

BILL ANALYSIS

S.B. 833
By: King
Insurance
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Some insurance companies are being pressured to refuse to insure the fossil fuel industry. Earlier this year, *Insure Our Future* sent a letter to the CEOs of 30 major fossil fuel insurers demanding that insurance companies immediately stop underwriting in new fossil fuel projects and to divest from fossil fuel companies. Insurance companies are highly skilled in evaluating risk, and these types of external pressures on their ability to make business decisions may negatively affect both insurance companies and those seeking coverage. S.B. 833 seeks to combat this issue by prohibiting any insurance company doing business in Texas from using an environmental, social, or governance model, score, factor, or standard to charge a rate different than the rate charged to another business or risk in the same class for essentially the same hazard.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

S.B. 833 amends the Insurance Code to set out provisions for the purpose of regulating the use of environmental, social, or governance models, scores, factors, or standards to define acts or practices that may be unfair discrimination in the business of insurance in Texas. The bill establishes that the legislature finds that there are numerous entities that have developed different environmental, social, or governance models, scores, factors, or standards that are used to evaluate financial risks for investments in certain businesses or industries or to encourage or discourage business dealings or investments with certain types of businesses or industries. The bill further establishes that, to the extent that the use of such models, scores, factors, or standards are not based on sound actuarial principles, or do not bear a reasonable relationship to the expected loss and expense experience related to insurance risks, the rating of certain businesses or risks in Texas without an ordinary insurance business purpose may adversely affect the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of Texas or a portion of Texas.

S.B. 833 prohibits an insurer from using an environmental, social, or governance model, score, factor, or standard to charge a rate different than the rate charged to another business or risk in the same class for essentially the same hazard. However, an insurer does not violate this prohibition if the insurer's actions are based on an ordinary insurance business purpose, including the use of sound actuarial principles, or financial solvency considerations reasonably related to loss experience for the different types of risks and coverages made available by a

particular insurer. The bill defines "insurer" for purposes of its provisions as an insurance company or other entity authorized to engage in the business of insurance in Texas, including those specifically mentioned in the bill. The bill applies only to insurance policies issued and delivered by an insurer in Texas and does not apply to crop insurance or to fidelity, guaranty, and surety bonds. The bill expressly does not require the filing of rates for any line, type of insurer, or type of insurance business that is not specifically required by statute to file rates with the Texas Department of Insurance (TDI).

S.B. 833 requires its provisions to be construed and applied to promote the purposes provided in the bill and prohibits its provisions from being construed or applied to require an insurer to write any line or type of business that the insurer does not write or to require a material change in the insurer's current business plans. The bill establishes that nothing in its provisions is intended to do the following:

- create any type of private cause of action or independent basis in a civil or criminal proceeding;
- prohibit the use of information that is relevant and related to the risk being insured even if that information may also be used or considered in developing an environmental, social, or governance model, score, factor, or standard; or
- authorize TDI to adopt any rule, model, or standard requiring an insurer to use any environmental, social, or governance model law, regulation, or other standard that has not been specifically authorized by statute, including:
 - a rule, model, or standard required under any federal law that does not preempt state law under the federal McCarran-Ferguson Act; or
 - a rule, model, or standard required by any national organization, including the National Association of Insurance Commissioners, that has not been specifically authorized by statute.

S.B. 833 applies only to an insurance policy that is delivered, issued for delivery, or renewed in Texas on or after January 1, 2024.

EFFECTIVE DATE

September 1, 2023.