Chapter 105

S.B. No. 1171

AN ACT
relating to the suspension and reactivation of the operation of the
Texas Health Reinsurance System.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1501.302, Insurance Code, is amended to
read as follows:

Sec. 1501.302. TEXAS HEALTH REINSURANCE SYSTEM. (a) The
Texas Health Reinsurance System is a nonprofit entity administered
by a board of directors and subject to the supervision and control
of the commissioner.

(b) The system may operate only during the period an order
authorizing operation of the system under Section 1501.3021 is in
effect. The system may not operate after the effective date of an
order of suspension of operation of the system under Section
1501.3022 until a subsequent order authorizing the operation of the
system under Section 1501.3021, if any, is effective.

SECTION 2. Subchapter G, Chapter 1501, Insurance Code, is
amended by adding Sections 1501.3021 and 1501.3022 to read as
follows:

Sec. 1501.3021. AUTHORIZATION OF OPERATION. (a) The
commissioner shall hold a hearing if:

(1) the commissioner believes small employer health
benefit plan issuers in this state are threatened with the
inability to secure reinsurance coverage in the open market; or
(2) the commissioner receives a petition requesting
the hearing from an association of health benefit plan issuers in
this state or a group of at least 15 small employer health benefit
plan issuers operating in this state.

(b) If, after a hearing under Subsection (a), the
commissioner finds that the operation of the system is in the public
interest, the commissioner by order shall:

1 authorize the operation of the system;
2 appoint a board of directors under Section 1501.303; and
3 direct the board to develop a plan of operation
under Section 1501.306 to ensure the system is fully implemented on
a date specified in the order that is not later than the 60th day
after the effective date of the order.

(c) Sections 1501.307-1501.326 apply to the operation of
the system after the date the system is implemented as described by
Subsection (b)(3).

Sec. 1501.3022. SUSPENSION OF OPERATION. (a) The
commissioner shall hold a hearing if the system is operating or is
authorized to operate and:

1 the commissioner believes small employer health
benefit plan issuers in this state are not threatened with the
inability to secure reinsurance coverage in the open market; or
2 the commissioner receives a petition requesting
the hearing from an association of health benefit plan issuers in
this state or a group of at least 15 small employer health benefit
plan issuers operating in this state.
(b) If, after a hearing under Subsection (a), the commissioner finds that suspension of the operation of the system is in the public interest, the commissioner by order shall 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 the system.

(c) A plan of suspension under Subsection (b) must:

(1) specify the date after which a health benefit plan issuer that is a risk-assuming health benefit plan issuer on the effective date of the plan of suspension may not:

(A) become a reinsured health benefit plan issuer under Sections 1501.310, 1501.311, and 1501.312; and

(B) reinsure with the system a small employer group, or any risk, covered under any small employer health benefit plan;

(2) specify the date after which a health benefit plan issuer that is a reinsured health benefit plan issuer on the effective date of the plan of suspension may not:

(A) reinsure with the system additional small employer groups in accordance with Section 1501.314; or

(B) cede additional eligible lives to the system in accordance with Section 1501.314;

(3) provide for:

(A) the filing, receipt, processing, and payment of all claims against and debts of the system, and extinguishment of all liabilities of the system, including balances on any lines of credit that may have been established by or on behalf of the system;
(B) the collection and receipt of all assessments made with respect to reinsured health benefit plan issuers, including any deferred assessments and any final assessment made under Subsection (f); and

(C) a final audit of the system by the state auditor as provided by Subsection (g);

(4) specify that the transactions required by the plan of suspension and addressed in Subdivisions (1)-(3) must be closed not later than the effective date of the suspension of the operation of the system as specified under Subdivision (5);

(5) state the effective date of the suspension of the operation of the system; and

(6) provide for the proportionate distribution of any surplus assets of the system that remain after the date specified under Subdivision (5).

(d) The effective date of the suspension of the operation of the system as specified under Subsection (c)(5) may not be later than the 270th day after the date the commissioner by order approves the plan of suspension.

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

(f) The board may make a final assessment of the small employer health benefit plan issuers that, for any portion of the last year in which the system operated, were reinsured health benefit plan issuers. An assessment under this subsection may be made only if the board determines the assessment is necessary to
recover net losses of the system, as provided in Sections
1501.319-1501.326, including administrative expenses for
transactions essential to complete execution of the plan of
suspension, and the cost of the final audit by the state auditor.

