



House of Representatives

General Assembly

File No. 321

February Session, 2006

House Bill No. 5779

House of Representatives, April 3, 2006

The Committee on Insurance and Real Estate reported through REP. O'CONNOR of the 35th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT INCREASING THE AVAILABILITY OF HEALTH INSURANCE FOR SMALL BUSINESSES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 38a-569 of the 2006 supplement to the general
2 statutes is repealed and the following is substituted in lieu thereof
3 (*Effective October 1, 2006*):

4 (a) (1) There is established a nonprofit entity to be known as the
5 "Connecticut Small Employer Health Reinsurance Pool". All insurers
6 issuing health insurance in this state and insurance arrangements
7 providing health plan benefits in this state on and after July 1, 1990,
8 shall be members of the pool.

9 (2) On or before July 15, 1990, the commissioner shall give notice to
10 all insurers and insurance arrangements of the time and place for the
11 initial organizational meeting, which shall take place by September 1,
12 1990. The members shall select the initial board, subject to approval by
13 the commissioner. The board shall consist of at least five and not more

14 than [nine] sixteen representatives of members. On and after October
15 1, 2006, the Governor, the president pro tempore of the Senate, the
16 speaker of the House of Representatives, the majority leader of the
17 Senate, the majority leader of the House of Representatives, the
18 minority leader of the Senate and the minority leader of the House of
19 Representatives shall each appoint one individual who shall have
20 demonstrated sufficient knowledge by education, training or
21 experience in one or more of the following areas: Small employer
22 administration; federal and state health insurance statutes, policies and
23 regulations; health reinsurance pools; or contract negotiation,
24 administration or drafting. There shall be no more than two members
25 of the board representing any one insurer or insurance arrangement. In
26 determining voting rights at the organizational meeting, each member
27 shall be entitled to vote in person or by proxy. The vote shall be
28 weighted based upon net health insurance premium derived from this
29 state in the previous calendar year. To the extent possible, at least one-
30 third of the members of the board shall be domestic insurance
31 companies and at least two-thirds of the members of the board shall be
32 small employer carriers. At least one member of the board shall be a
33 health care center and at least one member shall be a small employer
34 carrier with less than one hundred million dollars in net small
35 employer health insurance premium in this state. The Insurance
36 Commissioner shall be an ex-officio member of the board. The net
37 premium amount shall be adjusted by the board periodically for health
38 care cost inflation. In approving selection of the board, the
39 commissioner shall assure that all members are fairly represented. The
40 membership of all boards subsequent to the initial board shall, to the
41 extent possible, reflect the same distribution of representation as is
42 described in this subdivision.

43 (3) If the initial board is not elected at the organizational meeting,
44 the commissioner shall appoint the initial board within fifteen days of
45 the organizational meeting.

46 (4) Within ninety days after the appointment of such initial board,
47 the board shall submit to the commissioner a plan of operation and

48 thereafter any amendments thereto necessary or suitable to assure the
49 fair, reasonable and equitable administration of the pool. The
50 commissioner shall, after notice and hearing, approve the plan of
51 operation provided he determines it to be suitable to assure the fair,
52 reasonable and equitable administration of the pool, and provides for
53 the sharing of pool gains or losses on an equitable proportionate basis
54 in accordance with the provisions of subsection (d) of this section. The
55 plan of operation shall become effective upon approval, in writing, by
56 the commissioner consistent with the date on which the coverage
57 under this section shall be made available. If the board fails to submit a
58 suitable plan of operation within one hundred eighty days after its
59 appointment, or at any time thereafter fails to submit suitable
60 amendments to the plan of operation, the commissioner shall, after
61 notice and hearing, adopt and promulgate a plan of operation or
62 amendments, as appropriate. The commissioner shall amend any plan
63 adopted by him, as necessary, at the time a plan of operation is
64 submitted by the board and approved by the commissioner.

