

BILL ANALYSIS

Senate Research Center

S.B. 733
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Business & Commerce
7/11/2013
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Texas law requires motorists to show proof of financial responsibility, typically automobile insurance, as a condition for operating a motor vehicle on the highways, registering a vehicle, having the vehicle inspected, and receiving and renewing a Texas driver's license. Recognizing that some motorists might have difficulty in obtaining insurance through regular channels, the legislature created the Texas Automobile Insurance Plan Association (association) as the state's automobile insurer of last resort. All insurers writing automobile liability insurance are required to be members of the association. S.B. 733 addresses several statutory issues relating to the association.

The association's governing board consists of 15 members who meet as necessary to conduct business. These meetings require a great degree of logistical planning, and there are instances where the governing body would benefit from having the ability to conduct meetings by telephone or teleconference, particularly in the event of a crisis situation. Current law, however, does not permit meetings to be conducted in this manner.

Additionally, the association, like all other insurers in Texas, sets and modifies rates. Currently, the association is required to obtain prior approval for rate changes on an annual basis. This method requires that a proposed rate change be approved annually by the commissioner of insurance and be subject to a public hearing. This method is time consuming and carries a higher cost for the association. In contrast, admitted insurers in Texas typically employ the file and use method, which allows insurers to file a rate with the Texas Department of Insurance (TDI) and begin using that rate upon filing. However, TDI may later step in if it considers the filed rate to be inappropriate. This method is expedient while still maintaining a proper amount of oversight by TDI.

S.B. 733 authorizes the association to use telephone, video, or other media conferencing for conducting the governing board meetings. S.B. 733 states that video, telephone, or other media meetings are subject to existing notice requirements as consistent with the Texas Open Meetings Act. S.B. 733 eliminates the annual rate filing requirement and authorizes the association to employ the "file and use" method when the proposed rate increase is less than five percent of the current rate. If the proposed rate increase of any coverage exceeds five percent of current rate, the prior approval procedure remains intact. S.B. 733 sets guidelines for the approval or disapproval of a rate, and requires the commissioner of insurance to approve or disapprove a filed rate within 30 days from the date a change has been submitted.

S.B. 733 amends current law relating to the Texas Automobile Insurance Plan Association.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the commissioner of insurance is modified in SECTION 3 (Section 2151.153, Insurance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 2151.103(c), Insurance Code, to authorize the Texas Automobile Insurance Plan Association (association), to report to the commissioner of insurance

(commissioner) an authorized insurer's failure to pay the assessment to the association, rather than to the commissioner.

SECTION 2. Amends Subchapter B, Chapter 2151, Insurance Code, by adding Section 2151.057, as follows:

Sec. 2151.057. COMMITTEE MEETINGS BY TELEPHONE AND VIDEOCONFERENCE. (a) Provides that Chapter 551 (Open Meetings), Government Code, applies to a meeting of the governing committee of the association (governing committee).

(b) Authorizes the governing committee, notwithstanding Chapter 551, Government Code, or any other law, to meet by telephone conference call, videoconference, or other similar telecommunication method for any meeting purpose, including conducting a vote or establishing a quorum, regardless of the subject matter discussed or considered.

(c) Provides that a meeting authorized by this section is subject to the notice requirements that apply to other meetings of the governing committee under Chapter 551, Government Code.

(d) Requires that the notice of a meeting authorized by this section specify that the location of the meeting is a location at which at least one member of the governing committee is physically present and state clear instructions and requirements for electronic attendance by a member of the governing committee.

(e) Requires that each part of a meeting authorized by this section be audible to the public at the location specified by Subsection (d).

(f) Requires that two-way audio communication be available during the entire meeting between all members of the governing committee attending a meeting authorized by this section, and if the two-way audio communication is disrupted so that a quorum of the committee is no longer participating in the meeting, the meeting is prohibited from continuing until the two-way audio communication is reestablished.

