

- SUBJECT:** Rate rollback for certain lines of insurance
- COMMITTEE:** Insurance — favorable, without amendment
- VOTE:** 8 ayes — Smithee, Eiland, Burnam, G. Lewis, J. Moreno, Olivo, Seaman, Thompson
0 nays
1 absent — Averitt
- WITNESSES:** For — Rob Schneider, Consumers Union
Against — Richard Geiger, Association of Firs and Casualty Companies in Texas; Bob Huxel, Farmers Insurance Group
- BACKGROUND:** The 73rd and 74th Legislatures enacted tort reform legislation aimed at reducing the cost of insurance litigation and limiting the maximum amounts that could be awarded in a judgment. The 74th Legislature in 1995 enacted HB 1988 by Duncan to ensure that the benefits resulting from these civil justice changes, particularly reductions in the cost of litigation and in the maximum amount that would be awarded in a judgment, were passed on to the insured public. Rate reductions mandated by this legislation that required these benefits to be passed on to consumers expired on January 1, 2001.
- DIGEST:** HB 2871 would amend Insurance Code, art. 5.131, sec. 2(b), to extend rate rollback reductions for certain lines of insurance until January 1, 2003. County mutual insurers, joint underwriting associations, and other insurers whose rates are not regulated would have to pass through the savings that accrued from civil justice reforms enacted by the 73rd and 74th Legislature to their policyholders on a prospective basis.
- The commissioner would obtain and examine data from county mutuals, joint underwriting associations, and other insurers whose rates are not regulated to ensure that these insurers were passing through savings to the insurer's policyholders in compliance with this legislation. If the commissioner determined on or before January 1, 2003, that an insurer specified under this bill had failed to pass through savings to its policyholders in compliance with

this legislation, the commissioner would require these insurers to provide rate refunds or reductions to the insurer's policyholders on a prospective basis in an amount and manner determined by the commissioner by rule. Unless the commissioner granted relief related to certain statutory specifications, this bill would remain in effect until January 1, 2003.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2001.

**SUPPORTERS
SAY:**

HB 2871 would make sure that tort reform does what it was intended to do: Pass the savings to insurance companies from reduced litigation and lower damage awards back to the ratepayers. Provisions of the Insurance Code requiring that benefits from tort reforms be passed on to policyholders ended on January 1 of this year. The bill would require the insurance commissioner to obtain and examine data from certain unregulated insurers, such as county mutuals and joint underwriting associations, to see if they transferred these savings from litigation to their policyholders.

If the commissioner determined that an insurer specified under this bill had failed to pass through savings to its policyholders, the commissioner would require that insurer to provide rate refunds or reductions to its policyholders on a prospective basis. If the commissioner determined that an insurer had effectively rolled back rates in compliance with the previous law, then that insurer's rates would not be subject to additional rollbacks. HB 2871 would remain in effect until January 1, 2003, and would essentially extend the provisions of the 1995 legislation to unregulated insurers until 2003.

**OPPONENTS
SAY:**

This bill would create the false impression that policyholders are not getting the benefit of tort reforms. The presumption of HB 1988 enacted in 1995 was that litigation-related savings would not factor into rates after tort reforms were fully implemented. For the past five years, the commissioner has examined data to determine reductions based on past experience losses. By extending the period for these provisions until 2003, the commissioner would be basing decisions on data collected after tort reforms were in place, which should not be considered in rollbacks.

OTHER
OPPONENTS
SAY:

By law, county mutuals, joint underwriting associations, and other insurers subject to this legislation, are not regulated as to rates. This bill would be a back-door approach to bringing such insurers under regulation in a way not contemplated by current law.

NOTES:

The author plans to submit a floor amendment that would incorporate additional rate rollback provisions into the bill. An identical amendment was added to CSHB 2102 by Eiland, which passed the House on May 2