

BILL ANALYSIS

Senate Research Center

H.B. 3522
By: Rhodes (Ratliff)
Economic Development
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Engrossed

DIGEST

In 1989, the authors of Senate Bill 1 knew some provisions of the law would have to be fine tuned as time passed, and observations could be made about how the law was implemented. The Sunset process in 1995 helped alleviate some of the problems. Problems remain that require changes to the law. This bill amends eight sections of the Texas Labor Code that relate to the administration and enforcement of the workers' compensation law by the Texas Workers' Compensation Commission.

PURPOSE

As proposed, H.B. 3522 revises eight sections of the Texas Labor Code that relate to the administration and enforcement of the workers' compensation law by the Texas Workers' Compensation Commission.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the Texas Workers' Compensation Commission in SECTION 5 (Section 408.104, Labor Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 401.011(30), Labor Code, to redefine "maximum medical improvement."

SECTION 2. Amends Section 402.011, Labor Code, by amending Subsection (b) and by adding Subsections (c) and (d), as follows:

(b) Provides that a member of the Texas Workers' Compensation Commission (commission) is entitled to reimbursement for actual lost wages, if any, for attendance at commission meetings, not to exceed one day in each calender quarter; preparation for a commission meeting, not to exceed two days in each calender quarter; attendance at a subcommittee meeting, not to exceed one day each month; attendance by the chair or vice chair of the commission at a legislative committee meeting if attendance is requested by the committee chair; and attendance at a meeting by a member appointed to the Research and Oversight Council on Workers' Compensation or the Texas Certified Self-Insured Guarantee Association.

(c) Makes a conforming change.

(d) Provides that a member of the commission is entitled to reimbursement for actual and necessary expenses for attendance at not more than five seminars in a calender year if the member is invited as a representative of the commission to participate in a program offered at the seminar, and the member's participation is approved by the chair of the commission.

SECTION 3. Amends Section 403.002(a) and (b), Labor Code, as follows:

(a) Requires each insurance carrier to pay an annual maintenance tax to pay the costs of administering this subtitle and to support the prosecution of workers' compensation insurance fraud in the state.

(b) Requires an amount not to exceed one-tenth of one percent of correctly reported gross premiums, out of a certain amount and in addition to amounts assessed to pay the costs of administration, to be assessed annually to support the prosecution of workers' compensation insurance fraud.

SECTION 4. Amends Section 403.003(a), Labor Code, to require the commission to set and certify to the comptroller the rate of maintenance tax assessment no later than October 31 of each year, taking into account, among other items, expenditures projected as necessary to support the prosecution of workers' compensation insurance fraud.

SECTION 5. Amends Chapter 408F, Labor Code, by adding Section 408.104, as follows:

Sec. 408.104. MAXIMUM MEDICAL IMPROVEMENT AFTER SPINAL SURGERY.

(a) Authorizes the commission, on application by either the employee or the insurance carrier, to extend the 104-week period described by Section 401.011(30)(B) if the employee has had spinal surgery, or has been approved for spinal surgery under Section 408.026 and commission rules, within 12 weeks before the expiration of the 104-week period. Requires the order to extend the statutory period for maximum medical improvement to a date certain, based on medical evidence presented to the commission.

(b) Authorizes either the employee or the insurance carrier to dispute an application for extension made under this section. Provides that a dispute under this subsection is subject to Chapter 410.

(c) Requires the commission to adopt rules to implement this section, including rules establishing procedures for requesting and disputing an extension.

SECTION 6. Amends Section 407.103(a), Labor Code, to require each certified self-insurer to pay a self-insurer maintenance tax for the administration of the commission and to support the prosecution of workers' compensation insurance fraud in this state. Requires an amount not to exceed one-tenth of one percent of the total tax base of all certified self-insurers, out of a certain amount and in addition to the amounts assessed to pay the costs of administration, to be assessed annually to support the prosecution of workers' compensation insurance fraud.

SECTION 7. Amends Section 409.042(b), Labor Code, to require a person, to be eligible for designation as an ombudsman, to have at least one year, rather than three years, of demonstrated experience in the field of workers' compensation.

SECTION 8. Amends Chapter 415B, Labor Code, by adding Section 415.024, as follows:

Sec. 415.024. BREACH OF SETTLEMENT AGREEMENT; ADMINISTRATIVE VIOLATION. Provides that a breach of a settlement agreement that establishes a compliance plan is an administrative violation punishable by an administrative penalty not to exceed \$50,000. Requires the commission, in determining the amount of the penalty, to consider the total volume of claims handled by the insurance carrier.

SECTION 9. (a) Effective date: September 1, 1997.

(b) Makes application of Section 415.024, Labor Code, as added by this Act, prospective.

(c) Makes application of this Act prospective.

SECTION 10. Emergency clause.