

By: Hegar

S.B. No. 1291

A BILL TO BE ENTITLED

AN ACT

relating to the budget of certain divisions of the Texas Department of Insurance.

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

SECTION 1. Chapter 401, Insurance Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. SELF-DIRECTED BUDGET FOR CERTAIN DIVISIONS

Sec. 401.251. DEFINITIONS. In this subchapter:

(1) "Actuarial division" means the division within the financial program that conducts actuarial examinations of insurers and other entities regulated by the department and administers state laws relating to the level of reserves required of an insurer.

(2) "Examination cost" means a cost associated with salary, travel, or other personnel expenses associated with the examination of insurers and other entities regulated by the department by the financial examinations division or actuarial division.

(3) "Financial examinations division" means the division within the financial program that conducts financial and market conduct examinations of insurers and other entities regulated by the department.

(4) "Financial program" means the program within the department through which the department regulates the financial and operating conditions of, and issues licenses to, domestic and

1 foreign insurers and other entities regulated by the department.

2 Sec. 401.252. SELF-DIRECTED BUDGET. (a) The senior
3 associate commissioner of the financial program shall submit to the
4 commissioner an annual budget of examination costs using generally
5 accepted accounting principles. Notwithstanding any other
6 provision of law, the budget may be adopted and approved only by the
7 commissioner.

8 (b) The commissioner shall submit the budget to the
9 Legislative Budget Board for approval not later than July 1 of each
10 year. If the Legislative Budget Board does not object to the budget
11 in writing as provided by Subsection (c) before July 31 of the same
12 year, the commissioner shall approve the budget.

13 (c) If the Legislative Budget Board objects to the budget,
14 that board shall provide the commissioner with a written statement
15 describing changes to the budget that would result in the board not
16 objecting to the budget. The commissioner shall, not later than
17 August 31 of the year in which the budget was submitted to the
18 board, submit to the board a budget that conforms with this
19 statement.

20 (d) The financial program is solely responsible for all
21 examination costs. The financial program may not directly or
22 indirectly cause the Texas Department of Insurance operating
23 account to incur any examination cost.

24 (e) Subject to any limitations in this code or another
25 insurance law of this state, the department may set the amounts of
26 fees required or permitted by statute or rule as necessary to:

27 (1) carry out the functions of the financial

1 examinations and actuarial divisions relating to the examination of
2 insurers and other regulated entities; and

3 (2) fund the budget adopted and approved under
4 Subsection (b).

5 (f) Notwithstanding this section, the financial program may
6 receive funds appropriated from the state to fund costs other than
7 examination costs.

8 (g) An assessment, fee, charge, or other source of revenue
9 collected by the financial program relating to the examination of
10 insurers and other regulated entities by the financial examinations
11 division or actuarial division shall be deposited to the credit of
12 the account described by Section 401.156(a) for the purposes
13 described by that section.

14 Sec. 401.253. AUDITS. This subchapter does not affect the
15 duty of the state auditor to audit the financial program.

16 Sec. 401.254. RECORDS; REPORTING REQUIREMENTS. (a) The
17 financial program shall keep financial and statistical information
18 as necessary to disclose completely and accurately the financial
19 program's receipts and examination costs.

20 (b) The financial program shall submit to the commissioner
21 and the Legislative Budget Board an annual report that states:

22 (1) the revenue received by the financial program from
23 assessments and fees collected by the department relating to the
24 examination of insurers and other regulated entities;

25 (2) the total salary for each financial program
26 employee who performs examinations of insurers and other regulated
27 entities;

1 (3) the portion of the salary paid to each employee
2 from the self-directed budget approved under Section 401.252;

3 (4) the portion of the salary paid to each employee
4 from funds appropriated to the financial program by the state;

5 (5) the total travel expenses incurred by each
6 employee who performs examinations of insurers and other regulated
7 entities;

8 (6) the portion of travel expenses paid for each
9 employee from the self-directed budget approved under Section
10 401.252;

11 (7) the portion of travel expenses paid for each
12 employee from funds appropriated to the financial program by the
13 state; and

14 (8) all other examination costs of the financial
15 program.

