

By: Davis of Dallas

H.B. No. 2367

A BILL TO BE ENTITLED

AN ACT

relating to the election of the state board of insurance.

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

SECTION 1. Sections 31.001 and 31.007, Insurance Code, are amended to read as follows:

Sec. 31.001. DEFINITIONS. (a) In this code and other insurance laws:

(1) "Board" [~~"Commissioner"~~] means the state board [~~commissioner~~] of insurance.

(2) "Department" means the Texas Department of Insurance.

(b) For purposes of this code and other insurance laws, a reference to "commissioner" means "board."

Sec. 31.007. REFERENCES TO BOARD OR COMMISSIONER. A reference in this code or other law to the former State Board of Insurance, the Board of Insurance Commissioners, [~~or~~] an individual commissioner, or the commissioner of insurance means the board [~~commissioner~~] or the department as consistent with the respective duties of the board [~~commissioner~~] and the department under this code and other insurance laws.

SECTION 2. The heading to Subchapter B, Chapter 31, Insurance Code, is amended to read as follows:

SUBCHAPTER B. STATE BOARD [~~COMMISSIONER~~] OF INSURANCE

SECTION 3. Section 31.021, Insurance Code, is amended to

1 read as follows:

2 Sec. 31.021. GOVERNING BODY [~~CHIEF EXECUTIVE~~]. (a) The
3 board [~~commissioner~~] is the department's governing body [~~chief~~
4 ~~executive and administrative officer~~]. The board [~~commissioner~~]
5 shall administer and enforce this code, other insurance laws of
6 this state, and other laws granting jurisdiction or applicable to
7 the department or the board [~~commissioner~~].

8 (b) The board [~~commissioner~~] has the powers and duties
9 vested in the department by:

10 (1) this code and other insurance laws of this state;
11 and

12 (2) Title 5, Labor Code, and other workers'
13 compensation insurance laws of this state.

14 SECTION 4. Section [31.022](#), Insurance Code, is amended to
15 read as follows:

16 Sec. 31.022. ELECTION [~~APPOINTMENT, TERM~~]. (a) The state
17 board of insurance is composed of three members elected from
18 districts serving staggered terms of four years [~~The governor, with~~
19 ~~the advice and consent of the senate, shall appoint the~~
20 ~~commissioner. The commissioner serves a two-year term that expires~~
21 ~~on February 1 of each odd-numbered year~~].

22 (b) Members of the board are elected at biennial general
23 elections held in compliance with the Election Code [~~The governor~~
24 ~~shall appoint the commissioner without regard to the race, color,~~
25 ~~disability, sex, religion, age, or national origin of the~~
26 ~~appointee~~].

27 SECTION 5. Section [31.024](#), Insurance Code, is amended to

1 read as follows:

2 Sec. 31.024. INELIGIBILITY FOR PUBLIC OFFICE. A member of
3 the board [~~The commissioner~~] is ineligible to be a candidate for
4 another [~~a~~] public elective office in this state, unless the member
5 [~~commissioner~~] has resigned and the governor has accepted the
6 resignation.

7 SECTION 6. Section 31.027, Insurance Code, is amended to
8 read as follows:

9 Sec. 31.027. GROUNDS FOR REMOVAL. (a) It is a ground for
10 removal from office if a member of the board [~~the commissioner~~]:

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

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

15 [~~(3)~~] violates a prohibition established by Section
16 33.001, 33.003, [~~33.004,~~] or 33.005; or

17 (2) [~~(4)~~] cannot, because of illness or disability,
18 discharge the member's [~~commissioner's~~] duties for a substantial
19 part of the member's [~~commissioner's~~] term.

20 (b) The validity of an action of the board [~~commissioner~~] or
21 the department is not affected by the fact that it is taken when a
22 ground for removal of a member of the board [~~commissioner~~] exists.

23 SECTION 7. Subchapter B, Chapter 31, Insurance Code, is
24 amended by adding Section 31.029 to read as follows:

25 Sec. 31.029. CERTAIN POLITICAL CONTRIBUTIONS PROHIBITED.

26 (a) In this section, "political committee" and "political
27 contribution" have the meanings assigned by Section 251.001,

1 Election Code.

2 (b) A candidate for membership on the board or a member may
3 not knowingly accept a political contribution, and shall refuse a
4 political contribution that is received, from an insurer or health
5 maintenance organization or a political committee affiliated with
6 such an insurer or organization.

7 (c) A candidate for membership on the board or a member
8 shall return a political contribution that is received and refused
9 under Subsection (b) not later than the 30th day after the date the
10 candidate or member received the contribution.

11 (d) The board shall adopt all rules necessary to implement
12 Subsections (b) and (c), including rules that direct the department
13 to maintain a list of insurers, health maintenance organizations,
14 and political committees affiliated with insurers or health
15 maintenance organizations in order to aid the candidates for
16 membership on the board and members in complying with those
17 subsections.

