SUBJECT: Requiring a majority to appoint finance commissioners

COMMITTEE: Investments and Financial Services — favorable, without amendment

VOTE: 7 ayes — Parker, Longoria, Capriglione, Flynn, Landgraf, Pickett, Stephenson

0 nays

WITNESSES: For — (*Registered, but did not testify*: Stephen Scurlock, Independent Bankers Association of Texas; John Heasley, Texas Bankers Association; John Fleming, Texas Mortgage Bankers Association)

Against — (*Registered, but did not testify*: Teresa Beckmeyer; Marla Flint)

On — (*Registered, but did not testify*: Stephanie Newberg, Texas Department of Banking)

BACKGROUND: SB 249 by Estes, enacted by the 82nd Legislature in 2011, expanded the membership of the Finance Commission of Texas from nine to 11 members.

Finance Code, sec. 12.101(a) requires that the Finance Commission appoint the banking commissioner by at least five affirmative votes. Sec. 13.002(a) requires that the commission appoint the savings and mortgage lending commissioner by at least five affirmative votes.

DIGEST: HB 3536 would remove language from Finance Code, sec. 12.101(a) that specifies at least five affirmative votes are required to elect the banking commissioner. It also would remove language from sec. 13.002(a) that specifies at least five affirmative votes are required to elect the savings and mortgage lending commissioner.

The bill would take effect September 1, 2015, and would apply only to the appointment of a banking or savings and mortgage lending commissioner appointed on or after that date.

SUPPORTERS SAY: HB 3536 is a necessary measure to take into account the expanded membership of the Finance Commission, with five votes no longer constituting a majority. The bill would prevent a minority on the Finance Commission from appointing the savings and mortgage lending or banking commissioners. By striking the vote specification, the bill would future-proof the Finance Code in the event the Finance Commission was expanded further.

Removing the five-vote requirement also would bring the Finance Commission's approach for electing commissioners in line with how it already appoints the consumer credit commissioner, another post it is responsible for electing. Currently, there is no specific vote requirement for electing the consumer credit commissioner in statute, and the Finance Commission uses its internal rules to appoint this office. This method has worked well for appointing the consumer credit commissioner, and the bill would update the Finance Code so all three commissioners were appointed in the same way.

It is unlikely that a small quorum would be present at a Finance Commission meeting and appoint a new banking or savings and mortgage lending commissioner with fewer than five affirmative votes. The meetings are well attended, and most members attend all meetings.

OPPONENTS SAY: By removing the requirement for five affirmative votes, HB 3536 could lead to a situation where commissioners were elected at poorly attended meetings by fewer than five members of the Finance Commission.

The law should specify in greater detail how these offices would be appointed because the public lacks access to the bylaws and internal rules of the Finance Commission.

NOTES: The Senate companion bill, SB 657 by Eltife, was approved by the Senate on the local and uncontested calendar on April 9.