

BILL ANALYSIS

Senate Research Center

H.B. 3027
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Finance
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Engrossed

DIGEST

In 1989, the Texas Legislature passed H.B. 18, which added Article 5.15-4 to the Insurance Code. This article was designed to encourage physicians and other health care professionals to provide services to low-income patients, and it established a program that offered eligible health care professionals reduced rates on malpractice insurance. In exchange for the reduced rate, the State of Texas would indemnify the first \$25,000 on most medical malpractice claims and \$100,000 on obstetrical claims against eligible physicians. For the 1994-1995 biennium, the legislature appropriated \$2 million for the indemnification program, and these funds were exhausted within weeks on pending claims. In 1995, the legislature passed H.B. 1362, which repealed the physician indemnification discount program, effective September 1, 1995.

Presently, the amount of claims pending payment by the State of Texas is \$2,635,351.41, which represents claims that have been approved by the Attorney General's Office and filed with the office of the Comptroller of Public Accounts for payment. An additional amount is pending review by the Attorney General's Office, and in *Gaining Ground*, Comptroller John Sharp estimated that the indemnification claims may total as much as \$24 million over the next five years. The amount of discounts insurers have given to physicians is approximately \$17 million. H.B. 3027 authorizes companies that filed and issued discounts to eligible health care professionals to elect to recoup future reimbursements from the State of Texas in the form of tax credits, in lieu of reimbursements under Chapter 110, Civil Practice and Remedies Code. The tax credit would be the total amount of premium discounts provided less any reimbursements received prior to January 1, 1999.

PURPOSE

As proposed, H.B. 3027 provides for the recoupment of certain professional liability discounts in lieu of reimbursement under Chapter 110, Civil Practice and Remedies Code; and declares an emergency.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 5.15-1, Insurance Code, by adding Section 10, as follows:

Sec. 10. PREMIUM DISCOUNT RECOUPMENT. Requires each insurer that has filed and issued premium discounts to health care professionals pursuant to Article 5.15-4 of this code, effective January 1, 1999, to be eligible to elect to receive a premium tax credit in lieu of indemnification for claims filed with the attorney general under Chapter 110, Civil Practice and Remedies Code. Sets forth the terms by which an eligible company is authorized to elect to recoup premium discounts. Authorizes an insurer to credit the total amount of any discounts issued less any reimbursements received prior to January 1, 1999, by the insurer for claims filed under Chapter 110, Civil Practice and Remedies Code, against its premium tax under Article 4.10 of this code. Requires the tax credit to be allowed at a certain rate, and prohibits the tax credit in any one year from exceeding the premium tax due in that year. Prohibits an eligible insurer that elects to receive tax credits from being eligible to file claims for indemnity after January 1, 1999. Requires any claims of an eligible insurer filed prior to that date that have not been reimbursed to also be deemed waived by the insurer by making

its election. Provides that an insurer that elects not to recoup its discount through tax credit will continue to remain eligible for indemnification. Prohibits the elections from affecting the right of a self-insurance trust from seeking indemnification for eligible claims. Prohibits the provisions of Article 21.46 from applying to the credits authorized herein.

SECTION 2. Effective date: September 1, 1997.

SECTION 3. Emergency clause.