SUBJECT: Higher penalty for late workers' comp benefits

COMMITTEE: Business and Industry — committee substitute recommended

VOTE: 8 ayes — Brimer, Dukes, Corte, George, Ritter, Siebert, Solomons, Woolley

0 nays

1 absent — Giddings

WITNESSES: For — Andrew Kant, Texas Medical Association

Against — Jay Thompson, AFACT

DIGEST: CSHB 2510 would amend the Labor Code to add 7 percent to the rate of interest, calculated based on the auction rate for 52-week U.S. Treasury bills, that insurers must pay as a penalty on late workers' compensation benefit payments.

The bill also would require insurance carriers to pay health-care practitioners only fees allowed under the Workers' Compensation Act, instead of billed charges as required by current law.

The bill would entitle a member of the Texas Workers' Compensation Commission (TWCC) to be reimbursed for leave benefits used for the purpose of attending commission meetings and hearings, as well as for actual wages lost attending those events. It would lower the maximum yearly amount of reimbursement from $12,000 to $5,000.

CSHB 2510 would require that the identity of a participant in a survey conducted by the Research and Oversight Council on Workers' Compensation be kept confidential.

The bill would add a representative of an insurance carrier to the TWCC's Medical Advisory Commission. It also would eliminate the requirement that workers' compensation insurers provide an audited year-end report to the Texas Department of Insurance (TDI) on losses, expenses, and unearned premium reserves.

CSHB 2510 would take effect September 1, 1999, except that the proposed increase in the interest rate for late payment of benefits would take effect October 1, 1999.

SUPPORTERS SAY:

CSHB 2510 would provide needed clarification for insurers and medical practitioners alike on what billed charges are acceptable.

Raising the interest rate on accrued but unpaid benefit payments would discourage insurance companies from slowing claims or trying to avoid payment. Insurance companies receive average interest of about 6 percent on investments made while payment of claims is delayed. Therefore, using as the basis for a penalty the current treasury bill rate, about 4.5 percent, is not a sufficient deterrent. Other insurers, such as casualty, fire, and life insurance firms, have a fixed penalty rate of 18 percent under current law.

Insurers should not have to provide audited reserve reports to TDI because the department regularly obtains this information from other sources and rarely relies on reports provided by insurers. Also, the requirement that the reports be audited costs insurers too much money. CSHB 2510 would remove these requirements.

OPPONENTS SAY:

The 7 percent increase in the interest rate for late payment of benefits would be too much. Adding 7 percent to the current treasury bill rate would make insurers pay about 11.5 percent on late payments, while their average return on investment is only about 6.5 percent. This increase would be passed on to customers and would raise insurance rates.

NOTES:

The committee substitute changed the effective date of the proposed interest-rate increase from January 1, 2000, to October 1, 1999.