

## **BILL ANALYSIS**

Senate Research Center  
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S.B. 1171  
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### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The Texas Health Reinsurance System (THRS) was created by the 73rd Legislature, Regular Session, 1993, to provide reinsurance capacity to health carriers that issue small employer health benefit plans. Although THRS was utilized in the past, the last risk reinsured by THRS terminated in July 2012. There are currently three insurers or health maintenance organizations eligible to obtain reinsurance from THRS, and they have declined to do so.

Despite having no activity, THRS generated \$35,345 in administrative expenses in 2015 through administrator fees, insurance expenses, audit expenses, etc. They also continue to consume Texas Department of Insurance staff time and resources because of certain statutory requirements. For these reasons, the THRS board of directors has previously recommended deactivating THRS. If implemented, that recommendation would have a positive fiscal impact on THRS.

S.B. 1171 provides the commissioner of insurance (commissioner) with authority to enter an order to deactivate THRS. It also provides the commissioner with authority to enter an order to reactivate THRS if needed, such as in response to a change in health care laws or future market capacity concerns.

As proposed, S.B. 1171 amends current law relating to the suspension and reactivation of the operation of the Texas Health Reinsurance System.

### **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 Section 1501.302, Insurance Code, as follows:

Sec. 1501.302. TEXAS HEALTH REINSURANCE SYSTEM. (a) Creates this subsection from existing text. Makes no further changes to this subsection.

(b) Authorizes the Texas Health Reinsurance System (THRS) to operate only during the period an order authorizing operation of THRS under Section 150.3021 is in effect. Prohibits THRS from operating after the effective date of an order of suspension of operation of THRS under Section 1501.3022 until a subsequent order authorizing the operation of THRS under Section 1501.3021, if any, is effective.

SECTION 2. Amends Subchapter G, Chapter 1501, Insurance Code, by adding Sections 1501.3021 and 1501.3022, as follows:

Sec. 1501.3021. AUTHORIZATION OF OPERATION. (a) Requires the commissioner of insurance (commissioner) to hold a hearing if the commissioner believes small employer health benefit plan issuers are threatened with the inability to secure reinsurance coverage in the open market or if the commissioner receives a petition requesting a hearing from certain issuers.

(b) Requires the commissioner, if, after a hearing under Subsection (a), the commissioner finds that the operation of THRS is in the public interest, to, by order, authorize the operation of THRS, appoint a board of directors (board) under Section 1501.303 (System Board of Directors), and direct the board to develop a plan of operation under Section 1501.306 (System Plan of Operation) to ensure THRS is fully implemented by a certain date.

(c) Provides that Sections 1501.307 through 1501.326 apply to the operation of THRS after the date THRS is implemented.

Sec. 1501.3022. SUSPENSION OF OPERATION. (a) Requires the commissioner to hold a hearing if THRS is operating or is authorized to operate and the commissioner believes small employer health benefit plan issuers are not threatened with the inability to secure reinsurance coverage in the open market or the commissioner receives a petition requesting a hearing from certain issuers.

(b) Requires the commissioner to, by order, if, after a hearing, the commissioner finds that suspension of the operation of THRS is in the public interest, direct the board to submit to the commissioner for approval, not later than the 60th day after the date of the order, a plan of suspension of operation of THRS.

(c) Requires a plan of suspension to contain certain information.

(d) Prohibits the specified effective date of the suspension of the operation of THRS from being later than the 270th day after the date the commissioner, by order, approves the plan of suspension.

(e) Requires the commissioner to, if the board fails to submit a suitable plan of suspension, after notice and hearing, adopt a plan in accordance with Subsection (c).

(f) Authorizes the board to make a final assessment of the small employer health benefit plan issuers that, for any portion of the last year in which THRS operated, were reinsured health benefit plan issuers. Authorizes an assessment under this subsection to be made only if the board determines the assessment is necessary to recover net losses of THRS, as provided in Sections 1501.309 through 1501.326, including certain expenses.

(g) Provides that the transactions necessary to complete execution of the plan of suspension are subject to audit by the state auditor under Chapter 321 (State Auditor), Government Code. Requires the state auditor to report the cost of the final audit conducted under this section to the board and the Texas comptroller of public accounts (comptroller), and requires the board to remit that amount to the comptroller for deposit to the general revenue fund.

(h) Provides that the board serving immediately before the effective date of the suspension of the operation of THRS is discharged on the effective date of suspension of the operation of THRS.

(i) Requires the commissioner to, after the effective date of the suspension of the operation of THRS, take any action necessary under Subsection (c)(6) (relating to the plan of suspension being required to provide for the proportionate distribution of any THRS surplus assets) to distribute the surplus assets of THRS until all remaining assets are distributed.

(j) Provides that, during a period in which the operation of THRS is suspended, Sections 1501.307 through 1501.326 have no effect.

SECTION 3. Requires the board serving on the effective date of this Act to submit to the commissioner a plan of suspension of the operation of THRS, as described by Section 1501.3022(c), Insurance Code, as added by this Act, not later than the 90th day after the effective date of this Act. Requires the commissioner to, if the board fails to timely submit the plan, adopt a plan in accordance with Sections 1501.3022(c)-(i), Insurance Code, as added by this Act.

SECTION 4. Effective date: upon passage or September 1, 2017.