

SUBJECT: Workers' compensation for temporary employees

COMMITTEE: Business and Industry — favorable, without amendment

VOTE: 7 ayes — Oliveira, Bohac, Orr, E. Rodriguez, Villalba, Walle, Workman
0 nays

WITNESSES: For — Tammie Coffee, Affiliated Foods, Inc.; Chase Hales, Plains Dairy & Affiliated Foods, Inc.; Greg Meador, Plains Dairy; (*Registered, but did not testify*: Pamela Bratton, Society for Human Resource Management Texas State Council; Cathy Dewitt, Texas Association of Business; Fabiola Flores; Lee Loftis, Independent Insurance Agents of Texas; Matt Matthews, Texas Association of Staffing)

Against — (*Registered, but did not testify*: John Davis and Abel Trevino)

On — Rod Bordelon, Texas Department of Insurance - Division of Workers Compensation; (*Registered, but did not testify*: Amy Lee, Nancy Moore, Texas Department of Insurance; Alan Tysinger)

BACKGROUND: Labor Code, sec. 406.034 (Employee Election) generally describes the conditions under which an employee may waive coverage under an employer's workers' compensation insurance policy.

Labor Code, sec. 408.001 (Exclusive Remedy; Exemplary Damages) generally provides that employees covered by an employer's workers' compensation insurance have workers' compensation benefits as their exclusive remedy in the case of injury.

Non-subscribing companies are companies that have opted not to purchase workers' compensation insurance.

DIGEST: HB 1762 would provide that if a temporary employment service elected to obtain workers compensation insurance, the client of the temporary employment service and the temporary employment service would be subject to Labor Code provisions governing employee election (sec. 406.034) and exclusive remedy (sec. 408.001).

HB 1762 would provide that a certificate of insurance coverage showing that a temporary employment service maintained workers' compensation insurance was proof of workers' compensation insurance coverage for the temporary employment service and the client of the service with respect to employees of the temporary employment service assigned to the client. The bill would require the state and its political subdivisions to accept the certificate as proof of workers' compensation coverage.

The bill would take effect September 1, 2013.

**SUPPORTERS
SAY:**

HB 1762 would close a gap in the unemployment compensation system. Currently, employees of a temporary employment agency who are covered by the agency's workers' compensation insurance and injured on the job while assigned to a non-subscribing company can receive workers' compensation benefits while also suing the non-subscribing company. In effect, these workers, unlike every other worker in the state, have the opportunity to be paid twice for their injury.

The bill would reduce cost and exposure to liability borne by non-subscribing client companies. It would allow the temporary agencies and non-subscribing companies to stop trying to develop complex contractual arrangements in the hopes of preventing temporary employees from claiming workers' compensation and also suing the non-subscribing companies. Such efforts are costly and cumbersome, and in the end they do not always withstand a court challenge.

The certificate of coverage described by HB 1762 would ease administration and provide assurance to private and public sector clients of a temporary agency that the temporary agency's employees were covered by the agency's workers' compensation insurance.

**OPPONENTS
SAY:**

HB 1762 is unnecessary. The number of temporary workers assigned to non-subscribing companies who are injured on the job and seek remedies through both the workers' compensation system and the courts is extraordinarily small.