

SUBJECT: Payment of workers compensation death benefits to surviving parents

COMMITTEE: Business and Industry — favorable, without amendment

VOTE: 9 ayes — Deshotel, Elkins, Christian, England, Gattis, Keffer, S. Miller,
Orr, Quintanilla

0 nays

2 absent — Giddings, S. Turner

WITNESSES: For — None

Against — None

On — (*Registered, but did not testify*: Amy Lee, Texas Department of Insurance Division of Workers' Compensation; Brian White, Office of Injured Employee Counsel)

BACKGROUND: Labor Code, sec. 408.182 allows for payment of 104 weeks of death benefits under workers compensation to parents should the deceased worker not have a spouse, child, grandchild or other eligible surviving dependents. Labor Code, sec. 408.182(f)(4) defines an eligible parent as the mother or father of the deceased worker, including an adoptive or step-parent, who received burial benefits under workers compensation.

Under Labor Code, sec. 408.182, the insurance commissioner may extend the deadline for parents to submit a claim for death benefits if they provide proof of a compelling reason for the delay in filing the claim.

DIGEST: HB 1058 would amend Labor Code, sec. 408.182(f)(4) to delete the requirement that parents must receive the burial benefit to qualify for the death benefits.

The bill also would delete the requirement that parents show proof of a compelling reason for a delay in filing a death benefit claim and would amend Labor Code, sec. 408.182 to require that failure to file the death benefit claim on a timely basis would bar payment of the benefits unless good cause existed for that failure to file a claim before the deadline.

HB 1058 would apply to death benefits claims filed after the bill would take effect on September 1, 2009.

**SUPPORTERS
SAY:**

HB 1058 would remove some unintended obstacles created by the requirement that for eligible parents to receive workers' compensation death benefits they also must receive burial benefits. Typically, the worker's company would pay for funeral expenses, and the parent would not qualify for the \$7,000 in workers' compensation burial benefits. The Legislature intended to create another category of potential beneficiaries to ensure that, whenever possible, a family member received workers compensation death benefits whenever a covered worker was killed on the job. The bill, which is among the legislative recommendations from the Office of Injured Employee Counsel, would remedy a situation where the drafting of the statute undermines legislative intent.

HB 1058 would provide a workable standard for evaluating requests to consider claims for death benefits that are not filed on a timely basis. The concept of "good cause" is a standard with long-standing meaning in the workers' compensation system. Removing the requirement for "compelling reason" would provide consistency in workers compensation statutes and rules and would provide guidance for administrative hearing officers deciding whether a delayed filing could be excused.

**OPPONENTS
SAY:**

No apparent opposition.

NOTES:

Rep. Solomons is expected to offer a floor amendment that would limit total payments of death benefits to surviving eligible parents to no more than 104 weeks.

According to the fiscal note, HB 1058 could result in an additional expense of \$213,366 to the general revenue dedicated subsequent injury fund.

The companion bill, SB 442 by Lucio, was reported favorably, without amendment, by the Senate State Affairs Committee on April 22 and recommended for the Local and Uncontested Calendar.