

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

April 7, 2003

TO: Honorable Helen Giddings, Chair, House Committee on Business & Industry

FROM: John Keel, Director, Legislative Budget Board

IN RE: HB2098 by Oliveira (Relating to political subdivision workers compensation purposes.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Labor Code to specify that when written notice of a worker's compensation claim is filed with a political subdivision that self-insures, notice for the purpose of determining time frames in which to respond to the claim is not official until the intergovernmental risk pool or other entity responsible for administering the claim receives the notice. Further, if a political subdivision that self-insures, either individually or collectively through an interlocal agreement, fails to begin the timely payment of benefits or files a note of refusal before benefits should have started, does not waive its right to contest the compensability of the injury, it shall pay as a penalty to the injured employee double the amount due for the days delinquent.

No effective date is listed on the bill, therefore, it is assumed it would take effect September 1, 2003.

Under current statute, political subdivisions that self-insure have less time than those that do not self-insure for responding to a workers' compensation injury claim because the time limitations apply from the time the employer is notified rather than when the entity administering claims receives notice. Because this shortens the time in which a claim may be processed and notice given by the claims administrator to the person making the claim regarding compensability, often the self-insured political subdivision loses the right to contest compensability. In an effort to avoid that situation, administrators submit a general notice to the Texas Workers' Compensation Commission (TWCC). This has resulted in an increase in the number of notices processed by TWCC and in the number of compensability disputes appealed to the TWCC.

By changing the definition of when notice has been officially received by a self-insured political subdivision, the claims administrator should have sufficient time to process and respond to claims within the time restraints set out in statute. This should reduce the number of notices and disputes sent to the TWCC, reducing the agency's workload somewhat, although the agency estimates that the savings would be considered insignificant.

Additionally, under current statute, penalties assessed the self-insured political subdivision are paid to the TWCC rather than to the individual claimant. The TWCC would experience lost revenue if penalties are paid to the individual rather than to TWCC, but the loss is not anticipated to be significant.

Local Government Impact

Unless a political subdivision is delinquent in providing notice of benefits denial or in beginning payment of benefits, the political subdivision is expected to experience a savings by having the full notification time in which to begin processing a claim. The savings could be significant. For example, the Texas Association of School Boards (TASB) cited three workers' compensation decisions that were lost by self-insured school boards as a result of the current notification requirements, with each loss costing approximately \$300,000. TASB notes that many unfounded claims are paid as a result of

the notification time frame as the law is currently written.

Source Agencies: 453 Workers' Compensation Commission, 478 Research and Oversight Council on Workers' Compensation

LBB Staff: JK, JRO, JB, DLBa