HOUSE RESEARCH ORGANIZATION bill analysis | 5/17/95 | SB 641 Montford (Holzheauser)

SUBJECT: Administration and collection of certain insurance taxes

COMMITTEE: Ways and Means — favorable, without amendments

VOTE: 8 ayes — Craddick, Wolens, Finnell, Heflin, Holzheauser, Horn, Oliveira, Place

0 nays

3 absent — T. Hunter, Marchant, Romo

SENATE VOTE: On final passage, April 10 — voice vote

WITNESSES: (*On House companion bill, HB 1446*):

For — None

Against — None

On — Joe Galvan, Comptroller's Office

BACKGROUND: Last session two bills were enacted that made conflicting changes to the administration of taxes and reporting on independently procured insurance — HB 1461 by Counts, the sunset bill for the Texas Department of Insurance, and HB 958 by Duncan and Counts, relating to surplus insurance lines. HB 1461 also transferred some of the department's fee collection authority to the Comptroller's Office.

DIGEST: SB 641 would remove provisions in the Insurance Code relating to taxes on independently procured insurance that require insureds or self-insurers who procure insurance through a surplus lines agent to file a specified report with the comptroller within 60 days and pay an independently procured insurance tax of 4.85 percent and a premium receipts tax of 3.85 percent. It would continue to require insureds who procure insurance through negotiations occurring entirely outside of Texas to file a report to the comptroller and pay an independently procured insurance tax of 4.85 percent.

SB 641 would additionally require that such reports and taxes would be due on or before March 1 of the calendar year after the year in which the insurance was procured, continued or renewed.

Reporting by surplus lines agents would be changed from twice a year (in January and July) to once a year, on or before March 1.

Gross premium receipts would be defined as the total gross amount of premiums *actually written* instead of the total gross amount of premiums *received* for a taxable year.

SB 641 would require the comptroller, instead of the Department of Insurance, to collect the annual statement fees for general casualty companies, farm mutual and county mutual insurance companies, reciprocal exchanges, health maintenance organizations and non-profit legal services corporations. The comptroller would also impose and collect any retaliatory taxes. The department would continue to collect a $1.00 fee for the issuance of certificates of authority to farm and county mutuals. References to depositing fees to the department of insurance operating fund would be removed from existing statute.

The act would take effect September 1, 1995, and would apply to fees or taxes on or after that date.

SUPPORTERS SAY:

SB 641 would make clarifying and technical changes to certain insurance code tax and fee provisions that would also reflect current methods of operation between the Comptroller's Office and the Department of Insurance.

SB 641 would remove a conflicting provision regarding taxes on independently procured insurance that directs the department to impose both an independently procured insurance tax of 4.85 percent, imposed by HB 958 last session, and a gross premium receipts tax of 3.85 percent, imposed by HB 1461. The law has been interpreted to direct the department to collect the higher tax because HB 958 was enacted after HB 1461. Currently the department contracts with the comptroller to collect the tax. Provisions relating to surplus lines and the 60-day reporting requirement in this section of the code would also be removed because they are either unnecessary or duplicate provisions in other parts of the code.

Annual instead of biannual reporting requirements would eliminate unnecessary paperwork for both surplus lines insurers and for the department.

Changes to the definition in gross premium receipts reflect the definition used by the National Association of Insurance Commissioners (NAIC) in their reporting requirements for insurers.

Annual statement fee collection by the comptroller would facilitate fee collections overall. Many of these fees are already being collected by the comptroller by an agreement with the department.

References to the department operating fund would be removed because the fund is scheduled to be eliminated on September 1, 1995, in the state funds consolidation process enacted in 1991.

OPPONENTS SAY:

SB 641 should be amended to better assist the department. References to the $1.00 certificate of authority fees on county and farm mutuals should be removed from statute because it costs more for the department to collect the fees than the fee revenue obtained.

References to depositing fee revenue into the department's operating fund should be kept in statute because another bill this session, HB 3050 by Junell, would reenact the department's operating fund. Without statutory direction to deposit collected fees to this fund, the department would not receive credit for fee revenue, and could be forced to raise the maintenance tax and other fees to support department activities. (HB 3050 passed the House on May 12 and has been referred to the Senate Finance Committee.)