

SUBJECT: Changing the composition of the Finance Commission.

COMMITTEE: Pensions, Investments and Financial Services — favorable, without amendment

VOTE: 6 ayes — Truitt, Anchia, Anderson, Creighton, Legler, Orr
1 nay — Veasey
2 absent — Hernandez Luna, Nash

WITNESSES: For — Blake Ingram, Texas Independent Automobile Dealers Association; (*Registered, but did not testify*: Robert Braziel, Texas Automobile Dealers Association; Deborah Polan, CARMAX; and eight people representing themselves)

Against — Steve Scurlock, Independent Bankers Association of Texas

On — Leslie Pettijohn, Finance Commission

BACKGROUND: The Finance Commission is responsible for overseeing, coordinating and making policy for the Texas Department of Banking, the Department of Savings and Mortgage Lending, and the Office of Consumer Credit Commissioner. Among its duties are the responsibilities to protect consumer interests, maintain a sound banking system, and ensure that state depository and lending institutions function as a system.

The commission is comprised of nine members appointed by the governor: one banking executive, one savings executive, one consumer credit executive, one mortgage broker, and five representatives of the general public.

The Office of the Consumer Credit Commissioner (OCCC) regulates the credit industry, including consumer loans, pawnshops, and motor vehicle sales financing (MVSF), and educates consumers and creditors.

DIGEST: HB 1681 would add to the commission's composition a MVSF licensee and decrease the number of general public representatives to four members. The commission composition changes would apply only to the

appointment of commission members on or after the effective date of the bill.

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, 2011.

**SUPPORTERS
SAY:**

HB 1681 is needed to make the Finance Commission's composition more reflective of the industries it regulates. Since 1989 the commission has functioned with nine members, yet an automotive dealer has never been appointed.

OCCC regulates several consumer credit products, yet representatives of these industries are only eligible for one position on the Finance Commission. According to the Texas Department of Motor Vehicles, in 2010 almost 3.5 million new and used cars were sold by private sellers and car dealers, of which about 1.5 million were financed by car dealers. According to OCCC data, car dealers constitute 65 percent of all MVSF licensees. Because of the vast amount of car financing performed by MVSF licensees, a special designation on the Finance Commission is needed to adequately represent the industry and consumers.

The bill would appropriately keep the commission membership to a manageable and effective total of nine individuals, but replace a public member with a MVSF licensee. The commission does not need a majority of public members to adequately oversee state financial institutions and practices; four public members are enough. The MVSF licensee would not only bring needed business expertise, but also could help address some consumer-related issues.

**OPPONENTS
SAY:**

This bill is unnecessary and would do more harm than good by replacing a public member. The commission is a governor-appointed board, and people who want to serve on the commission should petition the governor, instead of trying to get special recognition in law. The MVSF licensees already can have a seat at the table as a consumer credit executive member. Also, shifting one public member position to a specialized position would mean that public members no longer would have a majority on the commission.

The bill would reduce public representation on a commission that regulates industries with tremendous financial impact on all Texans.

Public watch dogs are needed to protect against banking and lending industry abuses or inadequate oversight. For example, it was industry self-regulation that led to the mortgage lending problems that contributed to the current U.S. economic recession.

OTHER
OPPONENTS
SAY:

This bill should be amended to add a general public member in addition to an MVSF licensee -- that way public members would maintain their majority, yet MVSF licensees would have a seat at the table. The addition of two more commission members would not be unwieldy or increase the complexity of commission decision-making.

If the Finance Commission's composition is to be altered, it should include a banker member and another general public member, just as HB 237 by Flynn proposes. The vast majority of assets that the commission oversees are banking assets, and given the extent and complexity of banking regulation, it is only fair to give bankers a specific seat at the table.

NOTES:

HB 237 by Flynn was reported favorably, without amendment, by the Pensions, Investments, and Financial Services Committee on May 6. Its companion, SB 249 by Estes, passed the Senate by 31-0 on the Local and Uncontested Calendar on April 7 and was referred to the House Pensions, Investments, and Financial Services Committee on April 11.

The companion bill to HB 1681, SB 920 by Deuell, was referred to the Senate Business and Commerce Committee on May 6.