

BILL ANALYSIS

Senate Research Center

S.B. 5
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Finance
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 5 authorizes Texas to participate in a multi-state effort to secure the consent of Congress, via an interstate compact, to regulate health care, free of federal interference. The bill establishes an Interstate Advisory Health Care Commission to make non-binding recommendations on health care delivery. The bill also enables member states to receive federal monies according to a formula outlined in the compact, without federal conditions.

As proposed, S.B. 5 amends current law relating to the Interstate Health Care Compact.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 15, Insurance Code, by adding Chapter 5002, as follows:

CHAPTER 5002. INTERSTATE HEALTH CARE COMPACT

Sec. 5002.001. EXECUTION OF COMPACT. Provides that this state enacts the Interstate Health Care Compact (compact) and enters into the compact with all other states legally joining in the compact in substantially the following form:

Sets forth the preamble to the compact and sets forth the language of the compact, as follows:

Sec. 1. Definitions. Defines "commission," "effective date," "health care," "member state," "member state base funding level," "member state current year funding level," "member state current year population adjustment factor," and "current year inflation adjustment factor."

Sec. 2. Pledge. Requires the member states to take joint and separate action to secure the consent of the United States Congress (Congress) to this compact in order to return the authority to regulate health care to the member states consistent with the goals and principles articulated in this compact. Requires the member states to improve health care policy within their respective jurisdictions and according to the judgment and discretion of each member state.

Sec. 3. Legislative Power. Provides that the legislatures of the member states have the primary responsibility to regulate health care in their respective states.

Sec. 4. State Control. Authorizes each member state, within its state, to suspend by legislation the operation of all federal laws, rules, regulations, and orders regarding health care that are inconsistent with the laws and regulations adopted by the member state pursuant to this compact. Provides that federal and state laws, rules, regulations, and orders regarding health care will remain in effect unless a member state expressly suspends them pursuant to its authority under this

compact. Requires a member state, for any federal law, rule, regulation, or order that remains in effect in that member state after the effective date, to be responsible for the associated funding obligations in its state.

Sec. 5. Funding. (a) Requires each member state, each federal fiscal year, to have the right to federal monies up to an amount equal to its member state current year funding level for that federal fiscal year, funded by Congress as mandatory spending and not subject to annual appropriation, to support the exercise of member state authority under this compact. Prohibits this funding from being conditional on any action of or regulation, policy, law, or rule being adopted by the member state.

(b) Requires Congress, by the start of each federal fiscal year, to establish an initial member state current year funding level for each member state, based upon reasonable estimates. Requires that the final member state current year funding level be calculated and that funding be reconciled by Congress based upon information provided by each member state and audited by the United States Government Accountability Office.

Sec. 6. Interstate Advisory Health Care Commission. (a) Provides that the Interstate Advisory Health Care Commission (commission) is established. Provides that the commission consists of members appointed by each member state through a process to be determined by each member state. Prohibits a member state from appointing more than two members to the commission and authorizes a member state to withdraw membership from the commission at any time. Entitles each commission member to one vote. Requires the commission not to act unless a majority of the members are present, and requires that no action be binding unless approved by a majority of the commission's total membership.

(b) Authorizes the commission to elect from among its membership a chairperson. Authorizes the commission to adopt and publish bylaws and policies that are not inconsistent with this compact. Requires the commission to meet at least once a year, and authorizes the commission to meet more frequently.

(c) Authorizes the commission to study issues of health care regulation that are of particular concern to the member states. Authorizes the commission to make non-binding recommendations to the member states. Authorizes the legislatures of the member states to consider these recommendations in determining the appropriate health care policies in their respective states.

(d) Requires the commission to collect information and data to assist the member states in their regulation of health care, including assessing the performance of various state health care programs and compiling information on the prices of health care. Requires the commission to make this information and data available to the legislatures of the member states. Prohibits any member state, notwithstanding any other provision in this compact, from disclosing to the commission the health information of any individual. Prohibits the commission, notwithstanding any other provision of this compact, from disclosing the health information of any individual.

(e) Requires the commission to be funded by the member states as agreed to by the member states. Requires the commission to have the responsibilities and duties as may be conferred upon it by subsequent action of the respective legislatures of the member states in accordance with the terms of this compact.

(f) Prohibits the commission from taking any action within a member state that contravenes any state law of that member state.

Sec. 7. Congressional Consent. Requires that this compact be effective on its adoption by at least two member states and consent of the United States Congress. Requires that this compact be effective unless the United States Congress, in consenting to this compact, alters the fundamental purposes of this compact, which are:

(a) to secure the right of the member states to regulate health care in their respective states pursuant to this compact and to suspend the operation of any conflicting federal laws, rules, regulations, and orders within their states; and

(b) to secure federal funding for member states that choose to invoke their authority under this compact, as prescribed by Section 5 above.

Sec. 8. Amendments. Authorizes the member states, by unanimous agreement, to amend this compact from time to time without the prior consent or approval of Congress and requires that any amendment be effective unless, within one year, the Congress disapproves that amendment. Authorizes any state to join this compact after the date on which Congress consents to the compact by adoption into law under its state constitution.

Sec. 9. Withdrawal; Dissolution. Authorizes any member state to withdraw from this compact by adopting a law to that effect, but prohibits any such withdrawal from taking effect until six months after the governor of the withdrawing member state has given notice of the withdrawal to the other member states. Requires that a withdrawing state be liable for any obligations that it may have incurred prior to the date on which its withdrawal becomes effective. Requires that this compact be dissolved upon the withdrawal of all but one of the member states.

SECTION 2. Effective date: upon passage or September 1, 2011.