

By: Gutierrez

H.B. No. 813

A BILL TO BE ENTITLED

AN ACT

relating to the election of the commissioner of insurance.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 31.022, Insurance Code, is amended to read as follows:

Sec. 31.022. ELECTION [APPOINTMENT; TERM]. The commissioner is elected by the qualified voters at the general election for state and county officers for a term of four years.

~~[(a) The governor, with the advice and consent of the senate, shall appoint the commissioner. The commissioner serves a two-year term that expires on February 1 of each odd-numbered year.]~~

~~[(b) The governor shall appoint the commissioner without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.]~~

SECTION 2. Section 31.024, Insurance Code, is amended to read as follows:

Sec. 31.024. INELIGIBILITY FOR PUBLIC OFFICE. The commissioner is ineligible to be a candidate for another [a] public elective office in this state, unless the commissioner has resigned and the governor has accepted the resignation.

SECTION 3. Section 31.027(a), Insurance Code, is amended to read as follows:

(a) It is a ground for removal from office if the commissioner:

1 (1) ~~[does not have at the time of appointment the~~
2 ~~qualifications required by Section 31.023,~~

3 ~~[(2) does not maintain during service as commissioner~~
4 ~~the qualifications required by Section 31.023,~~

5 ~~[(3)]~~ violates a prohibition established by Section
6 33.001, 33.003, ~~[33.004,~~] or 33.005; or

7 (2) ~~[(4)]~~ cannot, because of illness or disability,
8 discharge the commissioner's duties for a substantial part of the
9 commissioner's term.

10 SECTION 4. Section 31.041(c), Insurance Code, is amended to
11 read as follows:

12 (c) A person appointed as an associate or deputy
13 commissioner or to hold an equivalent position must have at least
14 five years of ~~[the]~~ experience in the administration of business or
15 government or as a practicing attorney or certified public
16 accountant ~~[required for appointment as commissioner under Section~~
17 ~~31.023]~~. At least two years of that experience must be in work
18 related to the position to be held.

19 SECTION 5. Sections 33.004(a) and (b), Insurance Code, are
20 amended to read as follows:

21 (a) A person who is an officer, employee, or paid consultant
22 of a trade association in the field of insurance may not be [+

23 ~~[(1) the commissioner, or~~

24 ~~[(2)]~~ an employee of the department in a "bona fide
25 executive, administrative, or professional capacity," as that
26 phrase is used for purposes of establishing an exemption to the
27 overtime provisions of the federal Fair Labor Standards Act of 1938

1 (29 U.S.C. Section 201 et seq.) [~~who is exempt from the state's~~
2 ~~position classification plan or is compensated at or above the~~
3 ~~amount prescribed by the General Appropriations Act for step 1,~~
4 ~~salary group A17, of the position classification salary schedule].~~

5 (b) A person who is the spouse of an officer, manager, or
6 paid consultant of a trade association in the field of insurance may
7 not be[+]

8 [~~(1) the commissioner, or~~

9 [~~(2)~~] an employee of the department in a "bona fide
10 executive, administrative, or professional capacity," as that
11 phrase is used for purposes of establishing an exemption to the
12 overtime provisions of the federal Fair Labor Standards Act of 1938
13 (29 U.S.C. Section 201 et seq.) [~~who is exempt from the state's~~
14 ~~position classification plan or is compensated at or above the~~
15 ~~amount prescribed by the General Appropriations Act for step 1,~~
16 ~~salary group A17, of the position classification salary schedule].~~

17 SECTION 6. Section 911.001(c), Insurance Code, is amended
18 to read as follows:

19 (c) Except to the extent of any conflict with this chapter,
20 the following provisions apply to a farm mutual insurance company:

21 (1) Subchapter A, Chapter 32;

22 (2) Subchapter D, Chapter 36;

23 (3) Sections 31.002(2), 32.021(c), 32.023, 32.041,
24 [~~33.002,~~] 38.001, 81.001-81.004, 201.005, 201.055, 401.051,
25 401.052, 401.054-401.062, 401.103-401.106, 401.151, 401.152,
26 401.155, 401.156, 421.001, 801.051-801.055, 801.057, 801.101,
27 801.102, 822.204, 841.004, 841.251, 841.252, 862.101, 1806.001,

1 1806.101, 1806.103(b), and 1806.104-1806.107;

2 (4) Chapter 86;

3 (5) Subchapter A, Chapter 401;

4 (6) Subchapter B, Chapter 404;

5 (7) Chapter 422;

6 (8) Subchapter B, Chapter 424, other than Section
7 424.052, 424.072, or 424.073;

8 (9) Chapter 441;

9 (10) Chapter 443;

10 (11) Chapter 462;

11 (12) Chapter 481;

12 (13) Chapter 541;

13 (14) Chapter 802;

14 (15) Subchapter A, Chapter 805;

15 (16) Chapter 824; and

16 (17) Article 1.09-1.

