

## **BILL ANALYSIS**

Senate Research Center

H.B. 3697  
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Economic Development  
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Engrossed

### **DIGEST**

Currently, the Texas Workers' Compensation Insurance Fund (fund) provides workers' compensation insurance to Texas businesses and their employees and to Texas employers that operate in other states. The 72nd Texas Legislature created the fund in 1991 to operate as a workers' compensation insurance company in the private sector. However, its purpose is to serve as a competitive force in the marketplace, guarantee the availability of workers' compensation insurance in this state, and serve as an insurer of last resort. Since January 1, 1992, the fund has written over 250,000 policies that provide coverage to more than 35,000 businesses. Consequently, the fund has become the largest workers' compensation insurer in the state. H.B. 3697 would amend certain regulations regarding the operation and disposition of certain surpluses of the fund.

### **PURPOSE**

As proposed, H.B. 3697 amends regulations regard the operation of the Texas Workers' Compensation Insurance Fund and the disposition of certain surpluses of that fund.

### **RULEMAKING AUTHORITY**

Rulemaking authority is granted to the commissioner of insurance in SECTION 3 (Section 10A(g), Insurance Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 9(c), Article 5.76-3, Insurance Code, to authorize the Texas Workers' Compensation Insurance Fund (fund) to price, rather than provide, workers' compensation insurance policies to insureds in the fund's competitive programs, as well as to insureds to whom policies are offered by the fund under Article 5.76-4, rather than to insureds who would not otherwise meet the fund's underwriting standards. Authorizes the system to provide lower premium payments by insureds based on the fund's evaluation of the underwriting characteristics of the individual risk and the appropriate premium to be charged for the policy coverages, rather than by insureds who present higher than normal risks within a class.

SECTION 2. Amends Section 12, Article 5.76-3, Insurance Code, to delete a provision providing an exception under Subsection (b), and to strike language that grants the fund certain tax exemptions. Makes conforming and nonsubstantive changes.

SECTION 3. Amends Article 5.76-5, Insurance Code, by adding Sections 10A and 10B, as follows:

Sec. 10A. REIMBURSEMENT OF MAINTENANCE TAX SURCHARGE BY INSURERS. Requires the comptroller and the Texas Department of Insurance (department) to cooperate in preparing a list of the insurers and certified self-insurers who paid a maintenance tax surcharge for calendar years 1991-1997. Requires the list to include the amount of the maintenance tax surcharge paid by each insurance company and certified-self insurer. Requires the fund to issue separate checks to each insurer and certified self-insurer for each year in which the tax was paid. Requires the fund to make the payments from the surplus of the fund. Entitles each policyholder to receive a proportionate share of the amount of the tax paid by the workers' compensation insurer that provided coverage during each 12-month recoupment period beginning June 1, 1992, and ending May 31, 1998. Specifies the procedure required to determined proportionate charge. Requires each insurer to issue a refund check to the policyholder for the amount of the refund for each policy written during the recoupment period. Provides that refunds must be made by

September 1, 2000. Requires each insurer to file with the department a report that covers each recoupment period. Enumerates the information required in the report. Requires the insurer to notify the department and to return the refund to the fund for deposit in the surplus of the fund. Requires the department to make a reasonable effort to locate the policyholder. Authorizes the department to charge against the refund the costs for locating the policyholder. Requires the department, if the policyholder is located, to remit the refund less the associated costs. Requires that the refund be retained in the surplus of the fund if the policyholder is not located after all efforts have been exhausted. Requires the commissioner to adopt rules as necessary to implement this section.

Sec. 10B. REIMBURSEMENT OF MAINTENANCE TAX SURCHARGE BY FUND. Requires the fund to provide refunds to policyholders of the fund who paid a certain share of the tax. Requires the fund to compute the refund owed to an affected policyholder using a procedure analogous to that provided for insurance companies under Section 10A.

SECTION 4. Amends Chapter 5G, Insurance Code, by adding Article 5.76-6, as follows:

Art. 5.76-6. INTERIM STUDIES. Requires the fund to enter in a joint venture with the Research and Oversight Council on Workers' Compensation by providing data for interim studies. Requires funding for the studies to be provided by the fund, to improve work safety in this state and the cost and quality of health care delivered to injured workers. Sets forth examinations the studies are required to include. Requires the council to submit requests for proposals for contracts with private vendors to perform the studies. Requires the comptroller to assist the council in bidding, evaluating, and securing the contracts. Requires the Texas Workers' Compensation Commission to assist the council by providing computer data and other information as necessary for the studies. Authorizes the council to enter into certain contracts to implement this article. Requires the council to report the results of the studies and recommendations for proposed legislation to the 77th Legislature not later than February 1, 2001. Requires the council to provide written copies of the report to the governor, the lieutenant governor, and the speaker of the house of representatives. Provides that this article expires March 1, 2001.

SECTION 5. Amends Section 3, Article 21.28-C, Insurance Code, to make this Act applicable to insurance written through the fund. Makes conforming changes.

SECTION 6. Makes application of this Act prospective to January 1, 2000.

SECTION 7. Emergency clause.  
Effective date: upon passage.