

BILL ANALYSIS

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S.B. 1814
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 7, 79th Legislature, enacted Section 413.022 (Return-to-Work Pilot Program for Small Employers; Fund), Labor Code, which requires the commissioner of workers' compensation to establish a return-to-work pilot program designed to assist small employers to make necessary workplace modifications to facilitate an injured employee's return to work after a work-related injury. Employers participating in the pilot program may be reimbursed up to \$2,500 annually for expenses they incurred by making workplace modifications in order to accommodate an injured employee's physical restrictions and return the employee to full or modified duty. In 2007, the 80th Legislature amended Section 413.022, Labor Code, to allow the employer to submit a proposal that describes the required workplace modifications and request and receive a guarantee of reimbursement of expenses incurred up to the \$2,500 limit. The pilot program expires September 1, 2009.

As proposed, S.B. 1814 requires the commissioner of workers' compensation to establish by rule a return-to-work reimbursement program. The bill requires an insurance carrier to provide the employer with return-to-work coordination services on an ongoing basis and requires the insurance carrier to notify the employer of the availability of the return-to-work reimbursement program.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the commissioner of workers' compensation is modified in SECTION 4 (Section 413.022, Labor Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 413.021(a), Labor Code, as follows:

(a) Requires an insurance carrier, with the agreement of a participating employer, to provide the employer with return-to-work coordination services on an ongoing basis as necessary to facilitate an employee's return to employment, including on receipt of a notice that an injured employee is eligible to receive temporary income benefits. Requires the insurance carrier to notify the employer of the availability of the return-to-work reimbursement program under Section 413.022. Requires case managers who are appropriately certified, rather than licensed to practice in this state, as necessary, to be used to perform the evaluations of a certain compensable injury. Deletes existing text requiring the insurance carrier to notify the employer of the availability of return-to-work coordination services and that in offering the services, insurance carriers and the division of workers' compensation (division) of the Texas Department of Insurance are required to target employers without return-to-work programs and to focus return-to-work efforts on workers who begin to receive temporary income benefits.

SECTION 2. Amends the heading to Section 413.022, Labor Code, to read as follows:

Sec. 413.022. RETURN-TO-WORK REIMBURSEMENT PROGRAM FOR EMPLOYERS; FUND.

SECTION 3. Amends Section 413.022(a), Labor Code, by amending Subdivision (2) and adding Subdivision (3), to redefine "eligible employer" and define "program."

SECTION 4. Amends Sections 413.022(b), (c), (c-1), and (g), Labor Code, as follows:

(b) Requires the commissioner of workers' compensation (commissioner) to establish by rule a return-to-work reimbursement program (program), rather than a return-to-work pilot program, designed to promote the early and sustained return to work of an injured employee who sustains a compensable injury. Authorizes the commissioner, by rule, to expand eligibility to participate in the program to types of employers who are not described by Subsection (a)(2)(A) (relating to an employer who has workers' compensation insurance and employed at least two but not more than 50 employees).

(c) Requires the program, rather than the pilot program, to reimburse from the workers' compensation return-to-work account an eligible employer for expenses incurred by the employer to make workplace modifications necessary to accommodate an injured employee's return to modified or alternative work. Prohibits reimbursement under this section to an eligible employer from exceeding \$5,000, rather than \$2,500.

(c-1) Authorizes the division, if determined to be a public purpose by the commissioner, and in accordance with rules adopted by the commissioner, to provide the employer an advance of funds under this subsection. Provides that reimbursement or an advance of funds under this subsection is subject to the limit imposed under Subsection (c). Makes a conforming change.

(g) Requires the commissioner to adopt rules as necessary to implement this section. Deletes existing text providing that this section expires September 1, 2009.

SECTION 5. Effective date: upon passage or September 1, 2009.