16 SECTION 2. Section 401.151(d), Insurance Code, is amended
17 to read as follows:

18 (d) In determining the amount of the assessment under
19 Subsection (c), the department:

20 (1) shall consider:

21 (A) the insurer's total annual premium receipts
22 or admitted assets, or both, that are not attributable to 90 percent
23 of pension plan contracts as defined by Section 818(a), Internal
24 Revenue Code of 1986; or

25 (B) the total amount of the insurer's insurance
26 in force; and

27 (2) may not consider insurance premiums for insurance

1 contracted for by a state or federal governmental entity to provide
2 welfare benefits to designated welfare recipients or contracted for
3 in accordance with or in furtherance of Title 2, Human Resources
4 Code, or the federal Social Security Act (42 U.S.C. Section 301 et
5 seq.).

6 SECTION 3. Section 401.156, Insurance Code, is amended to
7 read as follows:

8 Sec. 401.156. DEPOSIT AND USE OF ASSESSMENT AND FEE. (a)
9 The department shall deposit any assessments or fees [~~an assessment~~
10 ~~or fee~~] collected under this subchapter relating to the examination
11 of insurers and other regulated entities by the financial
12 examinations division or actuarial division, as those terms are
13 defined by Section 401.251, to the credit of an account with the
14 Texas Treasury Safekeeping Trust Company, to be used exclusively to
15 pay examination costs, as defined by Section 401.251 [~~the Texas~~
16 ~~Department of Insurance operating account~~].

17 (b) Revenue that is not related to the examination of
18 insurers or other regulated entities by the financial examinations
19 division or actuarial division shall be deposited to the credit of
20 the Texas Department of Insurance operating account [~~Money~~
21 ~~deposited under this section shall be used to pay the salaries and~~
22 ~~expenses of actuaries and examiners and all other expenses relating~~
23 ~~to examinations of insurers~~].

24 (c) To the extent that another provision of law conflicts
25 with this section, this section controls.

26 SECTION 4. Section 651.005, Insurance Code, is amended to
27 read as follows:

1 Sec. 651.005. DEPOSIT AND USE OF FEES. (a) Except as
2 provided by Subsection (b), each [~~Each~~] fee collected under this
3 chapter:

4 (1) shall be deposited to the credit of the Texas
5 Department of Insurance operating account; and

6 (2) may be used by the department to enforce this
7 chapter.

8 (b) An assessment or fee associated with examination costs,
9 as defined by Section 401.251, shall be deposited to the account
10 described by Section 401.156(a).

11 SECTION 5. Section 843.154, Insurance Code, is amended by
12 amending Subsection (b) and adding Subsection (b-1) to read as
13 follows:

14 (b) Except for fees collected under Subsections (e) and (f),
15 fees [~~Fees~~] collected under this section shall be deposited to the
16 credit of the Texas Department of Insurance operating account.

17 (b-1) A fee collected under Subsection (e) or (f) shall be
18 deposited to the credit of the account described by Section
19 401.156(a).

20 SECTION 6. Section 4151.206, Insurance Code, is amended by
21 amending Subsection (b) and adding Subsection (c) to read as
22 follows:

23 (b) The commissioner shall deposit a fee collected under
24 Subsection (a)(1) or (2) [~~this section~~] to the credit of the Texas
25 Department of Insurance operating account.

26 (c) The commissioner shall deposit a fee collected under
27 Subsection (a)(3) to the credit of the account described by Section

1 401.156(a).

2 SECTION 7. To provide a reasonable period for the financial
3 program, as defined by Section 401.251, Insurance Code, as added by
4 this Act, to establish a self-directed budget, for the one-year
5 period following the effective date of this Act, the Texas
6 Department of Insurance may spend not more than 50 percent of the
7 money appropriated to the department out of the general revenue
8 fund for the purposes of the financial program for the state fiscal
9 year ending August 31, 2011. Subject to Section 401.252, Insurance
10 Code, as added by this Act, this money may be spent as the
11 department directs and shall be repaid to the general revenue fund
12 by the department as funds become available.

13 SECTION 8. This Act takes effect September 1, 2011.