65 (5) The plan of operation shall establish procedures for: (A)
66 Handling and accounting of assets and moneys of the pool, and for an
67 annual fiscal reporting to the commissioner; (B) filling vacancies on the
68 board, subject to the approval of the commissioner; (C) selecting an
69 administering insurer and setting forth the powers and duties of the
70 administering insurer; (D) reinsuring risks in accordance with the
71 provisions of this section; (E) collecting assessments from all members
72 to provide for claims reinsured by the pool and for administrative
73 expenses incurred or estimated to be incurred during the period for
74 which the assessment is made; and (F) any additional matters at the
75 discretion of the board.

76 (6) The pool shall have the general powers and authority granted
77 under the laws of Connecticut to insurance companies licensed to
78 transact health insurance and, in addition thereto, the specific
79 authority to: (A) Enter into contracts as are necessary or proper to
80 carry out the provisions and purposes of this section, including the
81 authority, with the approval of the commissioner, to enter into

82 contracts with programs of other states for the joint performance of
83 common functions, or with persons or other organizations for the
84 performance of administrative functions; (B) sue or be sued, including
85 taking any legal actions necessary or proper for recovery of any
86 assessments for, on behalf of, or against members; (C) take such legal
87 action as necessary to avoid the payment of improper claims against
88 the pool; (D) define the array of health coverage products for which
89 reinsurance will be provided, and to issue reinsurance policies, in
90 accordance with the requirements of this section; (E) establish rules,
91 conditions and procedures pertaining to the reinsurance of members'
92 risks by the pool; (F) establish appropriate rates, rate schedules, rate
93 adjustments, rate classifications and any other actuarial functions
94 appropriate to the operation of the pool; (G) assess members in
95 accordance with the provisions of subsection (e) of this section, and to
96 make advance interim assessments as may be reasonable and
97 necessary for organizational and interim operating expenses. Any such
98 interim assessments shall be credited as offsets against any regular
99 assessments due following the close of the fiscal year; (H) appoint from
100 among members appropriate legal, actuarial and other committees as
101 necessary to provide technical assistance in the operation of the pool,
102 policy and other contract design, and any other function within the
103 authority of the pool; and (I) borrow money to effect the purposes of
104 the pool. Any notes or other evidence of indebtedness of the pool not
105 in default shall be legal investments for insurers and may be carried as
106 admitted assets.

107 (b) Any member may reinsure with the pool coverage of an eligible
108 employee of a small employer, or any dependent of such an employee,
109 except that no member may reinsure with the pool coverage of an
110 eligible employee of a small employer, or any dependent of such an
111 employee, whose premium rates are not subject to section 38a-567, as
112 amended, pursuant to subdivision (22) of section 38a-567, as amended.
113 Any reinsurance placed with the pool from the date of the
114 establishment of the pool regarding the coverage of an eligible
115 employee of a small employer, or any dependent of such an employee
116 shall be provided as follows:

117 (1) (A) With respect to a special health care plan or a small employer
118 health care plan, the pool shall reinsure [the level of] coverage
119 [provided] not exceeding forty thousand dollars for each individual
120 claim from the premiums paid to the pool. With respect to each such
121 health care plan, the pool shall reinsure coverage exceeding forty
122 thousand dollars for each individual claim from the grant moneys
123 under section 3 of this act; (B) with respect to other plans, the pool
124 shall reinsure the level of coverage provided up to, but not exceeding,
125 the level of coverage provided in a small employer health care plan or
126 the actuarial equivalent thereof as defined and authorized by the
127 board; and (C) in either case, no reinsurance may be provided in any
128 calendar year for a reinsured employee or dependent until five
129 thousand dollars in benefit payments have been made for services
130 provided during that calendar year for that reinsured employee or
131 dependent, which payments would have been reimbursed through
132 said reinsurance in the absence of the annual five-thousand-dollar
133 deductible. The amount of the deductible shall be periodically
134 reviewed by the board and may be adjusted for appropriate factors as
135 determined by the board;

