

BILL ANALYSIS

Senate Research Center
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H.B. 273
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Health & Human Services
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In the current economic climate, the State of Texas is encountering difficulties paying for and administering the Medicaid program and other state health care priorities. Texas also is one of the states challenging the constitutionality of the federal Patient Protection and Affordable Care Act in court. Considering these factors, observers contend that Texas needs to use all legal tools available to the state to protect the health care interests of the people of Texas.

There is a growing body of research around interstate compacts and their potential uses in the public policy arena. Observers note that interstate compacts are a way to move control from the federal government to the state, but interstate compacts can only do so with the approval of the United States Congress. The United States Constitution addresses the use of interstate compacts directly in the compact clause and, according to some interested parties, the Supreme Court, over time, has interpreted this clause more broadly than its plain reading. It is reported that states are free to form compacts without congressional approval as long as the compacts do not infringe upon the supremacy of Congress.

H.B. 273 establishes the Texas Health Care Compact Advisory Committee contingent on passage of the Interstate Health Care Compact by the legislature and the compact's approval by the United States Congress.

H.B. 273 amends current law relating to creation of a study committee for the Interstate Health Care Compact.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Health Care Compact Advisory Committee in Section 5 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. FINDINGS. (a) Provides that the legislature finds that the Interstate Health Care Compact authorizes the legislature to suspend the operation of federal laws, rules, regulations, and orders regarding health care that are inconsistent with a state law or regulation.

(b) Provides that, by exercising the authority described by Subsection (a) of this section, the state assumes primary responsibility to regulate health care in this state.

(c) Authorizes the legislature, alternatively, to suspend a federal law, rule, regulation, or order relating to a limited area of health care.

(d) Provides that, by exercising the authority described by Subsection (c) of this section, the state assumes primary responsibility to regulate health care for only that limited area of health care.

(e) Provides that the first step toward implementation of the Interstate Health Care Compact in this state is the creation of a study committee to make recommendations to the governor and legislature about the most efficient use of the authority provided by the Interstate Health Care Compact.

SECTION 2. DEFINITIONS. Defines, in this Act, "committee," "compact," and "health care."

SECTION 3. TEXAS HEALTH CARE COMPACT ADVISORY COMMITTEE. Establishes the Texas Health Care Compact Advisory Committee (committee) to make recommendations to the legislature and governor on the implementation of the Interstate Health Care Compact in this state.

SECTION 4. MEMBERSHIP. (a) Provides that the committee is composed of 15 members, appointed as follows:

- (1) five members appointed by the governor;
- (2) five members appointed by the lieutenant governor; and
- (3) five members appointed by the speaker of the house of representatives.

(b) Requires the governor to select the presiding officer of the committee from the membership of the committee.

SECTION 5. POWERS AND DUTIES. (a) Requires the committee to:

- (1) examine the state's capability to assume regulatory authority over health care;
- (2) recommend:
 - (A) the appropriate scope of authority and responsibility for the state consistent with the state's capability to assume regulatory authority over health care;
 - (B) an organizational structure to exercise regulatory authority over health care;
 - (C) a timetable for implementation; and
 - (D) specific amendments to state laws and regulations that are necessary to implement the committee's recommendations under this subdivision; and
- (3) estimate funding requirements to implement the recommendations.

(b) Requires the committee to hold public hearings on the state's capability to assume regulatory authority over health care.

(c) Authorizes the committee to adopt rules necessary to conduct business under and implement this Act.

SECTION 6. SUPPORT. (a) Authorizes the committee to request assistance from any state executive or legislative governmental entity.

(b) Authorizes the committee to solicit and accept gifts and grants for the support of the committee's activities.

(c) Authorizes the legislature to appropriate funds for the support of the committee's activities.

(d) Authorizes the committee to employ staff.

SECTION 7. REPORT. Requires the committee, not later than December 1, 2012, to report to the governor and the legislature the recommendations made under Section 5 of this Act.

SECTION 8. EXPIRATION. Provides that this Act expires August 31, 2013.

SECTION 9. EFFECTIVE DATE. Effective date: September 1, 2011. Makes application of this Act contingent upon passage of S.B. 25 or another bill of the 82nd Legislature, Regular Session, 2011, enacting the Interstate Health Care Compact.