

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 4101 Repeal of Health Insurance Provisions  
**SPONSOR(S):** Health & Human Services Access Subcommittee, Nelson  
**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health & Human Services Access Subcommittee	15 Y, 0 N, As CS	Poche	Schoolfield
2) Insurance & Banking Subcommittee	9 Y, 1 N	Barnum	Cooper
3) Health & Human Services Committee	13 Y, 1 N	Poche	Gormley

### SUMMARY ANALYSIS

The bill repeals a reporting requirement associated with the Florida Health Insurance Plan (Plan). In 2004, the Legislature created the Plan as part of the Affordable Health Care for Floridians Act. The Plan was intended to replace the Florida Comprehensive Health Association as the State's high risk insurance pool. The law contains an annual reporting requirement for the Plan. To date, funds have not been appropriated for startup costs and any projected deficits. The Plan has not been implemented.

CS/HB 4101 removes the requirement that the Board of Directors of the Florida Health Insurance Plan submit an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives regarding the operation of the Plan, including certain specified actuarial information.

The bill repeals a reporting requirement associated with the Small Employers Access Program (Program). In 2004, as part of the Affordable Health Care for Floridians Act, the Program was created within the Employee Health Care Access Act, which had been enacted in 1992. The purpose of the Program was to provide additional health insurance options for small businesses consisting of up to 25 employees, plus any municipality, county, school district, or hospital employer located in a rural community, and any nursing home employer. The enacting legislation requires a competitive bid process to select an insurer to provide coverage through the Program within an established geographical area. No responses were received to the Request for Proposals. The Program is not operational.

CS/HB 4101 removes the requirement that the Office of Insurance Regulation submit an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives summarizing the activities of the Small Employer Access Program, including premiums earned and written, losses realized, administrative expenses, and actual program enrollment.

This bill does not have a fiscal impact on state or local government.

The bill provides for an effective date of July 1, 2011.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Current Situation

##### **Florida Health Insurance Plan**

In 2004, the Legislature created the Florida Health Insurance Plan (Plan) as part of the Affordable Health Care for Floridians Act, a health care reform package.<sup>1</sup> The Plan was intended to replace the Florida Comprehensive Health Association (FCHA), formerly known as the State Comprehensive Health Association, as the State's high risk insurance pool. A high risk pool is a state-created, nonprofit residual market that is generally subsidized through a tax assessment on all of the health insurers operating within a state, both individual and group plans, through state funds, or through a combination of funding. The concept of a high risk pool is to spread the cost of providing health services to a sicker population across a larger group of insured people, instead of relying on the relatively small individual market to cover the chronically ill. Risk pools, by design, are the safety net for the medically uninsurable individual.

The benefits provided by the Plan are the same as the standard and basic plans for small employers.<sup>2</sup> The Plan must also allow for the purchase of alternative coverage, such as catastrophic coverage which includes a minimum level of primary care coverage, and a high deductible plan that meets all the requirements for a health savings account.<sup>3</sup> Eligibility is limited to individuals who have received two notices of rejection for coverage from health insurers and individuals who received coverage under FCHA at the time the Plan was created.<sup>4</sup>

The Plan is run by a nine person Board of Directors (Board) and chaired by the Director of the Office of Insurance Regulation (OIR). There are four governor appointees, two Senate appointees, and two House appointees. The majority of the Board must be composed of individuals who are not representatives of insurers or health care providers. The Board may not implement the Plan until funds are appropriated for startup costs and any projected deficits.<sup>5</sup> These funds have not been appropriated and so the Plan is not in operation.<sup>6</sup>

The Board is required to submit a report annually to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The report is to include an independent actuarial study evaluating specified elements of the Plan.<sup>7</sup>

##### **Small Employers Access Program**

In 1992, the Legislature enacted the Employee Health Care Access Act (EHCAA).<sup>8</sup> The purpose of the act was to promote the availability of health insurance coverage to small employers.<sup>9</sup> In 2004, as part of the Affordable Health Care for Floridians Act, the Small Employers Access Program (Program) was

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<sup>1</sup> Ch. 2004-297, s. 21, L.O.F.

