

BILL ANALYSIS

C.S.H.B. 1848

By: Hancock

Insurance

Committee Report (Substituted)

BACKGROUND AND PURPOSE

Frequency of examination for all lines of insurance is governed under Section 401.052, Insurance code and requires that new carriers be examined annually during their first three years of operation. It also requires that established companies be examined once every three years, or if the Commissioner determines that the financial strength of the company justifies less frequent examinations, once every five years.

The problem exists in that financial strength is subjective. Section 7.84, Administration Code, allows the Department to defer examinations to every three to five years for all insurance companies that meet the criteria of this code. Despite its best efforts, the Department's attempts to define financial strength through an objective rule cannot account for varying factors or professional judgment. The result is that financially strong companies often fail the objective rule and are not eligible for examination deferment. Additionally, the existing statute does not give the Commissioner the flexibility to defer examinations on newly formed or acquired affiliate or subsidiary companies of already existing and proven strong companies.

C.S.H.B. 1848 allows the Department of Insurance to examine carriers as often as they deem necessary or at least once every five years. The bill also requires the commissioner to adopt rules to determine the frequency of examinations for carriers organized or incorporated for less than five years. Furthermore, the bill permits the commissioner to recover any cost the Texas Department of Insurance acquires while conducting an examination for a workers' compensation network, in the same manner the agency does for examinations of Health Maintenance Organizations

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Commissioner of Insurance in SECTION 1 (Section 401.052) and SECTION 2 (Section 1305.21) of this bill.

ANALYSIS

C.S.H.B. 1848 relates to the frequency of certain examinations conducted by the Texas Department of Insurance.

C.S.H.B. 1848 amends Section 401.052 state that, subject to Subsection (b) and except as provided by the rules adopted under that subsection, the department shall visit and examine a carrier as frequently as the department considers necessary. However, at a minimum, the department shall examine a carrier not less frequently than once every five years. Also, the commissioner shall adopt rules governing the frequency of examinations of carriers that have been organized or incorporated for less than five years.

Next, SECTION 2 amends Section 1305.251 of the Texas Insurance Code by adding two new subsections. The first subsection states that a network shall pay a fee to the department, in an amount set by the commissioner and in accordance with rules adopted by the commissioner, for the expenses of an examination conducted under this section or Section 1305.252 that: are incurred by the commissioner or under the commissioner's authority; and are directly attributable to that examination, including the actual salaries and expenses of the examiners directly attributable to that examination, as determined under rules adopted by the commissioner. The second subsection says that fees collected under this section shall be deposited to the credit of the Texas Department of Insurance operating account.

EFFECTIVE DATE

September 1, 2007

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 1848 amends H.B. 1848 by adding several subsections to SECTION 2, Section 1305.251 of the Texas Insurance Code. The first Subsection states that a network shall pay a fee to the department, in an amount set by the commissioner and in accordance with rules adopted by the commissioner, for the expenses of an examination conducted under this section or Section 1305.252 that: are incurred by the commissioner or under the commissioner's authority; and are directly attributable to that examination, including the actual salaries and expenses of the examiners directly attributable to that examination, as determined under rules adopted by the commissioner. The next subsection says that fees collected under this section shall be deposited to the credit of the Texas Department of Insurance operating account. Finally, the effective date appears in SECTION 3 of this bill, as opposed to SECTION 2 of the original house bill.