

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION**  
**Revision 1**

**February 15, 2005**

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

**FROM:** John S. O'Brien, Deputy Director, Legislative Budget Board

**IN RE: HB7** by Solomons (Relating to the continuation and operation of the workers' compensation system of this state and to the abolition of the Texas Workers' Compensation Commission, the establishment of the office of employee assistance, and the transfer of the powers and duties of the Texas Workers' Compensation Commission to the Texas Department of Insurance, the Texas Workforce Commission, and the office of employee assistance; providing administrative violations.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB7, As Introduced: a positive impact of \$1,194,702 through the biennium ending August 31, 2007.

**General Revenue-Related Funds, Five-Year Impact:**

| Fiscal Year | Probable Net Positive/(Negative)<br>Impact to General Revenue Related<br>Funds |
|-------------|--|
| 2006        | \$597,351  |
| 2007        | \$597,351  |
| 2008        | \$597,351  |
| 2009        | \$597,351  |
| 2010        | \$597,351  |

**All Funds, Five-Year Impact:**

| Fiscal Year | Probable Savings/<br>(Cost) from<br><i>GENERAL REVENUE<br/>FUND</i><br>1 | Probable Revenue<br>Gain/(Loss) from<br><i>DEPT INS<br/>OPERATING ACCT</i><br>36 | Probable Savings/<br>(Cost) from<br><i>DEPT INS<br/>OPERATING ACCT</i><br>36 | Probable Savings/<br>(Cost) from<br><i>Interagency Contracts</i> |
|-------------|--|--|--|--|
| 2006        | \$597,351  | \$508,432  | (\$508,432)  | (\$87,142)   |
| 2007        | \$597,351  | (\$531,364)  | \$531,364  | \$1,328,511  |
| 2008        | \$597,351  | (\$531,364)  | \$531,364  | \$3,188,427  |
| 2009        | \$597,351  | (\$531,364)  | \$531,364  | \$3,985,534  |
| 2010        | \$597,351  | (\$531,364)  | \$531,364  | \$4,782,641  |

| Fiscal Year | Change in Number of State<br>Employees from FY 2005 |
|-------------|---|
| 2006        | 17.0  |
| 2007        | 13.0  |
| 2008        | 13.0  |
| 2009        | 13.0  |
| 2010        | 13.0  |

## **Fiscal Analysis**

The bill would abolish the Texas Workers' Compensation Commission (TWCC); transfer agency functions to the Texas Department of Insurance (TDI), Texas Workforce Commission (TWC), and a newly created Office of Employee Assistance (OEA); and create certain new functions of the workers' compensation system in the state.

SECTIONS 1.013 and 4.001 would abolish the Texas Workers' Compensation Commission and transfer regulatory, medical and income dispute resolution, customer assistance and records information and management functions to TDI.

SECTIONS 1.014 and 4.003 would transfer workplace education and safety functions to TWC.

SECTIONS 1.015, 1.061, and 4.002 would establish the Office of Employee Assistance (OEA) to provide constituent services for injured workers, including TWCC's ombudsman program, and authorize OEA to provide legal representation for certain injured workers. The bill would require TDI to provide administrative services, including budget planning, purchasing, human resources management, and information resources support, to the OEA.

SECTION 1.052 would reallocate general funds and collections from the maintenance tax assessed on workers' compensation premiums from the General Revenue Fund to the TDI operating account [General Revenue Account No. 36].

SECTION 1.163, 1.164 would provide for the State Average Weekly Wage (SAWW) to be based on the average weekly wage for covered employment definition used by the Texas Workforce Commission and change the cap on maximum weekly temporary, death, and lifetime income benefits from 100 to 130 percent of the SAWW.

SECTIONS 1.202, 2.001, 2.052, 2.153, 2.201 would authorize the establishment of health care networks for workers' compensation and require the state and local political subdivisions and their employees to use the networks.

SECTION 1.203 would repeal the requirements for TWCC to regulate and maintain an Approved Doctor List of providers eligible to bill for medical care in the workers' compensation system.

