

BILL ANALYSIS

C.S.H.B. 3818
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Business & Industry
Committee Report (Substituted)

BACKGROUND AND PURPOSE

A designated doctor is an independent doctor selected, certified, and trained by the division of workers' compensation of the Texas Department of Insurance to answer questions about work-related injuries or occupational illnesses. These doctors do not treat injured employees and they pay their own expenses to travel to examinations. While the division has done an admirable job trying to better the designated doctor program to attract more doctors, compensation is the primary impediment to recruiting sufficient numbers of doctors and participation in the program has not increased in roughly 25 years. Furthermore, the number of designated doctors has been steadily decreasing over the past several years, threatening the viability of the program. C.S.H.B. 3818 seeks to address this issue by providing for the adjustment of payments associated with certain medical examinations under the workers' compensation system of the Texas Workers' Compensation Act.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3818 amends the Labor Code to require an insurance carrier to pay a minimum \$100 fee to the designated doctor or doctor selected by the insurance carrier for a medical examination of an employee that is ordered under the Texas Workers' Compensation Act to resolve certain questions about a compensable injury or a dispute if the employee fails or refuses to appear at the time and place scheduled for the examination. The bill requires the commissioner of workers' compensation to set the initial amount of that fee not later than January 31, 2022, and applies the fee requirement only to an examination that occurs or is scheduled to occur on or after March 1, 2022.

C.S.H.B. 3818 requires the commissioner, not later than January 31 of each even-numbered year beginning 2024, to adjust for inflation the amounts required to be paid by an insurance carrier for certain medical examinations under the act and to adjust the amount of the fee for the failure or refusal of an employee to appear at the time and place scheduled for an applicable medical examination. The bill sets out the following provisions with respect to the adjustment:

- a temporary provision expiring January 1, 2023, requiring the commissioner to adjust and compute the amounts for inflation not later than January 31, 2022, for the period beginning on the date that the fee was last set or adjusted by the commissioner and ending January 1, 2022;

- a requirement for the commissioner to compute the amount of an adjustment based on any percentage increase in the Medicare Economic Index for the preceding 24-month period ending January 1;
- a provision establishing that the adjustment takes effect beginning March 1 of the year of the adjustment; and
- a requirement for the commissioner to make the initial adjustment to the fee for the failure or refusal of an employee to appear at the time and place scheduled for an applicable medical examination not later than January 31, 2024.

EFFECTIVE DATE

September 1, 2021.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3818 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute changes the basis for computing the adjustments from any percentage increase in the consumer price index for Texas published by the Bureau of Labor Statistics of the U.S. Department of Labor, as in the original, to any percentage increase in the Medicare Economic Index.

The substitute makes the original's requirement for the commissioner to adjust the amounts for inflation not later than January 31, 2022, temporary and set to expire January 1, 2023. The substitute includes a specification not in the original that the adjustment is for the period beginning on the date that the fee was last set or adjusted by the commissioner and ending January 1, 2022.

The substitute includes a specification not in the original that the frequency with which the commissioner is required to make the adjustments is not later than January 31 of each even-numbered year beginning 2024.