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FISCAL IMPACT REPORT

ORIGINAL DATE 02/25/13

SPONSOR Taylor LAST UPDATED _____ HB 564

SHORT TITLE Insurance Navigator Licensing Act SB _____

ANALYST Geisler

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		Minor, see narrative				

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Human Services Department (HSD)

Public Regulation Commission (PRC)

SUMMARY

Synopsis of Bill

House Bill 564 will require that health insurance exchange navigators be licensed, requires continuing education, prohibits certain conduct, and requires reports to the Superintendent of Insurance. The legislation also provides for rulemaking authority of the superintendent.

Under this legislation, navigators will not be able to act, offer to act, or advertise services as a navigator unless they are licensed as a navigator after meeting requirements established by the Superintendent of Insurance. Licensing procedures and qualifications will also be established by the superintendent. HB 564 also requires establishment of rules and regulations for organizations who may oversee navigators working through an exchange.

FISCAL IMPLICATIONS

There would be a small administrative impact, likely offset by licensure fees, on the PRC by creation of a navigator licensure process.

SIGNIFICANT ISSUES

PRC notes the Affordable Care Act uses the term “navigator” to refer to entities rather than individuals performing the navigator function, even though in common parlance the term is also

applied to individuals. The Affordable Care Act envisions that the Exchange will award grants to navigator entities and will be responsible for designing and issuing RFPs that describe the requirements (e.g. employee qualifications, bonding, education and training, etc.) of being certified as a navigator and for monitoring and enforcing the conduct of certified navigators. Therefore it appears to make more sense for the exchange, and not the Superintendent of Insurance, to issue rules regarding these matters.

HSD notes that HB 564 lays out a licensing framework and requirements for a navigator program on the exchange. Under the Affordable Care Act (ACA) exchanges are required to establish navigator programs through which entities that receive financial grants will carry out specific tasks, including: public education activities, distribution of fair and impartial information on enrollment and tax credits, facilitation of enrollment in health plans, provide referrals to ombudsman services, and provide information in a culturally and linguistically appropriate manner.

A number of advocates believe that a certification process, rather than a licensure process proposed in HB 564, would be more workable. A certification process also would provide a less burdensome oversight process for community organizations interested in becoming navigators. The requirement to obtain surety bond or insurance to cover navigator activities is viewed as burden. The consequence of the bill may be to discourage community-based organizations from becoming navigators. This would not be the best course of action for lower income communities, hard to reach populations, and disabled groups.

Advocates have also raised concerns about the navigator conduct section, specifically the exclusions on navigators from engaging in any activities that would in any way touch on anything a broker might do. The provisions appear to be overbroad and restrictive, and would mean that anyone coming into contact with a navigator would likely have to be referred to a broker in order to obtain insurance on the exchange, which is not the intent of the ACA and the ACA's "no wrong door" policy. Likewise, the wording of section 6 A (4) and C are so broad and vague that they appear to prohibit navigators from discussing Medicare or Medicaid options with individuals.

OTHER SUBSTANTIVE ISSUES

HSD notes that in essence, navigators will act as guides along the path for consumers to enroll in health insurance plans. These navigators must meet standards of training, ethics, and professional development in order to serve consumers seeking coverage through an exchange. Agents and brokers may be navigators for an exchange if they are not compensated directly or indirectly from health insurance issuers for their work.

The ACA lays the groundwork for entities that may be navigators, one of which must be a community and consumer focused non-profit group. The state should consider a range of community based organizations from which to choose for the community and consumer focused non-profit group including groups such as Kiwanis, faith-based organizations, churches, and parent-teach associations. Some examples of other entities that may wish to be navigator organizations include: trade associations, industry associations, ranching and farming organizations, chambers of commerce, licensed agents and brokers, or other public or private entities or individuals that meet the requirements, such as Indian tribes, to name a few.

While much is known about the role of navigators interacting with an exchange, much is still unknown. The Center for Consumer Information and Insurance Oversight (CCIIO), the federal entity overseeing implementation of exchanges, has been issuing new guidance and clarification on navigators, in-person assisters, and certified application counselors on a seemingly continual basis (these three groups are technically the same and covered under this legislation – the funding streams are the main difference). This legislation provides the framework to cover each of these groups while still maintaining flexibility to adjust to any future federal guidelines.

Licensed navigators who are not in compliance with their child support obligations may be referred for license revocation or renewals of their licenses may be denied pursuant to the Parental Responsibility Act.

RELATIONSHIP

Relates to health exchange related bills including HB 168, HB 563, & SB 221.

GG/blm