17 SECTION 7. Section 961.002(b), Insurance Code, is amended
18 to read as follows:

19 (b) The following provisions of this code apply to a
20 nonprofit legal services corporation in the same manner that they
21 apply to an insurer or a person engaged in the business of
22 insurance, to the extent the provisions do not conflict with this
23 chapter:

24 (1) Articles 1.09-1 and 21.47;

25 (2) Sections 31.002, 31.004, 31.007, 31.021, 31.022,

26 [~~31.023~~] 31.026, 31.027, 32.021, 32.022(a), 32.023, [~~33.002~~]

27 33.006, 36.108, 38.001, 81.004, 201.005, 201.055, 401.051,

1 401.052, 401.054-401.062, 401.103-401.106, 401.151, 401.152,
2 401.155, 401.156, 801.001, 801.002, 801.051-801.055, 801.057,
3 801.101, 801.102, 841.251, and 841.252;

4 (3) Subchapter B, Chapter 31;

5 (4) Subchapters A and C, Chapter 32;

6 (5) Subchapter D, Chapter 36;

7 (6) Subchapter A, Chapter 401;

8 (7) Subchapter A, Chapter 542;

9 (8) Subchapter A, Chapter 805; and

10 (9) Chapters 86, 402, 441, 443, 481, 541, 802, and 824.

11 SECTION 8. Section 52.092(c), Election Code, is amended to
12 read as follows:

13 (c) Statewide offices of the state government shall be
14 listed in the following order:

15 (1) governor;

16 (2) lieutenant governor;

17 (3) attorney general;

18 (4) comptroller of public accounts;

19 (5) commissioner of the General Land Office;

20 (6) commissioner of agriculture;

21 (7) commissioner of insurance;

22 (8) railroad commissioner;

23 (9) [~~8~~] chief justice, supreme court;

24 (10) [~~9~~] justice, supreme court;

25 (11) [~~10~~] presiding judge, court of criminal
26 appeals;

27 (12) [~~11~~] judge, court of criminal appeals.

1 SECTION 9. Section 504.401(d), Transportation Code, is
2 amended to read as follows:

3 (d) In this section, "state official" means:

- 4 (1) a member of the legislature;
- 5 (2) the governor;
- 6 (3) the lieutenant governor;
- 7 (4) a justice of the supreme court;
- 8 (5) a judge of the court of criminal appeals;
- 9 (6) the attorney general;
- 10 (7) the commissioner of the General Land Office;
- 11 (8) the comptroller;
- 12 (9) a member of the Railroad Commission of Texas;
- 13 (10) the commissioner of agriculture;
- 14 (11) the commissioner of insurance;
- 15 (12) the secretary of state; or
- 16 (13) [~~(12)~~] a member of the State Board of Education.

17 SECTION 10. Sections 31.023 and 33.002, Insurance Code, are
18 repealed.

19 SECTION 11. (a) The first general election for
20 commissioner of insurance shall be held November 6, 2012, for a
21 two-year term beginning on January 1, 2013. Thereafter, the
22 commissioner of insurance shall be elected to serve a four-year
23 term.

24 (b) Until the first commissioner of insurance elected under
25 this Act takes office, the commissioner serving on the effective
26 date of this Act shall, unless otherwise removed as provided by law,
27 continue in office under the prior law that governed the office, and

1 that prior law is continued in effect for that purpose. If on
2 January 1, 2013, there is a vacancy in the office of commissioner of
3 insurance created under this Act because the first
4 commissioner-elect has died or refuses or is permanently unable to
5 serve, the commissioner serving on that date shall, unless
6 otherwise removed as provided by law, continue in office under the
7 prior law that governed the office until the governor fills the
8 vacancy by appointment in the manner provided by law. The prior law
9 that governed the office of the commissioner of insurance is
10 continued in effect for that purpose.

11 SECTION 12. (a) Except as provided by Subsection (b) of
12 this section, this Act takes effect September 1, 2011.

13 (b) Section 31.027(a), Insurance Code, as amended by this
14 Act, and Section 504.401(d), Transportation Code, as amended by
15 this Act, take effect January 1, 2013.