SECTION 3. Amends Sections 2151.153(a) and (b), Insurance Code, as follows:

(a) Requires that the plan of operation include an incentive program to target underserved geographic areas, which the commissioner by rule is required to designate. Deletes existing text requiring that the plan of operation include incentive programs to encourage authorized insurers to write insurance on a voluntary basis and to minimize the use of the association as a means to obtain insurance. Deletes existing Subsection (b) designation. Makes a conforming change.

(b) Authorizes the plan of operation to include other incentive programs to encourage authorized insurers to write insurance on a voluntary basis and to minimize the use of the association as a means to obtain insurance.

SECTION 4. Amends Section 2151.202(a), Insurance Code, to require the association to file, rather than file annually, with the Texas Department of Insurance (TDI) rates to be charged for insurance provided through the association for approval by the commissioner.

SECTION 5. Amends Subchapter E, Chapter 2151, Insurance Code, by adding Sections 2151.2021, 2151.2022, and 2151.2023, as follows:

Sec. 2151.2021. FILE AND USE. Authorizes the association to use a rate, excluding a rate described by Section 2151.2041, on the later of the date specified by the association in the filing or the date the rate is approved or considered approved under this subchapter.

Sec. 2151.2022. COMMISSIONER ACTION ON CERTAIN RATE FILINGS. (a) Requires the commissioner, not later than the 30th day after the date the association files a rate, excluding a rate described by Section 2151.2041, to approve the rate if the commissioner determines that the rate meets the standards under Section 2151.201 (Rate Standards) or disapprove the rate if the commissioner determines that the rate does not meet the standards under Section 2151.201.

(b) Provides that if the commissioner fails to act as required under Subsection (a) on or before the 30th day after the date the rate is filed, the rate is considered approved on the 31st day after the date of filing unless the approval period is extended under Subsection (c).

(c) Authorizes the commissioner to extend the approval period under Subsection (a) for one additional period not to exceed 30 days. Authorizes the commissioner and the association to agree to extend the approval period for additional periods not to exceed 30 days. Provides that if the commissioner does not affirmatively approve or disapprove the rate before the extended period expires, the rate is considered approved on the day after the date the extended period expires.

Sec. 2151.2023. NOTICE OF RATE APPROVAL OR DISAPPROVAL. Requires the commissioner to give written notice by first class mail or electronic mail to the association of the approval or disapproval by the commissioner of the rate filed under Section 2151.202 (Rate Filings) or that the rate is considered approved under Section 2151.2022.

SECTION 6. Amends Subchapter E, Chapter 2151, Insurance Code, by adding Section 2151.2041, as follows:

Sec. 2151.2041. HEARING ON CERTAIN RATE FILINGS. Requires the commissioner, if the association files a rate under Section 2151.202 that exceeds 105 percent of the current average rate for each coverage written through the association on the date of the filing, to conduct a hearing under Section 2151.206 (Hearing on Filing).

SECTION 7. Amends Section 2151.205, Insurance Code, to require the commissioner, before approving, disapproving, or modifying a filing described by Section 2151.2041, rather than 2151.202, to provide all interested persons a reasonable opportunity to review the filing, obtain a copy of the filing on payment of any legally required cost, and submit to the commissioner written comments, analyses, or information related to the filing.

SECTION 8. Amends Section 2151.206(a), Insurance Code, to require the commissioner, not later than the 45th day after the date TDI receives a filing described, rather than required, by Section 2151.2041, to schedule a hearing at which interested persons are authorized to present written or oral comments relating to the filing, and to make a conforming change.

SECTION 9. Amends Section 2151.208, Insurance Code, to authorize the association to file with the commissioner an amended filing to comply with the commissioner's comments not later than the 10th day after the date the association receives the commissioner's written disapproval under Section 2151.2023 or 2151.207 (Action of Commissioner on Filing).

SECTION 10. Provides that this Act applies to a rate filing made under Subchapter E, Chapter 2151, Insurance Code, as amended by this Act, on or after the effective date of this Act. Provides that a rate filing made before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 11. Effective date: upon passage or September 1, 2013.