SECTIONS 1.356, 1.371, 1.381, and 1.395 would require workers' compensation insurance carriers to develop a TDI-certified informal dispute resolution process and require injured workers, employers, and carriers involved in an income benefit disputes to utilize this process before filing a dispute with TDI. The bill would require a pre-hearing conference to identify contested issues for the formal contested case hearing and eliminate the current Benefit Review Conference. The bill would authorize parties to a dispute to appeal the hearing decision directly to district court, and eliminate TWCC's Appeals Panel.

SECTIONS 1.418, 3.065 would repeal the Field Safety Representative Program, the Hazardous Employer Program, the Approved Professional Source Program, the Drug Free Workplace Program, and TWCC's role in the Rejected Risk Program.

SECTION 1.518 would require medical disputes to go through an initial informal dispute resolution process with the insurance carrier and provides for an Independent Review Organization (IRO) to decide unresolved disputes. The bill would eliminate appeals of IRO decisions to the State Office of Administrative Hearings.

SECTION 1.534 would abolish the Medical Advisory Committee.

SECTION 1.703 would require the Workers' Compensation Research Group at TDI to develop and issue an annual informational report card on workers' compensation networks.

This bill would take effect on September 1, 2005.

## Methodology

It is assumed abolishing TWCC and transferring its functions to TDI, TWC, and OEA would result in savings of \$1,039,797 and a reduction of 4 full-time equivalent positions (FTEs) in fiscal year 2006 and \$2,079,593 and 8 FTEs each year, thereafter. It is assumed all employees transferred from TWCC to TDI, TWC, and OEA would remain in their current office facilities.

It is assumed the establishment of OEA would require one Director position at the Group 2 exempt salary level of \$83,000 per year beginning in fiscal year 2006. It is assumed two Attorney V positions (\$70,872/year, each); 18 Attorney I positions (\$46,836/year, each); four Administrative Assistant I positions (\$19,452/year, each); and two Legal Secretary I positions (\$23,866/year, each) would be required to carry out the legal assistance and employee advocacy duties of the office. Benefit costs related to the 27 FTEs is assumed to be \$72,573 per year beginning in fiscal year 2006.

The Comptroller indicates the bill language relating to the appropriation of maintenance taxes to TWC appear to require the portion of the maintenance tax receipts collected for the operation of TWC under Section 403.001, Insurance Code, to be distinguished and separated from the maintenance tax receipts deposited to the credit of General Revenue Account 0036 and to be appropriated to TWC out of General Revenue Fund 0001. Therefore, it is assumed, for the purposes of this note, that all maintenance tax receipts would be deposited to GR Account 0036 for subsequent appropriation to TWC and TDI.

Based on the analysis of the State Office of Risk Management (SORM), it is assumed an increase in the State Average Weekly Wage (SAWW) and increase in the cap on maximum weekly amount of income benefits from 100 to 130 percent would result in increased costs to the state for workers' compensation claims payments through interagency contract funding by \$87,142 in fiscal year 2006; \$263,384 in fiscal year 2007; \$313,407 in fiscal year 2008; \$330,519 in fiscal year 2009; and \$345,110 in fiscal year 2010.

Based on the analysis of SORM, it is assumed the provision for mandatory workers' compensation health care networks would result in a net savings to interagency contract funding of \$1,992,767 in fiscal year 2007; \$4,782,641 in fiscal year 2008, \$5,978,301 in fiscal year 2009; and \$7,173,962 in fiscal year 2010. It is assumed that, due to the request for proposal process, SORM would not enter into a contract for network care until fiscal year 2007.

SORM has indicated additional costs to agency administration, which are not indicated above.

Based on current costs to TWCC, it is assumed the elimination of the Approved Doctor List would result in annual savings of \$597,351 and 6 FTEs each year.

Based on current costs to TWCC, it is assumed the simplification of the benefit dispute resolution process would result in savings of \$2,033,852 and a reduction of 49 FTEs in fiscal year 2006 and annual savings of \$2,905,503 and a reduction of 71 FTEs beginning in fiscal year 2007.

## Local Government Impact

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 116 Sunset Advisory Commission, 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts, 320 Texas Workforce Commission, 453 Workers' Compensation Commission, 454 Department of Insurance, 479 State Office of Risk Management, 538 Department of Assistive and Rehabilitative Services, 601 Department of Transportation, 710 Texas A&M University System Administrative and General Offices, 720 The University of Texas System Administration

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