136 (2) With respect to eligible employees, and their dependents,
137 coverage may be reinsured: (A) Within such period of time after the
138 commencement of their coverage under the plan as may be authorized
139 by the board, or (B) commencing January 1, 1992, on the first plan
140 anniversary after the employer's coverage has been in effect with the
141 small employer carrier for a period of three years, and every third plan
142 anniversary thereafter, provided, commencing May 1, 1994,
143 reinsurance pursuant to this subparagraph shall only be permitted
144 with respect to eligible employees and their dependents of a small
145 employer which has no more than two eligible employees as of the
146 applicable anniversary;

147 (3) Reinsurance coverage may be terminated for each reinsured
148 employee or dependent on any plan anniversary;

149 (4) Reinsurance of newborn dependents shall be allowed only if the

150 mother of any such dependent is reinsured as of the date of birth of
151 such child, and all newborn dependents of reinsured persons shall be
152 automatically reinsured as of their date of birth; and

153 (5) Notwithstanding the provisions of subparagraph (A) of
154 subdivision (2) of this subsection: (A) Coverage for eligible employees
155 and their dependents provided under a group policy covering two or
156 more small employers shall not be eligible for reinsurance when such
157 coverage is discontinued and replaced by a group policy of another
158 carrier covering two or more small employers, unless coverage for
159 such eligible employees or dependents was reinsured by the prior
160 carrier; and (B) at the time coverage is assumed for such group by a
161 succeeding carrier, such carrier shall notify the pool of its intention to
162 provide coverage for such group and shall identify the employees and
163 dependents whose coverage will continue to be reinsured. The time
164 limitations for providing such notice shall be established by the pool.

165 (c) Except as provided in subsection (d) of this section, premium
166 rates charged for reinsurance by the pool shall be established at the
167 following percentages of the rate established by the pool for that
168 classification or group with similar characteristics and coverage:

169 (1) One hundred fifty per cent, with respect to all of the eligible
170 employees, and their dependents, of a small employer, all of whose
171 coverage is reinsured in accordance with subdivision (2) of subsection
172 (b) of this section; and

173 (2) Five hundred per cent, with respect to an eligible employee or
174 dependent who is individually reinsured in accordance with
175 subdivision (2) of subsection (b) of this section and is not reinsured
176 with all eligible employees of an employer and their dependents.

177 (d) Premium rates charged for reinsurance by the pool to a health
178 care center which is approved by the Secretary of Health and Human
179 Services as a health maintenance organization pursuant to 42 USC 300
180 et seq., and as such is subject to requirements that limit the amount of
181 risk that may be ceded to the pool, may be modified by the board, if

182 appropriate, to reflect the portion of risk that may be ceded to the pool.

183 (e) (1) Following the close of each fiscal year, the administering
184 insurer shall determine the net premiums, the pool expenses of
185 administration and the incurred losses for the year, taking into account
186 investment income and other appropriate gains and losses. For
187 purposes of this section, health insurance premiums earned by
188 insurance arrangements shall be established by adding paid health
189 losses and administrative expenses of the insurance arrangement.
190 Health insurance premiums and benefits paid by a member that are
191 less than an amount determined by the board to justify the cost of
192 collection shall not be considered for purposes of determining
193 assessments. For purposes of this subsection, "net premiums" means
194 health insurance premiums, less administrative expense allowances.

195 (2) Any net loss for the year shall be recouped by assessments of
196 members. (A) Assessments shall first be apportioned by the board
197 among all members in proportion to their respective shares of the total
198 health insurance premiums earned in this state from health insurance
199 plans and insurance arrangements covering small employers during
200 the calendar year coinciding with or ending during the fiscal year of
201 the pool, or on any other equitable basis reflecting coverage of small
202 employers as may be provided in the plan of operations. An
203 assessment shall be made pursuant to this subparagraph against a
204 health care center, which is approved by the Secretary of Health and
205 Human Services as a health maintenance organization pursuant to 42
206 USC 300e et seq., subject to an assessment adjustment formula adopted
207 by the board and approved by the commissioner for such health care
208 centers which recognizes the restrictions imposed on such health care
209 centers by federal law. Such adjustment formula shall be adopted by
210 the board and approved by the commissioner prior to the first
211 anniversary of the pool's operation. (B) If such net loss is not recouped
212 before assessments totaling five per cent of such premiums from plans
213 and arrangements covering small employers have been collected,
214 additional assessments shall be apportioned by the board among all
215 members in proportion to their respective shares of the total health

