

- SUBJECT:** Flexible band rates for car and personal property insurance
- COMMITTEE:** Insurance — committee substitute recommended
- VOTE:** 7 ayes — Smithee, Duncan, Averitt, Counts, De La Garza, G. Lewis, Shields
- 0 nays
- 2 absent — Driver, Dutton
- WITNESSES:** None
- BACKGROUND:** In 1991 the Legislature enacted a pilot flexible-rating plan scheduled to expire on December 31, 1995, that allows insurers to set insurance rates for automobile and personal property insurance in a range or "band" between 30 percent above or below a benchmark rate set by the State Board of Insurance (now the commissioner of insurance).
- DIGEST:** CSHB 1988 would set the flexible band rating for auto and residential property insurance (including homeowners insurance) at 30 percent above or below benchmark rate set the insurance commissioner. The commissioner would be required to conduct hearings on the flexibility band of each line of insurance on or before September 1 of each year. The bill would require the insurance commissioner to conduct benchmark hearings for 1996 no later than October 1, 1995.
- If an insurer's flexible rate filing was found not to meet state law after a hearing, the commissioner would be required to issue an order to the insurer specifying how the filing fails to meet requirements and the date on which the insurer's filing is no longer effective.
- If an insurer proposed a rate that is more than the 30 percent above the benchmark rate, then the insurer would have to prove that the rates available within the flexibility band are inadequate for the risks insured and that failure to approve the filing would make the line of insurance unavailable. If the filing was more than 30 percent below the benchmark

rate, the insurer would have to prove that the rate would not adversely affect the insurer's financial condition. Rates outside the flexibility band would take effect on the day specified by the insurer, and no later than 60 days after they were approved.

Individual parties involved in a benchmark rate case would be prohibited from providing discovery regarding their premiums, losses, expenses, profits, or rate of return experiences or operations, except to the extent that the party presents evidence, relies on, or provides to another party its insurer data at the benchmark rate hearing. The prohibition on discovery could not deny or restrict any party's right to produce or rely on relevant information concerning an individual insurer as evidence in a benchmark rate hearing.

Any party in a benchmark rate hearing could present evidence regarding adjustments or amendments that should be made to the statistical reporting rules and statistical plans to be presented at future hearings. The administrative law judge would be required to make proposed findings on the additional evidence, and the insurance commissioner could initiate a proceeding to adjust or amend the rules and statistical plans to comply with regulatory standards based on the additional evidence. If the commissioner initiated a proceeding based on the additional evidence, the evidence would have to be considered and addressed in the proceeding.

The bill would take effect September 1, 1995.

**SUPPORTERS
SAY:**

CSHB 1988 would set in statute the flexible band rate of 30 percent above or 30 percent below the benchmark rate set by the insurance commissioner. The commissioner has set the flexible band rate at 30 percent above or below the benchmark since 1993, which proves that it has worked well and should be codified. The insurance commissioner sets the benchmark rate, which is the guiding principle for insurance rates. Insurance companies need the flexibility provided in the bands to insure competition in the market. Furthermore, codifying the flexible band would streamline the rate filing process.

The bill would specify the conditions that a company must prove to set rates outside the band rate to make clear what is needed for exceptions to

the 30 percent band. The bill would require benchmark hearings to be held annually and set a specific date to avoid confusion.

The bill would prohibit an insurance company that is party to a benchmark rate hearing from having to disclose information about the company's operations. These requests are unnecessary, since the rate hearing is for an industry-wide rate and not specific to a single company. In addition, satisfying these discovery requests can be extremely costly and burdensome.

The bill would allow additional information to be presented at a rate hearing case that could be used in future cases. This would assure that additional information relevant to rate cases are considered and are relevant to future rate hearings.

OPPONENTS
SAY:

The flexibility band should not be set in statute, but should be left to the discretion of the insurance commissioner. Under current law the commissioner can set the band as much as 30 percent above or below the benchmark rate. In fact in 1992 the flexible band was 25 percent above and 30 percent below. Codifying the band percentages would set into law a 30 percentage rate instead of allowing the insurance commissioner to determine, based on market forces, how far above and below the benchmark rate insurance companies can set their rates. Thirty percent above or below may actually provide too much leeway for insurance rates and setting it into law gives no recourse and requires future legislation to change. The current system is working well and should not be changed, just extended.

The bill would severely limit interested parties' ability to find out information about business practices of individual companies. The large insurance companies make up a majority of the market in Texas, and information regarding their premiums, expense, profits and operations can have a significant impact on rates. The information that could be presented at a benchmark hearing would be limited to what insurance companies want to reveal. It is not in their interest to divulge information that would not be favorable to their position, therefore consumer groups and others would be hampered in protecting consumer's interests at benchmark rate hearings, which set the amount that their premiums are based on.

NOTES: The original version rewrote subchapter A and C of Chapter 5 of the Insurance Code to provide for HB 1988, while the substitute would continue and amend subchapter M.