

BILL ANALYSIS

S.B. 1253
By: Averitt
Insurance
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Section 402.052, Insurance Code, governs the frequency of examinations by the Texas Department of Insurance (TDI) for all lines of insurance. This law requires new carriers to be examined annually during their first three years of operation while established companies are subject to an examination once every three years, or on a more frequent basis. The commissioner of insurance (commissioner) is also authorized to defer examinations to once every five years if the commissioner determines that the financial strength of a company justifies such action. TDI and the commissioner need still more flexibility in determining the frequency of examinations.

S.B. 1253 requires TDI to examine a carrier as frequently as TDI considers necessary and at least every five years. This bill also requires the commissioner to adopt rules governing the frequency of examinations of carriers that have been organized or incorporated for less than five years. Finally, this bill requires a workers' compensation health care network to pay a fee of a certain amount to TDI for certain examinations related to workers' compensation health care networks.

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, Texas Insurance Code) of this bill.

It is the committee's opinion that rulemaking authority is expressly granted to the Commissioner of Insurance in SECTION 2 (Section 1305.251, Insurance Code) of this bill.

ANALYSIS

SECTION 1. Amends Section 401.052, Insurance Code, as follows:

Sec. 401.052. FREQUENCY OF EXAMINATION. (a) Requires the Texas Department of Insurance (TDI) to visit and examine a carrier as frequently as TDI considers necessary, subject to Subsection (b) and except as provided by the rules adopted under that subsection, rather than requiring TDI to visit and examine a carrier annually during the first three years after the carrier is organized or incorporated and once every three years after such a period, or on a more frequent basis. Requires TDI, at a minimum, to examine a carrier not less frequently than once every five years.

(b) Requires the commissioner of insurance (commissioner) to adopt rules governing the frequency of examinations of carriers that have been organized or incorporated for less than five years, rather than rules governing the determination under this subsection of whether the financial strength of a carrier justifies less frequent examinations. Deletes existing text authorizing TDI to conduct the examination at intervals not less frequent than every five years if the commissioner determines that the financial strength of a carrier justifies less frequent examinations than those required under Subsection (a)(2).

SECTION 2. Amends Section 1305.251, Insurance Code, by adding Subsections (c) and (d), as follows:

(c) Requires a workers' compensation health care network to pay a fee to TDI, 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 (Examination of Network) or Section 1305.252 (Examination of Provider or Third Party) 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.

(d) Requires fees collected under this section to be deposited to the credit of the TDI operating account.

SECTION 3. Effective date: September 1, 2007.

EFFECTIVE DATE

September 1, 2007.