216 insurance premiums earned in this state from other individual and
217 group plans and arrangements, exclusive of any individual Medicare
218 supplement policies as defined in section 38a-495 during such calendar
219 year. (C) Notwithstanding the provisions of this subdivision, the
220 assessments to any one member under subparagraph (A) or (B) of this
221 subdivision shall not exceed forty per cent of the total assessment
222 under each subparagraph for the first fiscal year of the pool's operation
223 and fifty per cent of the total assessment under each subparagraph for
224 the second fiscal year. Any amounts abated pursuant to this
225 subparagraph shall be assessed against the other members in a manner
226 consistent with the basis for assessments set forth in this subdivision.

227 (3) If assessments exceed actual losses and administrative expenses
228 of the pool, the excess shall be held at interest and used by the board to
229 offset future losses or to reduce pool premiums. As used in this
230 subsection, "future losses" includes reserves for incurred but not
231 reported claims.

232 (4) Each member's proportion of participation in the pool shall be
233 determined annually by the board based on annual statements and
234 other reports deemed necessary by the board and filed by the member
235 with it. Insurance arrangements shall report to the board claims
236 payments made and administrative expenses incurred in this state on
237 an annual basis on a form prescribed by the commissioner.

238 (5) Provision shall be made in the plan of operation for the
239 imposition of an interest penalty for late payment of assessments.

240 (6) The board may defer, in whole or in part, the assessment of a
241 health care center if, in the opinion of the board: (A) Payment of the
242 assessment would endanger the ability of the health care center to
243 fulfill its contractual obligations, or (B) in accordance with standards
244 included in the plan of operation, the health care center has written,
245 and reinsured in their entirety, a disproportionate number of special
246 health care plans. In the event an assessment against a health care
247 center is deferred in whole or in part, the amount by which such
248 assessment is deferred may be assessed against the other members in a

249 manner consistent with the basis for assessments set forth in this
250 subsection. The health care center receiving such deferment shall
251 remain liable to the pool for the amount deferred. The board may
252 attach appropriate conditions to any such deferment.

253 (f) (1) Neither the participation in the pool as members, the
254 establishment of rates, forms or procedures nor any other joint or
255 collective action required by this section shall be the basis of any legal
256 action, criminal or civil liability or penalty against the pool or any of its
257 members.

258 (2) Any person or member made a party to any action, suit, or
259 proceeding because the person or member served on the board or on a
260 committee or was an officer or employee of the pool shall be held
261 harmless and be indemnified by the program against all liability and
262 costs, including the amounts of judgments, settlements, fines or
263 penalties, and expenses and reasonable attorney's fees incurred in
264 connection with the action, suit or proceeding. The indemnification
265 shall not be provided on any matter in which the person or member is
266 finally adjudged in the action, suit or proceeding to have committed a
267 breach of duty involving gross negligence, dishonesty, wilful
268 misfeasance or reckless disregard of the responsibilities of office. Costs
269 and expenses of the indemnification shall be prorated and paid for by
270 all members. The Insurance Commissioner may retain actuarial
271 consultants necessary to carry out his responsibilities pursuant to
272 sections 38a-564 to 38a-572, inclusive, as amended, and such expenses
273 shall be paid by the pool established in this section.

274 Sec. 2. (NEW) (*Effective October 1, 2006*) In the event an employer, as
275 defined in section 31-58 of the 2006 supplement to the general statutes,
276 terminates an employee for any reason other than lay off or an
277 employee voluntarily terminates his or her employment with an
278 employer, such employer shall not be responsible for the payment of
279 premium for such employee under a group health insurance policy
280 after the date of such employee's termination. Any insurer, health care
281 center, hospital or medical service corporation or fraternal benefit

282 society that issues such health insurance policy shall credit such
283 employer for the amount of any premium paid by such employer with
284 respect to such policy for such employee to the date of such employee's
285 termination.

