employer health benefit plans. The index rate for a rating period for any class of business may not exceed the index rate for any other class of business by more than 20 percent. Within a class of business, the premium rates charged during a rating period to small employers with similar case characteristics for the same or similar coverage, or the rates that could be charged to those employers under the rating system for that class of business, may not vary from the index rate by more than 25 percent.

DIGEST:

CSHB 949 would amend Insurance Code, ch. 26, to prohibit a small employer carrier from directly or indirectly using certain criteria to establish a separate class of business for health benefit plans. It also would prohibit the rate classification due to number of employees and dependents from exceeding a range of 20 percent from the highest to lowest rating in the class.

A small employer insurer could not directly or indirectly use the number of employees and dependents of a small employer, nor could it use the trade or occupation of the employees, or the industry or type of business, except in the case of employer-based associations, to establish a separate class of business.

The bill would amend Insurance Code, sec. 26.32 to require small employer carriers to develop premium rates for each small employer group in a two-step process. In the first step, the small employer insurer would develop a base premium rate for each small employer group without regard to any risk characteristic of the group. In the second step, the small employer carrier could adjust the resulting base premium rate by the risk load of the group, but could not vary from the index rate for any class of business by more than 20 percent, nor within a class of business for small employers with similar case characteristics by more than 25 percent. The risk load assessed to a particular group would reflect the risk characteristics of that particular group.

A small employer carrier could use the number of employees and dependents of a small employer as a case characteristic in establishing premium rates for the group. The highest rate factor associated with a classification based on the number of employees and dependents of a small employer could not exceed by more than 20 percent the lowest rate factor associated that classification.

The bill would take effect September 1, 2001.

SUPPORTERS SAY:

CSHB 949 could offer price relief to many of the smallest employers in Texas for health benefit plans. The bill would codify the Texas Administrative Code rule so that a small employer insurance carrier who charged rates to a small employer, based on the number of employees and dependents, could not vary the index rate by more than 20 percent.

Currently, without statutory authority behind this rule, regulation to protect small employer coverage is not enforceable.

Certain insurance carriers have taken advantage of inconsistencies in health insurance availability laws for small employers and have increased premiums as much as 67 percent due to anticipated claims experience. This practice has resulted in some carriers raising premiums of the smallest employers by this high amount, even if the small group had no adverse health history. These increased premiums, not based on real experience, have placed undue financial pressure on health insurers who were attempting to comply with the intent of the law and also on small businesses who were shopping for a small employer health plan. Under this bill, small employer carriers would develop rates in a two-step process that could involve an adjustment in the base premium rate to reflect the risk characteristics of the group. From a pricing standpoint, this legislation would allow more favorable options in purchasing health benefit plans for small businesses with five to 50 employees.

OPPONENTS SAY:

Rating classifications as to a trade or occupation serve an important function in insurance. A crop duster or a dynamite handler, for example, would be considered a greater risk than a person who stuffed pillows. With the exception of a group association contained in the bill's language, a small employer carrier could not directly or indirectly use a trade or occupation of a small employer's employees as a criterion for establishing a separate class of business for the purpose of an insurance rating. This would go against the principles of insurance rating and could result in higher risks and expenses for insurers and ultimately, for the small employer.

NOTES:

The committee substitute added that a small employer carrier could not directly or indirectly use the trade or occupation of the employees of a small employer or the industry or type of business as a criteria for establishing a separate class of business, except when that small carrier provided coverage to an employer-based association. The substitute also referred to the number of employees and dependents of a small employer, rather than to the group size. The substitute removed a provision specifying that this legislation

would apply to health benefit plans delivered, issued for delivery, or renewed on or after January 1, 2002.