

BILL ANALYSIS

C.S.H.B. 3247
By: Elkins
State Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that when the Texas Mutual Insurance Company was created, the qualifications and eligibility requirements for membership on the board of directors were drafted with the intent of preventing undue influence by the insurance industry on the board, which could have impeded the company's efforts to accomplish its mission with respect to competition in the marketplace. Interested parties have expressed concern that otherwise qualified individuals may find themselves ineligible to serve on the board due to a relative's tangential involvement in the insurance business or some business dealing that causes an inadvertent disqualification. The experience requirement for a board appointment also is overly restrictive.

C.S.H.B. 3247 removes these overly restrictive requirements to allow the Texas Mutual Insurance Company to expand its pool of future board candidates and presidents and to consider a broader group of qualified individuals.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3247 amends the Insurance Code to clarify the criteria for establishing a conflict of interest that prohibits an individual from serving as a member of the Texas Mutual Insurance Company board of directors if the individual, another individual related to the individual within the second degree of consanguinity or affinity, or another individual residing the same household meet those criteria.

C.S.H.B. 3247 adds an individual's certification under the Insurance Code, or the requirement for such certification, as a disqualification from service on the board of directors and establishes that an individual is disqualified if the individual is registered, certified, or licensed, or is required to be registered, certified, or licensed, under the code specifically as an insurer, an agent, an insurance adjuster, a worker's compensation health care network, or a third-party administrator and in that capacity transacts the business of worker's compensation insurance, rather than simply being registered or licensed or being required to be registered or licensed under the code.

C.S.H.B. 3247 clarifies that an individual acting as a consultant to a person registered or licensed under the code or required to be so registered or licensed is disqualified from service on the board if the individual acts as a consultant specifically on matters relating to workers' compensation insurance, rather than as a consultant generally. The bill adds as a condition for determining that an individual has a disqualifying conflict of interest that the person employing the individual or to whom the individual acts as a consultant is certified or is required to be certified under the code and that the person employing or hiring the individual as a consultant is either registered, certified, or licensed under the code specifically as an insurer, an agent, an insurance adjuster, a worker's compensation health care network, or a third-party administrator

and in that capacity transacts the business of worker's compensation insurance.

C.S.H.B. 3247 disqualifies an individual from service on the board if the individual has a controlling financial interest in an organization that is registered, certified, or licensed, or required to be registered, certified, or licensed, under the code as an insurer, an agent, an insurance adjuster, a workers' compensation health care network, or a third-party administrator and in that capacity transacts the business of workers' compensation insurance. The bill removes as a disqualifying conflict of interest the ownership, control, ownership of a financial interest in, or participation in the management of an organization registered or licensed or required to be registered or licensed under the code.

C.S.H.B. 3247 clarifies that an individual is disqualified from service on the board if the individual is an officer, employee, or consultant of an association specifically in the field of workers' compensation insurance, rather than in the field of insurance generally.

C.S.H.B. 3247 adds as an alternative to the proven successful experience as an executive at the general management level in the business of insurance that is required of the president of the Texas Mutual Insurance Company, similar proven successful experience in general business or actuarial principles. The bill increases from two days to five days the amount of notice to be given for a special meeting called by two board members.

C.S.H.B. 3247 repeals Section 2054.052(d), Insurance Code, prohibiting an ineligible individual from serving as a board member until the first anniversary of the date the condition making the individual ineligible ends.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 3247 omits a provision included in the original limiting to an individual and the individual's spouse the conflict of interest provisions that prohibit such individual from serving as a member of the Texas Mutual Insurance Company board of directors by adding the spouse and removing the provisions' applicability to another individual related to the individual within the second degree by consanguinity or affinity, or another individual residing in the same household with the individual.

C.S.H.B. 3247 contains a provision not included in the original adding certification under the Insurance Code to registration and licensing under the code, or the requirement for such credentialing, as conditions disqualifying an individual from service on the board and clarifying that the registration, certification, or licensing, or the requirement to be registered, certified, or licensed, apply to registration, certification, or licensing specifically as insurer, agent, insurance adjuster, worker's compensation health care network, or third-party administrator and the transaction of the business of worker's compensation insurance in that capacity, rather than registration, certification, or licensing under the code generally.

C.S.H.B. 3247 differs from the original by disqualifying an individual from service on the board if the individual is employed by or acts as a consultant specifically on matters relating to workers' compensation insurance, rather than as a consultant generally, to a person or has a controlling interest in an organization interest that is registered, certified, or licensed or required to be registered, certified, or licensed under the code as an insurer, agent, insurance adjuster, workers' compensation health care network, or third-party administrator and in that capacity transacts the business of workers' compensation insurance, whereas the original disqualifies an individual if the individual is employed by or acts as an insurance consultant, rather than as a consultant generally, to a person or has a controlling financial interest in an organization that is

registered or licensed or required to be registered or licensed under the code.

C.S.H.B. 3247 contains a provision not included in the original clarifying that such an individual is disqualified from service on the board if the individual is an officer, employee, or consultant of an association specifically in the field of workers' compensation insurance, rather than in the field of insurance generally.

C.S.H.B. 3247 differs from the original by adding as an alternative to the proven successful experience as an executive in the business of insurance that is required of the president of the Texas Mutual Insurance Company, similar proven successful executive experience in general business or actuarial principles, whereas the original removes the requirement that the executive management level experience required of the board president be specifically in the business of insurance.

C.S.H.B. 3247 differs from the original by repealing a provision prohibiting an ineligible individual from serving as a board member until the first anniversary of the date the condition making the individual ineligible ends, whereas the original strikes the provision from the statute.

C.S.H.B. 3247 differs from the original by providing for the bill's immediate effect or, if the bill does not receive the necessary vote, providing an effective date of September 1, 2011, whereas the original provides for an effective date of September 1, 2011.