

## **BILL ANALYSIS**

C.S.H.B. 153  
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Business & Industry  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Section 406.096 of the Texas Labor Code entitled **Required Coverage for Certain Building or Construction Contractors** provides a governmental entity that enters into a building or construction contract shall require the contractor to certify in writing that the contractor provides workers' compensation insurance coverage for each employee of the contractor employed on the public project.

Because of Section 406.096, Texas' estimated 114,000 non-subscribing businesses are barred from competing on government building and construction projects. A situation that creates hardship not only for non-subscribing businesses but also the state and taxpayers since reduced competition results in higher costs--costs that are passed along to both the state and taxpayers.

### **RULEMAKING AUTHORITY**

It is the opinion of the Committee on Business and Industry that this bill does not expressly delegate any additional rulemaking authority to a state officer, department, agency or institution.

### **SECTION-BY-SECTION ANALYSIS**

SECTION 1. Amends Section 406.096, Labor Code, by adding a reference to Government Code Section 2252.904.

SECTION 2. Amends Subchapter Z, Chapter 2252, Government Code by adding Section 2252.904, which states a governmental entity may enter into a construction contract with a contractor or subcontractor who before September 1, 2005 provided alternate workers' compensation benefits. This section states that the Act will expire on September 1, 2007 and provides specific amounts the employer is responsible for in the event of injury or death sustained by an employee in the course or scope of employment, when workers' compensation insurance is not provided. These amounts are as follows:

- \$400,000 for reasonable and necessary medical expenses related to the injury for at least 104 weeks after the date of injury;
- \$250,000 in accidental death benefits for a fatal injury, payable to a legal beneficiary as defined in Subtitle A of Title 5, Labor Code; and
- \$100,000 for dismemberment; and
- Weekly income benefits of at least 75% of the employee's pre-injury average weekly wage for at least 104 weeks after the date of injury, not to exceed \$750 per week.

SECTION 3. Provides that this Act only applies to contracts entered into after the date this Act is effective and that contracts entered into before the effective date of this Act are subject to the governing law in place at the time the contract was entered into.

SECTION 4. States the date in which the Act is effective.

## **EFFECTIVE DATE**

This Act takes effective September 1, 2005

## **COMPARISON OF ORIGINAL TO SUBSTITUTE**

SECTION 1. C.S.H.B. 153 moves the provisions relating to the required alternate coverage amounts for injury or death sustained by an employee in the course and scope of employment from Section 406.096 of the Labor Code to the new Section 2252.904 of the Government Code. The substitute makes reference to the new Section 2252.904, Government Code, in Section 406.096, Labor Code.

SECTION 2. The substitute adds Section 2252.904 of the Government Code and sets out the required alternative coverage amounts for injury or death sustained by an employee in the course and scope of employment.

In Section 2252.904 (a) the substitute removes the word “personal” in reference to an injury.

In Section 2252.904 (a)(1) the substitute clarifies that the coverage is for “reasonable and necessary” medical expenses “related to the injury.”

In Section 2252.904 (a)(2)(A) the substitute clarifies that death benefits for a fatal injury are “payable to a legal beneficiary as defined in Subtitle A of Title 5, Labor Code.”

In Section 2252.904 (a)(2)(B) the substitute adds a requirement for \$100,000 coverage for dismemberment.

In Section 2252.904 (a)(3) the substitute changes the reference from “income” to “average weekly wage as defined in Subtitle A of Title 5, Labor Code,” and clarifies that weekly income benefits are \$750 “per week.”

In Section 2252.904 (a)(3)(b) the substitute states that the section only applies to a contractor or subcontractor that did not provide workers' compensation before September 1, 2005.

In Section 2252.904 (a)(3)(c) the substitute states that this section expires September 1, 2007.

SECTION 3. SECTION 2 in the original bill.

SECTION 4. Effective date--SECTION 3 in the original bill.