286 Sec. 3. (*Effective July 1, 2006*) The sum of ten million dollars is
287 appropriated to the Insurance Department, from the General Fund, for
288 the fiscal year ending June 30, 2008, for purposes of a grant to the
289 Connecticut Small Employer Health Reinsurance Pool for the
290 implementation of the provisions of subparagraph (A) of subdivision
291 (1) of subsection (b) of section 38a-569, as amended by this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2006</i>	38a-569
Sec. 2	<i>October 1, 2006</i>	New section
Sec. 3	<i>July 1, 2006</i>	New section

INS *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 07 \$	FY 08 \$
Insurance Dept.	CT Small Employer Health Reinsurance Pool - Appropriates Funds	None	\$10 Million
Insurance Dept.	IF - Cost	None	58,166

Note: IF=Insurance Fund

Municipal Impact: None

Explanation

The bill provides a grant to the Connecticut Small Employer Health Reinsurance Pool (CSEHRP), in FY 08, to reduce health insurance costs for employers who employ no more than fifty employees.

Under the bill, the Insurance Department is authorized to administer a one-time \$10 million grant to the CSEHRP from the General Fund. The administration by the Insurance Department would involve reinsuring claims over \$40,000 to the CSEHRP from the \$10 million grant. In FY 08, when the funds are appropriated to the CSEHRP, the Insurance Department would incur costs related to one clerical position.¹

The table below itemizes the expenses that will be incurred by the Insurance Department for their part in administering the grant to

¹ The estimated first year fringe benefit rate as a percentage of payroll is 23.6%, effective July 1, 2005. The first year fringe benefit costs for new positions do not include pension costs. The state's pension contribution is based upon the prior year's certification by the actuary for the State Employees Retirement System (SERS). The SERS 2005-06 fringe benefit rate is 34.7%, which when combined with the non pension fringe benefit rate would total 58.3%.

CSEHRP.

Description	FY 07	FY 08
Personnel (including fringe)	0	\$54,466
Equipment	0	\$1,200
Other Expenses	0	\$2,500
Total	0	\$58,166

The Out Years

State Impact:

Agency Affected	Fund-Effect	FY 09 \$	FY 10 \$	FY 11 \$
Insurance Dept.	CT Small Employer Health Reinsurance Pool - Appropriates Funds	None	None	None
Insurance Dept.	IF - Cost	72,256	74,424	76,656

Note: IF=Insurance Fund

Municipal Impact: None

OLR Bill Analysis
HB 5779

AN ACT INCREASING THE AVAILABILITY OF HEALTH INSURANCE FOR SMALL BUSINESSES.

SUMMARY:

This bill appropriates \$10 million from the General Fund to the Insurance Department as a grant for the Connecticut Small Employer Health Reinsurance Pool ("CSEHRP"). It limits the amount of reinsurance coverage CSEHRP must provide from premiums paid to the pool to \$40,000 for any claim. Any reinsurance coverage in excess of \$40,000 per claim is paid for from the state grant. (Reinsurance is a transaction between two or more insurers to apportion risk so that a large loss does not fall on any one company.)

The bill increases the maximum number of CSEHRP board members from nine to 16. The additional seven members must be appointed. By law, pool members select the other board members.

The bill specifies that an employer does not have to pay any premium for an employee's health care insurance beyond the date the employee terminates employment for any reason other than a layoff. It requires an insurer, HMO, hospital or medical service corporation, or fraternal benefit society to credit an employer the amount of any premium prepaid for an employee's health care insurance to the employee's termination date.

EFFECTIVE DATE: October 1, 2006, except the appropriation provision is effective July 1, 2006.

CSEHRP BOARD MEMBERSHIP

Under current law, pool members (all insurers and insurance arrangements providing health plan benefits in the state) select board

members, subject to the insurance commissioner's approval and based on fair representation. The board must have between five and nine members.