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

(h) The board serving immediately before the effective date
of the suspension of the operation of the system is discharged on
the effective date of the suspension of the operation of the system
as specified under Subsection (c)(5).

(i) After the effective date of the suspension of the
operation of the system as specified under Subsection (c)(5), the
commissioner shall take any action necessary under Subsection
(c)(6) to distribute the surplus assets of the system until all
remaining assets are distributed.

(j) During a period in which the operation of the system is
suspended, Sections 1501.307-1501.326 have no effect.

SECTION 3. The board of directors of the Texas Health
Reinsurance System serving on the effective date of this Act shall
submit to the commissioner of insurance a plan of suspension of the
operation of the Texas Health Reinsurance System, 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. If the
board fails to timely submit the plan, the commissioner of
insurance shall adopt a plan in accordance with Sections
1501.3022(c)-(i), Insurance Code, as added by this Act.

SECTION 4. This Act takes effect immediately if it receives
a vote of two-thirds of all the members elected to each house, as
provided by Section 39, Article III, Texas Constitution. If this
Act does not receive the vote necessary for immediate effect, this
Act takes effect September 1, 2017.

I hereby certify that S.B. No. 1171 passed the Senate on
April 19, 2017, by the following vote: Yeas 31, Nays 0.

I hereby certify that S.B. No. 1171 passed the House on
May 12, 2017, by the following vote: Yeas 142, Nays 0, one
present not voting.

Approved:

Date

Governor
TO: Honorable Kelly Hancock, Chair, Senate Committee on Business & Commerce
FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB1171 by Estes (Relating to the suspension and reactivation of the operation of the Texas Health Reinsurance System.), As Introduced

No significant fiscal implication to the State is anticipated.

This bill would amend the Insurance Code relating to the suspension and reactivation of the operation of the Texas Health Reinsurance System (THRS). The bill requires the Commissioner of Insurance to hold a hearing to suspend or reactivate THRS, which is a nonprofit entity that provides reinsurance to health insurers of small employer health benefit plans. In addition, the bill requires the THRS board of directors to submit to the Commissioner of Insurance a plan of suspension for the operation of THRS no later than 90 days after the effective date of the bill. Under the provisions of the bill, transactions necessary to suspend the system are subject to audit by the State Auditor's Office (SAO). The bill requires the SAO to report the cost of the final audit to the Comptroller of Public Accounts (CPA) and requires the THRS board of directors to remit that amount to the CPA for deposit to the General Revenue Fund.

Based on information provided by the Texas Department of Insurance and SAO, this analysis assumes the duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources. Based on information provided by the CPA, the amount and timing of the remittance is unknown; therefore, the fiscal impact cannot be determined, but would likely not be significant.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 308 State Auditor's Office, 454 Department of Insurance

LBB Staff: UP, CL, EH, CP
TO: Honorable Larry Phillips, Chair, House Committee on Insurance
FROM: Ursula Parks, Director, Legislative Budget Board
IN RE: SB1171 by Estes (Relating to the suspension and reactivation of the operation of the Texas Health Reinsurance System.), As Engrossed

No significant fiscal implication to the State is anticipated.

The bill would amend the Insurance Code relating to the suspension and reactivation of the operation of the Texas Health Reinsurance System (THRS). The bill requires the Commissioner of Insurance to hold a hearing to suspend or reactivate THRS, which is a nonprofit entity that provides reinsurance to health insurers of small employer health benefit plans. In addition, the bill requires the THRS board of directors to submit to the Commissioner of Insurance a plan of suspension for the operation of THRS no later than 90 days after the effective date of the bill. Under the provisions of the bill, transactions necessary to suspend the system are subject to audit by the State Auditor's Office (SAO). The bill requires the SAO to report the cost of the final audit to the Comptroller of Public Accounts (CPA) and requires the THRS board of directors to remit that amount to the CPA for deposit to the General Revenue Fund.

Based on information provided by the Texas Department of Insurance and SAO, this analysis assumes the duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources. Based on information provided by the CPA, the amount and timing of the remittance is unknown; therefore, the fiscal impact cannot be determined, but would likely not be significant.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 308 State Auditor's Office, 454 Department of Insurance

LBB Staff: UP, AG, CL, EH, CP