

Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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Senate Bill 783 (Substitute S-1 as passed by the Senate)
Senate Bill 784 (Substitute S-1 as passed by the Senate)
Sponsor: Senator Bill Bullard, Jr.
Committee: Financial Services

Date Completed: 11-3-99

RATIONALE

The Accident Fund Company is a subsidiary owned and controlled through a board of directors by Blue Cross and Blue Shield of Michigan (BCBSM). Before it was purchased by BCBSM, the company was a State agency that had been statutorily created in 1912 to increase the availability of workers' compensation insurance. When laws were passed in 1993 to provide for the sale of the agency, the legislation limited the company's business to selling workers' compensation and employers' liability insurance. Now that the agency has become a private insurer, some have suggested that it also should be able to sell disability insurance, a line of business commonly offered by workers' compensation insurers.

CONTENT

Senate Bills 783 (S-1) and 784 (S-1) would amend the Nonprofit Health Care Corporation Reform Act and the Insurance Code, respectively, to allow the insurance company formed by the health care corporation to transact disability insurance limited to replacement of loss of earnings or to act as a disability insurance plan limited to replacement of loss of earnings.

Currently, the Nonprofit Health Care Corporation Reform Act (which governs Blue Cross and Blue Shield of Michigan) allows the health care corporation to form a domestic stock insurance company for the purpose of acquiring, owning, and operating the State Accident Fund as long as, among other things, the insurer only transacts workers' compensation insurance and employers' liability insurance, acts as an administrative services organization for an approved self-insured workers' compensation plan, and does not transact any other type of insurance.

Under the Insurance Code, if an acquiring insurer is a domestic stock insurer owned by a nonprofit health care corporation formed under the Nonprofit Health Care Corporation Reform Act, then the acquiring insurer may transact only workers' compensation insurance and employers' liability insurance, and act

as an administrative services organization for an approved self-insured workers' compensation plan.

Under the bills, for insurance products and services, the insurer directly or indirectly also could transact disability insurance limited to replacement of loss of earnings, or act as a disability insurance plan limited to replacement of loss of earnings.

The bills state that these provisions would not preclude the insurer from providing either directly or indirectly noninsurance products and services as otherwise provided by law.

The bills are tie-barred to each other.

MCL 550.1207 (S.B. 783)
500.5104 (S.B. 784)

BACKGROUND

The State Accident Fund was created in 1912 to increase the availability of workers' compensation insurance. The statute controlling the Accident Fund limited it to the sale of workers' compensation and employers' liability insurance to prevent the Fund from competing unfairly with private insurers for more general property and casualty business. After a conflict arose in 1976 concerning the Fund's status as a State or private agency, it was judicially determined that the Insurance Commissioner had supervisory and administrative control over the Fund, and that the Fund was a State agency whose employees were employees of the State.

Many people remained dissatisfied about the Fund's status as a State agency, however, and perceived that the Fund had a competitive advantage over many private insurers because of what some believed to be artificially set rates. Legislation enacted in 1990 then required Fund premiums and assessments to be at the lowest level possible, and required the Fund to pay fees equal to taxes it would pay as a private agency and to reduce its surplus. Nevertheless, many argued that privatization of the Fund would enable rates to reflect market costs and

eliminate unfair competition.

In 1993, legislation was enacted to authorize the sale of the Accident Fund to a "permitted transferee". Ultimately, the State Administrative Board approved a \$291 million bid by Blue Cross and Blue Shield of Michigan. A policyholders group immediately filed lawsuits concerning the proceeds of the sale of the Accident Fund. In January 1995, the Michigan Supreme Court decided that the policyholders had not shown contractual or property rights in the Fund and therefore were not eligible to share in the proceeds of the sale. Finally, the transfer of the Accident Fund to BCBSM was completed for \$255 million. (The actual sale of the Accident Fund took place December 28, 1994, after approval from the Administrative Board.)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Since the Accident Fund Company is no longer a State agency, it should not be prohibited from transacting other types of insurance, such as disability insurance. The change would allow the company to be more competitive with other private insurers that offer such coverage in a coordinated compensation disability package. Also, due to increased competition, businesses could find less costly disability insurance coverage.

Opposing Argument

The Accident Fund Company is a subsidiary owned and controlled through a board of directors by BCBSM. For public policy considerations, the insurance transactions that BCBSM can offer are limited. Therefore, the company's insurance offerings also should remain limited to reflect BCBSM's policies.

Response: The Accident Fund Company acts independently as a private domestic stock insurance company and is protected from direct control by BCBSM. Therefore, control on the lines of insurance that BCBSM may offer does not apply to the company. It is a logical extension for an insurer that is selling workers' compensation insurance to be allowed to sell disability insurance.

Legislative Analyst: N. Nagata

FISCAL IMPACT

The bills would allow the Accident Fund Company to begin offering disability insurance to its customers. This change could generate additional assessment revenue for the Insurance Bureau, should the Accident Fund have an increase in premiums, but

without information regarding the number of policies sold, it is difficult to determine at what level that revenue would be.

Fiscal Analyst: M. Tyszkiewicz

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.