The bill increases the maximum number of board members to 16. It requires the governor and top six legislative leaders to each appoint one member. Appointees must demonstrate sufficient knowledge through education, training, or experience in one or more of the following areas: small employer administration; federal and state health insurance statutes, policies, and regulations; health reinsurance pools; or contract negotiation, administration, or drafting. The bill retains all other membership requirements.

REINSURING COVERAGE

By law, pool members may reinsure with the pool coverage of a small employer's employee, or the employee's dependent, under certain conditions. Current law requires the pool to reinsure, for a special health care plan or small employer health care plan, the level of coverage provided by the plan. For other plans, it must reinsure an amount up to the level of coverage provided by a small employer health plan, or the actuarial equivalent. There is an annual \$5,000 deductible on the reinsurance per covered person. In other words, an insurer cannot reinsure the first \$5,000 in benefit payments for a person. The board must periodically review the deductible amount and may adjust it for appropriate factors.

For special health care plans and small employer plans, the bill limits the amount of reinsurance the pool can provide from premiums paid by insurers to \$40,000 for any one claim. It requires the pool to reinsure any claim amount over \$40,000 from grant money appropriated from the General Fund for that purpose. The \$5,000 deductible remains in effect. Thus, an insurer may purchase reinsurance from CSEHRP for its special health care plans and small employer plans to cover claim amounts over \$5,000 and up to \$40,000. Any claim amounts over \$40,000 are still reinsured, but paid for from state money.

BACKGROUND**CSEHRP**

CSEHRP is a nonprofit entity created by statute. It has been operating since May 1, 1991. The pool has the general powers and authority given licensed health insurance companies under Connecticut law and specific authority to:

1. enter into necessary contracts, including those for administrative purposes;
2. sue or be sued;
3. take necessary legal action to avoid improper claims payment;
4. define the kinds of health insurance products to be reinsured and issue reinsurance policies;
5. establish rules for reinsurance on members' risks placed with the pool;
6. establish rates, rate schedules, rate adjustments, rate classifications, and other appropriate actuarial functions;
7. assess members, including making reasonable interim assessments;
8. appoint appropriate committees from its members for technical assistance purposes; and
9. borrow money.

No more than two CSEHRP board members may represent any one insurer or insurance arrangement. Board members may vote in person or by proxy. Votes are weighted based on each member's net Connecticut insurance premiums from the previous calendar year. To the extent possible, at least one-third of board members must be domestic (in-state) companies and at least two-thirds must be small employer carriers. At least one board member must be an HMO, and

at least one must be a small employer carrier with less than \$100 million in net small employer health insurance premiums in Connecticut. (The net premium amount must be adjusted periodically by the board for health care cost inflation.) The insurance commissioner is an ex-officio board member.

Special Health Care Plan

Existing law required the CSEHRP board to establish at least two “special health care plans” for uninsured small employers (one for HMOs and one for other small employer carriers). The plans are available to small employers who have not provided health care coverage for their employees at any time during the prior year. An employer cannot purchase a special health care plan for more than three years (CGS § 38a-565).

A special health care plan is subject to the insurance commissioner’s approval and may contain benefit levels, deductibles, coinsurance, copayment obligations, exclusions, and limitations that the board considers appropriate for uninsured small employers.

Small Employer Health Care Plan

Existing law required the board to also establish small employer plans to be available to a small employer whether or not it previously provided health care coverage to its employees. The plans permitted are limited to (1) basic hospital; (2) basic surgical; (3) major medical, which may be written in conjunction with a basic hospital or surgical plan; (4) comprehensive; and (5) plans with benefit and cost sharing levels consistent with an HMO’s basic operational methods and benefit plans (CGS § 38a-568).

Small employer health care plans are subject to the commissioner’s approval and may contain benefit levels, deductibles, coinsurance, copayment obligations, exclusions, and limitations generally reflective of health insurance provided small employers.

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable

Yea 18 Nay 0 (03/16/2006)