

BILL ANALYSIS

S.B. 192
By: Brimer
State Affairs
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Texas Mutual Insurance Company (TMIC) is a mutual insurance company created by the State of Texas in 1991, but it is not a state agency for any purpose. TMIC's principal purposes are to (1) serve as a competitive force in the market; (2) guarantee the availability of workers' compensation insurance in the state; and (3) serve as the insurer of last resort.

TMIC was made subject to the Public Information Act (PIA) and the Open Meetings Act (OMA) due to problems associated with the former Assigned Risk Pool/Texas Workers' Compensation Insurance Facility. In its fifteenth year of operation, TMIC has experienced none of the same problems, has demonstrated its reliability, and should be removed from the PIA and OMA. The company covers over 25 percent of the Texas workers' compensation market, and it has built the financial strength to weather almost any market conditions.

TMIC operates entirely on premium and investment income from business operations, with no public funds, and with complete financial independence and separation from the State of Texas. Assets are owned solely by the company; the state has disclaimed any interest in its revenues and assets, and has disavowed any responsibility to its policyholders, claimants, and creditors. Further, it lacks any governmental powers such as law enforcement, regulation, taxation, or condemnation, and it spends no taxpayer money. These are activities that usually require transparency under open records and open meeting laws.

Being subject to the PIA and the OMA places TMIC in a position different from its competitors, forcing it to disclose information not required of its competitors while not allowing the board the flexibility to hold meetings on short notice.

If removed from the requirements of PIA and OMA, TMIC will continue to be accountable to its legislative, policyholder, and regulatory constituencies. It will be relieved of the burden of compliance with the PIA and OMA, and the associated civil and criminal penalties and attorney general supervision, which are inconsistent with its role as an effective competitor that operates with private money.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

ANALYSIS

SECTION 1. Amends Section 2054.003(c), Insurance Code, as effective April 1, 2007, to include that, in addition to not being a state agency, the Texas Mutual Insurance Company (TMIC) is not an executive agency or governmental entity.

SECTION 2. Amends Section 2054.007, Insurance Code, as effective April 1, 2007, as follows:

Sec. 2054.007. New heading: OPEN MEETINGS LAW AND OPEN RECORDS LAW NOT APPLICABLE. Provides that Chapter 551 (Open Meetings), and Chapter 552 (Public Information), Government Code, do not apply, rather than do apply, to TMIC. Deletes existing text specifying when the board may hold a closed meeting. Makes conforming and nonsubstantive changes.

SECTION 3. Amends the heading to Section 2054.008, Insurance Code, as effective April 1, 2007, to read as follows:

Sec. 2054.008. INVESTIGATION FILES.

SECTION 4. Amends Section 2054.008(d), Insurance Code, as effective April 1, 2007, to make a conforming change.

SECTION 5. Amends Section 2054.256(b), Insurance Code, as effective April 1, 2007, to prohibit, rather than allow under Chapter 552 (Public Information), Government Code, TMIC to provide an insurance agent (agent) with data obtained from another agent.

SECTION 6. Repealer: Sections 2054.008(b) and (c), Insurance Code, as effective April 1, 2007 (Applicability of Public Information Law).

SECTION 7. Provides that the changes made by this Act to Section 2054.008, Insurance Code, apply to information included in the TMIC investigation files, regardless of the dates when the information becomes part of that file.

SECTION 8. Effective date: upon passage or September 1, 2007.

EFFECTIVE DATE

Effective date: upon passage or September 1, 2007.