18 SECTION 8. Section 31.041(c), Insurance Code, is amended to
19 read as follows:

20 (c) A person appointed as an associate or deputy
21 commissioner or to hold an equivalent position must have at least
22 five years of ~~[the]~~ experience in the administration of business or
23 government or as a practicing attorney or certified public
24 accountant ~~[required for appointment as commissioner under Section~~
25 ~~31.023]~~. At least two years of that experience must be in work
26 related to the position to be held.

27 SECTION 9. Sections 33.004(a) and (b), Insurance Code, are

amended to read as follows:

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

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

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

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

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

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

SECTION 10. Section 911.001(c), Insurance Code, is amended to read as follows:

(c) Except to the extent of any conflict with this chapter,

the following provisions apply to a farm mutual insurance company:

- (1) Subchapter A, Chapter 32;
- (2) Subchapter D, Chapter 36;
- (3) Sections 31.002(2), 32.021(c), 32.023, 32.041, ~~33.002~~, 38.001, 81.001-81.004, 201.005, 201.055, 401.051, 401.052, 401.054-401.062, 401.103-401.106, 401.151, 401.152, 401.155, 401.156, 421.001, 801.051-801.055, 801.057, 801.101, 801.102, 822.204, 841.004, 841.251, 841.252, 862.101, 1806.001, 1806.101, 1806.103(b), and 1806.104-1806.107;
- (4) Chapter 86;
- (5) Subchapter A, Chapter 401;
- (6) Subchapter B, Chapter 404;
- (7) Chapter 422;
- (8) Subchapter B, Chapter 424, other than Section 424.052, 424.072, or 424.073;
- (9) Chapter 441;
- (10) Chapter 443;
- (11) Chapter 462;
- (12) Chapter 481;
- (13) Chapter 541;
- (14) Chapter 802;
- (15) Subchapter A, Chapter 805;
- (16) Chapter 824; and
- (17) Article 1.09-1.

SECTION 11. Section 961.002(b), Insurance Code, is amended to read as follows:

- (b) The following provisions of this code apply to a

nonprofit legal services corporation in the same manner that they apply to an insurer or a person engaged in the business of insurance, to the extent the provisions do not conflict with this chapter:

(1) Articles 1.09-1 and 21.47;

(2) Sections 31.002, 31.004, 31.007, 31.021, 31.022, ~~31.023,~~ 31.026, 31.027, 32.021, 32.022(a), 32.023, ~~33.002,~~ 33.006, 36.108, 38.001, 81.004, 201.005, 201.055, 401.051, 401.052, 401.054-401.062, 401.103-401.106, 401.151, 401.152, 401.155, 401.156, 801.001, 801.002, 801.051-801.055, 801.057, 801.101, 801.102, 841.251, and 841.252;

(3) Subchapter B, Chapter 31;

(4) Subchapters A and C, Chapter 32;

(5) Subchapter D, Chapter 36;

(6) Subchapter A, Chapter 401;

(7) Subchapter A, Chapter 542;

(8) Subchapter A, Chapter 805; and

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

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

(d) District offices of the state government shall be listed in the following order:

(1) member, state board of insurance;

(2) member, State Board of Education;

(3) ~~(2)~~ state senator;

(4) ~~(3)~~ state representative;

(5) ~~(4)~~ chief justice, court of appeals;

- (6) [~~(5)~~] justice, court of appeals;
- (7) [~~(6)~~] district judge;
- (8) [~~(7)~~] criminal district judge;
- (9) [~~(8)~~] family district judge;
- (10) [~~(9)~~] district attorney;
- (11) [~~(10)~~] criminal district attorney.

SECTION 13. Section 504.401(d), Transportation Code, is amended to read as follows:

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

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

SECTION 14. Sections 31.023 and 33.002, Insurance Code, are repealed.

SECTION 15. (a) The first general election for the state board of insurance shall be held November 7, 2017. The initial members of the board serve terms beginning on January 1, 2018, and

1 shall draw lots to achieve staggered terms, with one of the members
2 serving a two-year term and two of the members serving a four-year
3 term.

4 (b) Until each member from the initial state board of
5 insurance elected under this Act takes office, the commissioner of
6 insurance serving on the effective date of this Act shall, unless
7 otherwise removed as provided by law, continue in office under the
8 prior law that governed the office, and that prior law is continued
9 in effect for that purpose. If on January 1, 2018, there is a
10 vacancy in the office of a member of the state board of insurance
11 created under this Act because the initial member-elect has died or
12 refuses or is permanently unable to serve, the commissioner serving
13 on that date shall, unless otherwise removed as provided by law,
14 continue in office under the prior law that governed the office
15 until the governor fills the vacancy by appointment in the manner
16 provided by law. The prior law that governed the office of the
17 commissioner of insurance is continued in effect for that purpose.

18 SECTION 16. (a) Except as provided by Subsection (b) of
19 this section, this Act takes effect September 1, 2017.

20 (b) Section 31.027, Insurance Code, as amended by this Act,
21 and Section 504.401(d), Transportation Code, as amended by this
22 Act, take effect January 1, 2018.