By: Hegar S.B. No. 1291

(In the Senate - Filed March 8, 2011; March 16, 2011, read first time and referred to Committee on Business and Commerce; April 14, 2011, reported adversely, with favorable Committee Substitute by the following vote: Yeas 9, Nays 0; April 14, 2011, sent to printer.)

COMMITTEE SUBSTITUTE FOR S.B. No. 1291 By: Estes

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 foreign insurers and other entities regulated by the department.

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

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

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

(d) The financial program may not directly or indirectly cause the Texas Department of Insurance operating account to incur any examination cost.

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

(1) carry out the functions of the financial examinations and actuarial divisions relating to the examination of insurers and other regulated entities; and

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

(f) Notwithstanding this section, the financial program may

receive funds appropriated from the state to fund costs other than examination costs.

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 401.255. MEMBERSHIP IN EMPLOYEES RETIREMENT SYSTEM. Employees of the actuarial division and financial examinations division are members of the Employees Retirement System of Texas under Chapter 812, Government Code, and the transition to a self-directed budget as provided by this subchapter has no effect on their membership or any benefits under that system.

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

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

(1) shall consider:

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

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

(2) may not consider insurance premiums for insurance contracted for by a state or federal governmental entity to provide welfare benefits to designated welfare recipients or contracted for in accordance with or in furtherance of Title 2, Human Resources Code, or the federal Social Security Act (42 U.S.C. Section 301 et seq.).

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

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

exclusively to pay examination costs, as defined by Section 401.251 [~~the Texas Department of Insurance operating account~~]. Money deposited under this subsection accumulates and may be disbursed to the department in a manner consistent with Subchapter F.

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

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

(d) The department may transfer funds between the account described by Subsection (a) and the Texas Department of Insurance operating account as necessary to ensure that funds are deposited to the correct account and used for the correct purposes. This subsection does not authorize a disbursement or transfer of funds in a manner that is inconsistent with the purpose of Subchapter F.

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

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

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

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

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

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

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

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

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

(b) The commissioner shall deposit a fee collected under Subsection (a)(1) or (3) [~~this section~~] to the credit of the Texas Department of Insurance operating account.

(c) The commissioner shall deposit a fee collected under Subsection (a)(2) to the credit of the account described by Section 401.156(a).

SECTION 7. (a) To provide a reasonable period for the financial program, as defined by Section 401.251, Insurance Code, as added by this Act, to establish a self-directed budget, for the one-year period following the effective date of this Act the Texas Department of Insurance shall continue funding the financial program within the department using money appropriated to the department out of the general revenue fund and shall deposit to the credit of the Texas Department of Insurance operating account all revenue relating to the examination of insurers and other regulated entities by the financial program. The department shall certify to the comptroller of public accounts the amounts deposited to the credit of the operating account under this subsection.

(b) On September 1, 2012, on a finding by the comptroller of public accounts that amounts deposited to the credit of the Texas Department of Insurance operating account under Subsection (a) of this section are sufficient to fulfill the purposes of Subchapter F, Chapter 401, Insurance Code, as added by this Act, the comptroller shall transfer that amount to the credit of the account described by Subsection (a), Section 401.156, Insurance Code, as

amended by this Act.

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

* * * * *