HOUSE
RESEARCH
ORGANIZATION bill analysis | 5/24/2005 | SB 809
Averitt (Taylor)
(CSSB 809 by Taylor)

SUBJECT: Changes to the Texas Health Insurance Risk Pool

COMMITTEE: Insurance — committee substitute recommended

VOTE: 7 ayes — Smithee, Seaman, Isett, Eiland, B. Keffer, Taylor, Thompson

0 nays

2 absent — Oliveira, Van Arsdale

SENATE VOTE: On final passage, April 29 — 27-0

WITNESSES: For — Pati McCandless, Unicare; Leah Rummel, Texas Association of Health Plans; Bill Thames, Firstcare

Against — Sam Francis, Texas Professional Benefit Administrators Association; Dan Hambrick, City of Grapevine; David Kester, Harris County; William P. "Bill" Norwood, Texas Association of Counties; Jay Ritchie, HCC Life Insurance Company; David L. Smith, Great-West Life and Annuity Insurance Company; Susan Smith, TML Intergovernmental Employee Benefits Pool

BACKGROUND: The Texas Health Insurance Risk Pool was created by the Legislature to provide health insurance to certain Texas residents who, due to medical conditions, are unable to obtain coverage from commercial insurers. The risk pool also serves as the Texas alternative mechanism for individual health insurance coverage, guaranteeing portability of coverage to qualified individuals who lose coverage under an employee group plan, church plan, or state plan, as mandated by the federal Health Insurance Portability and Accountability Act of 1996. The risk pool is a nonprofit political subdivision of the state and is governed by a nine-member board appointed by the insurance commissioner.

Insurance Code, sec. 1506.253, authorizes the board to cover its losses by assessing each health benefit plan issuer in the state. The assessment is based on each company's gross premiums as a percentage of the total premiums sold in the state.
Stop-loss insurance coverage is purchased by employers to limit their

exposure under self-insured plans.

DIGEST: CSSB 809 would change the method of assessment for the Texas Health Insurance Risk Pool, establish subrogation rights, specify that certain types of insurance are not subject to assessment, and make other revisions to Insurance Code, ch. 1506.

The bill would authorize the board to assess health benefit plans based on the number of lives covered rather than premium volume. The board would divide the total amount to be assessed by the total number of enrolled individuals reported by all plan issuers as of the preceding December 31 to determine the per capita amount. The per capita amount then would be multiplied by the number of enrolled individuals to determine each health plan's assessment.

Health benefit plan issuers would be required to submit to the board an annual report that includes the number of Texas residents enrolled in the issuer's health benefit plan, including those covered under an excess loss, stop-loss, or reinsurance policy. A plan that provides excess loss, stop-loss, or reinsurance for a primary health plan could not report individuals reported by the primary health plan issuer.

For purposes of determining each plan's assessment, 10 employees covered under a policy of excess loss, stop-loss, or reinsurance would count as one employee, for a 10 to 1 ratio. Dependents of individual policyholders or subscribers and those covered under a Medicare supplement plan could not be counted.

The bill would add a new subchapter outlining the risk pool's subrogation rights and would specify that benefits are not payable for an injury or illness for which a third party may be liable under contract, tort law, or other law. The risk pool could advance a covered individual the benefits provided under the policy for medical expenses, subject to the risk pool's right to subrogation and reimbursement.

The bill would exempt from the definition of "health benefit plan" accident insurance, fixed indemnity insurance, including hospital indemnity insurance, and other limited benefit coverage, including specified disease coverage.
The bill would eliminate from risk pool eligibility individuals who have received a notice of refusal by a health plan issuer to issue substantially

similar individual coverage but at a higher rate. Individuals already covered by the risk pool on the effective date of the bill would not be subject to this provision.

The board would be required to make the coverage offered by the risk pool more cost effective. To the extent it was cost effective, cost containment measures would have to include individual case management and disease management.

The bill would take effect January 1, 2006. Insurers exempted from assessment by the bill would be entitled to a refund of assessments paid after September 30, 2005. To the extent of any conflict, this bill would prevail over any other bill enacted this session relating to nonsubstantive additions to and corrections of Insurance Code, Subchapter 1506.

SUPPORTERS SAY:

CSSB 809 would strengthen the state health insurance risk pool by changing the method of assessment, establishing subrogation rights, and requiring the board to adopt such cost control measures as disease management and case management if these measures were determined to be cost effective. Currently, about 26,000 Texans are covered by the risk pool. Their premiums cover about 60 percent of costs — assessments on insurers cover the other 40 percent.

The bill would not change the risk pool's total assessment but would spread it more fairly among those insurers required to pay it. Currently, health maintenance organizations (HMOs) pay about 90 percent of the assessment, while stop-loss carriers pay the remaining 10 percent because their premium volume is lower.

Assessments for HMOs have increased dramatically each year. One small HMO reports that assessments increased from $359,000 in 2002 to $1.7 million in 2004. These cost increases ultimately are passed on to consumers through higher premiums.

Under the 10 to 1 ratio specified in the bill, the assessment on stop-loss carriers would increase by about $4.60 per employee per year. This would be significantly lower than other proposals, which contemplate ratios of 5 to 1 or even 1 to 1, at a cost of up to $20 per employee per year, compared to the current rate of about $2 per employee per year. Insurers and employees should be able to absorb the modest increase authorized by CSSB 809.

OPPONENTS SAY:

By changing the method of determining assessments, the bill unfairly would shift the burden to insurers that provide stop-loss health insurance. While an increase of $4.60 per policy does not seem significant, that amount multiplied by 1,000 or 10,000 employees can add up to significant cost increases for employers. As health insurance costs continue to rise and the number of people in the risk pool grows, higher assessment costs could lead some companies to drop health insurance coverage for their employees, which in turn would lead to even more uninsured Texans.

The subrogation rights granted to the risk pool would be too broad. The bill states that benefits are not payable for any injury or illness for which a third party "may be" liable under contract, tort law, or other law. The provision should be narrowed to specify that the other party must be found liable.

OTHER OPPONENTS SAY:

The Legislature should explore other funding methods to more fairly distribute the assessment for the health insurance risk pool among all health insurance providers in the state. Currently, self-insured health plans are not required to pay any part of the assessment, and the burden falls unfairly on other health benefit providers. As health care costs continue to increase, this burden will become heavier and more unfair to certain parts of the market.

NOTES:

The committee substitute increased from five to 10 the number of employees that would be counted as one covered individual in determining assessments for excess loss, stop-loss, or reinsurance policies. It also would require the risk pool to refund assessments to plans that no longer were subject to the assessment.