HOUSE
RESEARCH
ORGANIZATION bill analysis — 5/3/2013 — HB 2732 Workman

SUBJECT: Creating dedicated personal insurers as a self-insurance program

COMMITTEE: Insurance — favorable, without amendment

VOTE: 7 ayes — Smithee, Eiland, G. Bonnen, Morrison, Muñoz, Taylor, C. Turner

0 nays

2 absent — Creighton, Sheets

WITNESSES: For — David Warden

Against — None

On — (*Registered, but did not testify:* Kevin Brady, Texas Department of Insurance; Karen Snyder, State Comptroller's Office)

DIGEST: HB 2732 would establish procedures for individuals to self-insure through the creation of "dedicated personal insurers" with the authority to issue health, automobile, and other insurance policies to the same individual - the "designated insurable individual" - who created them.

The bill would require the dedicated personal insurer be either:

- the same natural person as the designated insurable individual;
- a trust in which the designated insurable individual was the sole beneficiary; or
- a for-profit corporation or limited liability company of which the designated insurable individual was the sole owner.

To be authorized to issue a health insurance policy, a dedicated personal insurer would be required to maintain a minimum capital level of $10,000 for an individual younger than 24; $20,000 plus an additional $10,000 for each additional year between 24 and 31; and least $100,000 thereafter.

The minimum capital requirement to issue a health insurance policy could be satisfied through any combination of cash, bonds, securities marketable on a national exchange, or another commissioner-approved security. The

Texas Department of Insurance (TDI) would accept as evidence of the required capital a statement from a bank or broker showing the minimum requirements were held in an insured institution. The required capital could be deposited with the comptroller through TDI.

To be authorized to issue a personal automobile policy, a dedicated personal insurer would be required to maintain a minimum capital level of $55,000 in cash or securities, in compliance with the Transportation Code's requirements for establishing financial responsibility. Other insurance policies would require capital equal to or greater than the respective policies' aggregate policy limits.

HB 2732 would establish procedures for applying to TDI for a limited certificate of authority as a dedicated personal insurer. If approved, the certificate would be in effect for one year and could be renewed by submitting a new application. Minimum features of the certificate would be defined by the bill.

HB 2732 would permit dedicated personal insurers holding a limited certificate of authority to issue an insurance policy or other evidence of coverage to the designated insurable individual for a term lasting up to the expiration of the certificate of authority.

The bill would create provisions governing the surrender of a certificate of authority should a dedicated personal insurer not maintain the minimum capital requirements or the same relationship with the designated insurable individual. It also would classify a violation of the bill's provisions as a misdemeanor punishable by up to 180 days in jail and/or a maximum fine of $500.

The bill would take effect September 1, 2013.

SUPPORTERS SAY:

HB 2732 would create a new mechanism for individuals to self-insure. Participating individuals would be able to avoid penalties or fines stemming from legal requirements to maintain insurance. For example, the Patient Protection and Affordable Care Act (ACA) requires most individuals to obtain qualifying health insurance starting January 1, 2014 or pay a tax penalty. Individuals self-insuring as dedicated personal insurers would be able to demonstrate minimum essential coverage and avoid this fine. This would extend to automobile and other types of insurance requirements.

Self-insurance would incentivize personal responsibility and healthy behavior and would prevent the moral hazard in which individuals with insurance are more likely to take risks since they are able to shift the costs of any coverable event onto other parties.

Dedicated personal insurers would simplify health care financing and decrease privacy risks involved with including insurance companies as third parties.

Despite claims to the contrary, self-insurance would not draw healthier individuals out of the ACA's health insurance exchanges or other health insurance markets. Individuals would choose to self-insure for a variety of reasons and not necessarily be healthier. The ACA also establishes risk-adjustment programs to ensure the average actuarial risk in an exchange remains constant.

OPPONENTS SAY:

HB 2732 would be a complicated and burdensome program that would benefit few. Because of its capital requirements, wealthier individuals would overwhelmingly represent those who chose to self-insure using dedicated personal insurers. Since these individuals tend to be healthier, the health care expenses and premiums in health insurance exchanges and other group insurance markets would increase, putting at risk the solvency of these markets.

There is also no evidence that the dedicated personal insurers would meet the ACA's standards for creditable coverage, meaning the administrative and financial costs of implementing this program would still leave individuals at risk of incurring tax penalties.