<sup>2</sup> S. 627.6699, F.S.

<sup>3</sup> "Residual Markets- The Florida Health Insurance Plan", *see*

[http://www.myfloridacfo.com/consumers/InsuranceLibrary/Insurance/Residual\\_Markets/Residual\\_Markets\\_-\\_The\\_Florida\\_Health\\_Insurance\\_Plan.htm](http://www.myfloridacfo.com/consumers/InsuranceLibrary/Insurance/Residual_Markets/Residual_Markets_-_The_Florida_Health_Insurance_Plan.htm); *see also* s. 627.64872(16)(a), F.S.

<sup>4</sup> S. 627.64872(9)(a)1. and 2., F.S.

<sup>5</sup> S. 627.64872(6), F.S.

<sup>6</sup> Florida Office of Insurance Regulation Bill Analysis for HB 4101 (March 3, 2011); on file with Health and Human Services Access Subcommittee

<sup>7</sup> S. 627.64872(6)(a) through (e), F.S.

<sup>8</sup> Ch. 92-33, s. 117, L.O.F.

<sup>9</sup> S. 627.6699(2), F.S.

created within the EHCAA.<sup>10</sup> The purpose of the Program is to provide additional health insurance options for small businesses consisting of up to 25 employees, plus any municipality, county, school district, or hospital employer located in a rural community, and any nursing home employer.<sup>11</sup> The benefits of plans offered under the Program are the same as the coverage required for small employers and specified in the statute.<sup>12</sup>

Enacting legislation requires the OIR to competitively procure and select an insurer to provide coverage through the Program within an established geographical area.<sup>13</sup> A request for proposal (RFP) was issued by the OIR in 2004, but no insurer responded to the RFP.<sup>14</sup> Therefore, the Program is not operational.

The OIR is required to submit a report annually to the Governor, the President of the Senate, and the Speaker of the House of Representatives summarizing the activities of the Program over the past year, including premiums earned and written, total enrollment in the Program, administrative expenses, and paid and incurred losses.<sup>15</sup> Because the Program is not operational, there is no meaningful information to submit.

### **Effect of Proposed Changes**

The bill deletes the annual reporting requirement of the Plan. The Plan is not in operation. Therefore, the requirement that a report be provided detailing, among other data, the number of people covered by the program and anticipated gains and losses in the next fiscal year is moot.<sup>16</sup>

The bill also eliminates the annual reporting requirement for the Program. The Program would no longer need to submit the annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives stating the premiums earned and written over the past year, the administrative expenses incurred, the losses realized over the past year, and total Program enrollment. The Program is not operational. Therefore, the annual reporting requirement is moot.<sup>17</sup>

#### **B. SECTION DIRECTORY:**

- Section 1:** Amends s. 627.64872, F.S., relating to annual reporting requirements regarding the Florida Health Insurance Plan.
- Section 2:** Amends s. 627.6699, F.S., relating to annual reporting requirements regarding the Employee Health Care Access Act, Small Employers Access Program.
- Section 3:** Provides an effective date of July 1, 2011.

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

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

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<sup>10</sup> Ch. 2004-297, s. 24, L.O.F.

<sup>11</sup> S. 627.6699(15)(d), F.S.

<sup>12</sup> S. 627.6699(12), F.S.

<sup>13</sup> S. 627.6699(15)(e), F.S.

<sup>14</sup> *Id.*

<sup>15</sup> S. 627.6699(15)(l), F.S.

<sup>16</sup> Florida Office of Insurance Regulation Bill Analysis for HB 4101 (March 3, 2011); on file with Health and Human Services Access Subcommittee

<sup>17</sup> *Id.*

None.

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

1. Revenues:

None.

2. Expenditures:

None.

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

None.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of 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 CHANGES**

On March 9, 2011, the Health and Human Services Access Subcommittee adopted one amendment to House Bill 4101.

The amendment deletes s. 627.64872(6), F.S., in its entirety, repealing the requirement that the Plan submit an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, including certain actuarial information regarding the Plan.

The bill was reported favorably as a Committee Substitute.

The analysis is drafted to the Committee Substitute.