

BILL ANALYSIS

Senate Research Center

C.S.H.B. 2510
By: Dukes (Shapleigh)
State Affairs
5/12/1999
Committee Report (Substituted)

DIGEST

Currently, the Texas Workers' Compensation Commission, the Research and Oversight Council on Workers' Compensation, health care facilities, insurance carriers, the Medical Advisory Committee, and the Texas Department of Insurance are all involved in the administration of the workers' compensation program of Texas. C.S.H.B. 2510 makes several changes including updates, specifications, and clarifications to the worker's compensation program of this state, and grants rulemaking authority to the Texas Workers' Compensation Commission.

PURPOSE

As proposed, C.S.H.B. 2510 makes several changes including updates, specifications, and clarifications to the worker's compensation program of this state, and grants rulemaking authority to the Texas Workers' Compensation Commission.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the Texas Workers' Compensation Commission in SECTION 8 (Sections 408.004(e) and (f), Labor Code), SECTION 11 (Section 408.081(c), Labor Code), SECTION 12 (Section 408.124(c), Labor Code), SECTION 14 (Section 408.161(d), Labor Code), and SECTION 15 (Sections 408.181(c) and (d), Labor Code), of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 401.013(a), Labor Code, to redefine "intoxication."

SECTION 2. Amends Section 401.023(b), Labor Code, to require the Texas Workers' Compensation Commission (TWCC) to compute and publish the interest and discount rate, plus 3.5 percent.

SECTION 3. Amends Sections 402.011(b) and (c), Labor Code, to entitle a member to use of leave benefits for attendance at commission hearings and Texas Certified Self-Insured Guaranty, rather than Guarantee, Association, meetings. Prohibits reimbursement from exceeding \$5,000, rather than \$12,000, a year. Deletes text limiting a member's entitlement.

SECTION 4. Amends Section 402.062, Labor Code, to authorize TWCC to accept a grant paid from the Texas Workers' Compensation Insurance Fund to implement specific steps to control and lower medical costs. Requires TWCC to publish the name of the grantor, and acknowledge acceptance of the grant, and sets forth provisions for that process. Sets forth requirements regarding the grant.

SECTION 5. Amends Section 402.085(a), Labor Code, to require TWCC to release information on a claim to the Research and Oversight Council on Workers' Compensation, rather than research center. Deletes a reference to Chapter 76, Human Resources Code.

SECTION 6. Amends Section 404.007(a), Labor Code, to require the board of directors of the Research and Oversight Council on Workers' Compensation to receive testimony and reports from the State Office of Risk Management, rather than the attorney general. Deletes text regarding the Texas workers' compensation insurance facility. Makes conforming changes.

SECTION 7. Amends Section 404.010, Labor Code, by amending Subsection (a) and adding Subsection (d), to allow access to the files and records of the Texas Workforce, rather than Employment, Commission. Provides that the identity of a survey participant is confidential and not subject to public disclosure. Makes

conforming changes.

SECTION 8. Amends Sections 408.004(e) and (f), Labor Code, to create a Class D administrative violation for an employee who fails or refuses to appear for a scheduled examination. Sets forth further punishments for such an employee. Authorizes TWCC to order temporary income benefits to be paid, under certain conditions. Requires TWCC, by rule, to ensure that an employee receives reasonable notice of payment suspension, and is provided with an opportunity to reschedule an examination. Sets forth provisions for the suspension or reduction of temporary income benefit payments. Requires TWCC to hold an expedited benefit review conference, within a certain time limit. Provides that TWCC is not required to automatically schedule a contested case hearing. Authorizes TWCC to enter an interlocutory order to continue benefits. Requires TWCC to adopt certain rules. Deletes text regarding a benefit review conference and an employee who fails or refuses to appear for an examination.

SECTION 9. Amends Section 408.025(d), Labor Code, to require a health care provider, rather than facility, to furnish certain records. Makes a conforming change.

SECTION 10. Amends Section 408.027(a), Labor Code, to require an insurance carrier to pay the fee allowed under Section 413.011, rather than charged.

SECTION 11. Amends Section 408.081, Labor Code, to require interest on accrued but unpaid income benefits to be paid on a certain schedule. Requires TWCC to establish requirements for agreements under which income benefits may be paid monthly, and sets forth provisions for the monthly payments. Makes conforming changes.

SECTION 12. Amends Section 408.124(b), Labor Code, to authorize TWCC to adopt the fourth edition of the "Guides to the Evaluation of Permanent Impairment" for determining the existence and degree of an employee's impairment. Requires TWCC to use the range of motion model for evaluating back injury-related impairments, if it adopts a certain guide.

SECTION 13. Amends Section 408.150(b), Labor Code, to provide that a certain employee loses entitlement to supplemental, rather than supplementary, income benefits.

SECTION 14. Amends Section 408.161, Labor Code, to authorize an insurance carrier to pay lifetime income benefits through an annuity that meets certain conditions. Provides that the establishment of such an annuity does not relieve the insurance carrier of the liability for insuring that the lifetime income benefits are paid.

SECTION 15. Amends Section 408.181, Labor Code, by adding Subsections (c) and (d), to require TWCC, by rule, to establish requirements for agreements under which death benefits may be paid monthly. Sets forth qualifications for the monthly payment of death benefits. Makes conforming changes.

SECTION 16. Amends Section 408.186(a), Labor Code, to increase the amount from \$2,500 to \$6,000 which an insurance carrier is required to pay the person who incurred certain burial costs, if it is less than the actual costs of burial.

SECTION 17. Amends Section 413.005(b), Labor Code, to include an insurance carrier representative in the composition of a medical advisory committee. Makes conforming changes.

SECTION 18. Amends Section 504.012(a), Labor Code, to authorize the governing body of the political subdivision to elect to provide compensation payments that exceed the minimum benefits provided under this title.

SECTION 19. Amends Article 5.61, Insurance Code, to require reserves to be computed in accordance with any rules adopted, rather than approved, by the commissioner of insurance, rather than the Board of Insurance Commissioners. Deletes text regarding workers' compensation insurers. Makes conforming changes.

SECTION 20. Amends Section 13, Article 5.76-3, Insurance Code, by adding Subsection (l), to authorize the issuance of grants from available fund surplus to TWCC. Prohibits the grant from exceeding \$2.2 million for the four-year period of September 1, 1999 through September 1, 2003. Provides that this subsection expires September 1, 2003.

SECTION 21. (a) Effective date: September 1, 1999, except as provided by Subsection (b). Makes application of this Act prospective.

(b) Effective date for Section 401.023(b), Labor Code, as amended by this Act: October 1, 1999.

(c) Makes application of Section 408.124(b), Labor Code, as amended by this Act, prospective to January 1, 2000.

(d) Provides that Section 408.186(a), Labor Code, as amended by this Act, applies only to certain claims based on injuries that occur on or after the effective date of this Act.

SECTION 12. Emergency clause.