

BILL ANALYSIS

Senate Research Center
81R3188 TJS-D

S.B. 1001
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Government Organization
3/11/2009
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The legislature created the Office of Public Insurance Counsel (OPIC) in 1991, as an independent agency to advocate for consumers as a class in insurance regulation. To accomplish its mission, OPIC:

- works with the Texas Department of Insurance (TDI) and insurance companies to negotiate changes in insurance rates and forms that are advantageous to consumers;
- participates in contested rate cases and industrywide rate hearings before the State Office of Administrative Hearings and the commissioner of insurance;
- appears in judicial appeals at district court and the court of appeals
- advocates on behalf of consumers in rulemaking procedures at TDI; and
- provides information to consumers to help them understand their rights and compare certain insurance products.

OPIC currently operates with a staff of 16.5 full-time equivalent positions and has an annual budget of about \$1 million.

OPIC is subject to the Texas Sunset Act and will be abolished on September 1, 2009, unless continued by the legislature. The sunset review of OPIC found that a consumer perspective in regulating insurance is important and that Texas benefits from maintaining an independent agency to perform this function.

As proposed, S.B. 1001 continues OPIC for 12 additional years until September 1, 2021. The bill also explains certain parameters for lobbying activities, broadens the definition of Texas trade associations, and provides for a technology policy and alternative dispute resolution procedures.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 501.003, Insurance Code, as follows:

Sec. 510.003. SUNSET PROVISION. Provides that the office of public insurance counsel (office) is subject to Chapter 325, Government Code (Texas Sunset Act). Provides that unless continued in existence as provided by that chapter, the office is abolished September 1, 2021, rather than September 1, 2009.

SECTION 2. Amends Section 501.054, Insurance Code, to prohibit a person from serving as public counsel or acting as general counsel to the office of public insurance counsel (office) if the person is required to register as a lobbyist under Chapter 305 (Registration of Lobbyists), Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the Texas Department of Insurance (TDI) or the office, rather than because of the person's activities for compensation related to the operation of TDI or office.

SECTION 3. Amends Section 501.102, Insurance Code, as follows:

Sec. 501.102. TRADE ASSOCIATIONS. (a) Defines "Texas trade association" rather than "trade association."

(b) Prohibits a person from serving as public counsel and from being an office employee employed 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.), if the person is an officer, employee, or paid consultant of a Texas trade association in the field of insurance or the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of insurance. Deletes existing text prohibiting a person from serving as public counsel and from being an employee of the office 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 if the person or person's spouse holds certain positions of a trade association in the field of insurance. Makes nonsubstantive changes.

SECTION 4. Amends Subchapter A, Chapter 501, Insurance Code, by adding Section 501.006, as follows:

Sec. 501.006. TECHNOLOGY POLICY. Requires the office to implement a policy requiring the office to use appropriate technological solutions to improve the office's ability to perform its functions. Requires that the policy ensure that the public is able to interact with the office on the Internet.

SECTION 5. Amends Subchapter D, Chapter 501, Insurance Code, by adding Section 501.160, as follows:

Sec. 501.160. ALTERNATIVE DISPUTE RESOLUTION PROCEDURES. (a) Requires the office to develop and implement a policy to encourage the use of appropriate alternative dispute resolution procedures under Chapter 2009 (Alternative Dispute Resolution for Use by Governmental Bodies), Government Code, to assist in the resolution of internal and external disputes under the office's jurisdiction.

(b) Requires that the office's procedures relating to alternative dispute resolution conform, to the extent possible, to model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution procedures by state agencies.

(c) Requires that the office designate a trained person to coordinate the implementation of the policy adopted under Subsection (a), serve as a resource for training needed to implement the alternative dispute resolution procedures, and collect data concerning the effectiveness of those procedures as implemented by the office.

SECTION 6. Provides that Section 501.102, Insurance Code, as amended by this Act, applies only to the appointment of public counsel on or after the effective date of this Act. Provides that the change in qualifications for eligibility to serve as public counsel does not effect the eligibility of a person serving as public counsel before the effective date of this Act.

SECTION 7. Effective date: September 1, 2009.