

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1391 Small Employer Health Insurance  
**SPONSOR(S):** Farkas  
**TIED BILLS:** HB 1393 **IDEN./SIM. BILLS:**

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Insurance Committee	16 Y, 0 N	Cooper	Cooper
2) Health Care Regulation Committee			
3) State Administration Appropriations Committee			
4) Commerce Council			
5) _____			

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### SUMMARY ANALYSIS

Over 2.8 million Floridians under the age of 65 are estimated not to have health insurance. A majority of these individuals are employed, primarily by small businesses (less than 50 employees). The Legislature has recognized this problem and has created numerous programs over the past 15+ years to encourage small employers to make health insurance available to their employees.

Florida's current laws governing small group health benefits, s. 627.6699, F.S., the Employee Health Care Access Act or Small Group law, require insurance carriers to pool or aggregate all of their small groups into a single rating group or pool when apportioning costs and estimating premiums. In 2004, the Legislature created the Small Employers Access Program to facilitate the ability of small employers "to provide health care benefits to their employees at an affordable cost through the creation of purchasing pools for employers with up to 25 employees, and rural hospital employers and nursing home employers regardless of the number of employees."

The bill establishes the Healthy Florida Small Employer Health Insurance Program which will provide a new standardized health insurance subsidy plan for small businesses and sole proprietors. The program is a state subsidized reinsurance mechanism or a stop loss subsidy that reimburses health plans for 90% of claims paid between \$5,000 and \$75,000 on behalf of a member in a calendar year. The program is designed to provide affordable health insurance to the employees of small employers and will be added to the current small group statute. In essence, the state will assume the role of reinsurer -- implicitly subsidizing the premium by removing much of insurers' risk of high-cost claims.

A tied bill, HB 1393, provides for a stop-loss fund which is to administered under the auspices of the Office of Insurance Regulation. Details of the fund are delineated in both bills. The office has provided information indicating that the initial cost of the program shall be borne by an appropriation of \$10 million and that the office further expects authorization to apply for available Low Income Pool matching funds. However, neither of these provisions is currently in either bill.

The bill takes effect on July 1, 2006.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

**Provide Limited Government and Ensure Lower Taxes**— The bill establishes the Healthy Florida Small Employer Health Insurance Program which will provide a new standardized health insurance subsidy plan for small businesses and sole proprietors. According to the Office of Insurance Regulation, it is anticipated that the stop-loss program will result in lowering individual monthly premiums by at least 38.8%.

**Safeguard Individual Liberty and Empower Families**—To the degree that the bill increases the options available to employers and employees for health insurance, personal freedom may be enhanced. The bill recognizes the difficulty for small-group employers to make health insurance benefits available to their employees. The measures in the bill attempt to increase the insurance options available to small-group employers.

#### B. EFFECT OF PROPOSED CHANGES:

##### Background

##### **The Uninsured**

According to Census data released in August 2005, the number of people in the United States without health insurance was 45.8 million in 2004, compared to 45.0 million in 2003 and 39.8 million in 2000. The increase in the number of those without insurance was focused among working age adults. The percentage of working adults (18 to 64) who were uninsured climbed from 18.6 percent in 2003 to 19.0 percent in 2004 (an increase of over 750,000 people in 2004). Significant changes in the percentage of those who were uninsured occurred in a number of states. Comparing the 2003-4 period with the 2002-2003 period, the percentage of people who are uninsured increased significantly in eight states (Delaware, Florida, Massachusetts, Montana, New Hampshire, Oklahoma, South Carolina and Tennessee), while it declined significantly in Idaho, New York and Wyoming.<sup>1</sup>

Private employment-based health insurance coverage fell again in 2004, for the fifth successive year. The share of Americans with job-based coverage stood at 59.8 percent in 2004, compared to the share in 2003 (60.4 percent) and in 2000 (63.6 percent). Over the years, the primary cause for the decline in job-based health insurance has been escalating health care costs, which has led some employers to stop offering coverage and many others to shift more costs to employees, making it more difficult for low- and moderate-income workers to afford insurance for themselves or their families. Growth in the cost of job-based health insurance premiums continued in 2004, although the rate of growth eased modestly, falling from 14 percent in 2003 to 11 percent in 2004.<sup>2</sup>

In Florida it is estimated that 2,800,000 Floridians under age 65 are uninsured.<sup>3</sup> Of that total it is estimated that 1,766,800 individuals (or 63.1 % of uninsured adults) have a paying job. Moreover, 67.8% of uninsured workers (or 1,197,890 persons) are employed by businesses with 1-49 employees.<sup>4</sup>

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<sup>1</sup> Based on analyses of Current Population data by the Center on Budget and Policy Priorities viewed on April 3, 2006 at <http://www.cbpp.org/8-30-05health.htm>

<sup>2</sup> *Id.*

<sup>3</sup> Characteristics of the non-elderly uninsured in Florida-2004-ACHA

<sup>4</sup> Florida Health Insurance Study 2004, Profile of the Uninsured-ACHA

## Health Insurance and Small Employers

Florida's current laws governing small group health benefits, s. 627.6699, F.S., the Employee Health Care Access Act or Small Group law, require insurance carriers to pool or aggregate all of their small groups into a single rating group or pool when apportioning costs and estimating premiums. Under the Employee Health Care Access Act (the Act), a "small employer" is defined as any person, sole proprietor, self-employed person, independent contractor, firm, association, or other business entity that is based in Florida, actively engaged in business, with at least one, and no more than 50 employees. The Act applies to a health benefit plan providing coverage to a Florida-based small employer, unless the policy is marketed directly to an individual employee whose employer does not participate in the collection or distribution of premiums or facilitate the administration of the policy.

