

By: Giddings

H.B. No. 2808

A BILL TO BE ENTITLED

AN ACT

relating to workers' compensation insurance.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1, Article 5.76-3, Insurance Code, is amended to read as follows:

Sec. 1. In this article:

(1) "Board" means the board of directors of the company.

(2) "Commission" means the Texas Workers' Compensation Commission.

(3) "Commissioner" means the commissioner of the Texas Workers' Compensation Commission.

(4) "Company" means the Texas Mutual Insurance Company.

(5) [~~(4)~~] "Fund" means the Texas Workers' Compensation Insurance Fund.

(6) [~~(5)~~] "Workers' compensation insurance" means the insurance for any risk under:

(A) Subtitle A, Title 5, Labor Code (the Texas Workers' Compensation Act);

(B) the Longshore and Harbor Workers' Compensation Act (33 U.S.C. Section 901);

(C) the Federal Mine Safety and Health Act of 1977 (33 U.S.C. Section 801 et seq.);

1 (D) the Defense Base Act (42 U.S.C. Sections
2 1651-1654);

3 (E) the federal Employers' Liability Act (45
4 U.S.C. Section 51 et seq.);

5 (F) the Nonappropriated Fund Instrumentalities
6 Act (5 U.S.C. Sections 8171-8173);

7 (G) the Outer Continental Shelf Lands Act (43
8 U.S.C. Section 1331 et seq.);

9 (H) the Merchant Marine Act of 1920 (46 U.S.C.
10 Section 861 et seq.); or

11 (I) Chapter 504, Labor Code.

12 SECTION 2. Sections 3(d) and (l), Article 5.76-3, Insurance
13 Code, is amended to read as follows:

14 (d) A person may not serve as a member of the board if the
15 person, an individual related to the person within the second
16 degree by consanguinity or affinity, or an individual residing in
17 the same household with the person:

18 (1) is registered or licensed under this code or is
19 required to be registered or licensed under this code;

20 (2) is employed by or acts as a consultant to a person
21 registered or licensed under this code or required to be registered
22 or licensed under this code;

23 (3) owns, controls, has a financial interest in, or
24 participates in the management of an organization registered or
25 licensed under this code or required to be registered or licensed
26 under this code;

27 (4) receives a substantial tangible benefit from the

1 company or the Texas Department of Insurance; [~~or~~]

2 (5) is an officer, employee, or consultant of an
3 association in the field of insurance; or

4 (6) is required to register as a lobbyist under
5 Chapter 305 because of the person's activities for compensation on
6 behalf of a profession related to the operation of the board.

7 (1) The board shall hold meetings at least once each
8 calendar quarter and at other times at the call of the chairman and
9 at times established in the company's bylaws. Special meetings may
10 be called by any two members of the board on ten [~~two~~] days notice.

11 SECTION 3. Section 4(c), Article 5.76-3, Insurance Code, is
12 amended to read as follows:

13 (c) The board shall appoint an internal auditor. The
14 internal auditor serves at the pleasure of the board. The internal
15 auditor must report any significant adverse audit issue immediately
16 to each member of the board.

17 SECTION 4. Sections 8(e), (h), and (i), Article 5.76-3,
18 Insurance Code, is amended to read as follows:

19 (e) The policyholder shall obtain the safety consultation
20 not later than the 30th day after the effective date of the policy
21 and shall obtain the safety consultation from the division of
22 workers' health and safety of the commission, the company, or
23 another professional source approved for that purpose by the
24 division of workers' health and safety. The safety consultant
25 shall file a written report with the commission and the
26 policyholder within 30 days after the conclusion of the
27 consultation setting out any hazardous conditions or practices

1 identified by the safety consultation.

2 (h) In accordance with rules adopted by the commission, not
3 earlier than 90 days or later than six months after the development
4 of an accident prevention plan under Subsection (f) of this
5 section, the division of workers' health and safety of the
6 commission shall conduct a follow-up inspection of the
7 policyholder's premises. The commission may require the
8 participation of the safety consultant who performed the initial
9 consultation and developed the safety plan. If the division
10 determines that the policyholder has complied with the terms of the
11 accident prevention plan or has implemented other accepted
12 corrective measures, the division shall so certify. If a
13 policyholder fails or refuses to implement the accident prevention
14 plan or other suitable hazard abatement measures, the policyholder
15 may elect to cancel coverage not later than the 30th day after the
16 date of the division determination. If the policyholder does not
17 elect to cancel, the company may cancel the coverage or the
18 commission may assess an administrative penalty not to exceed
19 \$5,000. Each day of noncompliance constitutes a separate
20 violation. Penalties collected under this section shall be
21 deposited in the general revenue fund to the credit of the
22 commission [~~or reappropriated to the commission to offset the costs~~
23 ~~of implementing and administering this section~~].

24 (i) In assessing an administrative penalty, the commission
25 may consider any matter that justice may require and shall
26 consider:

27 (1) the seriousness of the violation, including the

1 nature, circumstances, consequences, extent, and gravity of the
2 prohibited act, and the nature and extent of any injuries to the
3 employee;

4 (2) the history and extent of previous administrative
5 violations;

6 (3) the demonstrated good faith of the violator,
7 including actions taken to rectify the consequences of the
8 prohibited act;

9 (4) any economic benefit resulting from the prohibited
10 act; and

11 (5) the penalty necessary to deter future violations.

12 SECTION 5. Section 12(f), Article 5.76-3, Insurance Code,
13 is amended to read as follows:

14 (f) Notwithstanding any other law, the company may issue
15 grants to the commission as provided by Section 402.062, Labor
16 Code. Funding for a grant under this subsection may come only from
17 the company's surplus. The amount of the grants may not exceed \$2.2
18 million for the six-year [~~four-year~~] period of September 1, 1999,
19 through September 1, 2005 [~~2003~~]. This subsection expires
20 September 1, 2005 [~~2003~~].

21 SECTION 6. This Act takes effect September 1, 2003.