

BILL ANALYSIS

Senate Research Center

S.B. 1115
By: Luna
Health and Human Services
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As Filed

DIGEST

Currently, the Texas Workers' Compensation Commission can impose administrative penalties on any party that it determines to be in violation of a provision of the Workers' Compensation Act. However, there are no enforcement mechanisms behind the issuance of these penalties. A party that is fined under the Act can refuse payment of the penalty past the 20-day deadline for payment and not be penalized for the delay in compliance. Such unpaid penalties are referred to the attorney general after two notices have been sent to the party; however, the attorney general can collect the fine only if it is feasible to do so. This bill will provide new regulations regarding certain administrative penalties under the Texas Workers' Compensation Act.

PURPOSE

As proposed, S.B. 1115 provides new regulations regarding certain administrative penalties under the Texas Workers' Compensation Act.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the Texas Workers' Compensation Commission in SECTIONS 1 and 4 (Sections 415.032(c) and 415.035(d), Labor Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 415.032, Labor Code, by amending Subsection (b) and adding Subsection (c), to authorize a person in writing, within 20 days after the date the person receives the notice, to accept the determination and recommended penalty of the Texas Workers' Compensation Commission (commission) or to make a written request for a hearing on certain items. Sets forth procedures for collection of the recommended penalty. Authorizes the commission to adopt rules providing for the assessment of a late payment fee or interest at the rate provided by Section 415.035(g) on a penalty referred to the attorney general for collection.

SECTION 2. Amends Section 415.033, Labor Code, as follows:

Sec. 415.033. RIGHT TO HEARING; FAILURE TO RESPOND. Requires the executive director of the commission (executive director), if the person requests a hearing or fails to respond timely to the notice, to set a hearing and give notice of the hearing to the person. Deletes existing text regarding a penalty for failure to respond.

SECTION 3. Amends Section 415.034, Labor Code, to require the hearing to be held by an administrative law judge of the State Office of Administrative Hearings. Deletes a provision regarding the setting of a hearing. Sets forth procedures for a hearing and action by the commission on the basis of the hearing. Makes standard recodification changes.

SECTION 4. Amends Section 415.035, Labor Code, to set forth procedures regarding judicial review of the commission's order. Deletes existing text regarding judicial review, the assessment of administrative penalties, and waiver of rights.

SECTION 5. Amends Chapter 415C, Labor Code, by adding Section 415.036, as follows:

Sec. 415.036. DEPOSIT OF ADMINISTRATIVE PENALTY. Requires a penalty collected under this subchapter to be remitted to the comptroller for deposit in the general revenue fund.

SECTION 6. Effective date: September 1, 1997.
Makes application of this Act prospective.

SECTION 7. Emergency clause.