In 2004, the Legislature adopted several reforms to the various provisions of law that govern health insurance and the provision of health care services in chapter 2004-297, Laws of Florida, entitled "The 2004 Affordable Health Care for Floridians Act". Among the provisions of the 2004 law was the creation of s. 627.6699(15), F.S., entitled The Small Employers Access Program.

The Small Employers Access Program states that the purpose of s. 627.6699(15), F.S., is to facilitate the ability of small employers "to provide health care benefits to their employees at an affordable cost through the creation of purchasing pools for employers with up to 25 employees, and rural hospital employers and nursing home employers regardless of the number of employees."

## Health Savings Accounts

The Medicare Prescription Drug, Improvement, and Modernization Act of 2003, Public Law 108-173, included provisions authorizing "tax-favored" health savings accounts (HSAs) for the payment of qualified medical expenses and became effective January 1, 2004. An HSA is a portable health savings account a consumer may use to pay for qualified medical expenses. These accounts generally are offered in tandem with a health plan that provides coverage for major medical costs. To be eligible for an HSA, an individual must be covered by a high deductible health plan which meets certain annual minimum deductible and maximum out-of-pocket requirements.

Contributions to an HSA by an eligible individual may be deducted from a participating individual's adjusted gross income on their federal income tax return, regardless of whether they itemize deductions. Distributions from an HSA for "qualified" medical expenses also are excluded from an individual's gross income. Health savings accounts also offer consumers portability, i.e., an HSA may be taken from one employer's health insurance plan to another and the HSA owner may continue to make deposits and withdrawals

### **Changes Proposed by the Bill**

The bill establishes the Healthy Florida Small Employer Health Insurance Program which will provide a new standardized health insurance subsidy plan for small businesses and sole proprietors. The program is a state subsidized reinsurance mechanism or a stop loss subsidy that reimburses health plans for 90% of claims paid between \$5,000 and \$75,000 on behalf of a member in a calendar year. The program is designed to provide affordable health insurance to the employees of small employers. This program is to be added to the current small group statute, 627.6699. In effect, the state will assume the role of reinsurer -- implicitly subsidizing the premium by removing much of insurers' risk of high-cost claims.

Eligibility for the program is based on the following criteria:

- Available to small employers as defined in the statute (50 or less employees).
- 30% of the small business employees must earn \$33,000 or less annually and at least one employee must accept the coverage.

- The small employer must not have offered health insurance in the past 12 months
- The employer must pay at least fifty percent of the premium.
- All small employer carriers must participate.

The premiums for qualifying small employer contracts must factor in the availability of reimbursement from the Healthy Florida Small Employer Stop Loss Fund. This provision is intended to allow a significant reduction in premiums (about 40%) from standard rates.

The bill creates a stop-loss program. Monies from the stop-loss fund will be used to pay all claims filed annually by a participant between \$5000 and \$75000 at a rate of 90% of the aggregated claims for the year. Enrollment in the program shall be limited by the amount of funds available. When the projected expenses are reached the program shall close to new enrollees for the remainder of the year. Carriers are responsible for claims that exceed the allocated funds. The bill also requires utilization of high deductible accounts ( HSAs) as described in s.627.6699 (12) F.S.

A companion bill, HB 1393, provides for a stop-loss fund which is to administered under the auspices of the Office of Insurance Regulation. Details of the fund are delineated in both bills. The office has provided information indicating that the initial cost of the program shall be borne by an appropriation of \$10 million and that the office further expects authorization to apply for available Low Income Pool matching funds. However, neither of these provisions is currently in either bill.

The office projects that based upon current average monthly premium rates of small group carriers selling in Florida it is anticipated that the stop-loss program will result in lowering the individual monthly premium by at least 38.8%.

The bill provides that beginning in September 1, 2007, and annually thereafter, the office shall submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives a report summarizing the activities of the program, including enrollment and claims paid and an estimate of the required funding for the next program year.

Pursuant to the bill, the Healthy Florida Small Employer Health Insurance Program is repealed July 1, 2010.

C. SECTION DIRECTORY:

Section 1 amends s. 627.6699, F.S relating to the Employee Health Care Access Act to create the Healthy Florida Small Employer Health Insurance Program.

Section 2 provides an effective date of July 1, 2006.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See below.

2. Expenditures:

The Office of Insurance Regulation provided the following fiscal information relating to HB 1391.

Healthy Florida Small Employer Program has a cost-sharing mechanism. The program is market-based, with the enrollee paying the premium and investing in the cost of the insurance. Funding is a mix between being market-based and funded by the state. It consists of general revenue, federal match and premiums.

The state budgets \$25 million for Healthy Florida Small Employer Program and permits spending up to 10 percent of allocated funds on administration of the program inclusive of 3 FTE's, marketing, advertisement, etc.

Note: The bill does not appropriate any monies. From discussions with staff at OIR it appears that they anticipate a \$10 million appropriation from which they will seek \$15 million in Low Income Pool matching funds.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

According to OIR, using current average monthly premium rates of small group carriers currently selling in Florida it is anticipated that the stop-loss program will result in lowering the individual monthly premium by at least 38.8%.

**D. FISCAL COMMENTS:**

See above.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

The mandates provision does not apply because this bill does not: require counties or municipalities to spend funds or to take an action requiring the expenditure of funds; reduce the authority that municipalities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES**